

8

A THEORY OF ILLIBERAL DEMOCRACY

Ulrich Wagrandl

Introduction

Democracy, for the most part of our tradition of political thinking, did not designate enlightened self-government, but the rule of the many. From Aristotle to Alexander Hamilton, democracy meant a deficient form of government, not the ultimate and unquestioned ideal which it came to be in the twentieth century. Instead of “democracy,” a state founded on popular self-government would be called a republic. It was understood that a republic would be able to contain the worst effects of democracy, be it by mixing in elements of other government types, such as aristocracy, or by subordinating every exercise of public authority to the rule of law. Pure and untrammelled democracy was associated with the tyranny of the majority, so memorably observed by Tocqueville. There seems to be good evidence, then, in the history of political ideas, that democracy was always considered to be dangerous, because only illiberal democracy was thought of as real democracy. Accordingly, today’s liberals do not espouse the unconditional and unrestricted power of popular sovereignty. Rather, they hasten to say that democracy is good, but not without human rights and the rule of law. Liberal democracy is a limited democracy. This limitedness is the reason why it is acceptable from a liberal point of view. It is the reason to reject it from an illiberal standpoint. Illiberal democracy only makes sense because there was liberal democracy before. And liberal democracy was created with the specter of illiberal democracy in mind (Holmes 2021; Rosenblatt 2021).

It would be easy to give an account of all the flaws, deficiencies and dangers inherent to illiberal democracy and therefore to reject it from a liberal perspective. But this would not be very rewarding. Rather, we must be so honest as to judge illiberal democracy on its own merits and to open-mindedly engage with those authors who have envisioned and defended it. While wanting to better understand illiberal democracy, it is clear, though, that we are not engaged in the same project as illiberal authors (see Smilova 2021). Our intention is not to contribute to the theory of illiberal democracy in order to strengthen its foundations. This chapter is not a vademecum for autocrats. What it aims to show is that illiberal democracy is just as firmly rooted in the Western political tradition as liberal democracy, that each has been, at times, the reason for the other to come into existence, and that liberals have no monopoly on the word democracy; in short, that illiberal democracy is a possible form of *democracy*, but not liberal democracy, and thus not legitimate from the point of view of *liberalism*. Of course, this

treatment of illiberal democracy must assume that democracy and liberalism are two different things. If this chapter were to conflate liberalism and democracy, to talk of illiberal democracy would be a conceptual impossibility. But as we will see, it is not. For this purpose, a working definition of liberalism must suffice. Liberalism will be chiefly taken to mean human rights, the separation of powers, checks and balances, and the rule of law (including, among other things, independent courts and the judicial review of state action).

Considering the exorbitant amount of scholarship the decline of liberal democracy has produced in recent years, this chapter opts for a historical approach. Illiberal democracy, this chapter claims, takes two forms that can both be traced back, if a little generalization is allowed, to the ideas of Jean-Jacques Rousseau. His insistence on nature, reason, and virtue has been used to justify *jacobinism*. His praise of identity, homogeneity, and unity has enabled reactionary and nationalist politics. When they are based on popular support and carried out by a strongman, this is called *caesarism*. With regard to the Jacobins, this chapter will follow the theory of totalitarian democracy by the almost forgotten Jacob Talmon. Caesarism will be explored in greater detail, since it will reveal itself to be the more valid explanation for current events. Following Benjamin Constant, Alexis de Tocqueville, Karl Marx, and Max Weber, but also the ever-ambivalent Carl Schmitt, and even Louis-Napoléon Bonaparte himself and one of his acolytes, Auguste Romieu, this chapter contends that today's illiberal democracy takes the form of caesarism. This tour d'horizon will help to put today's illiberal democracy into perspective. It will turn out that it is a modern, but not a new phenomenon (also Dimitrijevic 2021). It hails from the nineteenth century, but the ideas of its supporters as well as those of its critics have lost nothing of their actuality.

When Constant describes the rule of Napoléon I, or when Marx recounts the coup d'état of Louis Bonaparte, it will be easy to tell the similarities between these upstart emperors of yore and the self-styled illiberal democrats of today. One might object that the two Napoléons were no democrats, and that they are more an example of populism than of a proper form of government. But while it is true that France, under the rule of the Bonapartes, was no democracy according to today's standards, it is also true that they professed to draw their legitimacy only from the will of the people, and that they let the people confirm their position by plebiscite, which is something quite novel for the nineteenth century.

This chapter will then endeavor to distill some elements of an illiberal democratic constitution out of the writings examined so far. We will see that there are certain constitutional arrangements and political moves we are witnessing today that make sense on the basis of illiberal democratic theory. An illiberal democratic state's constitution, as we will see, is both anti-pluralist and anti-institutionalist (see Landau 2021; Uitz 2021). It follows from this that government must have unlimited and unchecked power: in the face of the towering authority of reason (jacobins) or the will of the people (caesarists), there can be neither material nor formal restrictions on what the state may do.

Rousseau's Legacy

In Jean-Jacques Rousseau's *Social Contract* of 1762, one can discern two strands running in different directions. On the one hand, there is Rousseau's insistence on reason, on the virtue of citizens, and on the freedom-conferring general will; on the other, there is Rousseau's emphasis on a homogeneous and traditional society with a strong, but exclusive identity. This chapter argues that both types of illiberal democracy to be examined later can be traced back to those two different aspects in Rousseau. The driving force behind jacobinism is virtue, or reason; the motor of caesarism is homogeneity, or identity. In the following, Rousseau will inevitably

appear in a bad light. But it does not matter if Rousseau himself was an illiberal. Rather, what matters is that it is possible, even easy, to read his ideas in an illiberal fashion, and so it has been done since their inception. Rousseau is equally usable for democratic as well as thoroughly authoritarian governments, and his ideas are equally amenable to a cautious as well as a brazen and subversive reading. His arguing by definition (“either the republic is virtuous, or it is no republic”) leads him to dispense with any safeguards or institutions designed to prevent abuse. His adoration of a wise legislator is too convenient not to attract all those who think they can assume this role. His idealization of parochial, self-sustaining communities underpins reactionary nationalism with a useful philosophy, his exaltation of reasonable and virtuous citizens finding their true interests in the general will gives a self-appointed vanguard party the most expedient argument.

Rousseau oscillates between (and fervently sought to combine) the enlightened self-rule of virtuous citizens having discerned the public good; and the close-knit traditional society of peasants and artisans, where politics have ceased, because everyone spontaneously agrees anyway. Both are concepts of harmony; of concord with either higher principles (it does not matter whether we call them natural law, the laws of history, the public good, reason, or simply justice) or of concord among people themselves, because no factions, religions, or competing economic interests disturb their cohesion. Both types of illiberal democracy, then, come as a reaction to a perceived disunity, which is being located, unsurprisingly, in liberalism. It is even argued that liberalism itself creates the longing for illiberal politics (Deneen 2018, 178). That liberalism divides, factionalizes, and atomizes has been the first item of illiberal critique ever since (Holmes 1993, 190–197). Both jacobins and caesarists see themselves in opposition to a liberal bourgeois elite either threatening the revolution by wanting to divide and rule, or, respectively, threatening the people’s sovereignty by having divided and ruled for too long. Both posit the return – or the march onward – to a time when the self-serving liberalism of the bourgeoisie is no more, and communities will be free and whole again.

The bifurcated legacy of Rousseau’s work comes from him wanting to marry what does not belong together: ancient “cohesiveness” and modern “voluntarism” (Riley 1970). The ancients knew no individual will, but Rousseau, as a modern, cannot dispense with it. He wants Sparta, but he wants the Spartans to actively, deliberately, and reasonably *will* their lot, every single individual among them. Custom and myth may serve this goal, but they are no *argument* anymore. The individual and the collective are to be reconciled by virtue, which consists in espousing the public good, even in private. Thus, people should want what would have followed from a non-voluntaristic morality. Rousseau’s *Social Contract*, then, is essentially the attempt to combine a politics of reason, nature, and objective truth with a politics of decision and self-determination. This sets an almost unattainable standard that tragically subverts its own aspirations (Johnston 1999, 1–20). Whereas jacobins emphasize reason and nature, and thus have no conceptual room for the decisions inevitably involved in day-to-day politics (Edelstein 2009, 182–186, 206–214), supporters of caesarism surrender themselves to the mystical power of an unbridled, heroic will (which is truly romantic; Berlin 1999, 119, 127). But they both follow, in their own way, Rousseau’s paradoxical dream of a politicized depoliticization of society. Everyone must always think about the welfare of the collective, the people must frequently assemble, everyone ought to know their neighbor (Rousseau 1764, hereinafter: CS III, 13, 15), and religion must be subject to the uses of the state (CS IV, 8). Obviously, public life will be rich and time-consuming. At the same time, however, there ought to be no political parties (CS II, 3), no debates, but spontaneous agreement, few laws (CS IV, 1), and overall, a small state without differences of habit, belief, and economic situation (CS II, 9, 11, 12; III, 15).

