

Neoliberalism and Democracy

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Introduction

The relation between neoliberalism and democracy has always been fraught with tensions, as even the very first experiments with neoliberal reforms in Chile and other South American countries during the 1970s indicate. In most of these cases it was military dictatorships or other kinds of authoritarian regimes that pushed through measures aimed at marketization, liberalization and individualization. And while neoliberal reforms in the OECD world were initiated and implemented by democratically elected governments, the question as to what extent the ensuing processes of neoliberalization would ultimately undermine democracy in its various aspects has led to a lively and ongoing political as well as scholarly debate.¹

More recently, new neoliberal challenges to democracy have emerged in the wake of financial and economic crises. Consider for example the current developments in the Eurozone. In countries like Greece the “internal devaluation” of the economy through wage reductions in the public sector, the liberalization of labor markets and cuts in social policy are decreed and pushed through against the resistance of large parts of the Greek populace. Consider also that in his *Post-Democracy* and the sequel called *The Strange Non-death of Neoliberalism* Colin Crouch argues that it is mainly the extraordinary power of corporations that is to blame for bringing about post-democratic conditions.² The recent bailouts of a number of such massive corporations that are deemed “too big to fail” in the financial sector also present a double challenge to democracy. To the extent that they were portrayed as specimen of “there is no alternative” politics the situation borders on extortion because the hand of the legislative as the representative of the sovereign demos is in effect forced by private organizations. Second, given the need to operate swiftly in rescue operations during times of emergency the executive branches of states centralize decision-making procedures that sideline the legislature. Legislative oversight in such processes is practically non-existent.

To be sure, the political world around us presents a surplus of material that could be used for a discussion of this topic. In this article I would like to explore the relation between neoliberalism and democracy from a slightly more focused perspective by taking a step back from both phenomena in their actually existing form

in order to instead scrutinize the critical accounts of democracy in what I will call varieties of neoliberal thought. Neoliberal thought is not a homogenous intellectual current, despite important family resemblances between the various approaches. In the first section I therefore introduce my working definition of neoliberalism. It is my further assumption that neoliberal theory is best understood as a body of thought that is not exclusively concerned with economics but rather with political economy, and thus it includes a political philosophy replete with views on the state and democracy as well.³

Based on this definitional and conceptual foundation I proceed to scrutinize the various positions on democracy that can be found in the works of some of the leading figures of neoliberal theory as it is defined here. I will not present an exhaustive survey of everyone whom I consider to be a neoliberal in this sense. Rather, I will try to group together positions into three broad types of critical engagement with democracy from the point of view of neoliberalism. An analytical distinction can be made between those who argue for a *restriction* of democracy through various forms of non-majoritarian institutions and decision-making procedures that range from the rule of law to authoritarian and technocratic rule; those who would like to *replace* democratic procedures with market coordination citing normative as well as functional reasons for this preference; and finally, those who argue for the *complementation* of representative democracy through direct democratic measures. In my view these can be understood as three stylized lines of critical engagement with representative democracy from the perspective of neoliberal thought. Most of the article will be devoted to the development of this threefold typology of varieties of neoliberal thought. These critical accounts of democracy, in turn, require and deserve thorough critiques that probe the validity of their assumptions as well as substantive arguments and offer an assessment of the normative desirability of the suggested alternatives were they put into practice. Such an exhaustive critique lies beyond the scope of this article, which is primarily interested in developing a comprehensive understanding of neoliberal reasoning on democracy based on an examination of the aforementioned varieties. This preliminary step, it is hoped, will facilitate endeavors at an comprehensive critique in

future research. In this article I therefore restrict myself to some concise criticisms of the arguments put forward by neoliberals that problematize them in various respects. While they cannot claim to be exhaustive by any means, these problematizations may serve as useful starting points for more elaborate critiques. The article concludes with thoughts on why it is insufficient to simply charge neoliberalism with being anti-democratic and draws a connection between the theoretical arguments on democracy scrutinized here and the challenges to representative democracy under “actually existing neoliberalism.”

What is Neoliberalism?

Despite various attempts to arrive at a common understanding of what neoliberalism is, the term remains hotly contested. For some commentators neoliberalism is synonymous with unfettered capitalism and an economic imperialism that aims to subject all spheres of society to the logic of the markets. Others suspect the term to be useless except for polemical purposes: those who employ it do so with the intention of denouncing capitalism by erecting the straw man of a deregulated market system based on nothing but greed and egoism that undermines any notion of community or democracy.⁴ Given this atmosphere of heated contestations I suggest that we move away from neoliberalism as a vaguely defined policy package that may or may not include certain measures and rather take a closer look at the history of this political idea, that is, the context in which it emerged during the 1930s. This context, I contend, provides crucial clues regarding the common denominator of neoliberalism and thus enables us to formulate a working definition.

The context of the birth of neoliberalism is the crisis of liberalism. When was to be the first generation of neoliberal thinkers convened in Paris for the Colloque Walter Lippmann to discuss his latest book, *The Good Society*, the crisis narrative described in the next paragraph emerged over the course of the four days of August 26 to 30, 1938.⁵

The era is characterized by a crisis of the classical liberalism that had been developed in the works of Adam Smith, David Ricardo and Benjamin Constant up to the earlier works of John Stuart Mill and that was put into practice in the realm of economics and sometimes even politics, particularly in the second half of the 19th century. Right at the time when liberalism seemed to have gained the upper hand in the battle with mercantilist economic policies and absolutist political regimes, that is, after the revolutions of the 1840s, economic liberalism underwent a radicalization towards the maxim of *laissez-faire*, exemplified in the works of

French economist Frédéric Bastiat and others. From the perspective of the neoliberals at the Colloque the theoretical and practical drift towards *laissez-faire* resulted in the increasing dominance of trusts, cartels and monopolies in markets by the turn of the century. It was partly due to the unbridled market power of these consortia, argued many of the participants, that the scale and severity of the recurring economic crises had grown so tremendously, culminating in the Great Depression at the end of the 1920s.

