



Authoritarian Liberalism?

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The year 1932 presented Germany with the catchphrase of the ‘authoritarian’ state. The Papen cabinet had even elevated this catchphrase to the level of a governmental programme. To be sure, the Papen government came to an end in the same year. Indeed, it scarcely represented the new programme of the authoritarian state but counted merely as the exponent of powers that continue to push for the realisation of this programme. For many years to come, therefore, we will have occasion to engage with the practical and theoretical advocates of the ‘authoritarian’ state. A foreigner, one not very well acquainted with German issues, would most certainly not be in a position to recognise the concrete political goals to be captured by this catchphrase. Authority means power and standing, empowerment and right. Against whom or what, then, does the idea of the ‘authoritarian’ state polemicise? Has there ever been a non-authoritarian state? Is not every state *qua* state an authoritarian organisation of government (*Herrschaftsverband*)?

The lack of clarity inherent in the catchphrase of the ‘authoritarian’ state, even if not intended, is nonetheless not accidental. What its spokesmen are aiming at can be clarified only by answering two questions: what basis do the protagonists of the catchphrase want to accord to the authority of the state? And within which spheres of life is the state, in their view, supposed to appear in an ‘authoritarian’ manner?

The first question is relatively easy to answer. By invoking the ‘authoritarian’ state one polemicises, in truth, against the democratic state. ‘Authority not majority’, so runs the antithesis formulated a hundred years ago by Friedrich Julius Stahl.¹ In the interim, however, Stahl’s line has not acquired greater accuracy. That the democratic state, constituted by a decision of the majority, would be devoid of authority is certainly not something that can be claimed on the basis of ancient and modern experience—a point that was bitterly confirmed for the Germans by the War. Thus, one says ‘authoritarian state’ and means autocratic state authority versus democratic state authority.

It must not be overlooked that the democratic theory and practice of Germany in the post-war period has provided the champions of the ‘authoritarian’ state with easy targets. Even if one grants all the inevitabilities associated with the lost war and the ensuing decline of the currency and the economy; even if one takes into account that it is the same highly influential circles in the military and the economy that have tried

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¹ See H. Heller, ‘Die politischen Ideenkreise der Gegenwart’, in *Gesammelte Schriften*, vol. 1 (A. W. Sijthoff, 1971), at 293.

hard ever since 1918 to undermine the democratic authority of the state and today voice the rallying cry for the ‘authoritarian’ state—if one grants all these explanations and excuses for the weakness of German democracy, one can still not absolve the practical and theoretical supporters of this democracy of their historical guilt, their having altogether misapprehended the unwavering law of political power. It is a century-old national foible on the part of the Germans that they irredeemably severed the unity of law and power, which can be separated only dialectically, and severed in a like manner the unity of theory and practice. They possibly even aspire to allocate law and power to two different party programmes. Similar to liberal democracy a hundred years ago, social democracy in Germany since 1918 has claimed for itself above all the law, not knowing how to make good use of that evil power into which its enemies in the meanwhile settled ever more comfortably. If July 20, 1932 did not succeed in hammering more deeply into social democracy the dialectic of power and law than had been possible for liberal democracy in the years of 1813 and 1849, then the autocratic-authoritarian state may be a reality in Germany for many years to come.

In post-war Germany, the evident nature of the catchphrase of the ‘authoritarian’ state, which if taken by itself is unclear, is in part owing to the weakness of the democratic regime. To a considerably larger extent, however, it goes back to the fact that the bewildering confusion with which Germany has existed, particularly since 1929, renders people primarily susceptible to the disparaging of the democratic authority of the state and to a belief in the miracles wrought by a dictatorship. The fact that millions believe with religious fervour in redemption from all plight through belief in the *Führer*—to an extent going far beyond anything explicable in sociological terms—exacerbates the by no means minor difficulty of forming political majorities and forming democratic governments. In a crisis-ridden state of exception, a conception of the state that—like Carl Schmitt’s—declares rules and norms as insignificant and the exception as decisive can be successful. For a year and a half, this conception has attempted to demote democratic authority in favour of the dictatorial authority of the state.