The notion of public life is therefore one devoid of the arts, of commerce, or of civic associations, and all in all rather dull. What Rousseau wants, then, is the political without politics. Difference within is scorned. Passions, therefore, must be directed outward, because everything foreign carries the seeds of disunity and degeneration. The political must triumph over politics: united against an external enemy, every other difference fades away (as Schmitt 1933: 14 would later argue, enmity is a term of foreign affairs). Thus, people should not emulate other countries, but be proud of their own way of life (CS II, 8), and they should mind their own business instead of caring for humanity: “Every patriot is severe with strangers,” he writes, and “beware of those cosmopolitans who go to great lengths in their books to discover duties they do not deign to fulfill around them. A philosopher loves the Tartars so as to be spared having to love his neighbors.” (Rousseau [1762] 1969, 249).

Rousseau’s jacobin heirs, although they later became just as nationalist, are however more remembered for their insistence on virtue, and for thinking to have discerned the general will. Again, Rousseau’s writings can, without difficulty, be read in an authoritarian sense, and this is what the Jacobins have done, all the while claiming – Rousseau and others made it easy for them – to have undiluted democratic legitimacy. The concept of the general will has proven especially amenable to this kind of use. It is always present (CS IV, 1), always just, and may even reside with the minority, since the majority is no indicator of correctness (CS II, 3). But whoever find themselves at difference with the general will are in error (CS IV, 2), and those who disobey it can be forced to be free, since the general will is freedom (CS I, 7), and since the end justifies the means (CS II, 5). Whoever wants to be free, then, as nature and reason dictate, must therefore accept the rule of the sovereign under the social contract, because there is no freedom outside it: the *aliénation totale* (CS I, 6).

To be fair, this assortment of passages from the *Social Contract* does not prove that Rousseau wanted or foresaw jacobin dictatorship. But this would be beside the point. As mentioned, his ideas have been used to that end because they perfectly suit it. It is a small step from recognizing that the minority may be in possession of the public good because the majority does not know what it truly wants, to claim the right to rule on those grounds (Berlin 2014, 50). The people are not hopelessly doomed, however; on the contrary, they are the repository of virtue. But virtue is only a predisposition, a potential, and may not yet have shown itself. It is therefore only fair that as long as the great mass of the people are beset by vice, and therefore unable to see their true interests, a revolutionary vanguard should rule. Conveniently, as Carl Schmitt would later point out, this vanguard will also fulfil the role of *législateur*, educate the people via good laws, and even decree their articles of faith (CS II, 7; IV, 8). The people themselves, however, are good, and their vices only a result of the centuries-long bad influence of despotic monarchs, the progress of the arts and sciences, and economic inequality fostering greed and ambition. Once all of this has been cast off, the true – wise, good and just – nature of the people will show again.

If the idea of an originally wise, good, and just people is given a slightly different emphasis, we do not end up with nature, reason, and virtue, but with homogeneity and identity. This happens when Rousseau’s pedagogical attitude (the people must be reformed before the republic will flourish) and his exacting standards (reason, impartiality of the general will) are left out and his praise of the simple, common people is taken at face value. Then, there is no need for virtue and a wise legislator, because the people and their will are *already* good, and their will is therefore always legal (like Sieyès [1789] 1888, 67–69 would hold): no need for the substantive requirements of the general will; the majority, however formed, is enough. The people need no education, they just need the noxious elements removed from society.

The *Social Contract* can thus be read as a demand for recognition of the popular classes directed against a smug bourgeoisie. Recently, Pankraj Mishra has argued that Rousseau was the first to express the feeling of *ressentiment* against a liberal elite who believed in scientific progress, a shared humanity and who despised religion, tradition, particularism, and with that, the common people (Mishra 2017, 50, 94; drawing on Nietzsche 1892, 14–27). *Ressentiment*, however, implies a certain jealousy of the weak directed at the strong. Arguably, in Rousseau's republic of virtue, where vanity and greed are no more, this would not have happened. It seems, therefore, that *homogeneity* and *identity* better capture what is at stake here.

Homogeneity would later also be taken up by Carl Schmitt and made into the foundation of his theory of democracy. It denotes a specific, shared sameness that sets one people apart from another. Identity is the essence of this sameness and demands recognition. The term has gained currency over the last few years (see, inter alia, Appiah 2007; 2018; also Berezin 2021). Rousseau was the first to give identity a normative meaning via the idea of authenticity (Ferrara 2017). This emphasis – being true to one's inner, pure, unadulterated self – lead to two struggles for recognition. The first is about being valued as an equal human being and leads to the quest for universal human rights. The second is about being acknowledged as a person shaped by time, place, culture, language, religion, and tradition. This latter kind of identity is not individual, but necessarily collective, and thrives by contrasting itself against other identities. It is the basis of nationalism, and it may assert itself in the urge to forcefully remove or to overcome any obstacle to the nation's rightful place (Fukuyama 1992; 2018, 25–33, 53–61). Just as individuals, nations have, in the eyes of Rousseau (and later, Herder; see Barnard 2003, 38–48) an authentic, inner self; one that is, in the nationalist rhetoric started by Rousseau, threatened by strangers, foreign influences and bourgeois decadence corrupting the traditions of the common people.

Although it cannot immediately be gleaned from Rousseau, it is safe to say that his thoughts on the original goodness of man as an individual lend themselves to be transposed onto the people as a whole, so that the nation, united by a democratic spirit, becomes the incarnation of all that is right (Melzer 1990, 195–197). It is almost self-evident, then, that the nation can only be redeemed by being true to itself. The best way to do this is for the people to entrust a suitable person with the mandate to *make the country great again*. A list of opposing values, discernible in Rousseau's thought, shall illustrate the point. On the one side, we find all that defines the true people. On the other, we see only evil. That this list sounds familiar to us today is proof to the actuality of Rousseau in this respect. Truth against lie, purity against corruption, the ordinary against the exalted, religion against atheism, tradition against progress, steadfastness against skepticism, unanimity against dissent, the particular against the universal, the patriot against the cosmopolitan, certainty against debate, virtue against self-interest, the masculine against the effeminate, and the rural against the urban (Mishra 2017, 111–113) are oppositions that have proven to be the main vocabulary of nationalist identity politics, of which Rousseau was the instigator, and of which caesarism is the corresponding form of government, as we shall see.

Jacobinism or Totalitarian Democracy

To fully bring out its illiberal character, the present account of jacobin dictatorship will be taken from the work of the staunchly liberal Jacob Talmon. His description is a dark portrait, to be sure, but it makes for a good start. For Talmon, who would write three volumes on the development of totalitarianism (Talmon 1952; 1960; 1980), the French Revolution, and more precisely the jacobins, are at the root of it all. They created a “totalitarian democracy,” as Talmon

chose to call this novel from of government. Jacobinism takes its name from the Jacobin club, an influential party within the French Revolution, which later erected a dictatorship under their leader Robespierre. His advocating (and carrying out) *la Terreur*, the mass executions of everyone deemed counterrevolutionary, made jacobinism the first modern totalitarian regime. The foundation of political systems like these is, according to Talmon, a “longing for a final resolution of contradictions and conflicts into a state of total harmony” (Talmon 1952, 254). Their way to bring it about is the *revolution*, and their goal is the end of history, a utopia, caused by force, but where no force will be necessary anymore. Those who shoulder this task consider themselves the “trustees of posterity,” and because they are endowed with special insight into the nature of things, there can be no legitimate opposition (Talmon 1952, 252).

Contemporary illiberal democracy’s protagonists are far away from the revolutionary zeal that characterizes Rousseau’s writings (in their illiberal interpretation, as stated above) and Robespierre’s speeches. But as a rereading of Talmon’s account will show, there are striking resemblances. The “totalitarian attitude” which came to define jacobinism stems from a refusal to accept the world as it is (Talmon 1952, 9). Unlike the millenarian sects of the High Middle Ages, however, who tended to break away from society by founding recluse communities or becoming eremites, totalitarianism demands revolution not in the next, but in this world. There can be no compromise with existing conditions. Everything needs to be wiped away. This attitude leads to the identification of state and religion (Rousseau’s civil religion, Robespierre’s cult of reason), to a severe anti-empiricism, not content in describing things as they are and working with people’s natural penchants and inclinations (as the Greek did in recommending mixed constitutions, or Montesquieu in inventing the separation of powers), but to a hyper-rationalism, content only with seeing things as they should be and accepting nothing less than their ideals’ fullest realization (Talmon 1952, 24–27).