These economic crises put liberalism on the defense in two respects. First, they paved the way for Keynesianism to become the dominant economic paradigm for the foreseeable future, because at the time it provided the most plausible answers raised by markets that stubbornly refused to slide back into the beneficial equilibria that neoclassical theory had predicted. Second, these economic crises facilitated corresponding developments in real economic policy that marginalized liberal ideas. World War I had seen intensified economic planning by nation-states that did not relax after the armistice. Even more importantly, in response to the Great Depression the Federal Government in the U.S. implemented the New Deal reforms and Roosevelt successfully defined them as liberal. This completed a process of rebranding a whole intellectual tradition, a process that had been started by thinkers like T.H. Green and John Dewey, who merged progressivism with liberalism.⁶ Some of the most disconcerting aspects of the crisis of liberalism lay in its political dimension. The October Revolution in Russia had resulted in a Bolshevik government, throughout Europe fascist movements were forming and in Germany National Socialism was gaining political strength. Seemingly located on opposite ends of the political spectrum, these movements were still united and adamant in their rejection of liberalism.

Given this crisis of liberalism, the participants of the Colloque developed a multiply reactive neoliberal formula that was aimed at overcoming the crisis: the agenda of classical liberalism that had been eclipsed needed to be revived. However, the crucial presupposition of successful resuscitation was a sober assessment and a critical revision of certain elements of the liberal agenda. Here we have the neoliberal project in a nutshell: reviving some elements of the liberal agenda while abandoning others. Consequently, the term is introduced in the records of the meeting as a self-description of the shared agenda of the participants. Note that this formula does not just hold for the attendees of the Colloque Walter Lippmann. In his opening statement at the founding meeting of the Mont Pèlerin Society in 1947, which to this day can be considered to be one of the most important organizations of transnational neoliberalism, Hayek had this to say:

[I]f the ideals which I believe united us, and for which, in spite of so much abuse of the term, there is still no better name than liberal, are to have any chance of revival, a great intellectual task must be performed. This task involves both purging traditional liberal theory of certain accidental accretions, which have become attached to it in the course of time, and also facing up to some real problems which an over-simplified liberalism has shirked or which have become apparent only since it has turned into a somewhat stationary and rigid creed.⁷

To confront the continuing crisis of liberalism in the face of wartime economic planning during World War II, applied Keynesianism and the expansion of the welfare state during the New Deal and the Beveridge Reforms in Great Britain a simple restoration of the ideas of Smith and Ricardo would not do:

The old liberal [. . .] is not of much use for our purpose. What we need are people who have faced the arguments from the other side, who have struggled with them and fought themselves through to a position from which they can both critically meet the objection against it and justify their views.⁸

I suggest, as a working definition of neoliberal theory, that it has to be understood as a reactive body of thought that responds to a perceived crisis through a combination of revitalization and the revision of certain elements of the classical liberal agenda.⁹ Let me spell out some of the implications of this and what I believe to be the benefits of this conceptualization of neoliberalism.¹⁰

If neoliberalism is conceptualized in this way it becomes possible to chart the territory of neoliberal thought and thus differentiate certain varieties of neoliberalism, according to which parts of the liberal heritage are maintained and others are rejected. Neoliberal thought has always displayed a significant degree of internal heterogeneity. The proposed interpretation recognizes internal varieties but still identifies a common, albeit thin denominator that ties them all together; namely the attempt to revive liberalism based on a critical revision of its agenda. Furthermore, this definition is not confined to the first generation of neoliberal thinkers: it also captures more contemporary representatives. What they share with their precursors is a sense of crisis, only now it does not emanate from Fascists and Bolsheviks but from hegemonic Keynesianism up to the early 1970s and, after that, an entrenched and expanding welfare state.¹¹ Finally, the definition provides us with a useful criterion to decide whether a particular approach should be considered as belonging to a variety of neoliberalism or instead grouped under alternative categories, such as liberalism, conservatism, or libertarianism. The list of neoliberal thinkers that can be derived from

this way of conceptualizing neoliberal thought thus includes but is not limited to Friedrich August von Hayek, German ordoliberal thinkers such as Walter Eucken, Wilhelm Röpke and Alexander Rüstow, as well as liberal thinkers in the USA including Milton Friedman, James Buchanan and a number of others.

In the following analysis, I will group together stylized arguments about democracy made by these thinkers under three headers. These are the restriction of representative democracy through technocracy and rule of law; the replacement of the processes of representative democracy through market mechanisms and finally, the complementation of representative democracy through direct democratic measures. Thus, we can speak of three varieties of neoliberal thought regarding democracy.

Restricting Democracy: Technocracy and Self-Binding Rules

Before we enter into discussion of various arguments made by neoliberal thinkers, a definitional question has to be addressed; namely, what is meant by representative democracy? Obviously, this term can be filled with differing meanings, especially when it comes to normative questions. For present purposes, I take a parsimonious definition from the *Encyclopedia of Political Theory* to be sufficient:

Representative democracy is a form of government in which citizens of the state exercise their popular sovereignty through legitimately elected representatives. In a representative democracy, the citizens choose their representatives by voting in elections. Typically, the chosen representatives then congregate in a legislative assembly in which they debate policy and determine legislation. Representative democracy is often contrasted with more participatory forms of democracy in which citizens play an active role in the decision-making process.¹²

Needless to say, proponents of radical, deliberative or participatory notions of democracy would point out that this is at best a thin notion of democracy; but what matters here is simply that this is the kind of democracy that neoliberals want to restrict, replace or complement.

This section discusses two different strands of neoliberal skepticism towards democracy, which aim to restrict it either through authoritarian technocratic rule or various forms of self-binding rules. The first, and more authoritarian, strand of neoliberalism is best represented by one of its oldest varieties, namely German ordoliberalism.¹³ In the writings of Eucken, Rüstow and Röpke — three of the main figures of the movement — one can find a recurring concern about the rise of the masses and the formation of mass democracies in many Western countries since the end of the 19th

century. The masses, according to the ordoliberal narrative, came into existence through the twin developments of industrialization and urbanization. Uprooted and proletarianized workers came to dwell in ever-sprawling cities.¹⁴ From the ordoliberal point of view the result is almost paradoxical because on the one hand these urbanites are atomized and lack what nowadays would be called social capital. On the other hand, these unencumbered individuals are also easily galvanized into a mass and as such their political, and even more so their economic, judgment is clouded.¹⁵ Here the ordoliberals rely on the social psychology of a Gustave Le Bon or José Ortega Y Gasset. The masses tend towards the irrational and they are easy prey for demagogues, be they Fascist or Bolshevik. Thus, technically speaking, the ordoliberal argument for a restriction of democracy is the inferior epistemic quality of the popular will formation process under the conditions of a mass democracy. Now, of course, in a certain sense representative democracy is already an institutional response to this critique, the core point of which is as old as democracy itself. But the ordoliberals are not satisfied with the filters of rationality that representation is supposed to install in the democratic process. Even so, they argue, political parties that have to compete over votes are bound to cater to extremist positions, at least as long as they have to assume that others will if they do not.

