

**EUROPE**  
for the many

# The future of European democracy

Fixing a troubled continent

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Some remains of the Berlin Wall

Photo: Paolo Bona



# Introduction

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LUKE COOPER

Thirty years since the fall of the Iron Curtain is a particularly opportune moment to launch a new discussion on the future of European democracy. Since 1989 European societies have had to live with the consequences of what we might call the ‘too severe’ defeat that socialism suffered in the 1980s and 1990s. In one of history’s many cruelties, social democrats across the globe lost out heavily from the defeats of the communist world. Although from the earliest days of the Soviet experiment they criticised the creation of a state based on the political monopoly of one party, they were now on the defensive against a globalising Anglo-American neoliberalism.

The result was a quite paradoxical moment for democracy. As a system of representative governance it was more widespread than ever before. Yet, as conflicts over big ideological ideas were pushed to one side by the unfettered rise of neoliberalism, the representative function of the democratic system was diminished.

Two key dangers presented themselves. Firstly, the existence of communism had acted as a moderating force on capitalism. Once it was no longer a threat to the status quo there was less incentive for capital to compromise with labour. Secondly, if the purposefulness of democracy became less clear to voters, then participation was likely to decline. Ultimately, radical criticisms of liberal democracy might re-emerge. If citizens grew disillusioned they may end up rejecting democratic processes.

These dangers have been, at least partially, realised in developments since 1989. On the one hand, a new authoritarianism and nationalism has openly questioned political liberalism (the package of rights for individuals and minorities). While they do not admit to challenging democracy as such, they threaten the constitutional rights on which it depends. On the other hand, unleashing market forces without restraint has undermined a politics focused on the achievement of substantive outcomes: reducing poverty, delivering universal healthcare,

etc. Citizens have less freedom over their lives as markets forces have become more preponderant over every aspect of them.

Europe only 'got serious' about political integration in the ashes of the Soviet empire. But as disillusionment has grown with the post-Cold War settlement, so too has dissatisfaction with the state for European governance. Sometimes unfairly, other times perhaps more justly, the EU has become a symbol of the democratic malaise.

As a result, three decades after the end of communism, the progress of European democracy is faltering. This poses, naturally, significant risks to us all. Richard Crossman, the Labour politician that served in Harold Wilson's government, edited a collection of autobiographical critiques of communism in the 1950s, *The God That Failed*. In his introduction he warned there was little value in seeing it simply as an evil. Its appeal had to be contextualised and understood. 'That communism as a way of life, should, even for a few years', he wrote, capture the imagination of so many, 'reveals a dreadful deficiency in European democracy'.<sup>1</sup>

And so today reflection on democracy is called for more than ever. The future of our united Europe looks uncertain. The nature of its democracy has become contested.

So this series of interventions is the beginning of a new dialogue on the state, and future, of European democracy. Its publication is part of an on-going collaboration between the Visions of Europe project at the London School of Economics and the Europe's Futures programme at the Institute of Human Sciences in Vienna.

Each contribution should be read as an intervention calling for further work. We bring together the report in the spirit of action, as well as reflection. Our research takes place at the interface between academia, civil society and the political sphere. And our scholarly efforts seek to offer a new political roadmap for a troubled continent.

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1. Richard H. Crossman, 'Introduction', in *The God That Failed*, ed. Richard H. Crossman (Hamish Hamilton: London, 1950), 9.

# Empowering citizens

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MARY KALDOR

Political theorists often make a distinction between procedural and substantive democracy. Procedural democracy refers to the procedures that are a necessary condition for the participation of citizens in public life – a rights-based rule of law, full adult suffrage, elected power holders, a plurality of political parties, civilian control over the security services, and freedom of speech and association. Substantive democracy refers to political equality – the ability of individual citizens to influence the decisions that affect their lives – as well as the culture of democracy – the ‘habits of the heart’ in De Tocqueville’s words. Procedural democracy is a necessary condition for substantive democracy. And despite historic claims to the contrary by communist regimes, it is not possible to have substantive democracy without procedural democracy.<sup>1</sup>

Most European countries today face a gap between procedural and substantive democracy. Everywhere, procedures are more or less in place. All European countries hold regular elections that are more or less fair and free. And yet everywhere there is a pervasive sense of disempowerment. ‘We have a vote not a voice’ said the Spanish Indignados. It is this sense of disempowerment that is the best explanation for the rise of right-wing populism. The slogan ‘take back control’ in the British referendum of 2016 had such resonance because it reflected the widespread feeling of not being heard. Whether we are talking about Brexit, or the rise of the AfD in Germany or the populist parties in Central Europe, this rightwards trend has to be understood as a howl of frustration especially among people hit by the decline of traditional industries who have been unable to influence political decision-making.

In this pamphlet, we make the argument that substantive democracy can only be restored through a combination of political engagement at European levels and the introduction of policies that would make possible meaningful devolution to regional and local levels.

## The weakness of substantive democracy

The most obvious explanation for the lack of substantive democracy is globalisation.

Whatever the causes, globalisation has meant that some of the most important decisions that affect our lives are taken in the headquarters of multinational companies, on the laptops of financial speculators, or in Brussels, Washington DC and Beijing. That means that, however perfect our procedures at national level, we cannot influence the decisions that affect our lives because they are not taken at national levels. The Greek crisis was a classic illustration of this point, where the democratic popular will expressed in two elections and one referendum was overturned by decisions in Brussels. Indeed, in this complex networked world, it may be difficult to identify where, if at all, key decisions are taken.