The utter certainty with which the revolutionaries proclaim to have grasped the immutable truth of human nature and liberty leads to the expectation that in the end, all metaphysical problems, but also all social conflicts, provided men are virtuous enough, will be solved by recourse to the unchanging precepts of truth and justice, so that “all remaining evils are thus a result of human ill-will or ignorance” (Talmon 1952, 30). This assumption makes it easy to brush criticism aside: if people are not yet happy and free, it is not because the Revolution operates on flawed concepts and bad politics, but because the Revolution did not go far enough. If people are not yet virtuous, it is not because to err is human, but because the Revolution has not eradicated vice forcefully enough.

This line of thought is, as Talmon points out, the hallmark of real totalitarianism that sets it apart from simple tyrannies (see also Dimitrijevic 2021). Real totalitarian democracy does not in fact take rights away, but purports to have already realized them. There is, in consequence, no legitimate opposition, let alone revolution, to a government that, by definition, *is* (not only promises to be) the fulfilment of justice. Thus, to claim individual rights is to go against the general will, which, inevitably, is the embodiment of these rights. It makes sense, then, that Robespierre could denounce demands for press freedom as counterrevolutionary. For freedom of the press is only needed to fight tyrannical regimes. At a time where the Revolution has triumphed, however, what function could a free press possibly have other than to fight the Revolution? (Talmon 1952, 28–37, 249).

This kind of totalitarianism becomes democratic, and democracy therefore totalitarian, when its logic is built on popular support, and this is where Rousseau comes in. It is a “dictatorship resting on popular enthusiasm and thus completely different from absolute power wielded by a divine right king, or by a usurping tyrant” (Talmon 1952, 6). Rousseau’s feat was to combine an objective truth, the general will, with popular self-determination. Sovereignty,

in this sense, is not governing proper, but “identifying with and endorsing” (Talmon 1952, 44) that which is presumed to be common to everyone. Hence Rousseau’s emphasis on unity and unanimity, and his rejection of every kind of plurality (of opinions, ways of life, religions, etc.) as dangerous factionalism, drawing people away from their one and only true allegiance, the state. Every kind of difference opens up the possibility that an individual could have more ties than just the one linking her to her country.

Eighteenth century rationalist thinking saw in every kind of disagreement the seeds of inexorable demise. Because truth is the same for everyone, unanimity is the sign of rationality, discord the sign of backwardness. Thus, the hustle and bustle, haggling and heckling of the British Parliament was not seen as open debate conducive to truth, but as disgraceful spectacle of sophism and trickery. Virtue resides in unity (Talmon 1952, 71). But this expectation, if paired with direct democracy, as Rousseau designed it, and paradoxical as it is, inevitably leads to dictatorship. The plebiscitarian nature of a democracy so constructed makes leaders ask only those questions whose answers are clear and enjoy overwhelming support (Talmon 1952, 117, 207). They need to, otherwise the facade of a united and unanimous people would crumble. The people need to vote like the government wishes, because to do otherwise is a grave aberration or even treason. The plebiscite is thus a dictatorial means that serves to entrench the government’s position, and to unite the people around one cause (see also Issacharoff and Bradley 2021).

Because the image of popular support is vital, this is often accompanied by the intimidation of opponents, tampering with elections, and the orchestration of violent outbursts to ensure the unanimity on which the system is built. A common assumption about dictatorship, that it only exists where people are passive and indifferent to politics, thus turns out to be wrong, as Talmon points out. Totalitarian democracy needs people to be constantly under the spell of politics, to make daily affirmations of unity, loyalty, and solidarity, to surrender themselves in events of mass enchantment, like parades, festivals, rallies, and to frequently check the right answers on ballot questions. What counts is not what the people *want*, but what they *are*. For politics to permeate every aspect of daily life, however, is to stifle the pursuit of things that make a society free: civic associations, charitable work, education, enterprise – and it is necessary that this all be stifled, because it may give rise to conflicting allegiances. Soon, however, to endorse the general will becomes an apathetic exercise in a spectacle devoid of any meaning. This is almost unavoidable, since the revolution, having politicized everything, becomes apolitical within itself – there is no need to discuss and to deliberate when there are higher principles that contain the answer to everything, and when there is a government endowed with insight to these eternal truths (Talmon 1952, 115). What it leads to, though, is to restrict the people to those who obediently identify with the general will. Only the third estate is the nation, everyone else is not part of the *real* people (Talmon 1952, 41–49).

The government of a totalitarian democracy thus cannot be encumbered by any of the features we nowadays automatically link with liberal democracy. There is or should be no constitution, no rule of law, no separation of powers, no checks and balances, no representation, and no free press or public debate. For a leader entrusted with the task to execute a higher purpose, legality can be no hindrance, not even the laws the Revolution itself has created. The revolutionary purpose cannot be confined to fixed laws. Its march onward demands that the leader be free to do what is necessary, just as the people always have the right to direct action, that is, disrupting government if the Revolution should find itself better represented in the streets than in the offices of state (Talmon 1952, 78, 100). As its purpose is not to govern a republic, but to found one, there can be no legal guidelines, because these too have yet to be created (Talmon 1952, 118). Thus, it makes sense that the revolutionary constitution of 1793 was adopted, but never implemented.

Totalitarian democracy is a permanent *Ausnahmezustand*. Those who cling to the law are branded as counterrevolutionaries – thus the judges, lawyers, and law professors have to be watched closely, and thus enemies of the Revolution can expect no formal legal procedure (Talmon 1952, 97). No wonder then, that totalitarian democracy has no use for a free press: as mentioned above, agitation is only permissible if its target is the tyrant. With him gone, and the Revolution having taken over the reins, open debate and free inquiry would only lead the people astray. A unique and single general will allows for no differences of opinion, hence there is no need to disseminate them, and no need for philosophers to start speculating (Talmon 1952, 115, 157). Accordingly, there is no room for political parties, because there can be no opposition to a government that, by definition, represents truth and justice. Every dissent from the government's position, then, can only be the advancement of particular interest to the detriment of the common good, as embodied in the general will (Talmon 1952, 113).

Democracy turns totalitarian, in the end, not because of the evil ambitions of its leaders, but because it has too perfect a conception of man, so that it wholeheartedly entrusts the people to be the repository of reason and justice, and that it unreservedly believes in the goodness of the people in power, that it rejects every restriction of authority, because absolute goodness needs no restriction. It is because totalitarian democracy, as presented by Talmon, has too *optimistic* a view of man and society and too *good* intentions that it stumbles into dictatorship. The boundless optimism about human perfectibility, combined with the utter despair that things are not yet as they should be, leads to ever more forceful attempts to finally reach that promised land. The revolutionary terror is only the pinnacle of that urgent resolve. But is underpinned by a mere “pencil sketch of reality:” abstract concepts, naive ideas of human nature, and a disregard for everything that makes a time and place particular. Everything concrete has to collapse in the face of the abstract universality of liberty. Like a “new Moses” (Talmon 1952, 136–137), the Revolution must create a new man and a new people (Talmon 1952, 127, 133–135, 139–140, 249–250, 252–253).

Caesarism or Authoritarian Democracy

Based on Talmon's account of totalitarian democracy or jacobinism, it should be clear that contemporary illiberal democracy, although sharing some traits with the Robespierrian mindset, is not really captured by this term. Rather, it looks like the usual suspects, Orbán, Erdoğan, Putin, and Trump are better described by “caesarism.”

The term, referring back to the dictatorship of Gaius Julius Caesar, denotes the combination of authoritarian rule and popular support (see Moatti and Müller 2021), and is epitomized by the reign of Louis Bonaparte, later to style himself Napoléon III, Emperor of the French. Modern liberal democracy arguably developed as a reaction to such figures as Napoléon I, Andrew Jackson, Napoléon III, and Bismarck (Rosenblatt 2018, 156). Their populist appeal and their plebiscitarian mode of governing sparked the liberal aversion to forms of direct democracy, confirmed the American Founding Fathers' idea of strong checks and balances and made it imperative to bring democracy under the framework of liberalism. One of the first to use the word “liberal democracy” or “*democratie liberale*” in this context was the French Catholic writer Charles de Montalembert. He coined the term to set it apart from “imperial democracy,” by which he meant Napoléon III's caesarism, and to urge liberals to adopt and transform democracy (just as he urged Catholics to adopt liberal democracy; Montalembert 1863, 17, 68). This section will thus start in the Napoleonic era and work itself up to the advent of mass democracy in the early twentieth century. It will end with Carl Schmitt's marriage of dictatorship and democracy.

