

From Histories of Liberalism to a History of the Demos: Toward a Democratic Critique of Neoliberalism

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Abstract: This article contributes to a genealogy and democratic critique of neoliberal and liberal thought. It recognizes that democracy was at least partially enrolled in a neoliberal project through histories of liberalism in the last decades of the twentieth century that made the history of liberalism and the history of democracy indistinguishable. The article suggests that a potent critique of neoliberalism thus requires us to craft a new history of democracy that is distinct from the history of liberalism. It therefore examines 1) three histories of liberalism by Pierre Rosanvallon, Michel Foucault and Friedrich Hayek in the 1960s-1970s; 2) the relationship between these histories of liberalism and democracy; 3) recent genealogical attempts by Wendy Brown to decouple neoliberalism, liberalism and democracy; and 4) a proposal for a history of democracy that would be distinct from the history of liberalism and civil society, grounded instead in a history of the demos.

Keywords: History of Liberalism; History of Democracy; Democratic Theory; Neoliberalism; Pierre Rosanvallon; Friedrich Hayek; Michel Foucault; Wendy Brown.

1. While critiques of neoliberalism have increasingly signaled its attack on democracy¹, historically speaking the democratic challenge to neoliberalism is relatively recent. During the period stretching from the post-war era to the beginning of the 1990s, the opposition between neoliberalism and democracy was less prevalent than the antagonism between neoliberalism and socialism. That is to say, neoliberals themselves overwhelmingly targeted socialism and other forms of planned economy as their enemy, while such figures as Ludwig von Mises, Milton Friedman or James Buchanan – as the other essays in this symposium show – argued that the neoliberalism they held dear was, at the very least, a new more promising mode of

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¹ Novak and Sawyer (2019); Sawyer (2016); Zamora (2020); Biebricher (2015); Irving (2018); Cornelissen (2017); Brown (2015).

democratic life². At the same time, while many theorists of socialism from Nicos Poulantzas to Louis Althusser, especially from the 1970s, remained critical of liberal and other existing forms of democratic practice, they also claimed that, properly understood, the ultimate goal of a renewed socialism was to establish a more meaningful form of democratic life beyond liberalism³.

The impact of these radically opposing views of democracy was at once an increase in the rhetorical authority of democracy and a further splintering of its meaning and significations. And yet, it would appear that in recent years neither neoliberalism nor socialism has successfully staked their claim over democracy. Instead, a new wave of democratic critiques of neoliberalism have been formulated as historians, social scientists and political theorists have increasingly sought to rethink democracy outside the historical confines of either liberalism, neoliberalism or socialism. A growing number of critics have suggested that at the very least neoliberalism and socialism have in common a refusal of the political and an overinvestment in the socio-economic as a sphere of human emancipation⁴. As a result, a new question has emerged in this context: Is it possible to rebuild a contemporary democracy that does not collapse into the etiolated forms offered by neoliberalism and at the same time upholds the egalitarian ideals cherished by socialism without evacuating the political?

² See for example, the chapter on “Economic Democracy” (Von Mises 1981 [1951]). In his new 1982 preface for *Capital and Freedom*, Milton Friedman highlighted that the “call for contributions to the symposium Capitalism, Socialism and Democracy issued by the editors of *Commentary* in 1978, which went in part: ‘The idea that there may be an inescapable connection between capitalism and democracy has recently begun to seem plausible to a number of intellectuals.’” (xii); See also Buchanan (2001); Buchanan and Tullock (1965).

³ Nicos Poulantzas provided a characteristically poignant summary of this problem when he wrote: “The basic dilemma from which we must extricate ourselves is the following: either maintain the existing State and stick exclusively to a modified form of representative democracy – a road that ends up in a social-democratic statism and so-called liberal parliamentarianism; or base everything on direct, rank-and-file democracy or the movement for self-management – a path which, sooner or later, inevitably leads to statist despotism or the dictatorship of experts. The essential problem of the democratic road to socialism, of democratic socialism, must be posed in a different way: *how is it possible radically to transform the State in such a manner that the extension and deepening of political freedoms and the institutions of representative democracy (which were also a conquest of the popular masses) are combined with the unfurling of forms of direct democracy and the mushrooming of self-management bodies?*” (Poulantzas, 2014 [1978], 256).

⁴ Honneth (2016); Novak, Sawyer, Sparrow (2019).

As Wendy Brown has revealed in her own democratic critiques of neoliberalism, any attempt to answer this question, that is, to carve out a more robust theory of social democracy that takes the political seriously, begins with a more accurate genealogy of neoliberal and liberal thought. It is this endeavor that I would like to pursue here. There is little doubt that the possibilities for a democratic critique of neoliberalism have been weakened as our histories of democracy have been absorbed into the history of liberalism. For, if one of the essential challenges of recent democratic critiques of neoliberalism has been to craft a theory of democracy that is not beholden to various forms of neoliberalism, then understanding exactly how liberalism and democracy were historically woven together becomes an important piece of the puzzle. More precisely, we need to understand how the growing interest in the history of liberalism in the 1960s and 1970s developed in complex relationship to the neoliberal project, offering conflicting visions of democracy's origins and ambitions.

To do so, I begin by focusing on a specific – but emblematic – debate in 1979 between Michel Foucault and Pierre Rosanvallon. In this year, Michel Foucault dedicated a portion of his courses on *The Birth of Biopolitics* to the history of liberalism and neoliberalism, partially in response to Rosanvallon's publication of *Le Capitalisme utopique*, in which he had proposed his own history of liberalism. In a second section, I turn to one of Hayek's histories of liberalism, in particular his history of the problem of administration in his classic text *The Constitution of Liberty*. Comparing these three works' histories of liberalism highlights the radically different perspectives on liberalism's history in this key period when neoliberalism was taking root. Moreover, by exploring the ways in which three very different perspectives all enroll the history of liberalism into their sweeping accounts of modern political economy, one begins to catch a glimpse of how the rise of neoliberalism was intimately bound to an overarching and sometimes implicit investment in the history of liberalism. I then turn to Wendy Brown's recent democratic critique of neoliberalism, in particular her book *In the Ruins of Neoliberalism: The Rise of Antidemocratic Politics in the West*, which foregrounds some of these same themes without necessarily providing a clear direction for a democratic theory that would release democracy from the genealogical clutches of liberalism and neoliberalism. I conclude by briefly sketching three directions for a history of democracy that attempts to escape the normative grip of liberalism and therefore may offer a more robust foundation from which to formulate a democratic critique of neoliberalism.