This bleak assessment, however, should be tempered by the knowledge that globalisation also offers the possibility of going around the nation-state where states block progressive policies. Human rights activists can appeal to the European Human Rights Court. Climate change or digital rights activists may find they have greater access to government at European levels than at national levels. In some respects the globalisation of political institutions – the way in which national ministries are tied into a plethora of international arrangements – can be interpreted as both a limitation on the possibilities for exerting influence at national levels, and as a new form of check and balance that potentially restrains the absolutism of the nation-state even when democratically elected.

But globalisation is evidently not the whole reason for the decline in substantive democracy. It also has to do with the inadequacies of the state, and the failures of politics. In terms of politics, many commentators have pointed to the way in which Social Democrat parties have tended to shift towards occupying what is seen as the centre ground, accepting the neoliberal mantras, and resembling mainstream parties on the centre right (see for example Chantal Mouffe); the choices facing voters have been thereby narrowed down, and those on the margins on both left and right feel unrepresented.<sup>2</sup> This shift is linked to changes in the nature of political parties – from fora for debate and mechanisms for channelling



political participation to top-down electoral machines. In part, this is a consequence of the technology of elections: focus groups, polling data and an array of marketing techniques enable contemporary politicians to construct narratives designed to win votes instead of making arguments about substance.

This degradation of politics is also associated with far-reaching changes in the very nature of the state. It is worth noting that the problems thrown up by four decades of neoliberalism are not solely those connected with austerity and inequality. The late Robin Murray was already pointing out in the early 1990s the consequences of what was known as ‘public choice’ and later as ‘public financial management’ – the privatisation of state functions and the contracting-out culture that now pervades the public sector.<sup>3</sup> In former communist countries the way in which privatisation gave rise to a new oligarchic class is well known. But in the West as well, the application of neoliberal principles in the public sector has given rise to a form of crony capitalism, as politicians hand out contracts to their supporters and retired politicians routinely take positions on the boards of companies.

And yet another factor that weakens substantive democracy is the heritage of what might be called the deep state, especially in the UK and France and the former Communist countries – the military-industrial complex, the security services and the nuclear weapons establishment.

## Restoring substantive democracy

If we want to influence the decisions that affect our lives, we need to be able to engage politically with the European project. It is worth recalling that the EU began as an institution that aimed to prevent the recurrence of war, fascism and imperialism on our continent. Indeed, for the first two decades after the war EU policy aimed at building solidarity through common infrastructure, regional funds, agricultural policy, cultural and educational exchanges and collaborative research. It is only since the Maastricht Treaty of 1991 and the establishment of the euro that a divisive neoliberal set of rules has been institutionalised.

The European Union has the potential to address issues that cannot be addressed at national levels; in that sense, it could be considered a potential model of global governance. It is powerful enough to introduce

taxes on carbon emissions or on financial speculation, for example, or to close down the tax havens of multi-national companies, or to address global poverty and conflict. It is not an inter-governmental organisation because it has powers that supersede inter-governmentalism. But nor is it a state in the making; rather, it is an additional layer of governance able to restrain the worst aspects of the state. It has the capacity both to restrain dangerous unilateral measures by states and, at the same time, to protect decision-making at national and local levels from the winds of globalisation. In other words, restoring substantive democracy is partly about political participation in European institutions so as to influence decisions made at a European level. But it is also about pushing for measures like controlling financial speculation that would enable genuine subsidiarity – the EU term for taking decisions as close as possible to the citizen. This would make it possible to make meaningful decisions at local and national levels. Already in the 1970s, Alan Milward was making the argument that membership in the European Union had actually saved the nation-state.<sup>4</sup>

It is often argued that the EU is unreformable. The neoliberal rules are enshrined in the Lisbon Treaty that serves as a constitution, and came into force in December 2009. But the difficulties are less procedural than substantive. The European Parliament, which is elected, does have the power to make decisions along with the Council of the European Union (which represents national governments). It is able to amend legislation and has considerable powers over budgets and appointments. In addition there are forms of access for civil society to the European Commission, and one fairly recent innovation – introduced in the Lisbon Treaty – has been the European Citizens Initiative. By collecting over one million signatures, European citizens call on the Commission to take action, as they successfully did for the abolition of roaming charges for mobile phones within the Union, for example. The case of the ‘Stop TTIP’ citizens’ initiative is interesting because the Commission initially refused to recognise this initiative when it was first started in 2014, only to be overruled in 2017 by the European Court of Justice when the organisers appealed the decision. Over 3 million signatures helped defeat this neoliberal Transatlantic Trade and Investment Partnership deal with the USA, especially since many European Parliamentarians were also clear

they would refuse to ratify a deal which had inspired such a wave of public opposition. These examples show how the different institutions and tools of the EU can be used strategically to force change.