Aside from this social psychological line of reasoning, the ordoliberals have introduced a theme into the critical discourse of democracy that is shared across almost all varieties of neoliberal thought. What they are concerned about is an activity that contemporary public choice theory refers to as rent-seeking. According to ordoliberal doctrine, a so-called competitive order is supposed to ensure that markets do not undermine their own logic through monopolies and cartels. Therefore the impartial enforcement of a competitive order that applies to all market actors indiscriminately and offers no exemptions turns into the crucial task of the state as the constant guardian of truly competitive markets: "A strong and prudent state policy of policing the market should be instituted."¹⁶ In this situation there is a strong incentive to lobby for some kind of privilege or exemption, such as a protectionist tariff policy. This incentive becomes even stronger as soon as one considers the possibility that one's competitors might lobby successfully for exemptions while refraining oneself from making such demands. The ordoliberals derived this argument from an analysis of the experience of the collapsing Weimar Republic. During the collapse, the representatives in parliament did the bidding of special interest groups and over all the rancor and log-rolling fueled by particularistic motives the common good got lost.¹⁷

It is quite easy to see that the target of this particular line of critique is pluralist representative democracy and

in some of their conclusions the ordoliberals come dangerously close to the other major critic of the Weimar parliamentary democracy; namely, Carl Schmitt.¹⁸ Like Schmitt the ordoliberals opt for an authoritarian solution to the rent-seeking dilemma. If any attempt by a societal actor to influence government policy is to be placed under the general suspicion of particularistic rent-seeking the state has to insulate its own will formation from these influences.¹⁹ This leads to the more or less explicit advocacy of a technocratic politics that may still hang on to democratic procedures and institutions except in any instance where the policy agenda yielded by democratic processes contradicts the advice of economic experts, when the experts must always prevail.²⁰ The reason why technocracy appears as a viable solution to the problem of rent-seeking does not lie only in the heritage of a Hegelian theory of the state as the guarantor of the common good personified in the disinterested staff of its bureaucratic apparatuses. In the case of Eucken and Röpke, it is also their faith in a science of economics that is still considered capable of generating truth in an emphatic sense and can thus inform government policy on economic matters in the broadest sense of the term. Representative democracy, according to this line of critical reasoning, must be checked by the expert advice of scientists who derive their legitimacy not from democratic processes or relations of democratic representation but the authority of science.

As for the critical assessment of this line of argument, its explicitly authoritarian version cannot be considered anything but plainly anti-democratic and requires no further discussion. The technocratic dimension relying on expert advice is at least highly elitist and appears even less desirable in the light of the repeated failures of economists to provide sound policy advice in the period leading up to the current crises.

A more contemporary position that might at first sight also be subsumed under this header is Milton Friedman's monetarist variety of neoliberalism. In his writings on the methodology of positive economics and in his policy recommendations on monetary policy and the appropriate rate of money supply expansion one can still hear echoes of the technocratic claims of ordoliberalism.²¹ However, Friedman was far too influenced by the withering criticisms from public choice scholars of the notion of a state actually trying to pursue the common good — even assuming they knew what it was. Therefore, neither the advice of experts nor a government of technocrats guarantees that the insights of science are adhered to in economic policy in general and monetary policy in particular. If it is politically opportune to fuel economic growth with some modest inflation and there is room for discretionary decision-making, then decision makers will always do what is in their own best interest, that is, cater to voters in order

to be re-elected. Therefore, Friedman follows the lead of Hayek and many other neoliberal thinkers in placing his trust not in people but in rules,²² which points us in the direction of the second strand of critique calling for a restriction of democracy.

The symbol of this rule-binding strategy of restricting the room for democratic decision-making is Odysseus. Just as he had himself bound to the ship mast by his crew so he could indulge in the Sirens' song without being lured into the water, the state is supposed to bind itself through certain rules. There are three different versions of this argument, or, to be more precise, the scale of the application differs in the three cases from broadest (Hayek) to medium (Buchanan) to narrowest (Friedman).

The broadest scale is to be found in Hayek's approach that pits the rule of law or *Rechtsstaat* against democracy and thus continues a line of reasoning that goes back to John Stuart Mill, Benjamin Constant and Immanuel Kant. For Hayek the point is to minimize the space for discretionary governmental decision-making, especially but not exclusively when such decisions lead to interventions in the economy. Through such interventions market competition, which Hayek lauds as the most efficient generator of knowledge and as an achievement of the cultural evolution of mankind, will be distorted. Furthermore, once an intervention has taken place it inevitably gives some market actors an edge over others and thus it will be ever more difficult to refuse the demands for more interventions by those groups who see themselves at a disadvantage: government becomes "the playball of all the separate interests it has to satisfy to secure majority support."²³

Hayek has tried to base his advocacy for a rule of law at the expense of what he often criticized as unlimited democracy on an analysis of the nature of law with a particular emphasis on its generality.²⁴ In a certain sense this resonates with the ordoliberal argument about market rules applying to all competitors indiscriminately. Hayek argues that the core idea of the rule of law is the generality of its application. However, spelling out the exact meaning of this generality has proven to be a difficult task for liberal democratic theory as well as for Hayek who even ended up conceding that no satisfying solution had yet been found.²⁵ After all, it is a well-known conundrum that the same rule applied in the same way to different people will have widely varying effects. Furthermore, focusing only on the generality and abstractness of a rule might place in jeopardy the fundamental steering capacity of governments because such general rules *per definitionem* are unable to address specific phenomena, for example, requiring members of a certain profession to undergo special training. Then again, denying the state any steering capacity may very well be a part of Hayek's agenda.