2. In 1979, Pierre Rosanvallon published his essay *Le capitalisme utopique. Critique de l'idéologie économique*. Rosanvallon understood this book and those that would immediately follow, in particular his *Le Moment Guizot* as an attempt to recover a liberal tradition that he argued had been buried in French political thought. He further argued that it was at least partially our ignorance of key French liberal thinkers – Tocqueville, Constant, and Guizot first among them – that had led to a certain number of political dead-ends on the political left. As an essential part of this project, Rosanvallon sought to recover the ways that some late eighteenth century liberals had evacuated the political and how others from the nineteenth century, Guizot first among them, had attempted to recalibrate the relationship between the social and the political.

So at the heart of *Le Capitalisme utopique* was then the argument that the liberalism of the second half of the eighteenth century was characterized by a profound depoliticization of the social. At the same time that this pre-revolutionary liberalism offered a critique of administrative despotism and of the state more generally, it also established a “utopian” relationship to the social as the sole site of individual emancipation. This critique of politics as a meaningful form of social life, he further argued, was grounded in a discourse of rights and social autonomy that favored instead the self-regulation of the social outside state institutions. Such a utopian conception of the social turned away from institutions and toward the market, nurturing the idea that market self-regulation would reduce various modes of state coercion and the corruption inherent in political life. For such theorists as Adam Smith, and then William Godwin, Thomas Paine, Richard Price and Joseph Priestley “government, that is politics, was only a secondary, residual reality”⁵. In their vision, Rosanvallon added, “there is no room for a separate site or body of regulation for orientating the social order when society is understood as a market”⁶.

For Pierre Rosanvallon, this eighteenth-century liberal “depoliticization of the social” through a utopian conception of the market did not end with the eighteenth century, however. Paradoxically – and this was one of the more surprising and radical conclusions of his book in the late 1970s – it was precisely this depoliticized vision of the social that reemerged in Marxist and then socialist thought in the nineteenth and twentieth centuries. It was among these authors “that one finds the origin of the ambiguity inherent in Marxist thought on the State, which is finally made clear: the

⁵ Rosanvallon (1979, 144).

⁶ Rosanvallon (1979, 145).

pure product of a refoolment of the question of the political in the framework for thinking about market society". At bottom, Rosanvallon argued that the liberal and the socialist-communist vision shared an incapacity to conceive of the political as a foundation for the relationship between the individual and society. Moreover, they shared a utopian, anti-statist and emancipatory vision of the social.

In this book, and then in the books and methodological arguments in the decades to come, Rosanvallon placed the idea that both market-oriented forms of liberalism and radical forms of socialism both evacuated the political. Understanding and ultimately reversing this depoliticization of the social, he argued, was fundamental for forging a more substantive democratic future. Rosanvallon sought a path toward a renewed democracy through the repoliticization of the social, a path opened to him through the idea of *the* political. This conception of the political – drawn largely from the work of Claude Lefort⁷ – established a sharp contrast between the field of politics – such as elections, parties, and institutional majorities – and the realm of the political. Instead, the political operated at a higher level of abstraction: It was in this realm that the very distinctions between politics, economy, society and culture were determined. The political was in fact the shared conceptualization – or “symbolic realm” – in which society determined how it organized its relationship to itself. The political was the reflexive mode of social life that was essential to the profound transformation inherent in democratic modernity, in which no element of social life had a foundation outside the relationship of society to itself. According to this view, the political is therefore a process of the auto-institution of the social which must be as a site in which society acts upon itself. As a result, all distinctions between the basic building blocks of human activity in a given democratic society only take on meaning through the more abstract self-organization of the social world that he refers to as the political. In short, the concept of the democratic political offered an immanent mode of social organization.

While formulating the foundations of this new conception of the political and writing this book on utopian capitalism, Rosanvallon was in regular dialogue with Michel Foucault. Indeed, Foucault sent a note to Rosanvallon when his *Capitalisme utopique* appeared insisting that he had learned a great deal from his book and appreciated it. Foucault later invited Rosanvallon to his seminar at the Collège de France as well as the closed seminars he organized. He also made specific reference to Rosanvallon's

⁷ Lefort (1986).

thesis in the “résumé du cours” of the *Birth of Biopolitics* lectures. There, he explains that “dans la critique libérale, il est certain que le marché comme réalité et l’économie politique comme théorie ont joué un rôle important. Mais, comme l’a confirmé le livre important de P. Rosanvallon, le libéralisme n’en est ni la conséquence ni le développement». But even as he highlighted the importance of Rosanvallon’s analysis, he also insisted on a fundamental point of disagreement. Contrary to Rosanvallon, Foucault insisted that “le marché a plutôt joué, dans la critique libérale, le rôle d’un ‘test,’ d’un lieu d’expérience privilégiée où on peut repérer les effets de l’excès de gouvernementalité, et même en prendre la mesure”⁸.

In other words, while Foucault appreciated Rosanvallon’s genealogy of liberalism, he took issue with his depoliticization thesis. The distinctions between such broad categories as society, the market or politics were not a sign of a social utopianism or a reduction of the possibilities of society’s ability to exercise power over itself, as Rosanvallon had argued. To the contrary, Foucault claimed, the attempt to carve out a sphere of “civil society” or the “market” as distinct from other aspects of human activity was an essential part of how power was being exercised in this period and within liberalism more generally. He famously referred to this mode of carving up social life into those areas to be governed and those that were not as rationalities of liberal governmentality.