The problem is that, up to now, as Altiero Spinelli pointed out years ago, there has been very little substantive political engagement. European elections have tended to be the expression of national preoccupations, proxies for national elections, with little consideration of European-wide politics and policies, and the centre parties have dominated the Parliament. But this is beginning to change, in part because of Brexit and the rise of the far right across Europe. On the one hand, right-wing Euro-sceptic populist parties have abandoned their stances on leaving the European Union and instead have chosen to compete to control the European institutions. On the other hand, progressive parties are finding it necessary to mobilise to counter the right-wing challenge.

The 2019 elections can be regarded as the first elections that were about the future of Europe. Turnout was over 50 per cent, higher than it has been for over two decades. The far right did less well than expected, except in Britain and Italy. An analysis of party manifestos shows that the centre consensus no longer exists, and that a progressive vision emanating from socialists and greens (and perhaps also Macron's En Marche party) is beginning to take shape.<sup>5</sup>

The rise of right-wing populism may have unleashed the beasts of racism and scapegoating and, indeed, in some places this is undermining procedural democracy and not just substantive democracy – representing a dangerous authoritarian turn. But at the same time, it has galvanised a new generation of European activists who have the potential to reconstruct the substance of politics.

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1. See Mary Kaldor and Ivan Vejvoda, 'Democratisation in Central and Eastern Europe', *International Affairs*, Vol 73, No 1 (January 1997).

2. Chantal Mouffe, *Left Populism*, Verso 2018.

3. Robin Murray, 'Life After Henry', *Marxism Today*, May 1991.

4. Alan Milward, *The European Rescue of the Nation-state* (2nd edition), Routledge 1999.

5. Luke Cooper, Roch Dunin-Wąsowicz, and Niccolò Milanese, *Dawn of a Europe of many visions*: <https://blogsmedia.lse.ac.uk/blogs.dir/107/files/2019/05/euro-manifestos-report.pdf>



The movement for real democracy, Barcelona, 2011

Photo: PatriciaGR



# The democratic recession

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ROSA BALFOUR

All forms of democracy require renewal and adaptability; envisioning renewal requires an understanding of the complexity of the problem. Europe is undergoing a democratic recession which is at the heart of over a decade of multiple complex crises, Brexit being the latest in a string of setbacks.

By ‘democratic recession’ I mean to capture both the transformations brought in by globalisation and the deliberate attempts to empty democratic practices and systems of their salience. The recession reflects the unintended consequences of global trends which are eroding deeply, and in equal ways, European democracies and the legitimacy of the collective system of governance through integration and cooperation in the EU. These can include the impact of technology and the ubiquity of globalisation – the ‘entropy’ of democracy, to use Colin Crouch’s word.<sup>1</sup>

‘Recession’ additionally points to the deliberate downgrading of democracy that is taking place in Europe. Globalisation is also driven by the neoliberal design of disempowering the state’s role in the governance of public goods. Under the populist rubric, the notion of majoritarian democracy as reflective of ‘the will of the people’, or even the invention of ‘illiberal democracy’, are becoming smokescreens for not merely for the downgrading of substantive democratic practices, such as the rights of minority voices, but also of basic procedural democratic standards, such as the separation of powers and the checks and balances on executive power.

In the EU several countries have been downgraded by international monitors to electoral democracies, but even the oldest democracies in the world have seen their standards slip. Corruption has significantly eroded good governance and caused attacks on investigative journalism. Austerity, the fight against terrorism, and the fears around the arrivals of migrants and refugees have provided further arguments for curtailing freedom of the press, the activities of the non-profit sectors,



and civil rights. Given the depth of integration between European states, the question of democracy needs to be analysed in conjuncture with the EU system of governance. Much of the debate about citizen disengagement points the finger to the EU institutions as distant and not reflective of citizen concerns. This feeds into the debate over the EU's 'democratic deficit', and prompts the alleged solutions of empowering the European Parliament to decide through its political groupings who should lead the European Commission – the Spitzenkandidaten process – pitting the European Parliament against the member states as the main cleavage in the democratic debate.

Locating the democratic deficit at the European level is, however, misplaced – thus the solutions to address it are unlikely to reach the heart of the matter. The main theatre of democracy takes place at the national level: while decision-making powers have been moved upwards towards the EU level, accountability still passes through national institutions. Together with Europeanisation, some efforts towards devolution have taken place: in EU jargon, subsidiarity is supposed to promote governance at the most appropriate level.

Where decision-making is shared across a multi-level system of government, this democratic recession takes shape in two distinct ways: vertically, in the relationship between supranational, national and local levels of decision-making; and horizontally, where the issues to be addressed and public goods to be managed cut across national borders, the dislocation of policy spaces has broken down the boundaries domestic and international policies.

Governments in the EU have been making decisions on the basis of a 'permissive consensus' in favour of integration amongst elites which allowed for a minimum level of deliberation with citizens. The Lisbon Treaty even strengthened the concentration of decision-making in the heads of state and government meeting in the European Council. They were the drivers behind the successive crisis management phases that dominated EU life from the economic impact of the financial crisis in 2008 and ensuing Eurozone crises in Europe's periphery, through the security crisis with Russia's annexation of Crimea, the refugee influx. With the politicisation of the issues decided at the EU level, especially since the start of the crises, this permissive consensus broke down.

However benign EU integration is with respect to representation and accountability, the process of Europeanisation does question the relationship between member states, where the most substantive expression of representative democracy takes place, and the EU.