Milton Friedman offers the smallest scale of application. He simply wants monetary policy out of the hands of discretionary decision-makers. This applies as much to members of governments and legislatures as it does to boards and chairmen of central banks. Even the latter are subject to political and popular pressures — particularly in the case of the Federal Reserve Bank, and arguably, also the European Central Bank as the policies pursued over recent months and years, that is, quantitative easing and low interest rates, suggest — although they have only a thin democratic legitimation and can hardly be held accountable. But even if they are completely independent, like the German Bundesbank before the introduction of the Euro, public choice theory still suggests that the respective decision-makers might still try to manipulate monetary policy for the worse — even if they think that it is in the general interest: "money is much too serious to be left to the Central Banker."²⁶ Therefore, the growth of money supply will simply have to follow a rule, for example, a steady expansion of three per cent, and the rule should be made public so officials can be held accountable in case there is a deviation from the rule.

An instance of the medium-scale application is to be found in the writings of Hayek but the most elaborate exposition of the argument comes from James Buchanan. He represents a variety of neoliberalism that combines constitutional economics with public choice theory. His critique of a democratic process that inevitably results in incoherent and extremely costly state action, that is, deficits and debt, is based on the rent-seeking argument as well.²⁷ If possible, elected officials and bureaucrats will use state expenditures for their own purposes, be it for the expansion of an agency or a tax cut for a targeted segment of the electorate. The aggregate effect is a burden of debt passed on to future generations, which amounts to a case of negative externalities. Neither current voters nor current politicians are forced to pay the price for this mutually beneficial transaction — but future generations without representation in the current processes will have to. Buchanan suggests a balanced budget amendment as the appropriate remedy that would provide an effective constraint on the actions of democratically legitimated governments.²⁸

This idea is in the process of being implemented as we speak in the form of the Eurozone Fiscal Pact that stipulates a constitutional balanced budget amendment for each member country. Buchanan and those sympathetic to his position might consider this a long awaited victory. However, the passing of such amendments also exposes some glaring inconsistencies in the argument. After all, if Buchanan's assumptions about *homo oeconomicus* and its application to political personnel are correct, such amendments could never be passed, or once they are passed they would be watered

down if not outright ignored whenever political expediency dictates it. The Stability and Growth Pact of the European Union from 1997 provides ample evidence for the latter scenario. Either the theory cannot even account for the possibility of its core political demand or it has to assume that this demand is ultimately useless. More generally speaking, the problem with the argument about rules that should bind the democratic sovereign and its representatives is that it underestimates the complexities of the idea of sovereignty. After all, there is much controversy about how the idea of a democratic sovereign can be squared with the notion of rules that are supposed to bind this sovereign. If it is bound, it is not sovereign. But if it is unable to bind itself without losing its sovereignty the conclusion is that it is not sovereign, if what is meant by the latter is a supreme power. Another way of questioning the idea of rules restricting governmental discretionary decision-making is to inquire into the relation between actors and rules, that is, the question of autonomy. Because the conundrum sketched above can also be spelled out as a paradox of rules that presuppose certain actors if they are ever to be passed. However, unless the rules are already in existence (that would forbid discretionary governmental action catering to certain groups) there is no reason to believe that actors will ever pass them, based on the assumptions of neoliberal thought. Now, I do not intend to resolve this paradox — not the least because paradoxes are seldom resolved. The point is that these difficulties of democratic and state theory as well as the philosophy of law are not really taken into consideration by the neoliberals when they simply try to pit a regime of rules against a seemingly limitless democracy.

Replacing Democracy: Institutional Competition and Consumer Sovereignty

There are two forms of replacements advocated by neoliberals that I would like to discuss in this section. First, there is the idea of letting market allocation replace the allocation of values through democratic decision-making and thus empower the sovereignty of the consumer at the expense of the sovereignty of the citizen. Second, there is the idea of institutional competition that envisages a market of jurisdictions that would enable citizens to express their preferences not only through the voice option, as it is referred to in the vocabulary of Albert Hirschman but particularly through the exit option. Democracy would increasingly be turned into voting with the feet. Let us begin with the first idea:

The idea of the market as an ersatz democracy could legitimately be ascribed to a number of neoliberals but Friedman is the one who has spelt out the related ideas most explicitly. He is in agreement with the diagnosis

of democratic pathologies based on rent-seeking found in the accounts of many of his neoliberal companions:

But the minorities specially affected have strong incentives to mount a propaganda barrage to assure that the majority are not well informed, and their task is easier than that of their opponents. They have visible, immediate effects to portray; their opponents, indirect delayed effects.²⁹

The result is a state held hostage by minority interests. However, Friedman adds a novel element to the phenomenology of the problems of democracy with the following juxtaposition:

When you vote daily in the supermarket, you get precisely what you voted for, and so does everyone else. The ballot box produces conformity without unanimity; the marketplace, unanimity without conformity. That is why it is desirable to use the ballot box, so far as possible, only for those decisions where conformity is essential.³⁰

Apparently, the problem of democratic decision-making — especially in its representative form — is the need to come to an agreement or rely on majority decisions that will not necessarily take into consideration the minority position. As is well known, this will either mean long and possibly failing deliberations to come to a consensus, including all the difficulties involved like the question about the appropriate resources for everyone to engage in deliberations. Or it will mean that a (qualified) majority will have to decide and the minority will simply have to accept this decision and comply with it, thus being forced into what Friedman calls conformity.

The appeal of the market stems from its ability to transmit preferences much more easily into outcomes than is the case in collective democratic decision-making. After all, in representative democracies that are empirically mostly dominated by political parties most of the time, voters have to choose between parties or individuals who not only represent their constituents but also a party. Political parties stand for a bundle of policy positions, some of which may correspond to a voter's preferences and some of which may not. With regard to individual preference transmission, this is less than ideal. Furthermore, in democratic decision-making it is a matter of collective negotiations, deliberations and votes, whether individual preferences are realized or not. In contrast, as a consumer a person can buy what the market offers irrespective of whether other people agree or not and they can get exactly what they want — or at least that would be the argument, and it has been the ideological foundation of consumer capitalism for a long time. One could even add to all of this the steering capacity of consumer sovereignty, which

is where neoliberal discourse meets post-materialist or environmentalist discourse. The point is that conscious consumerism exemplified by so-called LOHA (lifestyle of health and sustainability) individuals is supposed to have an impact on the production of goods. In other words, if more people used their spending power as consumers to promote goods that are broadly speaking sustainable, in the sense that they have been produced according to certain environmental and social standards, this might result in better steering effects than ineffective democratic negotiations over health, social and environmental standards.