Liberal governmentality, according to Foucault, was organized around the limitations of specific spheres of social life and placed a premium on the basic problem of “not governing” specific spheres of social action “too much”. This is, of course, not at all the same thing as not governing at all. And it is certainly not the same thing, as Foucault suggested in these courses, as arguing that what is at stake in the development of the ideal of the market is a radical depoliticization. To the contrary, Foucault’s perspective on rationalities of liberal governmentality meant precisely that to govern required posing the problem of how not to govern too much and how to establish the limits and boundaries between the different realms of social life in which some could be governed and others should not. According to Foucault, then, this liberal vision could hardly provide a foundation for later conceptions of socialism. To the contrary, he argued that socialism had a very different relationship to governmentality in general, making the provocative claim that there had never been a form of socialist governmentality, since socialism, in his view, had never posed the problem of

⁸ Foucault (2008, 326).

government. Socialism, Foucault concluded, had instead been organized around the constant pursuit of the ideal of emancipation.

So for all that their analyses shared, there was nonetheless a clear dividing line between these two thinkers. Returning to the liberals at the end of the eighteenth century, Rosanvallon sought the means to push beyond the depoliticization of the social that he located in Enlightenment, and specifically the Scottish Enlightenment, political economists. He at once diagnosed the danger of their conception and later responded by elaborating his concept of the democratic political. Foucault on the other hand argued that any attempt to separate out given realms of social activity or to establish a distinction between those realms where politics could intervene and those where it could not was precisely how power was exercised in a context of liberal governmentality. Moreover, both authors presented their histories of liberalism through a comparison with socialism.

It was, however, the place of democracy in their accounts of the history of liberalism and socialism that revealed further differences. Rosanvallon turned to democracy by climbing into the abstract register of the political. Politics, in his view, operated at the same level as the market while democracy was in fact a more abstract, symbolic process within which society acts upon itself toward constant self-constitution. It is worth noting a certain paradox in Rosanvallon's turn toward the democratic political. For it would seem, in spite of his intentions to the contrary, to contain paradoxically a certain depoliticization of the political. That is, according to this view, democracy is no longer a product of everyday political or administrative action but rather emerges in the symbolic division and articulation of the relationships between politics, society and the market. In this conception, the political game is clearly pushed aside, becoming meaningless for any sophisticated understanding of democracy.

As for Foucault, it would seem that a democratic politics is almost insignificant in the context of a liberal governmentality⁹. Democracy can neither be a "social" form nor a "political" form since creating the very distinction between the two is how liberal governmentality operates. It is worth noting that Foucault says very little about democracy in these courses. This raises the question, posed by Nancy Frasier in her discussion of

⁹ It should be noted that Foucault did return more specifically to the question of democracy in his courses in the 1980s, but almost systematically through the perspective of ancient Greece. A discussion of democracy or a democratic governmentality in the eighteenth and nineteenth centuries was not a part of this more thorough discussion of the place of democracy in truth and the construction of regimes of power. See, for example, Michel Foucault (2001).

the *Birth of Biopolitics* lectures: if a liberal governmentality is possible and indeed has defined much of political modernity in the west and a socialist governmentality is impossible, what about the possibility of a democratic governmentality? If such a thing were possible, what would it consist of?¹⁰ We will return to this question below.

For these two thinkers, there is then a return to the transformations of liberalism in the second half of the eighteenth century for understanding political modernity and a refusal to apprehend democracy as a meaningful form of everyday politics: either democracy is raised to extremely high level of abstraction pushing aside a politics of pressing public problems or policies in favor of *the political* (Rosanvallon); or a strong ambiguity is maintained over the very value of democracy itself and its capacity to provide any sophisticated understanding of modern power relations (Foucault). And yet, it would seem that it is precisely in these realms of quotidian regulation, public policy, political and administrative action that neoliberalism attacked democracy. Is there then a third way of thinking about democracy – perhaps a democratic governmentality as Frasier suggests – that would share a historical approach to the problem but would elaborate a more sophisticated place for democracy, that is, repoliticize the social, the economic and the market without falling into the trap of liberal governmentality?

3. I would like to respond to this question through a detour by way of Friedrich Hayek, and in particular his well-known *Constitution of Liberty*, where he too revisits the question of governance, and in particular, the question of administration. In chapter 13 of this book, entitled “Liberalism and Administration: The Rechtsstaat“, Hayek offers his own historical analysis of liberalism. Hayek insists that after two centuries of absolutism on the Continent, the traditions of liberty that had still existed at the end of the middle ages were definitively destroyed through administrative centralization. Liberalism of the eighteenth century therefore had a clear target: the administrative overreach of absolutism. Looking for a means to combat this administrative despotism in the pre-Revolutionary period, the French looked to England for a reinvention of liberty. By critiquing the administrative power of the French monarchy through the English attachment to individual liberty, Hayek argued, these eighteenth century thinkers crafted an ideal relationship between administration and liberal-

¹⁰ Frasier (2016).

ism: all forms of administration must respect the absolute sanctity of the rights of individuals.

Hayek enrolled a battery of eighteenth-century thinkers to support his case. He plunged into the very heart of the French tradition by suggesting that Montesquieu and “even” Rousseau were great supporters of the ideal of the “rule of law” against administrative despotism. He then insisted that the great contribution of the Declaration of the Rights of Man and Citizen was the attempt to impose the principle of rights against administrative power. This legacy of the eighteenth century and the Revolution posed the foundation of the question as it developed in the nineteenth century. Furthermore, according to Hayek, it was during this period that the essential question on administration emerged: how to destroy the influence of the despotic origins of a modern administration.