The Model of Napoléon: Constant, Bonaparte

Napoléon and his nephew Louis-Napoléon will serve as the archetype of caesarism. Their authoritarianism has prompted many theoretic reflections that form the groundwork of illiberal democracy. In Benjamin Constant's *De l'esprit de conquête et de l'usurpation* from 1814, we find one of the first critical descriptions of Napoléon's government; thoughts that will later be taken up by Max Weber in his own treatment of caesarism and that eerily resonate with the political situation of today.

Usurpation, as Constant calls this new phaenomenon, is neither monarchy nor republic. Power rests with only one single person, and individual rights are not respected. Monarchy is mitigated by its long duration, tradition and the existence of intermediary powers with untouchable rights and privileges, such as the aristocracy, but also cities and other corporations. The reach of the monarch is therefore, even if absolute in principle, checked by other powers. Not with usurpation, where everything is focused on the figure of the leader. A monarch has not chosen her position, and needs no justification to rule; the usurper, however, needs to deliver constant success in order to get the people behind him. Consequently, the usurper is in search of constant novelty, like foreign wars, legislative reforms, public works and so on, which do not serve the public good, but only to impress the populace and to keep its attention. Like a *nouveau riche*, the usurper is at once mesmerized and corrupted by his newfound power and needs to display his position ostentatiously. And while a monarch need not be an army commander, the military often is the only support a usurper can count on. Just as a Roman barracks emperor of old, he came to power on the battlefield and needs to keep the army busy. Out of mistrust towards the established elites, and out of fear of competition, the usurper will not surround himself with competent people, but with yes-men. Needless to say, this leads to a general anti-establishment feeling, under which the usurper professes to destroy the old coteries that for so long allegedly have obstructed the people's true will (Constant 1861, 185–191).

In Constant's opinion, usurpation is even worse than despotism. Whereas under despotism, there is no liberty at all, a usurper needs it as a fig leaf. Especially the freedom of the press is indispensable to engineer a semblance of public opinion while suppressing what people would really say if let to. Usurpation is therefore characterized by a "counterfeit liberty" (Constant 1861, 195). Having astutely observed, like Tocqueville would later, the stifling effects public opinion can have on individual liberty, Constant is especially worried about how freedom of the press can be turned against itself and become one of the most powerful tools in the hands of the ruler. Under despotism, he riles, there is a right to remain silent; under usurpation, there is a duty to constantly profess loyalty. Under such circumstances, plebiscites become an efficient tool of exclusion. Those who vote no on the usurper's proposal have, in so doing, "handed him a list of public enemies" (Constant 1861, 196). As Max Weber would later posit, the plebiscite becomes an affirmation of allegiance of the ruler's followers, and thus to vote yes becomes a national duty. Accordingly, those who reject the ballot item have excluded themselves from the community.

Caesarism never really developed a theory of its own foundations and workings. We must therefore turn to the propagandist writings of the people directly involved in it. Let us therefore have a look at the much derided "Idées Napoléoniennes" by Louis Bonaparte himself. These writings, published in 1839 and 1840, set out Bonaparte's idea of rule. It is essentially a celebration of the Napoleonic era, full of longing for someone like him to appear again. Interestingly, many elements of caesarism are already present in these soulful reveries: the insistence on charisma (like Weber would emphasize), a certain cult of the leader, megalomania, populism, anti-factionalism, nationalism and, in the opening passages, a lament that France has lost her

confidence and is not in the place she deserves to be (an identity politics not dissimilar to “make America great again”). There is today, Bonaparte writes in 1840, no idea capable of rallying the majority and no man popular enough to embody it. A “subdivision of opinion,” a “lack of grandeur,” and the “people’s indifference” characterize the times (Bonaparte [1840] 1854b, 5–6). In a series of somewhat megalomaniacal religious analogies, Bonaparte then invokes the memory of Napoléon, who stands in a line with Moses, Cesar, Muhammad, and Charlemagne, and whose spirit – the “Napoleonic idea” – will rise from his grave on St. Helena like the Gospel from the Holy Sepulcher. The leader endowed with this idea will “re-constitute” the French society, reconcile order and freedom, and guarantee the rights of the people just as the principles of authority.

Contrary to the monarchies of old, the Napoleonic idea embraces democracy. It will be a “disciplined” democracy, although it is not quite clear what that means. Bonaparte writes that disciplined democracy draws support from the people, but stands above parties, the mob in the streets, and political intrigues. Accordingly, the Napoleonic idea will not engage in flattery, seduction, or lie, because its goal is not popularity. It will always be brutally honest. In renouncing any populism, it is, however, populist itself. Bonaparte claims that he does not lie and does not want to be popular, and so implies that everyone else does. Politicians cannot be trusted, but he, the standard-bearer of Napoléon’s spirit, is no ordinary politician. The short text ends in contradiction to its opening and argues that the Napoleonic idea has won the masses anyway, because “the influence of a great genius exalts imaginations and makes hearts beat faster” (Bonaparte [1840] 1854b, 11–12). Sentiment precedes reason, and it is the union of feelings between the emperor and the people that has made Napoléon great. He was not the executor of a pre-ordained principle but grasped the revolutionary moment and lead the people where they wanted to be led. Like a skilled artisan, Napoléon worked with the materials he got (Bonaparte [1839] 1854a, 31–32).

The idea of a strong leader, seizing the moment, supported by popular enthusiasm, to restore order, to quell disagreement, to bring glory to the nation, and to end the rule of the bourgeois elites is captured by one of Bonaparte’s supporters, a now forgotten reactionary writer named Auguste Romieu, who, like Marx, gave an account of the revolutionary events of 1848. He is one of the few to have sketched an affirmative theory of caesarism (Groh 1972). Whereas Bonaparte trusted, or purported to trust, in the Napoleonic idea’s innate and overwhelming appeal, Romieu is an almost cynical advocate of law and order. Full of contempt for the liberal idea of discussion and compromise, which for him is plain weakness, Romieu celebrates the use of force. Concurring with Bonaparte that the times lack an overarching, unifying idea, his account uses the figure of the Roman praetorian guard to explain that in such situations, only force can help. The praetorian, with Romieu, is “the power in the hands of him who despises discussion, and who, weary of the chatter on the dais, substitutes action for words” (Romieu 1850, 56).

Caesarist longing for the grand, the exceptional and the awe-inspiring is present in Romieu’s rejection of parliamentarism and the majority vote. Too much discussion has made people doubtful, and a law that is being discussed, not simply imposed, has lost all its respect-inducing majesty. What France needs now is holiness or force, and since the holy does not exist anymore, violence alone can restore order (Romieu 1850, 200–201). The liberal bourgeoisie, weak from discussion and legalism, is incapable of conserving order, and would deserve to be swept away by the proletarian revolution. They have self-servingly designed the state to work in their interests, have separated the powers only to control all three of them, and provoked the righteous anger of the disenfranchised people. At this time, Romieu concurs with Marx, liberals only have the choice between the “rule of the torch” – that is, revolution – or “the rule of the

saber,” which is, in fact, a dictatorship supported by the military (Romieu 1851, 63–70). Soon there will appear a man who manages to rally the people behind him, and his task will be to seize “the most absolute dictatorship,” to shatter all previous constitutions and to replace the rule of words with the rule of a man (Romieu 1851, 94–95).

While Romieu might have captured the anti-bourgeois sentiment of the time, history was on Bonaparte’s side, as we now know. He did not need to organize a putsch. He subverted the liberal institutions from within, staged a small military show of force, and came to power impeccably: by popular vote, and then by plebiscite. The bourgeoisie did not need to rally around Bonaparte, as Romieu surmised it would, and Bonaparte did not need them. The common people were more than enough. The situation is not so different from today. Contemporary illiberals do not draw support from a frightened liberal elite. Then, as now, the liberal, educated, cosmopolitan, and relatively well-off class is their enemy.

In Karl Marx’s seminal *Eighteenth Brumaire of Louis Bonaparte* (1852), the opposition between Bonaparte and the bourgeoisie is made clear. Rather than a description of caesarist rule, however, Marx’s essay is an indictment of the bourgeois parliament. By breaking the constitution to keep the proletariat out, it initiated its own downfall. The restriction of the franchise gave Louis Bonaparte the perfect occasion to rally the discontented lower classes around him and to mobilize them against an elitist coterie (Marx 1869). That Marx described the events as farce may have contributed to the downplaying of Louis-Napoléon. As Rosenblatt tells us, he was faced with the same disdain from the liberal bourgeoisie as Trump has been from liberal democrats (Rosenblatt 2018, 157). But as history has shown, and as Weber’s account of the charismatic leader will tell, Louis-Napoléon was one of the first modern politicians. He realized, as Talmon explains, that a single individual can represent the nation just as well as a parliament. Universal suffrage no longer looks threatening when the people, rebranded as the nation, vote conservative (Talmon 1960, 487–496). One can therefore read Louis-Napoléon’s caesarism in a more benign light: it made conservatives accustomed to democracy (Hazareesingh 2004).