Let me address some of the questions involved here. The most obvious problem with consumer sovereignty is that it lacks the formal equality that political rights in democracies afford to each citizen. The sovereignty of the consumer is obviously predicated upon her purchasing power and it is well known how unevenly the latter is distributed. In my view, this is a sufficient argument to conclude that Friedman's reasoning is normatively unacceptable. However, one could also question other points put forward in defense of markets as ersatz democracy. For example, individuals can purchase only what is being offered on markets, but not everything that individuals want and need is among these goods and services. Whether individuals can realize their preferences on the market does not hinge only on their decision. Either this person has the massive purchasing power to make the production and sale of a good profitable or many other customers have to provide that purchasing power and then it is no longer a matter of individual choice. Most of the time, the latter scenario will be more realistic.

Furthermore, social psychology, cognition studies and neuroscience have long destroyed the myth of sovereign decisions by consumers. The incredible amounts of money spent on marketing only add to the impression that this is a myth. Finally, although it fits with many other aspects of the neoliberal agenda, this does not mean that the individualization of responsibility for a more sustainable production regime is normatively desirable. Actually existing neoliberalism has already been quite successful in burdening individuals with the sole responsibility for their success on labor markets, for their health through preventative measures and their retirement funds through private saving schemes. These forms of responsabilization (Foucault) come with the burden that the individual has to shoulder of professional failure, illness and old-age poverty. This sounds like a particular insidious interpellation given that the poor are not only encouraged to view themselves as personal failures but also as irresponsible with respect to the planet and future generations.³¹

The second way to replace the workings of representative democracy through alternative mechanisms

also relies on markets. However, the notion of institutional competition envisages a competition between jurisdictions as if they were competitors on a market for capital, knowledge and people. The logic of the argument is best expressed with reference to Albert Hirschman's notions of exit and voice. As we know at this point, neoliberals can all agree on the inefficiency of voice options like democratic control and accountability in what they describe as the relation between principals (the people to be represented) and agents (those who represent). One way of framing the problem would be to view governments as monopolists of policy supply or political parties as a respective cartel or oligopoly. Consequently, a solution can be found only if a proper market is established in which proper competition for the former monopolist called nation-state arises.

Again, it is Hayek who laid the groundwork for this argument, which has been developed further by a younger generation of neoliberal thinkers.³² The crucial issue of institutional competition is the exit costs. If voting with your feet is to replace voting with a ballot distances and other barriers must not be insurmountable for the majority of people. Even today, celebrities who are unwilling to pay taxes in their home country, can and do move to Monaco. However, this is not a viable option for most people — not the least because of immigration restrictions. Therefore, Hayek assumes that governmental powers will have to be decentralized to make institutional competition work. They would have to be shifted to the provincial or even municipal level because only then can there be a meaningful difference between the policy packages and respective price tags, that is, taxes of various jurisdictions that offer a realistic choice for citizens. In other words, it should make a difference whether one is living in province A or B and relocation from A to B should have a noticeable impact on one's life without having to become an expatriate:

I believe the result would be the transformation of local and even regional governments into quasi-commercial corporations competing for citizens. They would have to offer a combination of advantages and costs which made life within their territory at least as attractive as elsewhere within the reach of its potential citizens.³³

Let us look into the questions raised by this suggestion. There has already been an extended debate about whether institutional competition is not just another word for a race to the bottom because jurisdictions would have to concentrate on attracting capital rather than people and would have to be willing to compromise on social and environmental regulations, offer tax incentives and thus ultimately deplete state funds. The results of this debate have been inconclusive. While the race to the bottom argument has been refuted in some cases empirically, the significant reductions in tax regimes, even

in the OECD world over the last thirty years, which has also led to a major shortfall in state revenue suggest that this is not just a myth.³⁴ Moving away from these inconclusive empirical observations, it is more instructive to think the argument and its implications through theoretically. If the market metaphor is taken seriously this means that there probably will be market exits. In this case it would not just be the people who exit if they dislike a policy package and see a viable alternative. It would be jurisdictions whose business model has fallen short. If they go out of business there would have to be a merger or takeover — because the alternative of stateless people and a post-jurisdictional space could hardly seem like an acceptable option to neighboring jurisdictions. In the age of dynasties, before the birth and dissemination of nation-states and the patriotism that comes with these imagined communities, this might have been conceivable. Today it sounds a little less plausible, to say the least; not to mention that this framework of thinking construes people being as rootless and mobile as capital. More importantly, it means that over time there will be a reconsolidation of jurisdictions that will become just as big as they used to be, thus offsetting the effects of the decentralizing reforms. But do there have to be market exits? If people were really as mobile as the argument assumes and would move to the jurisdictions that correspond to their policy preferences there would be a problem that is called adverse selection in the insurance business. In short, this means that the jurisdiction that offers the most benefits to people who are less productive than others will ultimately be stuck with them. They are likely to be the ones to exit the market first and of course this will happen over and over.

Aside from these points of criticism, which are mostly immanent to the theory of institutional competition, there is one last major point that refers to both arguments presented in this section. They shift the focus of the democratic activity from the articulation and deliberation of needs and wants as well as formulating a respective policy agenda to the decision over the choice of already formulated policy packages of goods and services. The citizen is not addressed as a potential co-author of government policy³⁵ but only as an aggregate demand curve that meets a certain supply curve; and if there is no equilibrium price the customer just moves on to another supplier. It is a process that is practically void of any notion of democratic representation.

Complementing Representative Democracy: Referendums and Tax Revolts

It may come as a surprise that some of the more contemporary neoliberal thinkers have contemplated reforms of representative democracies that go beyond its plain restriction or replacement through market mechanisms.