Hayek’s account recognizes nonetheless a problem with the importation of the English conception of liberty: in France, the power and expanse of an administration born of absolutism had reached so far into the organization of social life that it was almost impossible to imagine where administrative power stopped and individual liberty could begin. This age of liberalism was therefore defined, according to Hayek, as a conflict between the “rule of law” that protected individuals and “the arbitrary power” of administration¹¹.

Convinced that the French remained naïve on this question, and that the English remained too attached to Common Law, Hayek sought among the Germans a response to the tension between individual liberty guaranteed by the rule of law and the necessity of a modern administrative power. It was the Germans, he argued, who had discovered the means to constrain the administration within its proper legal limits. His analysis remained subtle, showing that in effect, even the most dye-in-the-wool neoliberal was not against administrative power as such in the mid-twentieth century. Rather, Hayek’s critique focused on the dangers of administrative law, which he feared was too tainted by administrative influence to truly constrain administrative jurisdictions. Hayek was not the pure anti-statist some have suggested. His state, however, needed to be entirely subordinated to the “rule of law” or “rechstaat” of regular civil courts. Hayek has a clear target in this analysis: the planism and dirigisme of post-war bureaucratic states. Reconstructing a neoliberal conception of the state along the path opened by the German jurist and legal theorist of the nineteenth century Rudolf von Gneist, Hayek argued, would allow for the final recon-

¹¹ Hayek (1960, 193).

ciliation of the need for administrative power and individual liberty while at the same time putting a definitive end to the possibility of a bureaucratic socialism.

But his historical reconstruction does not stop there. He also joins a critique of democracy into this history of liberalism and administration. Democracy, he argues, is certainly an acceptable form of political organization, but it is an insufficient guarantee for controlling administrative power. He insists on three occasions in this chapter that democratic or popular checks on administrative power was one of the specifically ill-suited remedies chosen by the French. He then held up what he considered an inflated bureaucratic state in France as proof that democracy could not adequately prevent bureaucratic takeover. Throughout the nineteenth century, he insisted, the French had been particularly naïve regarding the effectiveness of supposed “democratic controls” on administrative bodies. He explains in each case that there was a fantasy of the “automatic” control of democracy. In short, the idea of a “democratic administration” for Hayek was at best innocent and at worst dangerous. The only means of constituting liberty in the face of administrative power was through a depoliticizing, neutral and depersonalizing conception of law, which protected the individual.

The histories of liberalism offered by Hayek, Foucault and Rosanvallon each provide a different perspective on the liberal origins of neoliberalism. For Rosanvallon, late eighteenth-century liberals buried the political in a market society, radically depoliticizing the social and thus opening the gates toward a neoliberal depoliticization on the one hand and a utopian conception of the social, which liberals (and neoliberals) shared with socialists on the other. Foucault used his history of eighteenth-century liberalism to demonstrate how the imperative of not governing too much was anything but an attack on power. Rather, it was a particular rationality of government, what he referred to as a liberal governmentality, which could be found once again underpinning neoliberalism in the twentieth century. Finally, Hayek used late eighteenth-century liberalism as the foundation for a non-despotic administrative power through which a neoliberal state could both employ administrative power to secure the basic functioning of the market and remain closeted behind the high-walls of formal rule of law to sanctify individual liberty.

For all of their tremendous differences, these three approaches mobilized a history of liberalism – either as a foil or as a resource – in their attempts to frame the origins of neoliberalism. Perhaps of equal importance, however, it would seem that these emphases on the history of liberalism and socialism have come at the expense of more robust, nuanced and criti-

cal histories of democracy and its conflicting relationship to neoliberalism. It is here where alternative genealogies have begun to be formulated in which it is no longer liberalism or socialism that have a privileged role in our critical genealogies of neoliberalism, but also democracy.

4. No doubt, one of the most promising attempts to carve out a new democratic critique of neoliberalism has been proposed by Wendy Brown in two recent books, *Undoing the Demos* and *In the Ruins of Neoliberalism*. Future attempts to construct an alternative democratic genealogy that sidelines liberalism/neoliberalism must at the very least consider these contributions carefully. In the epilogue to *Undoing the Demos*, Brown clearly states that her “critique of neoliberalization does not resolve into a call to rehabilitate liberal democracy, nor, on the other hand, does it specify what kind of democracy might be crafted from neoliberal regimes to resist them”¹². *In the Ruins* picks up where this statement left off. Providing a corrective to what she refers to as the overly economic interpretation within *Undoing the Demos*, she pushes further in her diagnosis toward the moral and political underpinnings of our neoliberal rationalities.

The book offers the paradoxical argument that, in her view, our twenty-first-century brand of neoliberalism is not so much the product of Cold War neoliberal masterminds like Friedrich Hayek, but rather its “frankensteinian” offshoot. Paradoxically, the economizing regime that has dominated the first two decades of the twentieth century is therefore, in fact, a new neoliberalism, Brown submits. The essential marker of this newness is that the moral-political project designed by such thinkers as Hayek to preserve social order in a world dominated by markets has become weaponized against democracy.

The three opening chapters of Brown’s book thus pitch our ears to the ghastly cries of this neo-Frankensteinianism. We feel the outstretched arms of the hideous neoliberal giant pursuing us in our darkest hour, crying in a monotone voice: “Society Must be Dismantled”, “Politics Must Be Dethroned”, “The Personal, Protected Sphere Must Be Extended”. Brown’s critique of these horrific dictates provides essential lessons and diagnostics of our horror. If understanding is the first step to dismantling, with this book we have taken a giant leap out of the clutches of our neo-neoliberal Gargantua.

¹² Brown (2015, 201).

But while the verdict is overwhelmingly convincing, there remain some important questions on a democratic antidote to this moral economic monster. Or, in her own words: “what kind of democracy might be crafted from neoliberal regimes to resist them”? It is therefore worth attempting to extract the democracy that might take the place of our contemporary neoliberalism through Brown’s negative construction of it.

