

Donald Trump meets Carl Schmitt

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Abstract

By revisiting late-Weimar debates between Carl Schmitt and two left-wing critics, Otto Kirchheimer and Franz L Neumann, we can shed light on the surprising alliance of populist politics with key tenets of economic liberalism, an alliance that vividly manifests itself in the political figure and retrograde policies of Donald Trump. In the process, we can begin to fill a striking lacuna in recent scholarly literature on populism, namely its failure to pay proper attention to matters of political economy. We can also perhaps begin to make sense of the roots of Trump's assault on the US federal state: formal law and its organizational basis, modern bureaucracy, represent potential restraints on the alliance of populism with neoliberalism.

Keywords

Carl Schmitt, crisis of democracy, Donald Trump, Frankfurt School, neoliberalism, populism

‘Stop calling Trump a populist’, Paul Krugman tells his readers in *The New York Times*, echoing a now commonplace refrain among left-leaning commentators.¹ Trump's reactionary anti-worker policies have nothing in common with a rich tradition of populist movements that pushed for the wealthy to share a bigger piece of the economic pie with people of modest means, a tradition that contemporary scholars either distort or simply ignore.² Why allow a right-winger like Trump to steal the mantle of a political legacy that, in its finest moments, helped pave the way for progressive political and social reform?³

To their credit, such critics identify an Achilles' heel in the recent scholarly literature on populism, namely its failure to deal systematically with questions of political economy: an analysis of capitalism's most recent crises has to be part of any plausible explanation for the emergence of powerful populist movements in Europe, North America and elsewhere.⁴ It simply does not suffice to note that ‘defining populism in

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terms of particular socioeconomic groups is empirically dubious' because its supporters come from relatively diverse socio-economic backgrounds.⁵ Yes, we should reject simplistic economic interpretations of populist movements; populism appeals to those who by no means can be classified as economic globalization's 'losers'. Nonetheless, it would be equally simplistic to deny a significant causal status to the 2008 financial crisis (and more recent Euro-crisis) or – more generally – deeply troublesome capitalist developmental trends since the 1970s.⁶ We need a serious debate about how best to weigh such material factors vis-à-vis others we might identify. Any attempt to characterize populism as resting on a quasi-autonomous political logic distorts its character.

Still, it not only makes sense to identify Trump as a populist, but his populism also coheres with his right-wing economic and social policies, now arguably the most reactionary in modern US history. To understand how the puzzle pieces fit together, I briefly revisit Carl Schmitt's Weimar-era political thinking, interpreted through the critical lens of two contemporaries, Franz L Neumann and Otto Kirchheimer, leftist Weimar lawyers and subsequently of 'Frankfurt School' fame. As I hope to demonstrate, Schmitt's preference for an authoritarian populist reinterpretation (and indeed: degradation) of democracy not only meshed with what Neumann accurately described as the late-Weimar transformation of capitalist private property into a 'bulwark against state intervention'; Weimar's version of authoritarian populism, which Schmitt helped carve, constituted its essential presupposition.⁷

To be clear: I am not claiming that Schmitt has 'influenced' Trump or some cabal of political advisers in the West Wing, secretly reading obscure mid-century contributions to German political and legal theory. There *is* evidence from Europe and elsewhere that right-wingers versed in Schmitt's ideas are helping to shape populist movements; there is no such evidence, as far as I can tell, about Trump, whose illiteracy probably makes him incapable of grasping any but the crudest political intuitions. Instead, what I aim to show is that Schmitt's theory captures a political-economic logic that allows us to answer the question that befuddles Krugman and others: how can populists consistently undergird retrograde policies favouring the economically privileged? Nor am I claiming that every feature of that logic, as distilled by Schmitt, is reproduced in the contemporary United States, or that the US situation is structurally akin to that of the late Weimar Republic. By briefly revisiting Schmitt's political agenda in Weimar's final years, we can, however, shed light on the contemporary crisis.

Populism against democracy

Political theorist Jan-Werner Müller has recently characterized populism as 'a politics predicated on identity, defined mainly by exclusion'. It rests on the image of a unified, authentic and homogeneous people, whose identity is sharply juxtaposed to that of outsiders, typically likened to threats and even traitors. This 'people' exists outside and beyond ordinary institutions and thus potentially can act against them. When in power and also politically convenient, however, populists will shed their anti-institutional instincts.⁸ Engaging in identity politics (even as they hypocritically denounce rival liberal and leftist varieties), its leaders claim a monopoly over the capacity to directly stand in for 'the people' and 'its' unitary will: as then candidate Donald Trump

announced at the 2016 Republican Convention, 'I am your voice', with the promise: 'I alone can fix it'. Trump has given vivid expression not just to populism's latent plebiscitarian but also to its anti-pluralist traits. As he commented at a May 2016 rally, '[t]he only important thing is the unification of the people, because the other people don't mean anything'. In Trump's eyes, after all, the 'other people' are not 'real Americans'. And he alone directly embodies those 'real' Americans.