Unlike jacobinism, then, caesarism only works with liberal institutions. He who wants to assume the leadership of the nation will probably do so from the inside, being already a politician in government or parliament (rare is the case of a complete outsider, like Trump). He will need mass media to disseminate his message, fair elections, so that the government cannot prevent him from winning, freedom of assembly and association so that his supporters can hold rallies and form political parties. His anti-establishment platform presupposes that there already is a political establishment, which probably means a multiparty system. His vow to take back control assumes that control is split up and divided, which probably means the separation of powers. His appeal to homogeneity proves that he is operating in a pluralist democracy. To end factionalism and the endless political strife, which means to make the political parties shut up in the face of a strongman, has since then been one of the most popular slogans of caesarist rulers. Of course, these liberal institutions only work until they have been undermined. As we will see later on, they make no sense anymore if a democracy has turned illiberal.

From Democracy to Leader-democracy: Tocqueville, Weber

The insight that despotism can occur in fully-fledged democracies belongs to Alexis de Tocqueville. While one could dismiss the advent of caesarism in France as the convulsions of a society not yet ready for self-rule, his account of the US proves that also more developed democracies are prone to it. The reason, interestingly, is equality and the spirit it fosters, “individualism.” As democratic citizens recognize no higher authority and no social hierarchies, they do not depend on the opinions and esteem of others and no one on theirs. The citizens’ interests

narrow themselves to the self, one's family and friends. Thus, public-spiritedness is rare and involvement in politics becomes burdensome, a distraction from the enjoyment of one's private life. Once people are set apart from each other like this, despotism is possible (Tocqueville [1840] 1946b, 98–102).

Tocqueville's indictment of individualism still resonates today, and has proven to be one of the main criticisms of liberal democracy. Individualism leads people to think that, as they are only responsible for their closest entourage, the state is responsible for everything else. In addition, equality promotes a desire for uniformity. There is no respect for local traditions, time-honoured customs, intermediary powers or regionally different laws. Combined with the democratic sentiment that the power of the people knows no limit, this paves the way for a despotic government regulating all aspects of life, with overwhelming state power, and – what makes resistance even harder – impeccable democratic legitimacy. When there is no sense that democratic power must, like all power, be constrained, and that there are some areas the law may not interfere with (in short – when democracy is not *liberal*), then, Tocqueville writes, electoral campaigns only are about who shall exercise this power, whereas it is uncontested that this power be limitless. In the long run, Tocqueville fears that people will be made uniform instead of the law being made diverse (Tocqueville [1840] 1946b, 289–291).

This process is described as inherent to democracy, it is not the result of an autocrat having undermined the system. Mass democracy tends towards centralization, uniformization, and the accumulation of power. Circumstances like these are prone to be exploited and democracy's tendencies reinforced by a certain type of ruler. He who “faithfully represents [the people's] interests and exactly copies their own inclinations” (Tocqueville 1946b, 301) – who, in short, is a populist – will earn the people's boundless confidence. The “science of despotism” (Tocqueville [1840] 1946b, 302) then, consists in bringing the people to believe one loves equality. The despot only needs to act as if he is issued from the people, and then to purport that some alleged establishment is attempting to limit the common people's right to rule (Tocqueville [1835] 1946a, 178). Just as Constant observed earlier, public opinion is not so much a check as a support for this kind of pretensions. Tocqueville agrees: the majority exerts an almost insuperable “moral pressure.” There is no need for secret police if the wish to dissent is quelled by the prospect of public humiliation and social exclusion (Tocqueville [1835] 1946a, 263).

Unfortunately, Tocqueville's more immediate treatment of the caesarist style of government remains only in fragments. It survives in his notes to the second, never published volume of *L'Ancien Régime et la Révolution* (1856), in letters and speeches. In sum, they form an intriguing preliminary to what would have been Tocqueville's theory of plebiscitary dictatorship (see Richter 2004). Interestingly, they confirm Constant's warnings, Bonaparte's own musings, and Weber's subsequent renewal of caesarist democracy. In his inaugural address to the *Académie française*, Tocqueville especially observed the danger in having undone all the traditional institutions which made absolutist monarchy less despotic than the Napoleonic rule. As mentioned earlier, once the idea of popular sovereignty has taken hold, people are willing to confer more and more power to the central government, which they now consider their representative. This is made even easier when there are no deeply entrenched, independent institutions. It seemed almost logical, then, that Napoléon himself had to take over all the derelict powers, functions, and rights previously divided between multiple layers of society; powers that even an absolutist monarch could not have wielded. But the monarch did not represent the people, whereas Napoléon claimed he did. Thus, while the mass of power held by Napoléon would have been egregious if conferred upon a king of divine right, it was palatable, even easy, to hand it over to someone speaking in the name of popular sovereignty (Tocqueville 1842).

Some 60 years later, Max Weber sought to make a virtue of necessity. By then, mass democracy had arrived on the continent. Rather than to ruminate on democracy's vices, he set out, as one of the few political theorists, to reconcile liberalism (in the form of parliamentarism) and caesarism in a new model of democracy, the "Führer-Demokratie" or leader-democracy (Weber [1922] 1958c, 858). In arguing that democracy always is prone to this style of government, he proves two things. First, that caesarism presupposes functioning, democratic institutions, and second, that the liberals' aversion to democracy is partly justified. His view is based on the power of *charisma*, which Weber posits as one of the three grounds of legitimacy of government. Government can be legal and rational (bureaucracy), or traditional (the household), or charismatic.

Charismatic rule is not defined by the respect for procedure and precedent, nor by loyalty to tradition and custom, but by trust. Legitimacy comes from the people believing in the person of the leader, not from fair procedures or time-honoured practices (Weber [1919] 1958b, 495). The leader needs to secure the personal loyalty of his followers (not subjects or citizens) by an ever-accelerating show of novelty, exceptionality, and rapture, because these are the proofs of his excellence (Weber [1922] 1958c, 555). Modern mass democracy has exacerbated this trend. No longer is leadership tied to the recognition and acceptance of the elite, as it was the case with aristocratic society, but also with the bourgeois-dominated parliaments in an age without universal suffrage. Nowadays, a leader needs the masses to trust him; and as soon as the people are on his side, the old party establishment cannot but follow him or be swept away by popular enthusiasm. He also needs to be successful and to "deliver," for his charisma wanes if he is seen as indecisive or unlucky.

The leader is not a product of the masses, though. Rather, he stands above them and woos them to gain their trust. In turn, to trust the charismatic leader is an obligation (Weber [1922] 1958c, 556), which means that those who do not do so risk exclusion from the so-defined community. This trust is best earned with demagoguery (campaigns, rallies, newspapers) and manifests itself in the plebiscite. To vote for the leader (or on a question he has asked) is not a simple policy decision, but the people's commitment to the ruler's leadership, as Carl Schmitt would later observe as well. Plebiscites serve to ratify the leader's decisions, from which it follows that they must be engineered so as to yield the correct results, be it with relentless propaganda before, or ballot-stuffing after the polls. Parliament has not become unnecessary, though.

In an interesting turn of the argument, Weber entrusts Parliament with a host of tasks which seem to follow from his theory of caesarism. Having the British Parliament in mind, he describes it as guaranteeing continuity, as caesarism always has a succession problem – if the leader's claim to power is his unique charisma, finding a replacement is uniquely difficult. This is why Parliament must also act as a training ground for new leaders to earn their spurs in electoral politics. Weber being always preoccupied with bureaucracy, the supervision of administration is something even a caesarian parliament must do. Most astonishingly, Parliament has the duty to depose the leader when he has lost popular trust. Mass democracy, Weber concludes, has always come at the price of caesarism (Weber [1918] 1958a, 381–391).

From Leader-democracy to Dictatorship: Schmitt

From wanting to combine liberalism and caesarism, it is a small step to shedding liberalism altogether. Such was the goal of Carl Schmitt's theory of democracy. His criticism of liberal parliamentary democracy, and his exploration of dictatorship form the pinnacle of illiberal democratic thought. Behind Schmitt's criticism surfaces his own theory of democracy based

on identity, homogeneity and the distinction of equals and unequals. Schmitt's theory can be gleaned from his *Die geistesgeschichtliche Lage des heutigen Parlamentarismus* (The Crisis of Parliamentary Democracy) from 1926 and his *Verfassungslehre* (Constitutional Theory) from 1928. His *Diktatur* (Dictatorship), an earlier work from 1921, combines the democratic idea of the people's *pouvoir constituant* with the concept of dictatorship like no other, culminating in the conclusion that real dictatorship is only possible only on a democratic basis (Schmitt 1928b, 237).