In particular, the varieties of neoliberal thought that are close to constitutional economics and public choice have explored direct democratic measures as potentially effective means of limiting the powers of the democratic Leviathan.³⁶ On closer inspection this is less surprising than it may seem at first. If the problem is the cartel of a political class that engages in the mutual financing of public policies that cater to their respective constituencies at the expense of the general welfare and future generations, the response will have to be a search for mechanisms and actors that are capable of reining in these developments.³⁷ As Frey contends:

[G]overnments and courts, including courts of account, constrain the coalition of politicians only fractionally, since they do not only lack the constitutional rights to do so but also have little incentive to oppose seriously the legislators on whom they may depend in many ways.³⁸

Through the process of a referendum the citizens themselves might provide a more effective check on the cartel of politicians. Frey and others³⁹ refer to Switzerland as an example of the beneficial effects of institutionalized popular referendums. Using Switzerland to illustrate the merits of direct democratic measures is telling. After all, the Swiss people have most recently arrived at very controversial decisions when it comes to cultural politics, European integration and so on. But the neoliberal defenders of Swiss direct democracy have something different in mind. It is the consistently low tax regime — relatively speaking — of Switzerland combined with its modest public debt levels that are highlighted as an achievement of direct democracy.⁴⁰ This is part of the reason why American neoliberals like James Buchanan have become interested in referendums as a strategy to limit public revenue and expenditure.⁴¹ The strategy was successful, if only partly, and in a particular context: the so-called tax revolts, especially in California towards the end of the 1970s, that culminated in a successful referendum on “Proposition 13.” The proposition capped property tax rates and thus one of the biggest items of the California state revenue stream and it also erected procedural hurdles to raising other state taxes. However, even at that time, Buchanan provided arguments why it would be difficult to repeat such a success on a national level and suspected that tax revolts would be confined to sub-state jurisdictions, which so far has turned out to be true.⁴²

Finally, it is important to recognize that there is also a more fundamental reason for the neoliberal fondness for referendums. Remember that the critical diagnosis of representative democracy pointed to the inefficient transmission of individual preferences into outcomes because of parties representing a whole bundle of policy positions, some of which may be acceptable to individual voters while others are not. This problem is certainly

alleviated in referendums where only one question at the time is decided upon.

Let me close this section with some considerations of the merits and especially the problems of the neoliberal endorsement of direct democracy. First of all, it is worth noting that this endorsement is strongly at odds with neoliberal currents that warn of the inferior epistemic quality of popular will formation and cry “mob rule” whenever they hear the words, mass democracy. For them representative government is already problematic enough because of its need to cater to the masses. It would be far worse, from this perspective, if the masses actually acquired the power even to set the political agenda through referendums or even initiatives.

With regard to the arguments provided by those neoliberals who are less concerned about ignorant citizens than they are about a Leviathan out of control, they are obviously not entirely without merit and also at times come into close proximity with ideas more commonly found on the left side of the political spectrum. Still, two critical points are raised here. First, with regard to the transmission of individual preferences it might be true that referendums come without the need to decide on policy bundles; however, theirs is a different problem. After all, referendums present only a very limited choice of political options regarding a particular question and so it is quite likely that many individual preferences will not be accommodated the more nuanced they are.

Second, regarding the effectiveness of direct democratic procedures to tame Leviathan, one has to recognize the ambivalent effects of measures like Proposition 13. It was very successful in curbing state revenue but far less so in curbing state expenditure. The net effect of this combination, as is well known, is California’s debt problem that rivals that of Greece. Hence, if sound public budgets and fiscal responsibility are what neoliberalism strives for, it might have to look further than direct democracy.⁴³

Conclusion

What I have tried to offer in this article is a critical survey of a variety of neoliberal critiques of democracy and the respective reforms they suggest to remedy what they consider the defects of conventional liberal democratic arrangements. The analysis is based on some definitional groundwork in which I have tried to develop a working definition of neoliberalism that emphasizes the historical and intellectual context of its emergence during the 1930s. If the neoliberal formula can be summed up as a revitalization and revision of various elements of the classical liberal agenda, then varieties of neoliberalism can be grouped together according to their particular combination of revitalizations and revisions. Furthermore, it is possible to identify a certain number of

theorists that fit this description, from Walter Eucken to James Buchanan and from Friedrich August von Hayek to Milton Friedman, to whom we can legitimately call neoliberals.

I have grouped together the criticisms of democracy put forward by these thinkers under three headers in order to develop a typology of varieties of neoliberal thought regarding democracy. The first variety aims at a restriction of democracy, the second postulates a replacement of its institutions and processes through market mechanisms, while the third argues for its complementation through direct democratic measures.

I have tried to show that despite a significant overlapping there is still a certain degree of heterogeneity in the neoliberal discourse on representative democracy. As the crisis diagnoses vary so do the remedies that range from thinly veiled authoritarianism to introducing popular referendums. This shows that it is too easy to simply claim that neoliberal thought is anti-democratic, as some of the literature suggests⁴⁴ — not the least because even democratically minded observers would probably agree with some of the criticisms voiced by neoliberals. For instance, who would deny that lobbying by powerful interest groups, that is, rent-seeking in neoliberal parlance, is a serious problem for contemporary democracy? Therefore, it is necessary to develop a more finely grained critique of this dimension of neoliberalism’s political theory. True, in some cases the positions are indeed simply anti-democratic, for example, the ordoliberal assumption that the demos in mass democracies tends to be irrational. However, in other cases, like the rent-seeking argument, there is some merit in the criticism: the problem is that the cure is worse than the disease. Similarly, the problem of preference transmission in party democracies is a real one but the solution to shift towards more market coordination arguably makes matters worse. Thus, critical examinations of neoliberal theory must pay attention to its nuances and variations in order to give apt responses to the charges against democracy and provide specific critiques of the various neoliberal reforms suggested.

Nevertheless, one might ask whether this is the kind of critical work that properly addresses the effects of neoliberalism and not just an exercise in political theory one step removed from the reality of “actually existing neoliberalism.” Some critics of neoliberalism might argue that it is not necessarily neoliberal political theory that requires critical examination but neoliberalism in its actual practice. Neoliberal theory, in this view, may exhibit certain varieties in its analysis and critique of democracy, but in political practice, neoliberalism simply amounts to the subjection of everything to the logic of the economic. These are important and difficult questions because they remind us of the complexity of neoliberalism that has a theoretical dimension but also

manifests itself in certain policies or policy regimes, and theorizing the link between theory and practice, that is, understanding the impact and influence of ideas on concrete political practices, remains a deeply challenging and incomplete task.