First, for Brown neoliberalism may only be combatted through the democratic political. Though she does not cite Rosanvallon, her concept of the political shares some essential elements of his conception. “Democracy without the political”, she writes, “is an oxymoron”¹³. She suggests that the original intention of the neoliberals – especially in their Hayekian and Friedmanian forms – was precisely to dismantle the political by attacking the basic idea of sovereignty. In Hayek’s account, Brown shows, not only is sovereignty a false notion, it is dangerous because it simply serves to “anoint absolutism with democratic legitimacy”¹⁴. According to Brown, a neoliberal state may then be understood as: “eliminating both political sovereignty and the sovereignty of the political”. The consequence, she explains following Foucault, is to “cut off the head of the king”¹⁵.

While Brown has been one of the most important social theorists to think *with* Foucault in recent years, here she seems –surprisingly – to be aligning Foucault’s dicta to cut off the king’s head in politics with the original Hayekian project. Brown has been a ground-breaking thinker for turning us away from facile agents of neoliberal domination. Dialoguing with Foucault, her *Undoing the Demos* foregrounded how his analyses helped us to unearth the economic rationalities that drive our neoliberal condition. And yet, in her call to reinvest political sovereignty, she would seem to disagree with Foucault’s dismissal of the concept of sovereignty, engaging in her own Frankensteinian efforts as she ponders how to “re-head” the king and give him new life.

Indeed, Brown argues that sovereignty must be reasserted in order to bring democracy back in. She makes this point on a number of occasions, suggesting that the removal of sovereignty is tantamount to “dedemocratizing the state”. She concludes the same passage by arguing that contemporary strategies “reveal the extent to which neoliberalized democracy, divested of sovereignty and legislating for the common good ... has little left to do and little power to do it”¹⁶. She articulates her claim even more

¹³ Brown (2019, 57).

¹⁴ Brown (2019, 71).

¹⁵ Brown (2019, 74).

¹⁶ Brown (2019, 76).

directly in the section “What went wrong?” explaining in the same breath that “the neoliberal state is dedemocratized and divested of sovereignty”¹⁷. She further explains that: “The political divested of sovereignty and the public interest is confined to generating universally applied rules and techniques that have the status of being practical”¹⁸. So it would seem that Brown agrees with Hayekian neoliberalism at least in so far as “divesting sovereignty” necessarily means divesting the “public interest”. Where she disagrees, and radically, is that this is a good thing. She therefore seeks to revive the public interest by reinvesting sovereignty.

The question however is whether democracy may best overcome neoliberal rationalities by turning one’s back on Foucault’s attempt to push beyond sovereignty, that is by injecting sovereignty back into the political? Would it not be preferable to maintain a democratic public interest without recourse to sovereignty? Or stated differently, is there another, more pragmatic response, which would allow us to keep the head of the king rolling on the ground of our everyday politics without dissolving the public interest? Are we so attached to kingship after all? Or to return to Frasier’s question introduced above, is a democratic governmentality possible?

This leads to a second order question regarding how this politicization of society – or the reconstruction of the demos – might be achieved. At times, it would seem that Brown laments the politicization of certain types of social action. In particular, she decries the way that “morality – and not only rights themselves – becomes politicized”¹⁹. Or further on, she regrets that “traditional values are politicized, tacticalized, and commercialized”²⁰ and that “traditional values” are “politicized as ‘freedoms’”²¹. Brown’s point is clear: the politicization of traditional values is a danger for democracy.

But is it possible to “democratize the state” by depoliticizing some values and not others? This would seem contradictory. For in a thriving demos, no aspect – moral, economic or social – can be entirely cordoned off from public and political debate, and this includes of course the very definition of the family, civil society and the state. *A key distinction needs be made between the privatization of public life and the politicization of the private sphere.* In a demos, the problem cannot be that morality or religion or gender is politicized²². Such a diagnosis falls too close to the tree of

¹⁷ Brown (2019, 83).

¹⁸ Brown (2019, 102).

¹⁹ Brown (2019, 115).

²⁰ Brown (2019, 118).

²¹ Brown (2019, 119).

²² Brown (2019, 115).

liberal democracy that attempts to clearly fence off those parts of our lives that may be politicized and those that cannot. A politically constituted society, or a demos, refuses such strict boundaries. In a key sense, the demos politicizes all.

The problem then is not that “traditional values are politicized” and therefore weaponized. Rather, the threat comes from the fact that they are reified, or, as Brown suggests, become a “brand”. The problem arises when the private sphere is naturalized as traditional and then mobilized politically as such, as a natural given. In this case, at the same time that traditional family and gender values gain traction in the political field, they are not themselves subject to political debate. They appear in the political field as a pre-political fact to which all social and political life must necessarily conform.

Hayek was guilty of precisely this maneuver. He sought to prevent the political from interfering in markets and preserve social order through a reified set of traditional values. Existing neoliberalism has twisted this original ambition in new and dangerous ways by politicizing reified family values in order to preserve moral traditionalism *and* depoliticize the economy. Brown in turn pushes us to reinvigorate popular sovereignty toward a specific type of political intervention in markets on the one hand while preserving an almost liberal democratic respect for personal moral choices and a clear public/private divide on the other.

As powerful as Brown’s critique is, however, would re-assembling the demos not require us to pursue the political constitution of society as a whole, including the private and the public? Is it not possible to politicize values without privatizing the public good? *In the Ruins* provides essential tools for answering these questions. But a full rebuilding the demos, may require turning in yet another direction.

5. What might a promising direction for a democratic reconstruction that provides a potential critique of neoliberalism look like? Brown emphasizes a return to sovereignty and suggests an attachment to some form of boundary between public and private, which is strikingly reminiscent of more traditional forms of liberal democracy. As suggested above, both of these seem problematic at some level. This is certainly not to suggest that Brown’s democratic critiques of neoliberalism are not a helpful starting point. For, she only ever states the kind of positive vision she would like to offer in neoliberalism’s place in negative terms, that is precisely as critique.