At least since the times of ancient Roman democracies, peoples of the occident have recognised that in states of emergency and exception it becomes necessary to concentrate state authority in the hands of a democratically elected dictator who can be recalled. Carl Schmitt, however, on the basis of an altogether audacious logic, seeks to present the state of exception as the true and proper ordinary state, and to espouse the permanent autocratic dictatorship, unrestricted to emergencies, as the true democracy. Basically, he recognises only a single ‘authoritarian’ state, namely the fascist dictatorship as epitomised by Mussolini, which in its ‘ancient simplicity’ imposes on the whole of political life the will of one man. For the ‘greater glory’ of this ‘authoritarian’ state, all institutions and ideas of constitutional democracy need to be stripped of their authority. They have to be exposed as rationalistic humbug of the eighteenth and nineteenth century, and the Weimar Constitution has to be led by the appropriate interpretation to a *reductio ad absurdum*. This explains why in the eyes of this legal doctrine a constitution is not a structure of norms but a ‘decision’, parliamentarism a non-sensical institution that has as its goal the ascertainment of eternal truths by means of discussion, and any form of adjudication of constitutional questions a venom designed to consign the German Empire to the state of powerlessness in which it found itself in the seventeenth and eighteenth century.

In his book *The New State*, Walter Schotte has outlined how this ‘authoritarian’ state was drawn up in the heads of the Papen government. On the question of the

form of the ‘authoritarian’ state, the monarchist von Papen replies with his own question, as profound as it is convenient: ‘By the way, what do the forms of state amount to in the eyes of God?’² As the fruit of Schmitt’s views of the state and constitutional interpretation, to which explicit reference is made in a different context, there appears a principle reminiscent of Metternich: ‘The power of the state rests with the President of the Reich, who, albeit elected by the people, bears responsibility solely before God’. If one adds that according to Schmitt the secret ballot is in truth less democratic than the open plebiscite (which, for example, in fascist Italy is controlled by the dictatorial party), then one recognises that the basis of this ‘authoritarian’ state is not supposed to be democracy, ‘the idol of the seduced masses’, but rather autocracy.³ Despite the invocations of God, it remains inexplicable whence that ‘sacrum imperium’ of this authoritarian state obtains its sacred character.

The anti-democratic basis of the ‘authoritarian’ state is obvious. Far more difficult, but also far more revealing, is answering the question of the spheres of life in which the state is supposed to conduct itself in an authoritarian way and what limits its authority ought to respect according to the intentions of its spokesmen. It is precisely these limits of state authority that will turn out to be the true *experimentum crucis* of the ‘authoritarian’ state.

For many years, it seemed as though the foreign policy of the German Reich required the ‘authoritarian’ state. Seduced masses were left with the superstitious belief that the ‘strong man’ would be able to remove, expeditiously and successfully, the onerous burdens of the world war. This justification of the ‘authoritarian’ state oriented to foreign policy has lost a great deal of its persuasiveness ever since the success of the democratic state—in a manner not at all well appreciated—relieving Germany of the most severe consequences of a war that had been lost by an ‘authoritarian’ state. Walter Schotte confirms, quite frankly one can add with gratitude, that foreign policy is not supposed to be the actual sphere of operation of the ‘authoritarian’ state. As he correctly observes, the foreign policy of the Papen government, unlike that of its predecessors, no longer starts out from the most pressing needs: ‘It can pay tribute to its predecessors that the most urgent concerns, such as the occupation of German territory by the enemy or even the boundless claims to the payment of reparations, had been already resolved or brought close to a resolution. Consequently, with regard to the question of reparations, it took only the Treaty of Lausanne in order to drive away forever the specter of political debts, leaving it to the junk room of history’.⁴ After France has conceded equal rights to Germany in military matters, credible motives for an autocratic foreign policy have become rare.