Yet the most serious erosion of democracy has taken place at the national level, not uniformly across the European continent (which remains home to some of the most advanced democracies in the world). National institutions have been hollowed out. In many countries, national parliaments are weak in scrutinising EU legislation. And in crisis-ridden times, with weak coalitions in charge, governments have often resorted to governing by confidence vote.

Political parties hold responsibility for emptying the space for democratic debate. Voter participation has been in decline for decades, the end of ideology and the sameness of the traditional parties has emptied the centre-ground. Political parties are not playing their vital role as vehicles for debate and representation between society and their institutions. Nor are they playing a role in bringing European debates to national publics. As Peter Mair pointed out, citizens have been retreating from politics as much as parties have been evacuating their zone of engagement.<sup>2</sup> The void has been easily occupied by a variety of populist parties and movements or by formerly mainstream parties captured by populist minorities. Their successes have morphed populism and its majoritarian democracy into an illiberal far right threatening democracy altogether.

At the local level, Europeanisation has been corresponded with efforts at strengthening federal and local powers through decentralisation and subsidiarity. These have been unevenly successful. While this has led to new dynamics, especially when urban areas have been empowered to manage their affairs, the transfer of powers to local authorities has been hampered by austerity and budget cuts from national to the local level, disempowering subnational administrations from delivery of services. The transfers of power upwards has not been matched by significant enough powers downwards. Rising tensions between levels of governance are visible across Europe, especially in Spain and the UK.

Horizontally, the spaces for decision-making have been

transformed by globalisation and Europeanisation: the impact of policy choices is not coterminous with legitimate decision-making as public goods less and less are contained by national borders. Decision-making is dislocated across several interconnected spaces. Most policies now have a transnational dimension which also goes beyond the EU itself – migration, climate change are some of the obvious examples. For instance, housing policy, education, welfare are policies which are often managed at the local levels, but migration control, which has an impact on housing needs, is increasingly considered a foreign policy to be delegated to third states, in light of the inability of the EU and its member states to reform its immigration and integration policies.

Managing the complexity of contemporary policy requires joined-up decision making on transnational issues of pan-European concern. But these arguments and attempts are undermined by the inability of the political organisations to adapt the democratic discussion to such multi-level governance, of which Europe and the EU is the most advanced example world-wide. Who decides? Who is legitimated to decide? Who is accountable? Increasingly, policy-shaping involves a multitude of actors working at different levels, which include EU, national, subnational institutions, but also the private sector, NGOs, citizens associations. Decision-shaping and implementation is becoming more complex, but the democratic decision-making process has not adapted much to account for such complexity.

The EU is ideally placed to manage complex policy challenges and to seek compromises between technocracy and nationalism. The multi-level institutions and structures that comprise the EU can provide the spaces in which participative politics take place, bringing together transnational networks, civil society organisations, and community initiatives with local, regional, national and EU government. Focusing on specific issues close to citizens, such as the management of public goods, rather than generic questions about democracy, can endow new life and meaning to political participation, providing a new basis both for a renewal of European democracy and of the European project.

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1. Colin Crouch, *Coping with Post-Democracy* (London: Fabian Society, 2000).

2. Peter Mair, *Ruling The Void: The Hollowing of Western Democracy* (London; New York: Verso, 2013).

# Downgrading or democracy?

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**BENJAMIN ABRAMS**

Since the 2008 financial crisis, European democracies have lurched decisively in a damaging direction. Democratic citizens have found themselves with less and less of a say in how their societies are being run, all while more and more severe measures have been enacted in their name.

There have been a number of different labels applied to this trajectory: a democratic ‘decline’, ‘downturn’, ‘retreat’, and so on. These are all worthy terms, but they ultimately lend something of a false sense of passivity to this process. Democracy is not merely in decline, it is being downgraded. Political office-holders are taking decisive steps to reconstitute their democracies as barebones, formal political systems rather than substantive political societies. The resulting states retain the formal skeleton of a democracy, but without the body politic.

When the political scientist Steve Heydemann (2007) sought to explain the peculiar persistence of authoritarian regimes in the 21st century, he noticed that successful authoritarians in the Middle East had engaged in a programme of “reconfiguring authoritarian governance to accommodate and manage changing political, economic, and social conditions,” and in so doing were able to “stabilise and preserve authoritarian rule in the context of ongoing demands for political change.” He called this process ‘Authoritarian Upgrading’. What I refer to as Democratic Downgrading is the inverse process: in which power holders reconfigure democratic governance in order to curtail civil liberties, civic participation, and political rights by taking advantage of political, economic and social disarray.

The backdrop to this regressive transformation of European democracies is a period of triple crisis which struck European states and their electorates with quite decisive force. A financial crisis in 2008 was supplemented by a post-Arab Spring international security crisis in 2011 and a subsequent refugee crisis in 2012. The resulting sense of triple insecurity (economic, existential and cultural) was successfully

leveraged by a litany of European power-holders to consolidate practices of heavy-handed governance in such uneven times: first, by conducting assaults on the substantive elements of democratic life; and second, by proclaiming as necessary the subsequent restructuring of democracy's formal institutions.