As a result, the question of the vast reconstructive effort required to actually build a new democracy remains.

Some cues toward a historically informed democratic critique of neo-liberalism may find important resources in recent histories of democracy. Thanks to the work of leading scholars of political history in recent years including John Dunn²³, James Kloppenberg²⁴, William Novak (forthcoming), Marcel Gauchet²⁵, Joanna Innes and Mark Philp²⁶, Sophia Rosenfeld²⁷, and James Livesey²⁸, to name but a few, we are increasingly well-equipped to grasp the contours of historical forms of democracy as a discrete topic within modern political history. It may be precisely in the interstices of these histories that we can begin to see the contours of a new positive reconstructive history and theory of democracy²⁹. Out of this current state of the art, three themes may be gleaned as promising paths forward: first, the isolation of a properly democratic tradition; second, the elaboration of the social and political conception of this democratic tradition – what I refer to as the *demos*; and third, the elaboration of the history of various modes of democratic administration and democratic governmentality at the heart of this tradition.

Was there a modern democratic tradition? Historians have worked hard to isolate, nuance, craft and demonstrate the importance of liberal and republican traditions for modern politics. Tremendous amounts of ink have been spilled to determine where and when liberal and republican traditions began, whether they were mutually exclusive, and how they informed competing political cultures across the Atlantic and beyond. And yet, as consistently as we use the term democracy in these histories, to date few have attempted to elaborate a discrete democratic tradition with the same nuance and sophistication. Indeed, in spite of the path-breaking historiography on the history of democracy, definitions of exactly what “democracy” meant in the eighteenth and early nineteenth centuries have remained decidedly variable. Even as he championed its importance, Robert Palmer suggested that any clear sense of the term in the eighteenth century was almost impossible to discern, settling on a very general notion that “at

²³ Dunn (1993; 2005; 2014).

²⁴ Kloppenberg (2016).

²⁵ Gauchet (2007-2016).

²⁶ Philp (2013; 2018).

²⁷ Rosenfeld (2018).

²⁸ Livesey (2001).

²⁹ These authors have all contributed impressive and some cases multiple volumes to exploring a history of democracy.

the most, democracy was a principle, or element, which might profitably enter into a ‘mixed constitution,’ balanced by principles of monarchy and aristocracy”³⁰. This idea remained little changed more than sixty years later in the introduction to a volume on a conceptual history of democracy in modern Europe: “In the classical tradition of political thought, ‘democracy’ was evaluated positively as a useful element only in a mixed constitution, consisting of monarchical, aristocratic and democratic elements”³¹. Pierre Rosanvallon’s genealogy of the term also insists on its “semantic variety” and the fact that the word was used in the eighteenth century “only to designate an obsolete type of political system”³². One of the most ambitious histories of democracy concisely stated: “disagreements about democracy constitute its history”³³. Hence, when we have attempted to write a history of democracy, an overwhelming emphasis has been placed on its polysemy and the instability of any definition of modern democracy.

Carving out a more defined history of democracy is not meant to suggest that democracy has always meant the same thing to everyone nor does it seek to bind us to an earlier definition of democracy. It is however meant to suggest that even though liberalism and republicanism have so obviously been mired in a tremendous variety of meanings, it has remained deeply generative to try to isolate them as specific traditions. Moreover, such an attempt has never been made for democracy as such.

And yet, as I have shown elsewhere³⁴ in the period stretching from the mid-eighteenth through mid-nineteenth century, it may be possible to discern a general sense of the term by some key figures. In the work of Montesquieu, d’Argenson, Rousseau and Robespierre for example, democracy was clearly defined as a form of government or administration in which the public was called upon to resolve public problems. This conception of democracy was centered on inventing effective practices of government, administrative intervention and regulatory police and was fundamentally different from those contemporary conceptions of democracy that focus on the vote, popular sovereignty and parliamentary representation. Moreover, this conception of democracy overlapped and complemented in some cases other political traditions, even as it remained distinct from them, including liberalism and republicanism. Key political theorists and administrators in eighteenth and early nineteenth-century France there-

³⁰ Palmer (1953, 204-205).

³¹ Kurunmäki, Nevers, Velde (2018, 4).

³² Rosanvallon (1995).

³³ Kloppenberg (2016, 5).

³⁴ Sawyer (2020).

fore defined democracy as a means for solving public problems by the public itself. This conception of democracy focused on inventing effective practices of government, administrative intervention and regulatory police and differed fundamentally from our contemporary understandings that privilege the vote, popular sovereignty and parliamentary representation. Albeit largely forgotten, it would seem that there was a widespread conception of democracy in the crucial revolutionary age from the mid-eighteenth to the mid-nineteenth century.

Though uncovering this tradition does not bind us to an earlier definition of democracy, it may provide insight into formulating a response to two sharp critiques in contemporary democracy that have emerged out of our neoliberal age. First, while the birth, growth and progress of administrative regulatory bodies has undeniably provided an indispensable scaffolding for the construction of a modern public power in the service of social justice, our overwhelming emphasis on the act of voting, representation and constitutionalism as the foundations for a properly democratic polity have effectively written administration out of our histories of democracy. In such a context, it has become exceedingly easy to assail “the modern administrative state, with its massive subdelegations of legislative and judicial power to so-called ‘expert’ bureaucrats, who are layered well out of reach of electoral accountability yet do not have the constitutional status” (Calabresi and Lawson). In fact, any authentic search for the origins of a modern democracy uncovers a rich and reasoned attention to a publicly managed administration, open magistrature, and popular regulatory power which had relatively little concern for, and in some cases a blatantly sidestepped, legislative elections and constitutional design.