The populist imaginary is profoundly anti-liberal. As soon as basic rights or the separation of powers impede the unified popular will's (supposed) embodiment in the single person of the leader, they can be pushed aside. When in power, populists remodel legal and constitutional practice according to the adage 'for my friends everything, for my enemies, the law'. They transform law and courts into discriminatory weapons against their political 'enemies', while looking the other way when 'friends' skirt the law's boundaries.⁹ Populist leaders tout their fidelity to constitutionalism and the rule of law, but in reality instrumentalize both as part of a struggle against the 'other' (e.g. immigrants, racial minorities, the 'liberal elite'). Accordingly, Trump pays lip service to the rule of law yet reduces it to a hyper-politicized version of *authoritarian legalism*, that is, 'law and order', with its main targets being black protestors (i.e. Black Lives Matter), Muslims, undocumented immigrants, refugees and others whom Trump apparently considers a threat to 'real Americans'. Repressively deploying the law whenever it suits his political agenda, he appears to treat his own endeavours – and those of his allies – as above the law. Flagrant corruption and conflicts-of-interest within his Administration are pushed aside; Trump has actively resisted efforts to investigate Russian collusion in the 2016 election; he pardons racist officials (e.g. former Sheriff Arpaio) who are political allies; he views the US Department of Justice and Attorney General as extensions of his own army of personal lawyers.

Despite its superficial overlap with the language of popular sovereignty, populists do not seek to deepen meaningful democratic participation or popular oversight. As Müller points out

[p]opulism has no particular interest in getting people continuously to participate in politics. A referendum is not meant to catalyze open deliberation to generate a range of well-considered judgments about policy. Rather, it serves to ratify what the populist leader has already discerned to be the genuine popular interest as a matter of identity, not as a matter of empirically verifiable ideas and interests. Populism without participation is an entirely coherent proposition.¹⁰

Not surprisingly, Trump has thrown the weight of the executive branch behind bogus accusations of 'voter fraud', accusations that conveniently veil his efforts to strip voting rights from historically marginalized groups. The disconnect between democratic rhetoric and a harsh anti-democratic reality derives from the fictional character of the populist image of a unified 'real' people, whose heterogeneous voices and interests, more-or-less miraculously, somehow gain perfect expression in the single person of the movement leader. On Müller's view, 'illiberal democrat' is therefore an inapt terminological characterization of Trump and other populists because it concedes too much normative and political ground. Populism threatens not only *liberal* rights and protections but also core

elements of modern *democracy* with its principled commitment to freedom and equality – and not just for the politically like-minded. Interpretations of populism that simply update 19th-century liberal (and conservative) anxieties about ‘majority tyranny’ and ‘mob rule’ badly downplay populism’s profound threats to modern democracy.¹¹

Why have I recalled Müller’s definition of populism at some length? My reasons are twofold. First, his analysis offers a useful starting point for making sense of Trump and other populist leaders. Second, it allows us to see how the populist revival rests on a distinctly Schmittian logic. By further unpacking that logic, we can make sense of populism’s anti-democratic contours along with its ‘unholy alliance’ with retrograde economic policies, a core feature of populism to which Müller and other recent analysts provide short shrift.

Those familiar with Schmitt’s writing will recognize parallels between his views of democracy and Müller’s on populism. On one reading, Müller has essentially reformulated Schmitt’s central claims, minus their political existentialism and more unequivocally authoritarian connotations.¹² Schmitt conceives democracy as a mode of identity politics, resting on a substantialist interpretation of equality (in sharp contrast to ‘abstract’ Enlightenment notions), requiring the realization of a substantial sameness or ‘homogeneity’ and a clear delineation vis-à-vis threatening political ‘enemies’.¹³ Homogeneity can, to be sure, take many forms, just as in populism, Müller notes, where ‘[w]ho exactly gets excluded and how – whether Mexicans by way of a wall or Muslims by way of a religious test – can vary from day to day’.¹⁴ Nonetheless, it is no accident that Schmitt’s own examples – like Trump’s more recent rhetoric – regularly take on extreme nationalist, ethnicist and racist overtones, given the politically explosive character of conflicts about such matters in diverse modern societies.¹⁵ Neither the theorist Schmitt nor the opportunistic politician Trump possesses the normative tools necessary to circumvent reactionary, deeply anti-universalistic interpretations of homogeneity.