The emergent financial vulnerability of civil society organisations after the 2008 financial crisis created a distinctive opportunity for elites to encircle and overrun such institutions. Newspapers were been bought out, bullied, or forcefully bankrupted, and individual journalists were persecuted into retirement or unemployment. Meanwhile, non-governmental organisations were denied access to international, independent funding and ultimately forced to close their doors. This trend has been most palpable in countries such as Hungary, Poland and Romania, but has also been seen in Lithuania and Czechia. Early echoes of this trend are also starting to take form in countries such as Bulgaria, Estonia, Latvia and Slovakia, with politicians and other elites attacking international NGOs and independent media organisations, damaging their perceived legitimacy in the eyes of the public.

In the wake of the 2011 Arab Spring and the subsequent upsurge of global radical protest and Syrian civil war, a growing sense of international regime insecurity laid the foundations for the stepping up of mass surveillance, censorship, and heavy-handed policing so as to exacerbate the already extensive state structures of social control instituted after the post-9/11 global terror scare. While police repression of protest has become common in plenty of the Eastern European countries discussed above, similar restrictions have also come into force in Western Europe. Indicative examples include bans on peaceful assembly, such as those recently placed on the UK's Extinction Rebellion protest. More severe cases are exemplified by the de-facto continuation of France's 2015-2017 State of Emergency by means of a raft of new bills in the subsequent years which sought to extend police powers and impose prohibitions on protest. Similar controls have been applied to Europe's non-institutional public sphere: in countries such as Germany, France and the United Kingdom, left-wing websites have been shut down and individual citizens fined for making provocative or trouble-making statements online.



Other dimensions of European democracies' substantive downgrades have been legitimated by a sense of cultural and ethnic insecurity cultivated by the anti-democrats among European political and government-affiliated elites. One such example is the litany of anti face-covering laws passed in the Netherlands, Austria, Bulgaria, Latvia and Spain which were legitimised with reference to Islamic veiling practices, but in fact applied to public protest and demonstrations. Other European countries have drawn on these ethno-cultural insecurities to exert dramatic control over educational institutions, such as the UK's controversial 'Prevent' legislation, which has substantially raised the barriers for educators wishing to discuss subversive or radical texts in their classrooms, and placed an onus on them to report any students whose opinions or actions contravene a vague and ambivalent series of 'British Values'.

By taking advantage of domestic instabilities such as those referred to above, those who have sought to damage substantive democracy in Europe have greatly bolstered the capacities of their fellow political elites. With every degradation of substantive democratic institutions and practices, it has become easier for power holders to pursue – unchecked – the radical reconfiguration of their countries' formal democratic structures. Whether we turn our attention to the rampant gerrymandering of electoral boundaries, the rise of increasing executive overreach, constitutional reforms which hand greater power to politicians, new voting restrictions, or constraints placed on prospective candidates, it has become clear that the substantive downgrading of European democracies is allowing leaders to lay new material on European democracies' bare bones: the cladding of authoritarianism on a democratic skeleton.

What hope is there for societies undergoing such democratic downgrades? When pro-democratic parties and institutions have dutifully refrained from acting until they encounter the formal opportunity presented by an election or referendum, they invariably lose a battle pitched on their opponents' terms. By contrast, much more fruitful outcomes have arisen from the activities of grassroots organisations and civil society coalitions which have refused to adhere to the formality demanded by democratic downgraders. These more

promising efforts have often taken the form of social movements making representations to power holders, and democratic resistance movements reasserting citizens' substantive rights or undermining leaders' domestic agendas. From the anti-corruption movement in Romania to the 'anti-coup' protests in the United Kingdom and the anti 'slave law' protests in Hungary, the enduring lesson for European democrats is simple: substantive democracy requires substantive defence.

# Hollowing out the state

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ROCH DUNIN-WĄSOWICZ

One of the results of the recent illiberal turn in European politics has been growing state capture that leads to the breakdown of the supervisory institutions of democracy. Furthermore, some of Europe's authoritarian populists have succeeded, or are planning to, take control of both public and private media, as well as civil society, academic and state-adjacent sectors of the economy. This return of corporatism to European politics is one of the symptoms of the breakdown of substantive democracy on the continent.<sup>1</sup> Nowhere has this been more apparent than in Hungary where the governing Fidesz has essentially colonised the state apparatus, the media, the academy, and some crucial private enterprise. In Poland, Law and Justice have turned the public service broadcaster into a propaganda device, made strides in taking over the judiciary, and speak of private media take-overs, as well as fostering a “new economic elite”. Even in the UK, the independence of the judiciary and public media are questioned by critics of liberal democracy.