Moreover, as Rosanvallon proposed many decades ago, historically-minded critiques of contemporary democracies have targeted the eighteenth century as being broadly responsible for reducing modern politics to a formal and neutral legal system of rights. As important as these human rights have become today, it has been argued, such strict legalism offers a decidedly thin framework for managing the full range of social and economic regulatory dilemmas facing our modern democracies. Axel Honneth has portrayed this problem in no uncertain terms, writing: “nothing has been more fatal to the formulation of a concept of social justice than the recent tendency to dissolve all social relations into legal relationships, in order to make it all the easier to regulate these relationships through formal rules”³⁵. A more complete understanding of the modern demo-

³⁵ Honneth (2014).

cratic tradition presented here reveals a radical alternative to formal legal conceptions of popular governance. In this tradition, popular involvement in regulation ensured freedom and equality by acting for the public good. A thoroughgoing democratic critique of neoliberalism may then begin by exploring this tradition.

Was there a democratic alternative to civil society? Beyond the isolation of a properly democratic tradition, it is also necessary to explore alternative social forms that undergirded the development of democracy, outside the overwhelming dominance of the civil society paradigm. As we know, the last decades of the twentieth century were exceedingly generous with the idea of civil society. In tandem with the rise of neoliberalism, civil society became one of the central historical, social and theoretical concepts of late and post-Cold War democratic thought and practice. The extraordinary attachment to civil society however, has blinded us to just how new our contemporary understanding of the term actually is. As recently as the 1990s, many of our most prominent social and political theorists considered civil society sufficiently undertheorized that they sought to participate in its fashioning, contributing their own interpretation of the term through provocative articles, and in some cases very weighty, towering tomes, piece by piece carving out new analytical space for the concept. Moreover, if few of today's historians, sociologists, political scientists or theorists would still choose to engage in such an enterprise, it is certainly not because the term has lost its salience or that "civil society" was simply a passing trend. Rather, it would seem to the contrary that that the idea of civil society has won, so to speak: we have tacitly agreed to accept its conceptual slipperiness in exchange for what would appear a continued analytical potential.

This is not to say that "civil society" as a social and political ideal has been immured from criticism. To the contrary, if the number of critiques are any measure of its success, then we should hardly be surprised that civil society has found its way into the heart of our political and social vocabularies. As early as 1993, Krishan Kumar proposed "an inquiry into the usefulness of a historical term" noting that while "the revival of the concept of civil society is a self-conscious exercise in remembering and retrieval", it nonetheless "offers little guidance to societies seeking to construct a genuine political society"³⁶. Kumar was hardly alone. David Harvey insisted that the term was complicit with the triumph of neoliberalism, "giving rise to the illusion that [...] some separate entity called 'civil society' is

³⁶ Kumar (1993).

the powerhouse of oppositional politics”³⁷. While Michael Walzer sought to “warn against the antipolitical tendencies that commonly accompany the celebration of civil society”³⁸. And revisiting the very terrain of Tocqueville’s initial study of democracy, William Novak revealed the deep limitations of our legal historical renderings of the associative life of early America, skewering civil society approaches that “revitalized a privileged, normatively-charged language to describe an apolitical society”³⁹. At the heart of these critiques was the relationship between civil society and the administrative state, or what was referred to as its “apolitical” or even “antipolitical” tendencies, which has proven as central to liberalism as it has ultimately been amenable to neoliberalism.

By anchoring it outside government, theorists and historians gave civil society tremendous analytical purchase and liberating potential in a context of single-party rule, authoritarianism, global pressure groups and non-governmental interests. But as the late and post-Cold War era drifts into the past and the bold experiment in hyper-liberalism to which it gave birth confronts new democratic aspirations, the civil society paradigm has left intellectuals, activists and policymakers with little theoretical ammunition to counterbalance an increasingly outdated politics and policy consensus. Challenged now is market expansion and economic growth over social welfare and public well-being, personal rights over collective responsibilities, corporate and associational interests over public goods, individual aggrandizement over social equality, and autonomous civil society against the regulatory state. And yet, so much have neoliberal assumptions captured policymaking and public imagination across the political spectrum, that it has become difficult to think beyond its tightly patrolled borders towards a programmatic, philosophically-grounded alternative.

Any reconstructive effort must then also explore the historical alternatives to civil society. In the case of the democratic tradition, the proper collective subject of political modernity was the *demos*. The *demos* highlights that modern social form and social space wherein society’s relationship to itself was politically constituted. A history of the *demos*, therefore, diverges radically from ‘civil society’ conceptions of the social, that is, from the more depoliticized liberal notions that dominate current histories of modern democracy.

While utilizing several different terms, concern for “the *demos*” was never far from the center of classical political philosophy and political

³⁷ Harvey (2006).

³⁸ Walzer (2003 [1991]).

³⁹ Novak (2001).

theory. Early modern and modern political theorists captured this social form through a number of different vocabularies: John Locke referred to it simply as “political society” (which he used as a synonym for civil society); employing the term “civil society” only once in the *Social Contract*, Jean-Jacques Rousseau preferred the term “political corps” or “body”; and Alexis de Tocqueville referred to it specifically as a “democratic society”, a term he contrasted to “aristocratic society”, both of which he used with much greater precision than “civil society”. Thomas Hobbes, Samuel von Pufendorf, occasionally Hugo Grotius, and then Victor Hugo and Karl Marx, however, explicitly referred to this democratic social form as a “demos”. This term is useful not only for its historical weight and rhetorical authority, but also because debates on the term itself capture a process at the heart of the construction of modern politics: Far more than a constituent act, being a demos required that the people also govern themselves democratically. In other words, the moment the demos ceased to self-govern, not only were the people no longer living in a democracy – and entering oligarchy, aristocracy or anarchy for example – they also ceased to be a demos.