Do the militarily and economically powerful champions of the ‘authoritarian’ state—those who have now believed for several months that they are in sole control of the political levers—intend therefore to have an internally unlimited authoritarian state, a ‘total’ state? Certainly not! They leave such reverie, as honest as it is obscure, to the youth movement and the experience of war, to the likes of Ernst Jünger, who has gotten out the word in our quarters on the ‘total state’, which, as a term, originally stems from Italian fascism. With all their apolitical longing for redemption, the ‘worker’ and the ‘warrior’—economically, spiritually and psychologically suffering gravely from the anarchical disintegration of the people—may well get excited

² *F. v. Papen*, cited in Walther Schotte, *Der neue Staat* (Neufeld & Henius, 1932) at 39.

³ Schotte, *ibid.*, at 35.

⁴ *Ibid.*, at 80.

about a community that rises entirely above any internal division. While they may dream deeply and strongly of a classless society and of a *Reich*, of international or national socialism, the 'authoritarian' state is wide-awake and knows very well that it neither wants to be nor can be a total state.

From a practical-political perspective, the total state is an impossibility. It is always the case that the state can only grasp the human being in part. It can never grasp man as a whole. Since Bodin's time—that is, ever since there has been a modern state at all—the state has had, first of all, to withdraw from being both a political organisation and a community of worship. The state had to become tolerant and liberal, initially in the religious sphere and later also in the spheres of the arts and sciences. However, as so often in modern history, a merely relative totality of the state was striven for, while at the same time the call for a unified *religion civile* to be imposed by the state emerged. An authority that would like to do more than to motivate external conduct but that also would like to determine our inner sphere, and would like to obligate us in knowledge and conscience, has to be able to appeal to more than sheer greater power or considerations of utility. The task of legitimising such authority cannot be taken over by some universal god or by a version of Christianity that remains dogmatically unspecified and hence uncommitted to a specific denomination, nor will a rationalist cult of the *etre suprême* suffice. This explains why Mussolini, who is fortunate enough to be the dictator of a religiously homogenous people, seeks to bolster his political authority with the authority of the Catholic Church. Whether it is possible to undergird a nationalistic fascism with universalistic Catholicism may well be doubted. There can be no doubt, however, that in Germany the 'total' as well as the 'authoritarian' state lacks any kind of metaphysico-religious foundation, which explains why it remains incapable of appearing in the greater sphere of culture with final authority and of determining immediately the cultural community (*Kulturgemeinschaft*).

Ultimately, the success of both socialism and *völkisch* national socialism rests on the belief that a culturally homogenous people can be brought about by means of a detour via an authoritarian economic community or an authoritarian racial community. Whoever is convinced that from the existence of a common racial body one can infer, with scientific certainty, the existence of a requisite racial soul or corresponding racial spirit will demand from the state the breeding of a cultural community by racial means. Wide circles of the German population today call this outlook 'idealistic'.

By contrast, the moneyed and educated classes of today brand as 'materialistic' the belief that a spiritual community can be fabricated by means of an authoritarian economic community. However, even the young bourgeoisie, prompted to reflection by Hitler's socialism, has begun to appreciate the relative truth of the impatient proclamation on human dignity once made by the idealist Schiller: 'No more, I beg of you. Give him food, give him shelter, and when you have clothed his nakedness, dignity emerges by itself'.