For Schmitt, as for contemporary populists, ‘the people’ (as constituent power) represents an ever-looming presence – if necessary, one that can be mobilized against existing institutions and ordinary political procedures. Democracy in this sense has nothing to do with liberalism, since liberalism and democracy are fundamentally antagonistic. Consequently, democracy’s realization can legitimately take authoritarian and dictatorial forms because deliberative parliamentary government and the rule of law, Schmitt idiosyncratically asserts, rest exclusively on liberal but not democratic grounds. Although democracy’s shared identity can never be absolute, pivotal is always the successful creation and subsequent preservation of politically significant ‘identifications’ between the people and their rulers, identifications in Schmitt’s view best achieved by a strongman-regime where the executive directly manifests the people’s unified, homogeneous will.¹⁶ Plebiscites and referenda have roles to play in this model of ‘democracy’, but *not* as instruments by means of which the electorate deliberates, gains a superior understanding of its varied interests or renders the political elite accountable. Rather, as Kirchheimer accurately noted in 1932,

[f]or Schmitt . . . the democratic character of the plebiscite consists purely in an unorganized answer which the people, characterized as a [manipulable] mass, gives to a question which may be posed only by an authority whose existence is assumed.¹⁷

On Schmitt's model, *the* key issue in contemporary democracy is 'the question of who has control over the means with which the will of the people is to be constructed', especially over new technologies permitting historically unprecedented types of manipulation and control.¹⁸ 'No state can afford to yield these new technical means of mass control, mass suggestion and the formation of public opinion to an opponent', an eerily prescient observation given the role of Fox News and Russian-backed Facebook posts and bots in propelling Trump to the presidency.¹⁹

Outlining how right-wing thinkers laid the groundwork for German fascism, Neumann's landmark *Behemoth: The Structure and Practice of National Socialism, 1933-1944* (1944) accused Schmitt of contributing to the ideological 'sham' that right-wing authoritarianism represented not democracy's negation but instead its potential salvation, a sham from which the Nazis disastrously benefitted.²⁰ For the socialist Neumann, the flaw of Schmitt's position was not just its anti-liberalism; even more damning was the anti-democratic structure of Schmitt's reduction of popular sovereignty to homogeneous identity, a view that made a mockery of its core elements. Schmitt's interpretation, Neumann correctly observed, delegitimized popular institutions (most importantly, the legislature) while feeding the dangerous myth of a neutral executive capable of 'true objectivity above the petty quarrels of the numerous interests, public agencies, and states'.²¹ As Kirchheimer argued previously in a related vein, Schmitt's redefinition of democracy meant that he simply could not make proper sense of the crucial role freedom or autonomy – and centuries of arduous struggle to expand it – played within democratic politics. In a brilliant critique, Kirchheimer deconstructed Schmitt's criticisms of the 'Weimar system' by showing how they depended on this original theoretical error; that error manifested itself perhaps most egregiously in Schmitt's failure to acknowledge the necessarily interrelated character of modern freedom and equality.²² The idea of democracy as resting exclusively on substantial equality, in any event, was a farce.

I cannot recount Kirchheimer's full criticisms here. Instead, I merely want to highlight one modest preliminary conclusion. To the extent that populism follows the Schmittian logic diagnosed by Müller, he is right to emphasize not just its illiberal but also its anti-democratic essence: 'it is democracy itself that populism damages'.²³ Like Schmitt, contemporary populists speak the language of modern democracy, while making mincemeat not simply of 'liberal' but its *own* indispensable components. In the United States, Trump and his allies engage in extreme gerrymandering and fight aggressively to roll back universal suffrage (especially for minority voters), while elsewhere populists openly undermine civil society NGOs, prevent election monitors from doing their jobs and systematically cripple independent political voices. When Trump and other populist strongman-wannabes rail against the 'liberal media', they attack not just 'liberal' free speech but a *democratic* political right without which popular sovereignty is robbed of any substance. We can, of course, legitimately debate how best to conceive the nexus between liberalism and democracy: political theorists, philosophers and many others will continue to argue about how to do so. Cordoning off core political rights and the rule of law as exclusively or essentially liberal but not democratic, however, is surely bad political theory and even worse political practice.

Populism and economic liberalism

Müller is right to claim that the term ‘illiberal democracy’ is misplaced in part because populist economics sometimes represent ‘a variant of . . . actually existing neoliberalism in parts of Europe and North America’.²⁴ Hungary’s Viktor Orban initiates a flat tax that disproportionately benefits the wealthy, Brazil’s Jair Bolsonaro promises ‘pro-business’ policies (with Brazil’s stock market soaring at news of his election) and Germany’s AfD (occasionally) embraces *Ordoliberalismus*. For his part, Trump aggressively attacks labour unions, beneficiaries of government health and social benefits and consumer rights.

Unfortunately, Müller provides us with no help in making sense of this odd alliance of populism and neoliberalism. Here as well, recourse to Schmitt’s late-Weimar political ideas proves illuminating.