Schmitt himself considered his critique of parliamentary democracy to be an accurate description of things as they were: the idea of Parliament, itself inextricably linked to liberalism's faith in discussion and publicity, rests on the expectation of reasonable debate with the aim to rationally convince one's opponent. Modern mass democracy defies this expectation. Therefore, parliamentary democracy is in crisis. Discussion and publicity only make sense where there are differences of opinion, not of interests. The former can be resolved via the better argument, the latter only settled via compromise. With the advent of mass parties representing (chiefly economic) interests, Parliament began to resemble the feudal estates' assembly of old, where participants sought not to persuade, but to bargain (Schmitt 1926, 9–13). Liberalism's trust in discussion and publicity, in turn, rests on the belief that the open struggle of opinions will lead to truth. Openness and the separation of powers are therefore central to the liberal creed. They embody the idea that balance (of opinions, institutions, powers, etc.) is always more conducive to truth and justice than either imbalance or uniformity (Schmitt 1926, 46).

The union of democracy and liberalism, which Schmitt decries as false, has obscured that democracy is fundamentally about the distinction between equals and unequals, whereas liberalism proclaims the universal equality of all human beings. Every democracy always has excluded some people; in fact, the difference of equals and unequals is what defines real democracy. Democratic, not liberal equality must make room for a certain distinction, that of those included and those excluded from democracy. Equality is granted only within, but not outside this so constituted community (Schmitt 1928b, 227). This equality can take many forms: *arete* in the polis, *virtus* in the republic, being of the right religion in the Puritan colonies of the seventeenth century or belonging to the right people in the nation state of the nineteenth century. Its essence is that those who do not meet these criteria do not belong to the community and do not take part in democracy: slaves, barbarians, "uncivilized" people, men without property, atheists, counterrevolutionaries, or foreigners (Schmitt 1926, 14; 1928b, 228–234). Whereas every democracy knew, according to Schmitt, the concept of the foreigner, the stranger, a "democracy of humanity" that would exclude no-one is not a democratic, but a liberal ideal, and a very shallow at that: it cannot take man in his concrete, political identity (the only form pertinent to the political: man as citizen, subject, ruler, or ruled) but has to stipulate an abstract, universal ideal equality devoid of any meaning (Schmitt 1926, 15–18). The form of equality conferred by shared nationhood has proved to be the most influential. The French Revolution needed to make of the French a homogeneous people, and thus a nation, not only defined by cultural or ethnic traits, but by having a political identity that sets it apart from other nations on the globe.

The way to secure this homogeneity distinguishes democracy from liberalism once more: Schmitt mentions a restrictive immigration law, laws against foreign investment, the nationalization of key industries and resources, citizenship laws permitting the denaturalization of individuals, and other such methods (Schmitt 1928b, 232). In a thus homogenized state, democracy is the identity of ruler and ruled. This means that the distinction between those in government and those subject to it must not be based on an intrinsic inequality between them. The distinction between ruler and ruled can only be based on the people's will, mandate, and

trust (Schmitt 1928b, 235). The identity of ruler and ruled only forbids the formation of an aristocracy, it does not compel to have elections or any kind of institutionalized popular participation. What counts is the idea of identity and the claim to be in charge solely because the people so will. Of course, this enables a dictatorship, but Schmitt goes on to say that a real dictatorship is only possible on democratic terms, whereas liberalism forecloses this kind of government: for the dictator needs unlimited powers, as we shall see shortly, which is diametrically opposed to the liberal idea of individual rights and a system of checks and balances (Schmitt 1928b, 237).

According to Schmitt, it was Rousseau who obfuscated things. His social contract starts with the liberal premise of universal equality, but results in the homogeneity of the general will, where no parties, factions, differences of religion, way of life, or opinions are allowed. Why, it must be asked, do people need to enter into a contract altogether if they are homogeneous? And if they are not, would the general will make any sense? A contract supposes that the contracting parties are heterogeneous, because there would be no need to formally agree on something if, as among a homogeneous society, rules and customs are generally not questioned or even articulated. Rousseau's general will, however, is nothing else but this kind of homogeneity, and therefore "real consistent democracy," as Schmitt exclaims: the identity of ruler and ruled. Consequently, the powers of government cannot be restricted in a real democracy: that would be nonbinding self-restraint. The powers of a king, though, can be curtailed: they rest on a contract between the crown and the estates, thus on a deal between differing interests (Schmitt 1926, 19). In a democracy as Rousseau envisaged it, decisions bind only those who decide, that is why rulers and ruled are identical. Even the minority is identical with the majority, because it beforehand consents to accept what the majority will have decided.

The problem is, though, that even the majority may be in error concerning the general will. The will of the majority thus need not be the (real) will of the people, wherefore a minority can represent the will of the people just as well. Interestingly, Rousseau's alleged totalitarianism consists not in subordinating the minority to the whims of the majority, who alone is in possession of the general will, but rather the contrary: a minority claiming to represent the majority and thus assuming dictatorial powers. Dictatorship thus rests on the insight that a people may democratically do away with democracy. Actual democracy, therefore, must be suspended in the name of a democracy yet to come. In the meantime, the people must be made ready for democracy, which normally means, as we know, re-education and the elimination of internal opponents (Schmitt 1926, 34–38). Fascism and bolshevism are illiberal, as any dictatorship, Schmitt acknowledges, but not necessarily anti-democratic: there are other means to determine the majority than the secret ballot. An acclamation – "self-evident, uncontested presence" (Schmitt 1926, 22) – is just as good. This is because the people only exist in the public sphere, and this necessitates physical presence, or, in other words, the people is the people only when effectively assembled. The people is present, or it is not, and when it is not, it is not the people.

This archaic publicity of assemblies and acclamations must not be confused with elections and referendums. These are a private affair, because each individual decides solitarily. The people as such is not collectively present, and the *citoyen* is transformed into a private man who votes according to his interests instead of cheering or grumbling with the crowd. Secret suffrage is thus a liberal, not a democratic invention (Schmitt 1928b, 243–246). As long as democracy and liberalism fought on the same side against monarchical absolutism, their antagonism was subdued. But with the victory of both over the forces of reaction, the difference between individualism and homogeneity cannot be ignored any longer (Schmitt 1926, 21–23).

Having freed the idea of democracy from its liberal accessories, Schmitt can call a spade a spade, and embrace dictatorship (Schmitt 1928a, 1–41, 132). With the advent of the idea of the people's constituent power, the old notion of dictatorship changes its meaning. The Roman dictators of old, like the virtuous Cincinnatus, were commissioners. They had uncircumscribed power, but they had a specific task to fulfil (wage a war, quell an insurrection, oversee public projects), and it was understood that this task needed extraordinary measures for its accomplishment. Thus, the dictator had to have extraordinary competencies. With the mandate fulfilled, however, commissary dictatorship would end. This kind of dictatorship is therefore defined by a situation deemed unsatisfactory, the wish to overcome it, and, for the mission's success, the necessity to act outside normal rules. But the mission is limited, and so are the means at the dictator's disposal. He is empowered to anything, but only to those actions conducive to success, and the ordinary institutions of the state are not abolished, but merely suspended.

This somewhat narrow definition changes if the dictator's mandate is not confined to a single event but consists in reforming the whole of state and society altogether. When the mission is limitless, commissary turns into sovereign dictatorship (Schmitt 1928a, 114). Such a shift in terms is especially easy if equipped with the notion of popular sovereignty. In Rousseau's Social Contract, the government (be it monarchic, aristocratic, democratic, or dictatorial – in the old sense) is, for the first time, not part of the agreement. The Social Contract is no covenant between the monarch and his people. It is an accord between the people themselves, who then mandate and commission the government to execute, but never to make the laws. The law-making, in Rousseau, is to a good part outsourced to the *législateur*, who can only write and propose, not implement the laws. The path to sovereign dictatorship is clear, Schmitt argues, if it works to combine the law-making power of the *législateur* with the executive power of the government (Schmitt 1928a, 123–126).

This combination is made possible by Sieyès' idea of the people's constituent power. In order to revolutionize the old system and to give a new constitution, the dictator needs to base himself on an even higher, immutable authority, on whose behalf he purports to act. This position is assumed by the people. The sovereign dictator is therefore still a commissioner, as he only is an agent of authority, without authority himself. But, appropriate to the colossal task before him, and corresponding to the nature of his principal, the powers vested in him are limitless. Whereas Rousseau rejected representation, though, Sieyès astutely introduced it into the idea of constituent power. It being necessarily vague and impossible to pinpoint (because this would be to *constitute* the *constituent*), it needs representatives entrusted with forming and voicing the popular will. Sovereign dictatorship, therefore, retains the commissary character but loses the narrowly delineated mandate in favor of a blanket order. Constituent power cannot be replaced by the constitution. The will of the people can always break through the laws and institutions created in its name.