Not for a single moment has the state qua community contriving to promote the breeding of the 'Nordic' race been seriously considered by those supporting the idea of the 'authoritarian state'. What is decisive, though, for the political and social character of the 'authoritarian' state is their view of the capitalist form of the economy. In the nineteenth century, Prussian conservatism decidedly rejected the bourgeois-liberal capitalism that had dissolved the received social bonds. Without, however, being in a position to hinder the development of this economic form, conservatism still possessed the clout to inculcate into the liberal bourgeoisie its

political sensibilities and thereby gradually to render it feudal. The product of this peculiar feudal-capitalist interbreeding was national liberalism—already in its name internally contradictory. In the twentieth century, the reverse process takes place. Upper-class bourgeois capitalism demonstrates the greater force of assimilation; conservatism becomes bereft of all social inhibitions and is drained of its last drop of social oil. Hugenberg, former director of Krupp and a newspaper mogul, becomes the chairman of the former conservative party. Matching this sociological transformation, the ‘authoritarian’ state represents a consistent further development of national liberalism. Most appropriately, it is to be addressed as authoritarian liberalism.

Choosing this designation for the political ambition of liberalism is justified primarily by how its proponents position themselves vis-à-vis the cardinal problem of the present, that is, the question of the economic order. For as soon as it concerns the economy, the ‘authoritarian’ state waives its authority altogether. Its purportedly ‘conservative’ spokesmen recognise merely one slogan: Freedom of the economy from the state! Emphatically, Papen avows ‘the idea of the private economy’ and the ‘initiative and free labor power of all economically active people’.⁵ He wants the state and the economy to be ‘strictly’ separate from one another. The state has to take up a full ‘retreat’ from the economy.⁶ The conservatives who are excited about the ‘authoritarian’ state look confusingly similar to the old Manchester men if they, like Papen, want chiefly to avoid ‘undercutting the economy’s agility through new artificial constructions. On the contrary: *Bonds have to be loosened*’.⁷ A nineteenth century conservative would most certainly not have used this word.

Currently, even Carl Schmitt believes that the time has come to express his ideas concerning the ‘authoritarian state’ a little bit more clearly—ideas that have heretofore been hidden beneath sophisticated disavowals. He was presented with an apt opportunity in November 1932 during the sixtieth plenary assembly of the Langnam Association. With 1500 representatives of the heavy industry present, he lectured on ‘the state and the economy’. The result at which he arrived indeed justifies the definitive view of the German Mine Journal (*Deutsche Bergwerkzeitung*) of November 24, according to which the Langnam Association would have made ‘a particularly good choice’ in selecting this speaker, had not the keynote address demanded ‘that the state relinquish all loopholes that it still occupies in economic life and participate economically only in the form of clearly limited and clearly externally marked, recognizable public prerogatives’.

The excitement generated by the liberalisation (*Entstaatlichung*) of the economy, by the ‘clean’ delineation of a state-free economic sphere, cannot have come at all easy to the theorist of the total-authoritarian state. His extraordinary ability to invent words pointed the way out. Up until now, one had heard from Schmitt that the state of our time was a weak state, owing to its being a ‘pluralist’ state, in which certain private interest groups struggle for power. As an intellectually played about solution, there appeared on the horizon the total and, therefore, strong state. The meeting of the Langnam Association presented us, however, with a clearer interpretation of the total state by Carl Schmitt. Now we have to distinguish, namely, a total state that makes an attempt to order the economy in an authoritarian way; this state, however, is total

⁵ *Ibid.*, at 94.

⁶ *Ibid.*, at 96.

⁷ *Ibid.*, at 119.

only with regard to the volume of its activity and is tantamount to the weak state that we currently have in Germany.⁸ By contrast, the qualitatively total state is supposedly the total state that draws a sharp line of separation vis-à-vis the economy, although ruling, one the other hand, with the strongest military means and the means of mass manipulation (Radio, Cinema). Thus understood, every strong state is a total state.⁹ ‘What this means’, the not really logically, but indeed politically unmistakable keynote speaker adds, ‘is proven by fascism’.¹⁰ The only example of authoritarian political leadership that is mentioned by this public law ‘guardian of the constitution’—a ‘courageous demonstration of state power’—is July 20, 1932.¹¹