As we have seen, Schmitt’s redefinition of democracy effectively reduced it to a system of *authoritarian populism* in which a strongman executive stands in for ‘the people’, conceived as a homogeneous entity ready to wage battle against (heterogeneous) foes. Schmitt married that political project to a frontal attack on what by late 1932 he came to deride as the ‘quantitative total state’, which, in effect, represented Weimar’s pathbreaking effort to establish the makings of the modern democratic welfare state.²⁵ In Schmitt’s fierce critique, the emerging interventionist and welfare state entangled government in social and economic activities so as to cripple its capacity as an autonomous decision maker. Blurring the crucial divide between political friend and foe, social and welfare regulations robbed the state of its requisite institutional integrity, producing a dire crisis in which the logic of civil war had come to dominate political life. As the late Peter Gowan rightly observed, Schmitt’s answer to the crisis entailed jettisoning the Weimar welfare state for a new configuration of state/society relations that alone might successfully divest itself of burdensome ‘welfare obligations, [and] commitments to protecting social rights’ for subordinate social groups.²⁶ A (supposedly) politically impotent democratic welfare state, the so-called ‘quantitative total state’, should be replaced by a ‘qualitative total state’, an alternative political-economic model, better able to preserve the state’s sovereign ability to ward off political foes: in contrast to its weak left-leaning rival, that alternative might allow the (homogeneous) German ‘people’ to regain the requisite political prowess.

To be sure, Schmitt adamantly rejected the possibility of returning to the liberal 19th century and the so-called *laissez-faire*. Nonetheless, he advocated ‘depoliticization, the segregation of the state from non-state spheres’ in the economic sphere, with ‘autonomous economic administration’ under the direct auspices of business ‘leaders’ (i.e. capitalists) doing the trick.²⁷ Contrasting his ideas sharply to social democratic calls for economic democracy, Schmitt sought to curtail reform-oriented regulation in the economy, preferring instead to leave far-reaching decision-making autonomy in private capital’s *own* hands. Of course, the state would still provide legal and institutional undergirding for a system in which capitalist proprietors engaged in ‘self-administration’ of the economy. But they would do so minus the myriad regulatory restrictions placed on them by left-liberal and socialist reformers.²⁸

I cannot revisit the scholarly debate about this crucial feature of Schmitt's theory, a feature that many observers interpret as having encouraged him to join forces with the Nazis in 1933.²⁹ Certainly, some elements resurface in Nazi political thinking during the regime's early years, as when Hitler in his *Reichstag* speech on 25 March 1933 promised that his programmes were consonant with 'private initiative and . . . recognizing private property'.³⁰ Nor do I posit that contemporary 'neoliberal' policies favoured by populists perfectly mirror Schmitt's complex version of authoritarian capitalism. History, of course, does *not* repeat itself.

Nevertheless, present-day populists echo Schmitt in two ways. First, they are *not* of course advocating a return to 19th-century liberal *laissez-faire*. Trump, for example, does not hesitate to wield state power aggressively against those – including our main trading partners and even some US-based firms – he sees as threats, though his heated rhetoric often obscures what is really transpiring: direct state support for large US corporations sycophantically attuned to his economic policies.³¹ His approach, like Schmitt's, constitutes a version of economic liberalism, though one with some undeniable twists. Nonetheless, his economic perspective – and this is my second point – remains militantly pro-capitalist: Trump, like Schmitt, seeks to roll back regulatory checks on banks, corporations and other powerful economic players, dismantling social and economic checks that have provided some minimal, yet indispensable, restraints on their traditional privileges. What remains of economic liberalism, for both, is neither 'free trade' nor even the 'free market', but instead *a principled commitment to maximizing capital's autonomous decision-making prerogatives*, prerogatives reined in, however incompletely, over the course of the last century. Trump offers a version of capitalism, in which so-called business 'leaders' (Schmitt) and 'winners' (Trump) garner enhanced power and prerogative sometimes denied them by the regulatory and welfare states, with some striking parallels to Schmitt's.³² This has clearly invited eased cooperation between Trump and orthodox familiar shorthand for Republican Party (GOP) 'free marketeers' who otherwise find his rhetoric and high-wire political antics unsettling: about the manifest virtues of rolling back 'intrusive' regulations of business – and reasserting the unchecked power of large firms to manage and invest as they please – there is broad agreement.³³

Correspondingly, Trump's attack on the 'administrative state' chiefly targets those regulatory agencies that have restrained business and provided minimal protections to people of modest means. His controversial picks for the Supreme Court, Neil Gorsuch and Brett Kavanaugh, were selected at least as much for their deep hostility to the modern regulatory and administrative states as their conservative views on 'social' issues such as abortion and same-sex marriage.³⁴ Justice Gorsuch seems eager to retrieve the 'nondelegation doctrine', a discredited legal prohibition on legislative delegations of policymaking to administrative agencies. Without such delegation, it is hard to see how the regulatory state could survive. Like Gorsuch, Kavanaugh is hostile to agency autonomy, while both seem receptive to the idea of redeploying First Amendment free expression protections to protect business from state regulation.³⁵