This weakening of substantive democracy is exemplified by the erosion of what Keane calls monitory democracy.<sup>2</sup> Firstly, this entails the deconstruction, or takeover, of institutions of public scrutiny, which were designed to chasten and control executive power. Periodic elections still take place, but the state apparatus has become the hostage of majoritarian political rule – the judiciary and the civil service are undermined in the name of sovereignty of “the people”.<sup>3</sup> By deconstructing the monitory institutions of democracy illiberal governments are thereby hollowing out the state. And, while excessive technocratic governance has been invoked as an example of post-democracy, the strength of institutions existing for the public good had largely been built on the expertise and professionalism of a bureaucratic strata somewhat shielded from politics. For example, since 2015, Law and Justice managed to successfully replace the upper echelons of

the Polish civil service by cancelling merit-based competitions for high-level posts and replacing them with ministerial appointments. Poland's Constitutional Tribunal was soon hijacked, in contravention of the country's constitution. Since then a few partially successful attempts have been made to take over the Supreme Court – only partially stymied by the EU. In a similar vein, in 2019, Viktor Orbán's government suggested the creation of a parallel court system staffed with judges selected by the justice minister – it claimed that courts are an internal manifestation of state power and cannot be independent from the executive. Hungary has since backtracked from this particular reform under pressure from the EU. However, if implemented these new administrative courts would allow the Hungarian government to have jurisdiction over electoral law, political protest, and public corruption, stripping the judiciary of its oversight functions. In the UK, the courts have become embroiled in the battle over Brexit, and while the government has been reluctantly abiding by their rulings, ardent supporters of a “hard” Brexit have whipped up public anger with the Supreme Court, undermining its independence.

The second feature of erosion of monitory democracy is the co-option of the media, first public and then private, which in Keane's view are part of the “power-scrutinising mechanisms” between the executive and society at large (2011). In 2018, all pro-government media outlets in Hungary were subsumed under newly formed conglomerate equipped with immense resources, while many independent ones have been dismantled through hostile takeovers or pushed onto the web only. In the World Press Freedom Index Hungary is now classified as “partly free”. Likewise, since 2015, Poland's public radio and television have been a veritable mouthpiece for the government, prompting OSCE election observations in 2019. In Britain, politicians associated with the hard right continue to castigate the BBC and threaten its independence.

The third, newly-emerging component of the erosion of monitory democracy is the ever more explicit attempt to create new elites in civil society, academia, and in the economy loyal to a particular political caste. This justification for weakening democracy is built on a distinctly populist discourse.<sup>4</sup> Those who are seen as the true representatives of the people are rewarded for their ideological conviction, rather than

merit. In places where such new cadres are installed, evidence-based policy is replaced by policy-based evidence, often with disastrous consequences for the non-governmental sector, higher education and private enterprise. In 2019, Hungary has brought the country's top research institutions under its control, and almost completely pushed out the Central European University out of Budapest. In Poland, the government has been implementing a policy of "re-Polandisation" of the banking sector, which it now wishes to extend to private media. Also the project of Global Britain is designed to benefit a narrow economic elite while disregarding the risk to the millions of working people whose jobs are dependent on the a close relationship with the EU, many of whom are Europe migrants themselves. The above illiberal political projects are underpinned by a certain kind of populist new elite discourse, whereby selected representatives of the majorities that stand behind those in power should be rewarded for their loyalty.

Until now in each of the country cases discussed above, in has been the strength of certain monitory institutions, scrutiny of civil society, and interventions (or mere presence) of the EU, that to different degrees have thwarted this hostile takeover of state and society. We must build on these positive experiences to protect against the further abolition of the institutions of monitory democracy that have become so important to modern rule of law systems.

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  3. Panizza, Francisco, & Panizza, Francesco. (2005). Introduction, *Populism and the Mirror of Democracy*. Verso Books.
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A suspension of the UK parliament sparked 'Stop the Coup' street protests earlier this year. The suspension was later ruled illegal by the supreme court

# Elections, courts and streets

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SHALINI RANDERIA

Most of the world's population lives in electoral democracies today. Yet in many respects the successful spread of formal democracy has turned into a crisis of democracy. Trust in the political institutions of representative democracy – political parties, elections, parliaments – is in free fall in many of the established democracies, while many of the newly democratised societies are experiencing a so-called democratic recession. But the triumphal diffusion of democracy worldwide should also lead us to question some of the major assumptions of democratic theory that are rooted in the experience of a few Euro-American societies.

There is an urgent need to focus research on the comparative study of varieties of democratic experience. This differs from the more conventional research agendas that have focused on the conditions of emergence, transfer, performance and decaying of specific democratic institutions. For one, the differences between democratic and non-democratic regimes are not as sharp and distinctive today as they used to be. Think for instance of the current discussions following Viktor Orbán's self-description of Hungary as an "illiberal democracy", which points to the fuzziness of the distinction between soft authoritarian regimes and failing democracies. Tensions between the principles of democratic majoritarianism and those of liberal constitutionalism have sharpened as in more and more countries democratic institutions and rule of law principles are systematically hollowed out from within by democratically elected governments. For another, it is important to study democracy as "the politics of the governed", to use Partha Chatterjee's expression, namely as the study of choices made by social collectivities and individuals in everyday life often under circumstances of political turmoil and upheaval in different institutional, social and cultural contexts in order to articulate demands, promote claims and mobilise for their views of various visions of social justice and a good society.

The spread of soft authoritarian regimes (e.g. in the USA, Hungary, Poland, India, Brazil, the Philippines, Turkey, and Venezuela) defies the traditional vocabulary and conceptual frameworks for an understanding of democracy. Many of these countries are now characterised by populist democracies of rejection and resentment that evince increasing state surveillance of citizens. But we also see a trend of ever more surveillance of the state by citizens and NGOs using courts and grievance redress mechanisms, national and transnational, to render states and corporations accountable. Are all liberal democracies alike, while each “illiberal” democracy is illiberal in its own way?