For a start, the ‘authoritarian’ state is characterised by its retreat from economic production and distribution. Papen, however, would not be the representative fighter for the ‘authoritarian’ state if he were not simultaneously fighting against the ‘welfare state’. Presumably this does not mean abstinence on the part of the state where subsidising large banks, large industry and large agricultural enterprises is concerned. Rather, it means the authoritarian dismantling of social policy. Through the mouth of its apologist Schotte, the authoritarian government of Mr. von Papen teaches us that health insurance has done damage to public health and that unemployment is not worker’s fate—‘the abundance of moonlighting proves that’. Unemployment insurance has to be regarded as non-sense: ‘most often, the individual has to help himself!’¹² According to Mr. von Papen, the ‘authoritarian’ state is of course social, but von Papen defines as social a state ‘that defends work as a duty, as the psychological happiness of its people’.¹³ The desire of millions of German human beings to have work, to have the right to work backed up by authority, should have been rendered impossible by these words.

Aside from retreating from economic and social policy, this ‘authoritarian’ state is supposed to retreat from socio-cultural policy as well. Formerly, the conservative in Prussia took pride in compulsory schooling and in the school principal that purportedly prevailed in the battle of Königgrätz. Today we hear from Mr. von Papen that one will have to examine the tendencies of cultural policy from the standpoint of downsizing state activity. Indeed, the state was ‘not obliged to offer general education as a “handout”’; those entitled to it should make sacrifices on their own. That the expenses for elementary school education have tripled since the time prior to the War is, I believe, an untenable situation’.¹⁴

Through these references, a rough estimate of the substance of authoritarian liberalism appears to have been more or less adequately characterised: retreat of the ‘authoritarian’ state from social policy, liberalisation (*Entstaatlichung*) of the economy and dictatorial control by the state of politico-intellectual functions. According to Schmitt’s quite credible reassurances, such a state has to be strong and ‘authoritarian’, for only a state of this type is able to sever the ‘excessive’ connections between the state and the economy. Of course, the German people would not tolerate for long this neoliberal state if it ruled in democratic forms. After all, it is the minister

⁸ Carl Schmitt, ‘Gesunde Wirtschaft im starken Staat’ (1932) 21 *Mitteilungen des Vereins zur Wahrung der gemeinsamen wirtschaftlichen Interessen in Rheinland und Westfalen* (Langnamverein), 13–32, at 18.

⁹ *Ibid.*, at 17.

¹⁰ *Ibid.*, at 17.

¹¹ *Ibid.*, at 14.

¹² Schotte, *ibid.*, at 154–155.

¹³ *Ibid.*, at 157.

¹⁴ *Ibid.*, at 121–122.

of finance of the Papen Cabinet, Count Schwerin-Krosigk, who is cited in Schotte's book with the statement that nearly 90% of our people live off an income that, on the average for a family of four, does not amount to fifteen hundred marks per year.¹⁵

At this point, no criticism but merely an exposition of this postulated national liberalism is intended. The 'authoritarian' state claims to amount to a truly non-partisan and just state—by contrast with the democratic party state. It is this claim that Carl Schmitt defends with a straight face. It is not to be expected that this claim would be taken seriously over the long run by the more than ninety percent of the population referred to above. No state that is determined to secure 'the free labor power of those people active in the economy' will be allowed to retreat from it; rather, it will have to act in an authoritarian way, namely in the spirit of socialism, particularly in the economic sphere. No European state is going to be a strong state that does not succeed in appearing also economically strong vis-à-vis banks, industry and agriculture, and garnering the loyalty of the ninety percent by means of an economy that is organised in a manner that takes care of their needs.

Possibly, the German citizen takes comfort for now from the reassurances given by Carl Schmitt to the Langnam Association to the effect that an enhancement of the power of the state was precipitated through an increase of technological means, especially military technology, by contrast with which all earlier ideas of revolutions and revolt would pale into insignificance. But even an argument so highly elevated above every political ethos cannot divest us of our memory of history. Russia, already in 1917, witnessed the fateful end of a state that had mastered with true virtuosity the technique of wielding power without a purpose.

¹⁵ *Ibid*, at 103.

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