I would like to respond to these questions and the respective concerns with two interrelated points. First, is it really true that there is a massive disjuncture between the theoretical critique of representative democracy and political practices under neoliberalism? Take the semi-authoritarian technocracy espoused by ordoliberalism to restrict representative democracy and compare these precepts with the way European economic governance structures are being reshaped in response to the financial crisis at this very moment. In the case of those countries that rely on funds from the European stability mechanism, the so-called Troika de facto dictates the parameters of their economic policy based on economic expertise and without any accountability. Moreover, with the so-called six-pack-reform of the Maastricht Treaty and the measures it entails, like the macroeconomic imbalance procedure, the European Commission has gained the power to monitor the economic policies of all Eurozone states, make binding recommendations based on economic expertise and issue fines whenever they are not properly implemented. There is a good case to be made that European governance structures come to resemble more and more the ordoliberal vision.

The Odysseus strategy is also prominently on display in the real world of neoliberalism. While the days of monetarist orthodoxy may be over, the days of balanced budget amendments or debt brakes have only just begun. The fiscal compact makes it obligatory for all member states of the Eurozone to pass such a constitutional amendment; and many already have. Furthermore, the barrage of compacts and pacts also suggests that the general idea of self-binding legal rules along the lines of the Hayekian version of the argument has some traction in the political world.

When it comes to the arguments about replacing democracy through market mechanisms there are equally noteworthy correspondences. Friedman's argument about the supermarket being the superior form of democracy spells out the neoliberal reasoning underlying what Wendy Brown describes as a political rationality that aims at a generalization of the market form and replaces citizens with consumers. In the case of the competition of jurisdictions the best example is again provided by Europe. After all, a common market and a single currency combined with the free movement of people, capital, goods and services in the absence of a comprehensive European supranational economic policy makes for a space of jurisdictional competition that strongly resembles the theoretical model discussed here. For a long time critics have pointed out that European

economic integration imposes severe constraints on the policy options of the various member states — just as Hayek had already imagined it would in 1939 when he speculated on a post-war European federation:

There seems to be little possible doubt that the scope of regulation of economic life will be much narrower for the central government of a federation than for national states. And since [. . .] the power of the states that comprise the federation will be yet more limited, much of the interference with economic life to which we have become accustomed will be altogether impractical under a federal organization.⁴⁵

So, while there is certainly a degree of incongruence (at times significant) between neoliberal theory and practice that needs to be acknowledged and accounted for, the conclusion must not be to assume a complete disconnect between the two, as these brief illustrations have shown.

However, is it not sufficient to critically analyze this spectrum with reference to the concrete policies or policy regimes rather than the theories? This is my second point. If we address only actually existing neoliberalism we leave the door open for a particular response pattern from defenders of neoliberalism. If actually existing neoliberalism has not delivered the promised results, the reason can only be that it has not yet been implemented properly. In other words, the shortcomings are entirely attributed to the always imperfect and still incomplete way that neoliberal ideas have been put into practice. There is a twofold implication to this. The neoliberal ideas themselves, on which the practices are based, are sound and beyond any doubt; the fault always lies with the incomplete implementation. Moreover, if the problem lies only with an implementation that is not rigorous enough the answer can only be a more rigorous implementation, that is, the response to market failure is to set up even more and better markets. The only way to disable this strategy of self-immunization is to critically engage not only with political practices but with the ideas behind them and show that the problem does not lie with their imperfect implementation but the very ideas themselves. I hope to have contributed to this task.

NOTES

1. For some important contributions to the scholarly debate see Arthur MacEwan, *Neo-liberalism or Democracy? Economy Strategy, Markets, and Alternatives for the 21st Century* (London: Zed Books, 1999); Lisa Duggan, *The Twilight of Democracy: Neoliberalism, Cultural Politics, and the Attack on Democracy* (New York: Beacon Press, 2004); Jodi Dean, *Democracy and Other Neoliberal Fantasies: Communicative Capitalism and Left Politics* (Durham: Duke University Press, 2009); Wendy Brown, "Neo-liberalism and the End of Liberal Democracy," *Theory & Event* 7 (2003) and Wendy Brown, "American Nightmare: Neoliberalism, Neoconservatism, and De-Democratization," *Political Theory* 34 (2006): 690–714.