It is important to reflect on the dilemmas and anxieties of citizens in established democracies under neoliberal austerity politics as well as on the disappointment with post-colonial and post-socialist liberal democracies: Why do citizens in democracies with free and fair elections try to bring about social and political change through street protests? Why do semi-authoritarian regimes continue to hold regular elections? Under what conditions do competitive elections not empower citizens enough or fulfill their democratic aspirations? Why do citizens increasingly use courts and other semi-judicial forums instead of elections to render governments accountable? What does this tell us about the horizontal shift of power within states from the legislative to the administrative? Are we witnessing a crisis of political parties rather than one of democracy? Or is the problem that the link between Western European democracy and the post-1945 welfare state has unraveled?

The exit-voice opposition (Albert Hirschman) captures the changing nature of democratic politics today. When does the exercise of voice in different fora (streets, courts and tribunals, ballot boxes), complement each other and when do they subvert each other? When are courts the last resort for aggrieved citizens and when are they chosen as the first port of call? “Exit” as a response to the failures of the political system is the choice of hundreds of thousands of young, well-educated eastern Europeans, who have left for western Europe, thus changing the composition of the politics of their home countries, where aging, conservative citizens are left behind. “Voice” represents a type of activism different from exit, one where people cannot, or do not want to leave because they deeply value the organisation or the institution

that finds itself in a crisis. Instead, they are interested to improve its performance by active participation in bringing about change, offering ideas for reform, but also by taking the risk to oppose those who wield the power of making decisions. But should one assume that such voice-led activism is constructive by its very nature? Are protesters ready to shoulder responsibility for what they stand for? Those protesting state actions and policies can often have a rather paradoxical attitude towards the state, whom they deeply distrust at the same time as they expect it to provide more services. Voice cannot thus simply be a matter of contestation of power. It must also mean the acceptance of one's responsibility to share power.

Any socially effective use of law, as Upendra Baxi argues, is always marked by a necessary ambivalence: legislative and adjudicative law needs to be strengthened against illiberal forces in uncivil society, while at the same time civil society must constrain the sinister tendencies and forces inherent in the exercise of state power. Thus law in whatever form always moves in the direction of centralised power, whereas the task of social activism is to decenter, and (re)direct the powers of governance successfully claimed by the dominant.

# Defending liberalism is not enough

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LUKE COOPER

‘Democracy crisis’, ‘illiberalism’, ‘authoritarian regression’, ‘executive takeover’. The dark political mood in Europe has generated its own language in recent years. In the corridors of power there is often a strong agreement on what needs to be defended: liberalism, the rule of law, judicial independence, a free media, and individual rights. In other words, across the European Union many recognise that the liberal constitutional rights that underpin democratic societies are in danger.

Democracy is, of course, a deeply contested concept in itself. But the ‘model’ that became a global norm at the close of the last century combined a liberal constitutionalism based on individual freedoms with representative politics and free elections.

Europe’s new authoritarian right has launched an offensive against the constitutional liberal aspect of democracy. The focus on protecting these liberties is quite logical in this context. But is it enough? If we look closer at the questions of why and how the far right is emerging, as well as what exactly it represents in historical terms, this suggests an alternative approach is needed. We need to see the rise of the new authoritarians as an expression of problems in how our democracy is working.

## The challenge to liberalism

Hungary’s Viktor Orbán has gone further than many of his co-thinkers across Europe to promote ‘illiberal democracy’ as a new ideology for the continent. Quite explicitly rejecting the liberal component of democracy, it advocates instead a crude majoritarianism. According to this argument liberal rights are simply a conspiracy of the elite against the majority. Orbán and his ideological supporters see democracy as the absolute rights of majorities – and crucially their *representatives* – to do

as they please. This political thinking does not acknowledge the rights of minorities; indeed, it argues directly and explicitly that they do not have rights vis-à-vis the majority. Inevitably this solipsistic reasoning leads one to recall the warnings of those that argued for a unity between liberalism and democracy in the nineteenth century.

‘Democratic republics’, said Alexis de Tocqueville in his famous book, *Democracy in America*, ‘risk perishing by the bad use of their power, and not by powerlessness’.<sup>1</sup> ‘If liberty is ever lost in America’, he added, ‘it will be necessary to lay the blame on the omnipotence of the majority that will have brought minorities to despair...’<sup>2</sup>

For de Tocqueville and other nineteenth century liberals this problem arose out of power centralisation. Constitutional liberties therefore needed to constrain the actions of majorities, creating a rules-based system that would underpin democratic stability.

These observations have a power in contemporary Europe. Britain’s lack of a codified constitution has left it exposed to the authoritarian actions of a government that appears to not accept the established norms of its democratic system. In Slovakia, the system of proportional representation was a factor in constraining the power of the corrupt Robert Fico regime – and, conversely, the use of the ‘first past the post’ electoral system in Hungary has had the opposite effect, increasing Orbán’s control.

In many European countries there is a strong case for making human rights and constitutional liberties more strongly embedded in the political system. However, the states created by constitutional liberals in the nineteenth century have not always been strong protectors of freedom. Recognising this led to the push to give human rights global protections through international rules.<sup>3</sup> And so it is natural that Europe’s own rules-based system would become a target for those that reject liberal freedoms.