As one commentator has noted, Trump's

law enforcement agencies are engaged in something of a regulatory strike, especially when it comes to white-collar enforcement. Regulators are not policing companies or industries and are not referring cases to the Justice Department. The number of white-collar cases filled . . . is lower than at any time in more than twenty years . . .³⁶

This approach has generated a windfall for large banks and corporations, at least some of which are likely returning the favour by rewarding Trump and the GOP with generous campaign donations. The Security and Exchange Commission has seen a 62% – and the Justice Department 72% – decline in corporate penalties since Obama left office.³⁷ Major investigations into corporate wrongdoing commenced under Obama were quickly been dropped by the Trump Administration, with his regulatory appointees pushing back aggressively against what they view as Obama's allegedly hostile relationship to the business community.

Tellingly, alongside Trump's rollback of economic, environmental and financial regulations (i.e. Schmitt's 'quantitative total state'), we witness increases in outlays for the state's security apparatus (military, border patrol, etc.), a trend arguably echoing Schmitt's preference for a genuinely 'sovereign' ('qualitative total') state capable of resolutely delineating friend from enemy. As part of this project, Trump deployed thousands of troops to the Mexican border to 'ward off' what he absurdly dubs an 'invasion' by a dangerous migrant 'caravan', allegedly in part populated by terrorists, and perhaps even financed – Trump has suggested – by George Soros.³⁸ As Neumann correctly pointed out, however, '[i]f the concept "enemy" and "fear" come to 'constitute the "energetic principles" of politics, a democratic political system is impossible, whether the fear is produced from within or without'.³⁹ Not surprisingly, Trump's efforts are already resulting in Congress' institutional demotion. Most astonishingly, they have resulted in his controversial declaration of a 'national emergency concerning the southern border',⁴⁰ a declaration that eerily corroborates Schmitt's intuition that emergencies are unlikely to be effectively contained by statutory or constitutional mechanisms.⁴¹ Trump seems shockingly uninterested in the threats his declaration poses to constitutional government, or the dangerous precedent it sets by cynically steamrolling Congress. Congress, after all, *had already rejected Trump's request* to build the 'wall', and its successful budgetary negotiations received his formal imprimatur when *he signed off on them* – immediately prior to his emergency declaration! The annals of constitutional government are filled with dubious justifications for emergency rule. But Trump's declaration probably represents a new low, at least for the United States.

Populism goes hand-in-hand with reactionary economics because without the degradation of democracy generated by the former the latter would not be politically viable. If we view government decision-making authority as crippled by welfare state-type organizations and social regulations possessing sizable popular backing, how else to rein them in other than by 'a painful surgical intervention', a decisive political '*tour de force*'?⁴² And would not that *tour de force* demand rolling back democratic mechanisms and basic rights by means of which socially subordinate groups have been able to gain some power vis-à-vis the privileged? How else could the state be cleansed of the influence of labour unions, public employees, senior citizens or any of a variety of other social constituencies potentially hostile to the aggressive reassertion of traditional

capitalist rights? Since this rendition of neoliberalism also seems unlikely to generate a more-or-less fair distribution of economic resources, democracy potentially becomes not just a nuisance but a threat.

As Schmitt's analysis reveals, populism hardly conflicts with retrograde social and economic policies. On the contrary, they represent good bedfellows.

My aim here is not to defend the suspect functionalist thesis that monopoly capitalism 'requires' the destruction of democracy.⁴³ However, we need to recognize a possible 'elective affinity' between populism's political logic, on the one hand, and neoliberalism's economic logic, on the other. In a more-or-less well functioning democracy, Neumann accurately noted, state activity 'must co-ordinate the many particular interests of retail and handicraft, of small, middle, and big businessmen, of the peasants, civil servants, workers, and salaried employees... It cannot simply enslave the worker'.⁴⁴ When democracy is degraded, in striking contrast, government can – at least for a period of time – more easily get away with policies favouring a narrow segment of the population.

State and law under populism?