The possibility of sovereign dictatorship, entrusted to do away with the old system, and therefore empowered with every necessary means to so, from now on always lurks in democracy. The office of dictator need not be assumed by an individual, however. Every revolutionary constituent assembly, which, with reference to the people's constituent power, abolishes the old and creates a new constitution, is a sovereign dictatorship (Schmitt 1928a, 133–149). Its mission is determined, but its powers unlimited. It follows that sovereign dictatorship can only exist outside the constitution (Schmitt 1928a, 236). The constitution of Weimar Germany, however, fatefully allowed for presidential emergency decrees, by which the president could mobilize the armed forces and suspend fundamental rights. The wide scope and indeterminateness of these powers led Schmitt to conclude that they seem like the “residuum of the national assembly's

sovereign dictatorship” (Schmitt 1928a, 239). It can come as no surprise that it was such a decree that, among others, enabled the next sovereign dictatorship, that of Adolf Hitler (the so-called Reichstag Fire decree of 1933).

Anti-pluralism and Anti-institutionalism, or: Theory of an Illiberal Democratic Constitution

It is time to distill the common elements of the theories hitherto described, and to see if an illiberal democratic constitution can be drawn from them. Illiberal democracy, in the two types shown above, is defined by a belief in oneness, union, and homogeneity – what I call anti-pluralism; and consequently, by the assumption that a state can do without institutions, because they are unnecessary at best, or detrimental to unity at worst – what is thus to be called anti-institutionalism. Certain constitutional arrangements follow from these principles. I posit that an illiberal democratic constitution, be it written or in practice, is defined by the exercise of power that is at the same time *unlimited* and *unchecked*. “Unlimited” refers to the subject matter the state may regulate: everything. “Unchecked” refers to the obstacles to surmount in doing so: there are none. An illiberal democratic constitution (ideally) grants limitless power, because the will of the people is always just, whatever it touches upon. It is always just because it is one will, willed by one homogeneous people (who, along Rousseauian lines, cannot harm themselves). It (ideally) grants unchecked power, because every hindrance to fully and purely implement the will of the people is to defy it. Hence, independent institutions, those whose role is not to bend to the popular will, are antidemocratic. Anti-pluralism leads to unlimited, anti-institutionalism to unchecked power.

The combination of unlimitedness and uncheckedness is specific to illiberal democracy. A cross check shall illustrate this: absolute monarchy (ideally) is *limited*, but *unchecked* power: not every matter of life falls into the kings’ province (because of aristocratic rights and privileges, conceptions of natural law, the demands of religion, and so on). In those which do, however, the king is not bound to any formality and needs no approval from anyone else: “*tel est mon plaisir*” enacts a law. In the British system of parliamentary supremacy, in contrast, the sovereign has *unlimited*, but *checked* power. There is no constitutional restriction to what Parliament may legislate (with the possible exception that it cannot bind future Parliaments). But parliamentary power is checked: there are rigid procedures, there is the separation of powers, there is an independent judiciary, there is a vibrant and watchful public opinion, and there is a strong allegiance to the idea of the rule of law.

The source of anti-pluralism is a monism of value. Behind the glorification of the people as one, united, and indivisible thus stands a meta-ethical doctrine about the possible ends an individual, or a collective, may pursue. This kind of meta-ethical anti-pluralism may then manifest itself, in practice, as the populist politicians’ claim that they, and they alone, represent the true people against those who do not belong (Müller 2016, 20). But apart from designating a populist’s campaign strategy and mindset, it is a fundamental concept, a worldview Isaiah Berlin has expressed in the form of, as he says, “three unquestioned dogmas:”

- (1) that to all genuine questions there is one true answer and one only, all other being deviations from the truth and therefore false, and that this applies to questions of conduct and feeling, that is to practice, as well as to questions of theory and observation – to questions of value no less than to those of fact;

- (2) that the true answers to such questions are in principle knowable;
- (3) that these true answers cannot clash with one another, for one true proposition cannot be incompatible with another; that together these answers must form a harmonious whole: according to some they form a logical system each ingredient of which logically entails and is entailed by all the other elements; according to others, the relationship is that of parts to a whole, or, at the very least, of complete compatibility of each element with all the others.

Berlin 2013, 221

This attitude has been described, with a slightly different emphasis, as absolutism (being opposed to relativism) by Hans Kelsen (1957, 22, 200), and as the politics of faith (being opposed to the politics of skepticism) by Michael Oakeshott (1996). Basically, anti-pluralism consists in subordinating politics to one single, highest – and thus absolute – value. This value contains the answer to every problem, and every social conflict can be solved by doing as this highest value commands. Thus, jacobins and caesarists govern along one single principle, be it reason, nature, justice, the will of the people, the interest of the working class, the race, and so on. The principle in question does not matter much. It matters that it is singular, and that society must be ordered according to it. This meta-ethical anti-pluralism denies that there could be legitimate conflicts of value – in which there is a clash of two opposing values of equal weight – because one will reveal itself to be false, and the other will reveal itself to be an embodiment of the highest value, which thus solves the conflict (Wagrandl 2020).

The losing side of the conflict is thus not seen as defeated, though legitimate, but as objectively in error, thus illegitimate, and therefore punishable (Kelsen 1957, 206; Oakeshott 1996, 29). Jacobinism, and, by extension, Marxism-Leninism, surely is the model realization of this kind of attitude, not least because to follow through with it probably necessitates absolute certainty and revolutionary zeal. But caesarism, too, fits into this mode of thinking. Here, the will of the people, or popular sovereignty, assumes the position of highest value. In contrast to such concepts like nature, reason, truth, and justice, the will of the people is not predefined (because of its voluntaristic character) and therefore needs constant actualization (by campaigns, rallies, elections, and plebiscites) and, above all, a mouthpiece (the leader, the president, the king) who is entrusted with voicing the peoples' will. A jacobin dictatorship can do without such orchestrations, because the unchanging principles of reason can be deduced without help from the populace. Meta-ethical anti-pluralism leads to moral and political anti-pluralism. It manifests itself chiefly in the standpoint that the people is a homogeneous body, and that the liberal celebration of pluralism (of any kind) is destructive to society – an old line of anti-liberal criticism.

When it comes to constitutional arrangements, anti-pluralism manifests itself in the absence of those provisions and safeguards that, under a liberal constitution, would be designed to protect this very pluralism. Thus, illiberal democracy is defined, as said before, first and foremost by unlimited governmental power: there is no subject matter outside its purview. As Tocqueville has described, democracy tends to uniformization. Popular sovereignty knows no inherent boundaries. In practice, this means that there is no review of the government's actions, because the people – and thus the government embodying it – can do no wrong. Hence there is no *standard* and no *body* of such review. In liberal democracies, the constitution is the standard of review. It delimits the government's competence, erects procedures to follow when wielding legislative and executive power, and, most importantly, contains basic rights that function as

prohibition for the state to legislate or otherwise infringe upon certain areas protected by those very rights.

Based on an illiberal democratic theory, however, all of that makes no sense. Surely, often autocrats do away with these formalities just because to hold on to power is so much easier without them. The point is, though, that in an illiberal democracy, they also have no *conceptual* place. The people need no protection from their own will. Thus, there is no area the will of the people could not cover. Every limitation of law-making power, like the right to free speech, must thus seem antidemocratic. When there is no standard of review, then the bodies of review, i.e. the courts, become redundant. In the end, limitless power based on an anti-pluralist conception of value (and thus an anti-pluralist view of everything else) absolves the state of the duty to justify its actions. What the state does, then, need not be couched in terms of reasonableness and proportionality, or of conformity with constitutional clauses and international agreements. *Populus iubet* is all that matters.

The second element of illiberal democracy is anti-institutionalism, which in practice leads to unchecked power. Its philosophical basis is again best illustrated by jacobinism, more precisely by its unflinching confidence in the goodness of man. It is true that liberalism sees humans as inherently prone to conflict, wherefore the state is called upon to guarantee peace and order by allotting each person their personal space of freedom (liberalism's atomization of the individual, again). By contrast, illiberalism along the lines of Rousseau would posit that social conflicts are a result of a deformation, of the circumstances, of noxious foreign influences, of a self-interested ruling class, and that, under the rule of a wise and just government, human perfectibility will finally reach its destiny, and people will finally be just, rational, and free. Good people need no institutions to hold them back, because, well, they are good. As Jacob Talmon concluded his examination of totalitarian democracy, the jacobins were not evil tyrants, but were animated by too nice a view of human nature, and thus too readily trusted that the government would only do good and never abuse its powers. The latter possibility had no conceptual place in the jacobin mindset. It simply ought not to happen, and therefore, it could not happen.