2. Colin Crouch, *Post-Democracy* (London: Polity Press, 2004); Colin Crouch, *The Strange Non-death of Neoliberalism* (London: Polity Press, 2011), 49–70.
3. See Philip Mirowski, "Postface: Defining Neoliberalism," in *The Road from Mont Pèlerin: The Making of the Neoliberal Thought Collective*, eds. Philip Mirowski and Dieter Plehwe (Cambridge: Harvard University Press, 2009), 427.
4. This concern is shared by proponents as well as some critics of neoliberalism. See Oliver Hartwich, "Neoliberalism: The Genesis of a Political Swearword," Centre for Independent Studies Occasional Paper 114, Sydney, Australia, and for the critics' view, Jamie Peck, *Constructions of Neoliberal Reason* (Oxford: Oxford University Press, 2010), 2.
5. For similar accounts that stress the historical context of neoliberalism's emergence see Angus Burgin, *The Great Persuasion: Reinventing Free Markets since the Depression* (Harvard: Harvard University Press, 2012); Daniel Stedman Jones, *Masters of the Universe: Hayek, Friedman and the Birth of Neoliberal Politics* (Princeton: Princeton University Press, 2012) and Rachel Turner, "The 'Rebirth of Liberalism': the Origins of Neo-Liberal Ideology," *Journal of Political Ideologies* 12 (2007): 67–83.
6. See Thomas Hill Green, *Lectures on the Principle of Political Obligation* (Cambridge: Cambridge University Press, 1986); John Dewey, "The Future of Liberalism," *School and Society* 41 (1935): 73–7. For some aspects of the transformation of liberalism and its resulting varieties see, for example, John Gray, *Liberalisms: Essays in Political Philosophy* (London: Routledge, 2009).
7. Friedrich August von Hayek, "Opening Address to a Conference at Mont Pèlerin," in Friedrich August von Hayek *Collected Works* Vol. 4 (Chicago: University of Chicago Press, 1992), 237–48, 237.
8. *Ibid.*
9. For similar views see Peck, 39; Turner, 78.
10. Needless to say, there are also problems with this definition that I acknowledge. For example, it raises the question as to what and who is part of the liberalism that should be revitalized and revised. However, this is an issue that points beyond the scope of this article.
11. This persistent sense of a crisis with varying causes is nicely summed up in the words of neoliberal-cum-public-choice theorist James Buchanan. In 1990 he gave a famous lecture entitled "Socialism is Dead but Leviathan lives On", identifying sprawling nation-states as the new threat to liberty. James Buchanan, "Socialism is Dead, but Leviathan lives On," Occasional Papers 30, The Centre for Independent Studies, Sydney, Australia.
12. Mark Bevir, "Representative Democracy," in *Encyclopedia of Political Theory* Vol. 3, ed. Mark Bevir (Thousand Oaks, CA and London: Sage, 2010), 1188–90, 1188.
13. On ordoliberalism see Carl J. Friedrich, "The Political Thought of Neo-liberalism," *American Political Science Review* 49 (1955): 509–25 and Michel Foucault, *The Birth of Biopolitics. Lectures at the Collège de France 1978–79* (New York: Palgrave, 2008), 79–184.
14. Wilhelm Röpke, *A Humane Economy: The Social Framework of the Free Market* (Chicago: Henry Regnery, 1960), 36–89.
15. Walter Eucken, *Grundsätze der Wirtschaftspolitik* (Tübingen: Mohr, 1960), 193.
16. Alexander Rüstow, "General Sociological Causes of the Economic Disintegration and Possibilities of Reconstruction," in *International Economic Disintegration*, ed. Wilhelm Röpke, (London: William Hodge, 1942), 267–83, 281.
17. The political parties were slowly transformed into parliamentary agencies of economic pressure groups and were financed by them." *Ibid.*, 276.
18. See on this Edward Megay, "Anti-Pluralist Liberalism: The German Neoliberals," *Political Science Quarterly* 85 (1970): 422–42 and William Scheuermann, "The Unholy Alliance of Carl Schmitt and Friedrich A. Hayek," *Constellations* 4 (1997): 172–88.
19. See Eucken, 337 and Rüstow, 276
20. See Megay, 440; Eucken, 304–42; Röpke, *A Humane Economy*, 130–31.
21. Milton Friedman, "The Methodology of Positive Economics," in *Essays in Positive Economics*, Milton Friedman (Chicago: University of Chicago Press, 1953), 3–16 and 30–43.
22. Milton Friedman *Capitalism and Freedom* (Chicago: University of Chicago Press, 2002), 15.
23. Friedrich August von Hayek *Law, Legislation and Liberty. A New Statement of the Liberal Principles of Justice and Political Economy*. Vol. 3 (London and New York: Routledge, 2003), 99. Restrictions of space do not permit me to address the reforms of democratic institutions proposed by Hayek. See *ibid.*, 111–19.
24. Friedrich August von Hayek, *The Constitution of Liberty* (London: Routledge, 2006), 131.
25. *Ibid.*, 184; see also Scheuermann, 179.
26. Friedman, *Capitalism and Freedom*, 51.
27. James Buchanan, Robert Tollison and Gordon Tullock, *Towards a Theory of the Rent-Seeking Society* (College Station: TX, A&M University Press, 1980).
28. See James Buchanan and Richard Wagner *Democracy in Deficit: the Political Legacy of Lord Keynes* (New York: Academic Press, 1978), 173–86.
29. Milton Friedman and Rose Friedman *Tyranny of the Status Quo* (New York and London: Harcourt Brace Jovanovich, 1980), 7.
30. *Ibid.*, 66.
31. See Clive Barnett, Paul Cloke, Nick Clarke and Alice Malpass, *Globalizing Responsibility: The Political Rationalities of Ethical Consumption* (Oxford: Wiley-Blackwell, 2011).
32. See Viktor Vanberg and Wolfgang Kerber, "Institutional Competition among Jurisdictions: An Evolutionary Approach," *Constitutional Political Economy* 5 (1993): 193–219. Vanberg was a close collaborator of James Buchanan and after holding a professorship in Economics at Freiburg University became the director of the Walter Eucken Institute.
33. Hayek, *Law, Legislation and Liberty* Vol. 3, 146.
34. See, for example, Francis G. Castles, *The Future of the Welfare State* (Oxford: Oxford University Press, 2004) and the respective chapters in Fritz W. Scharpf and Vivien A. Schmidt eds. *Welfare and Work in the Open Economy Vol. II: Diverse Responses to Common Challenges* (Oxford: Oxford University Press, 2000).
35. For this notion see, for example, Jürgen Habermas, *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy* (Cambridge: MIT Press, 1998).
36. See, for example, Viktor Vanberg and James Buchanan, "Interest and Theories in Constitutional Choice," *Journal of Theoretical Politics* 1 (1989): 49–62 and Bruno Frey, "Direct Democracy: Politico-economic Lessons from Swiss Experience," *American Economic Review* 84 (1994): 338–42. Frey is a member of the Mont Pèlerin Society.
37. Note that the complementation of representative democracy through referendums may also amount to its restriction if, for example, the referendum is on a constitutional balanced budget amendment. However, this is not necessarily the case.
38. *Ibid.*, 340.

39. See, for example, Charles Blankart, "A Public-Choice View of Swiss Liberty," *Publius: The Journal of Federalism* 23 (1993), 83–95.

40. Frey, 341.

41. James Buchanan, "The Potential of Taxpayer Revolt in American Democracy," *Social Science Quarterly* 59 (1979): 691–96.

42. *Ibid.*, 691–92.

43. For a discussion of the effectiveness of referendums and initiatives as well as the potential high-jacking of grassroots movements and processes by powerful interests, see John Matsusaka, *For the Many or the Few: The Initiative, Public Policy, and American Democracy* (Chicago: University of Chicago Press, 2008).

44. See, for example, Nick Couldry, *Why Voice Matters: Culture and Politics after Neoliberalism* (Los Angeles: Sage, 2010), 47.

45. Friedrich August von Hayek, "The Economic Conditions of Interstate Federalism," in *Individualism and Economic Order*, Friedrich August von Hayek (Chicago: University of Chicago Press, [1939] 1980), 250–72, 265.

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