Neumann called his famous study of German fascism *Behemoth* in part as a polemical jab against Schmitt. Prior to the Nazi takeover,⁴⁵ Schmitt had hoped that the best way to institutionalize both (his degraded, authoritarian-populist version of) 'democracy' and 'sound economics' was by means of a 'strong state', a 'Leviathan', outfitted with an imposing bureaucratic apparatus and loyal civil servants ready to serve as the backbone of the new, politically more authentic, German 'people's community' he sought. Surveying the political and legal realities of the Nazi regime Schmitt diligently served, Neumann instead found massive evidence of institutional disorder and chaos, akin to the monstrous 'Behemoth' Thomas Hobbes famously conjured up in his analysis of the English civil war, in conjunction with legal and constitutional 'shapelessness'.⁴⁶ Well-situated political and social groups exercised power without meaningful legal restraints or 'the mediation of that rational though coercive apparatus hitherto known as the state'.⁴⁷ Because they were able to do so Nazism constituted a new and unprecedented tyranny: 'the manipulators at the top are favored by the absence of any institutional limitations upon their arbitrary power'.⁴⁸

That counterintuitive thesis about Nazism's statelessness has since been widely debated with its key features endorsed by some major scholars – most prominently, Hannah Arendt.⁴⁹ Without belittling its more controversial traits, I conclude by tentatively suggesting that it remains pertinent in the Age of Trump.

As Neumann correctly intuited, when (1) 'democracy' means leader-dominated identity politics; (2) binding general laws get jettisoned for ad hoc 'deals' between and among powerful groups; (3) public regulatory functions are outsourced to private interests such that the 'practitioners of violence tend to become businessmen, and the businessmen... practitioners of violence' and then (4) neither the rule of law nor core features of the modern 'rational' state are likely to flourish.⁵⁰ Formal law and its organizational linchpin, modern bureaucracy, empower state officials (and powerful social groups). But sometimes they usefully check and impede them. Such checks become a

nuisance when populist governments aggressively pursue a reactionary economic agenda.

It might seem silly to see parallels between the contemporary United States and mid-20th-century Germany. But Trump's attacks on voting rights and First Amendment free speech protections, just to mention the most obvious examples, provide real grounds for concern. General law goes out the window with Trump's White House 'deals' with large corporations: his widely publicized wrangling with the Carrier Corp., concessions from Boeing over Air Force One's price tag, threats to penalize automakers for moving production abroad, high-profile negotiations with corporate leaders at White House meetings – none of this coheres with the rule of law. As he hands over the (fragile) chicken coup of the US regulatory and interventionist state to corporate foxes and their toadies, public and private power is fused in new and potentially ominous ways. As the journalist Michael Lewis has carefully documented, Trump favours chaos and disorder within the halls of the federal bureaucracy, chiefly as a way of disabling its regulatory machinery.⁵¹ To the extent that a semblance of 'order' can be identified amid constant turnover in personnel, it typically favours business interests and their political friends.

If Trump and his partisan loyalists succeed in discrediting federal agencies (including the Federal Bureau of Investigation) now viewed as part of a disloyal 'deep state', we might begin to ask if the American Leviathan is being replaced by its own, historically specific – yet nonetheless dangerous – Behemoth-like successor. Those who occupy influential positions within Trump's emerging 'state-less' Behemoth, in fact, seem especially eager to ward off an effective policy response to climate change, arguably the greatest political and moral challenge of our time. More immediate disasters loom large, however. A regime bent on purging scientific experts and professional civil servants is likely to have a tough time accomplishing a whole array of standard – yet high-risk – governmental tasks (e.g. effectively managing weather-related 'disasters' or safely overseeing the massive US nuclear stockpile).⁵²

The post-war US American state, despite its myriad ills, has provided some minimal legal and sometimes social protections to many of its citizens. But even those concessions are apparently too much for authoritarian populists and their plutocratic allies.

Left populism?

How then to respond to Trump and other right-wing populists? Might not it be possible to develop an identifiably *left-populist* rejoinder?

This is precisely what Chantal Mouffe has claimed in a provocative little book reflecting on populism's rise in Western Europe. Mouffe defends the possibility of a progressive inflection of the populist discursive strategy of a 'political frontier dividing society into two camps', a discourse 'calling for the mobilization of the "underdog" against "those in power"'.⁵³ The populist revival, on her account, might open the door to a forward-looking radical democratic corrective to hegemonic neoliberalism. If the collective 'we' of the popular sovereign can be politically reconstructed so as to circumvent the dangers of xenophobia and exclusionary nationalism, a specifically progressive response to right-wing populism might emerge. In this vein, Mouffe looks

hopefully at the rise of *Podemos*, Corbynism and other supposedly left-populist currents in Western Europe.

Here I cannot provide the complete analysis Mouffe's complex exposition demands. Nonetheless, her position is directly pertinent to my discussion. Like Neumann and Kirchheimer, Mouffe is a leftist committed to a radical reformism and, ultimately, some post-capitalist order that builds on liberal democracy's achievements. Like them as well, she is versed in Schmitt's ideas. However, Mouffe suggests that Schmitt – whom she has regularly called on, albeit in ever more complex and attenuated forms during her long career – can be fruitfully employed as a theoretical source for defending a left populist alternative. That claim poses a possible challenge to the analysis above.