With this attitude, every impediment to the most direct exercise of power becomes suspect, and every criticism of the government's actions dangerous – because it is to criticize goodness incarnate. Thus, the French Revolution could not be reined in via written constitutions or duly promulgated laws; a caesar cannot be expected to wait for anyone's consent. Those who stick to the rules are branded as formalists and legalists, and they are quickly denounced as counter-revolutionaries – because to hold up the course of the Revolution by insisting on procedure is to work against it. Or, they are denounced as traitors – because to defy the popular will by insisting on procedure is to be antidemocratic. It makes sense, then, that the British judges who ruled that Brexit needed parliamentary approval were slandered as “enemies of the people” by a tabloid newspaper (Slack 2016). It makes sense, because independent institutions make no sense from an illiberal democratic point of view.

In an illiberal democratic constitution, anti-institutionalism leading to unchecked power manifests itself in the absence of institutions, as its name indicates, though only *independent* institutions are the target of anti-institutionalism: all those institutions that do not depend on the popular will. It is therefore democratic centralism. If the people is one and its will is one, it is only logical that the power of government be one, which means that it cannot be divided into different layers and parts, and that it cannot be encumbered by a fixed set of rules. An illiberal democratic constitution therefore (ideally) contains no separation of powers and no checks and balances. This, of course, does not preclude a functional division of labor. Illiberal democracies have courts of law and administrative agencies dispersed all over the country, which are not constantly controlled by the central government and conduct their ordinary business relatively

autonomously. Likewise, illiberal democracies know the difference between general laws and individual executive acts. The exigencies of administering a modern state require as much. But the principle of a singular, homogeneous will of the people requires that these institutions cannot operate *independently*. Thus, government must be given the power to name and replace judges (like in Poland or Hungary) or to summarily fire insubordinate civil servants (like in Turkey), to arrogate to itself the handling of high-profile cases, to declare states of emergency, to rule by decree, to be exempt from judicial review, and so on.

Thus, there is no real “horizontal” separation of powers anymore, because the executive, endowed with the privilege to carry out the will of the people, must have the necessary resources to do so, and may break the law in the process. Even a staunch defender of the rule of law, Hans Kelsen, held that the separation of powers is a monarchical atavism, designed to insulate the king’s prerogatives from legislative and judicial oversight, and that, in a thoroughly democratized state, powers must be centralized (Kelsen 1925, 258). The illiberal democratic argument against the separation of powers is therefore not completely absurd. But Hans Kelsen saw the locus of centralization in the legislature, not the executive. A strong parliament, however, does not easily fit into an illiberal democracy, as the work of Carl Schmitt has illustrated. If the people is considered one and homogeneous, open debate, persuasion, and barter have lost their meaning: a singular entity cannot and need not debate with itself. Kelsen was a pluralist, though, and recognized the parliament’s legitimacy even in an age of mass democracy (Kelsen 1929, 26–46). Schmitt was not and did not. But depending on a country’s political tradition, parliament may serve to support illiberal democratic rule, as Weber has shown. Additionally, there (ideally) is no “vertical” separation of powers in an illiberal democracy, like federalism, although this is much harder to do away with once it is in place. Federalism’s multiplication of centres of power along geographical, but possibly also along ethnic or religious lines defies homogenization.

Illiberal democracies also frown upon intermediary powers. They strive to be centralized, unitary states, not federal states, nor states with strong local government (in cities and municipalities). In a wider understanding of the term, intermediary powers may also comprise universities, trade unions, and other corporations and associations of importance, like newspapers and NGOs. As long as they form their will independently of the will of the people, they remain a seed of disunity and must therefore be brought under control or be eliminated altogether. Hungary’s forcing the Central European University out of the country is sad, but consistent with illiberal democratic theory. Not only is it evidence to the elimination of independent institutions, but also to a certain anti-intellectualism, or even anti-rationalism especially present in the caesarist type of illiberal democracy. Along with shutting down independent newspapers, taking over control in the national broadcaster, and bringing schools and universities into line is logical if one believes that free inquiry and rational debate are liberal ploys to sow discord and to destroy time-honored traditions, whereas common sense and the right values reside with the simple people, who are, by definition, good, wherefore the government representing them is good, which thus must not be restrained by independent institutions.

Conclusion

Democracy’s bad name in Western political philosophy from ancient times up to the nineteenth century comes from the very fact that it is illiberal. It is not a stretch, then, to conclude that real democracy is illiberal democracy. But is this really true? How democratic is illiberal democracy, actually? The question cannot be answered satisfyingly. From an illiberal democratic standpoint, illiberal democracy is very democratic. From the standpoint of liberal democracy, however, the

question forces to reflect upon liberalism's complicated relationship with democracy. It does not make much sense to measure illiberal authors according to liberal standards.

To defy these standards is these author's stated goal. Neither would it be honest to assimilate democracy into the idea of liberalism. As this survey of ideas, positions, and concepts has shown, democracy is not necessarily liberal. The question of how democratic illiberal democracy really is therefore tells us more about those asking it. Democracy has enchanted liberals so much that they do not want to surrender this word, and that they call their own preferred system democracy, instead of liberalism, although, as they have to admit, it developed against self-styled democratic aspirations – precisely *because* they came in an illiberal fashion (the Jacobins, the Napoléons, the communists, the fascists). The European integration project after World War II was expressly designed to keep popular sovereignty under control (Moravcsik 2000; Müller 2011, 110–113). Illiberal democrats are more honest when it comes to that, and openly name what they oppose: liberalism. Liberals do not oppose democracy, but want to contain it, and therefore necessarily expose themselves to the charge of being antidemocratic. But, liberals will say, a real democracy only works when there are human rights, the rule of law, the separation of powers, a free press. In short, democracy works if it is liberal. It is doubtful, however, if this is a conceptual necessity or only a condition of durability. Conceptually, as this chapter has shown, democracy can do without all this.

An entirely different question is, of course, whether such a system will last. Illiberal democracy in its caesarist type (the only one relevant today in Europe) faces a conundrum: a caesarist ruler needs to have democratic legitimacy, and thus cannot dispense with elections, parliaments, plebiscites, a public opinion (however manipulated). As explained above, caesarism thrives on permanent displays of the popular will. But as the people is considered one and homogeneous, and has a single, coherent will, the need for recurrent elections cannot easily be explained. The people have spoken, what more is there left to say? Illiberal democracy cannot acknowledge changing majorities and laws being repealed: because the people is immutable and its will is good once and for all. The people changing their mind does not fit within illiberal democracy's anti-pluralism, because that would be to recognize that there could be plural values, interests, and opinions at stake, and that, maybe, debate and persuasion play a role. It may be the case that illiberal democracy fails on its own terms.

The inherent contradiction between democratic rituals (recurrent elections, parliamentary debates) and the illiberal expectation of oneness and homogeneity – which imply immutability – makes for an unstable foundation. Thus, illiberal democratic rulers must, as has been shown, engineer elections, or resort to re-education, or revert to outright terror to get the people to vote for them *again*. Illiberal democracy, because of its self-restriction to a single, guiding principle, and its lack of independent institutions, is not fail-safe at all. No political system is, of course. But liberal democracy is not discredited intellectually, nor disabled practically, by a change of majority. Illiberal democracy does not allow for that and is therefore constantly threatened by it.

Illiberal democracy holds a mirror up to us, the liberal democrats, and forces us to ask: how democratic is liberal democracy? It is time to separate these two ideas that have become almost synonymous. Democracy has become shorthand for everything that sounds nice and good: human rights, solidarity, freedom, justice. As pointed out above, illiberal democracy might be closer to democracy's roots. Liberals must realize that the model of democracy they uphold is not very democratic, and rightly so. The will of the people is buried under heaps of international agreements, supranational regulations, international courts, inflated constitutions, activist judges, all-permeating fundamental rights, and the there-is-no-alternative logic of the

global economy. That those left behind by these developments are brought to reject liberalism is, as anti-liberal thought from Rousseau to Schmitt has shown, almost self-evident.

This is not to say that every charge levelled at liberalism is justified. It is a recurrent flaw of antiliberal critique to blame all that is wrong with society on the philosophy liberalism (as if society ever could be the faithful embodiment of one single idea; Holmes 1993, xiv). But the moral merit of liberalism and antiliberalism is not the question. To morally condemn antiliberalism and those who support it will only reinforce the problem. The struggle must be staged in the arena of the political. The left professes cosmopolitanism but supplants liberal democracy with ever-narrower identity groups united by nothing but their aversion to the right, and sadly, its voters. The right, meanwhile, is building an exclusivist ethno-nationalism that destroys the very heritage it claims to defend. The broad church of liberal democracy is emptying. Liberal democracy must therefore cease to be a matter of morality and become a political *identity* again. In other words, liberal democracy must borrow – and repurpose – an illiberal idea.

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