As a result, instead of understanding modern social autonomy as taking place outside the state, freedom in a demos depends on how a society collectively governs and regulates itself non-arbitrarily toward relative equality. Moreover, since self-rule is no longer grounded solely in the naturalization of a depoliticized set of social or economic relations and hence the history of the expansion of formal protections of that sphere from an invasive state, it sidesteps debates about how far and in what contexts administration can “intervene”. Instead, the demos poses a very different question for modern democracy: How was democratic state capacity to be created, expanded and consolidated in the name of a self-governing demos?

What history of the demos? As a modern concern with democracy took hold across the eighteenth and nineteenth centuries, the complexities of establishing a demos came to the fore. In this context, democracy increasingly came to stand for a transformation in the relationship between the sources of power, modes of popular participation, and the means and ends best able to channel them. As a result, an intense engagement with the democratic during this period brought forward a series of problems in which the power of the political community over itself—as described initially by early modern political thinkers—received its first systematic and lasting response. Furthermore, these problems were posed in terms that remain compelling today. Attempts to reckon with these problems revealed the extraordinary capacity and challenges of organizing society and the

polity democratically. These problems however emerged at a crossroads; that is, at the intersection of new possibilities for popular participation in processes of state construction on the one hand *and* on the other the realities of brutal imperial practice, new modes of government oppression legitimized by exceptional circumstances and necessity, gender and racial exclusion, and massive socioeconomic inequality. Thus, democracy in this period emerged not as a solution that would overcome all injustices if finally realized in its fullness. Instead, it became a means of posing and solving public problems with all the profound failings such problem-solutions could and did in many cases entail.

Any history of the demos must be told then as a *critical democratic history*, in which democracy took hold as individuals critiqued democracies that existed presently or historically in the name of democracies alternatively defined. If modern democracy emerged as a process of thinking about the plurality of democratic possibilities, then a thorough and realist understanding of the democratic also requires an understanding of how democracy historically provided the grounds for a critique of itself. From the mid-eighteenth century through the nineteenth, a host of theorists, politicians, activists and observers confronted the political, social, cultural and economic problems of their day with dissatisfaction. In this sense, democracy during this period was far more than a fugitive moment,⁴⁰ since its legacy outstripped the mere compromises of institutional settlement. Rather than a principle of legitimacy or set of institutions, individuals shifted from understanding democracy as a set of abstract philosophical and formal legal considerations to a sustained engagement with a host of practical issues relating to the tasks and functioning of a modern state.

If the new demos was slowly invented by politicians, journalists, activists, theorists, and even kings in the early modern period, the Revolution of 1789 posed a specific set of questions on what kinds of institutions would allow a demos to sustain itself. While an extraordinary effort was made to complete the political constitution of French society in the early years of the Revolution, the radical politics of the Terror and Robespierre's claim that his government incarnated a new democratic ideal would provide a sharpening stone for critiques of democracy in the years to come.

⁴⁰ A history of the demos departs from Wolin's conception of democracy as a "fugitive moment". Wolin for example writes: "The so-called problem of contemporary democracy is not, as is often alleged, that the ancient conception of democracy is incompatible with the size and scale of modern political societies. Rather it is that any conception of democracy grounded in the citizen-as-actor and politics-as-episodic is incompatible with the modern choice of the State as the fixed center of political life". (Wolin 2016, 111).

As a result, one struggles to imagine the profound discredit of democratic politics in Europe in the wake of Napoleon's defeat—both in spite of and because of the intensity of the revolutionary experience. In the wake of Napoleon, however, a new *demos* rose out of the ashes of empire. During the first half of the nineteenth century collective action, popular mobilization and recurrent revolution radically reinvented the practice and theory of democracy toward its contemporary social and political form. By 1848, democracy as a political ideal found itself squarely in the heart of European politics. The three decades that followed marked an extraordinary moment in the history of this very old set of ideas and practices as the *demos* was assembled into a first set of lasting institutional responses. Across Europe a new democratic experiment—grounded in variable forms of popular participation and a modern government and administration—found a home in large territorial states. By the last decades of the nineteenth century, democracy definitively entered European and American political vocabularies and practices as a structural feature of their political future. This new attachment to democracy pushed the state into the center of European life. For this new generation of theorists and politicians, the state—and its attendant popular foundations, responsibilities, and accountabilities—became a centerpiece of politics. Slowly, the liberal critique of State inherited from the eighteenth century and the relentless wariness of organized popular power that so marked liberals of the postrevolutionary generation was on the defensive. There was a profound investment in a new, more positive conception of the modern state immanent to the *demos*.

In his essay on “The Democratic Tradition in France” published 150 years after the French Revolution in 1939, André Siegfried reflected on the massive sea change that had taken place within the history of democracy. “When the Bastille fell”, he observed, “the principles of 1789 were being urged against an absolutist past. Today the defenders of freedom are protesting in the name of those principles against the menace of a collectivist future”.⁴¹ From a critique of absolutism to a critique of collectivism, by the middle decades of the twentieth century the very meaning of democracy had been so profoundly transformed that it was almost unrecognizable. Our present, neoliberal conceptions of public life emerged out of this troubled moment in democracy's checkered past when collectivism was associated with bureaucratic totalitarianism. In response, understanding exactly how democracy was enlisted in the neoliberal project is certainly of interest. But given the current crisis of democracy and neoliberalism, it

⁴¹ Siegfried (1939).

is not sufficient. We also require a critically and historical reconstructive effort that provides essential insights into how liberalism became so central to our understanding of modern politics in the first place. It is only by gaining perspective on these histories of liberalism that we may begin to build democracies of the future, especially since the histories of liberalism forged against the backdrop of bureaucratic totalitarianism of the Cold War may not provide the best way forward in this endeavor. This may prove especially true as we search for new templates to understand the extraordinary politicization of almost every aspect of twenty-first century social organization from the foods we eat to the vehicles we drive. An alternative does indeed exist. And it begins by tracing the history of the demos.

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