I conclude by highlighting one juncture at which Mouffe's usage of Schmitt potentially generates problems. Mouffe views liberalism and democracy as basically in tension:

Schmitt is certainly right in pointing out the existence of a conflict between the liberal 'grammar,' which postulates universality and the reference to 'humanity,' and the 'grammar' of democratic equality, which requires the construction of a people and a frontier between a 'we' and a 'they'.⁵⁴

Populism represents a revival of 'the political' proper because it means reconstructing 'the political frontier between "the people" and "the oligarchy"', something Mouffe interprets as a distinctly political process entailing a fundamental reorganization of the question of the sovereign 'we' versus 'them'.⁵⁵ Although Mouffe rejects many features of Schmitt's thinking, instead viewing the nexus between liberalism and democracy as a productive, historically negotiable 'paradoxical configuration', a certain ambivalence about liberalism's status seeps into her analysis. Left populism means deepening and recovering democracy, something Mouffe conceives in terms of an anti-capitalist and ecologically minded pushback against neoliberalism, which has hollowed out representative democracy. Liberalism's commitment to the neutral state, kneejerk and hyper-rationalistic hostility to charismatic leadership, and limited view of politics as 'competition among elites' get in the way of this agenda, as does neoliberal economics.⁵⁶

Even if we ignore her rather limited vision of liberalism, what then of those indispensable liberal accomplishments now under attack by populists,⁵⁷ for example, the rule of law, constitutional government or basic civil liberties? What status do they have in Mouffe's account? Mouffe's answer seems unclear, in part because she wants to interpret populism as a popular democratic response to an imbalanced status quo that suffers from an *excess of liberalism*. The immediate problem with this analysis, as suggested above, is that it probably does not sufficiently tackle the possibility of an emerging and potentially hegemonic alliance between populist politics and reactionary economic liberalism. More fundamentally, it is unclear how far Mouffe's conceptual framework can take us in theorizing present threats to the rule of law and constitutionalism, about which she seems to have little to say. The 'liberal logic', after all, she (oddly) describes as fundamentally right-wing in its political orientation.⁵⁸

Unlike mainstream theorists who ignore populism's relationship to capitalism, Mouffe is right to see neoliberalism as a key part of the story, even as her analysis of

its contours remains vague. Unfortunately, her own attempt to sketch a constructive populist alternative remains underdeveloped and probably flawed, in part because of its Schmittian background. Can a populist politics based on the crude dichotomization of the ‘people’ versus the ‘oligarchs’ or ‘elites’, as she asserts, potentially serve progressive causes? Is it not far more likely, as Schmitt instead suggested, that it will take authoritarian and dangerously exclusionary forms?

The alliance I have described in this essay between right-wing populist politics and core elements of economic liberalism may not be the only form populism can take. By the same token, right-wing – and economically retrograde – populism seems to be on the ascent today; with some rare exceptions (e.g. Spain), the same cannot be said about left-populism. There may be good reasons for believing that populism’s logic favours regressive and reactionary political tendencies.

Notes

1. Krugman (2018).
2. Frank (2018).
3. Kazin (2017).
4. In this vein, see the useful study by Manow (2018), who shows how variations between and among populist movements can be explained by the nationally divergent political-economic formations in which they arise. Populism represents a reaction to intensified economic globalization and movements of people across borders, but its specific contours are determined by the ‘type’ of capitalism (and political economy) at hand. Chantal Mouffe (2018) also interprets populism as a response to the crisis of neoliberalism, but her account is incomplete.
5. Müller (2016). Müller dubs sociologically oriented class analyses of populism, along with social psychological approaches, ‘dead ends’ (Müller, *What is Populism?* 10). Unfortunately, he never considers the possibility that more sophisticated social-psychological or sociological versions than those he dismisses might help make sense of populism. (He does, however, briefly allude to the need for a ‘new social contract’ if populism is to be successfully thwarted (pp. 92–93, 99).)
6. For reflections on the European context, see Streeck (2016, 73–94).
7. Neumann (1963 [1944], 44).
8. Müller, *What is Populism?* 27.
9. Müller, *What is Populism?* 60–68.
10. Müller (2016).
11. Müller (2017b). Müller is responding to Jeffrey Isaac’s important essay (2017a). Inspired in part by Tocqueville’s worries about democratic excesses, Fareed Zakaria coined the concept of ‘illiberal democracy’ (2007), and he has recently deployed it to make sense of Trump and others. This view, unfortunately, badly obscures populism’s anti-democratic elements particularly in the United States, where Trump arguably only gained power because of our system’s anti-majoritarian elements (e.g. the electoral college).
12. As he perhaps admits (Müller, *What is Populism?* 27). One key difference between the two accounts, I think, is that Müller describes populism as resting on a ‘moralistic’ logic in which ‘the people’ become the main site of moral rectitude, a claim Schmitt could not have endorsed, given his views about the ‘the political’ as fundamentally unrelated to ‘normativities’. A legitimate criticism of Müller, I believe, is that he is really discussing *right-wing* populism,

and not its leftist variants. Since my focus here is on Trump's version of right-wing populism, I can bracket this question here.

13. Schmitt discusses democracy in many contexts (e.g. 1985 [1926]).
14. Müller (2016).
15. Schmitt (1985 [1926], 9).
16. Schmitt (1985 [1926], 27). For a particularly clear statement of Schmitt's quasi-authoritarian presidentialism (1931).
17. Kirchheimer (1969 [1932]).
18. Schmitt (1985 [1926], 29).
19. Schmitt (1998).
20. Neumann (1963 [1944], 42–43).
21. Neumann (1963 [1944], 45).
22. Kirchheimer (1996 [1933]). For a more positive take on Schmitt's views of democracy than I believe warranted, however, see Rasch (2016).
23. Müller, *What is Populism?* 56.
24. Müller (2017b). This is a complicated matter; not all populists consistently endorse 'neoliberalism'. As I write, Italy's Five Star Movement is pushing for a 'flat tax' that will clearly advantage the well-to-do; it also promises dramatically increased social and welfare spending. France's Marine Le Pen has promised to increase social benefits for working-class households and push back against neoliberal austerity programmes. But for our limited purposes in this article, we can bracket some of the difficulties at hand: in the United States, Trump's populism is in fact allied with some elements of neoliberalism. The political logic underlying the alliance between authoritarian populism and neoliberalism remains of broader significance.
25. Schmitt (1998, 212–32). The critique of the 'quantitative total state' replayed elements of Schmitt's earlier critical analysis of the 'pluralist party state' (Schmitt 1931).
26. Gowan (1994).
27. Schmitt (1998, 221, 225).
28. Schmitt (1998, 225–26).
29. Cristi (1980); Maus (1980, 152–59). In the work of Scheuerman (1999), I situate Schmitt's remarks in the broader German-language debate about the 'total state'. Both Cristi and Maus are writing in the shadows of a brilliant contemporary critique of Schmitt by another neglected Weimar socialist legal thinker, Hermann Heller, who may have been the first to characterize this potent ideological brew as 'authoritarian liberalism' (Heller 2015). Critical-minded scholars of the European Union have tried to update Heller's account to make sense of the particular mix there of anti-democratic, populist and pro-capitalist ('free market') trends (Streck 2015; Wilkinson 2019).
30. Quoted in Ernst Fraenkel (1941, 61), who provides a useful discussion.
31. For example, see Tankersley (2018).
32. Right-wing businessmen (e.g. Trump, Brazil's Bolsonaro or the Czech Republic's Miloš Zeman) represent symbolically suitable carriers of this agenda, even though their wealth has arguably been gained, in many cases, by dubious and by no means strictly 'free market' means.
33. Not surprisingly, Hayek – the patron saint of the GOP's free-market wing – borrowed heavily from Schmitt's critique of the welfare state (see Scheuerman 1999, 209–24).
34. Kaplan (2018, 41–44).

35. Posner (2018).
36. Eisinger (2018).
37. Proress et al. (2018).
38. Soros is Jewish and has become a target for anti-Semites and their fellow travellers.
39. Neumann (1957). As Neumann added, Schmitt's anti-democratic 'concept of the political' correspondingly reduced politics not to 'the construction of a good society but the annihilation of an enemy' (pp. 193–94).
40. 'Presidential Proclamation on Declaration of a National Emergency Concerning the Southern Border of the United States'. February 15, 2019. Accessed March 19, 2019. <https://www.whitehouse.gov/presidential-actions/presidential-proclamation-declaring-national-emergency-concerning-southern-border-united-states/>.
41. Scheuerman (2017).
42. Schmitt (1998, 221, 227).
43. Elements of which, unfortunately, plague Neumann's *Behemoth*.
44. Neumann (1963 [1944], 359).
45. As Neumann rightly pointed out (1963 [1944], 65–66), Schmitt's Hobbesian-statism already underwent far-reaching revisions in his *Staat, Bewegung, und Volk* (Hamburg: Hanseatische Verlag, 1934).
46. Neumann (1963 [1944], 524).
47. Neumann (1963 [1944], 470).
48. Neumann (1963 [1944], 524).
49. Iakovou (2009).
50. Neumann (1963 [1944], 633).
51. Lewis (2018).
52. Lewis (2018, 33–80).
53. Mouffe (2018, 11).
54. Mouffe (2018, 15).
55. Mouffe (2018, 5).
56. Mouffe (2018, 37).
57. And not just on the right (e.g. Venezuela).
58. Mouffe (2018, 15).

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