But defending this alone is not sufficient. It deals strictly with the symptoms of authoritarian regression, rather than tackling the problem directly at its roots. If we focus only on defending the *liberal* component of liberal democracy, we risk ceding too much of the argument. We must also fight on the terrain of the democratic element of liberal democracy: the empowerment of citizens to run their society.



## Filling the void: the demand to be represented

To effectively confront the new authoritarians we must acknowledge that they are a symptom of a deeper democratic crisis that emerged over the last three decades.

Recognising that democracy won a flawed victory in the early 1990s is not, of course, a new insight. From Peter Mair's account of the hollowing out of Western democracy,<sup>4</sup> to Colin Crouch's use of the term 'post-democracy',<sup>5</sup> and Chantal Mouffe's warning that democracy required adversarial politics,<sup>6</sup> sociologists and political scientists have long argued that democracy stood at a paradoxical conjuncture after the fall of the Iron Curtain. On the one hand, democratic systems had expanded radically; on the other, the lack of substantive ideological argument diminished their representative function. The lack of ideological choice undermined the efficacy of democratic processes, giving voters insufficient grounds to go to the ballot boxes.

The problem democratic systems faced arose because of the 'too severe' defeat that socialism suffered in the 1980s and 1990s. The rise of neoliberal capitalism, and its extraordinarily destructive experiment on former communist countries (which led to depression-like conditions with states losing, on average, 30 per cent of their GDP<sup>7</sup>), created what Mair referred to as a void in political systems characterised by technocratic governance and the 'evacuation' of the 'zone of engagement' by parties.<sup>8</sup>

The *demand to be represented* amongst populations is a response to this hollowing out of democracy. The vulgar majoritarianism promoted by the new authoritarians can be placed in this context. It is an attempt to 'fill the void' through an ethnocentric identity and set of beliefs. 'The people' are imagined as an ethnically homogenous group with coherent interests against foreign enemies – typically migrants and ethnic minorities. Ideology is reinserted into the system but in a dangerous form. The 'void' becomes filled, but by a new despotism rather than a revived democratic politics.

This is why defending procedural democracy – the rules-based system that underpins competitive, multi-party politics – is a necessary but insufficient response to the new far right. Progressives and the left need their own rejoinder to the demand to be represented. A politics

based on substantive democratisation, which gives citizens more control over the forces shaping their lives, can respond to this in a participatory and progressive way. It will require entirely reconsidering the neoliberal assumptions that have dominated our politics for the last decades. Europe should embrace the new political experiment this calls for. Otherwise the demand for representation will be answered in a deeply destructive way that threatens the democratic order itself.

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1. Alexis Tocqueville, *Democracy in America: And Two Essays on America*, ed. Eduardo Nolla, trans. James Schleifer, T., 4 volume set (Indianapolis: Liberty Fund, 2010), 424.

2. Ibid, 425.

3. On the historical genealogy of our modern concept of democracy see my podcast discussion with Niccolo Milanese in Luke Cooper (eds), *The Another Europe Podcast*, 'Episode 36: Europe's democracy crisis – where next for our troubled continent?' <https://www.anothereurope.org/episode-36-europes-democracy-crisis-where-next-for-our-troubled-continent/> (Accessed 18 October 2019).

4. Peter Mair, *Ruling The Void: The Hollowing of Western Democracy* (London ; New York: Verso, 2013).

5. Colin Crouch, *Post-Democracy*, 1st edition (Malden, MA: Polity Press, 2004).

6. Chantal Mouffe, *On the Political*, 1st edition (London ; New York: Routledge, 2005).

7. Patrick Hamm, Lawrence P. King, and David Stuckler, 'Mass Privatization, State Capacity, and Economic Growth in Post-Communist Countries', *American Sociological Review* 77, no. 2 (1 April 2012): 295–324.

8. Mair, *Ruling The Void*, 54.





A youth strike for climate in Bergamo, Italy, 2019

Photo: Fabio Capelli

# Youth as redeemer

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KALYPSO NICOLAÏDIS

In his journey escaping Thebes, blind and defeated, Oedipus' tragic figure is guided by his daughter, Antigone, to seek life's true meaning anew. He now knows all. His suffering from his self-inflicted blindness and lonely wandering will be his punishment. Yet not only will he be redeemed in death but he is already redeemed in Antigone's eyes; Antigone, whose sense of right and wrong will echo for us throughout the ages when later, after her father's death, she comes back to the world and insists on a proper burial for her brother in spite of *raison d'état*. In these stories about Reckoning and redemption we need to listen to the clear-eyed, those whose future is at stake. Youth as redeemer.

Could Brexit-as-Reckoning ride on a youthquake? Today's pampered, angry, anxious generation, in Britain and elsewhere energised by Brexit's tremors? Will they forget and forgive? Will they fight? The future must be their choice.

Some say that Brexit is 'an old people's home'. Why should this be an insult! Some of us oldies remember a time when we were young too, fifty years ago, demonstrating across borders and political cages our desire for radical emancipation from our inherited order, from Tito's Yugoslavia to De Gaulle's France, from Dubček's Czechoslovakia to Franco's Spain. Our call to let subversion range free and subject all dogma to hesitation, contradiction, reinterpretation.

All of you twenty-first-century Antigones and Oresteses, what do you say? You are the first truly global generation, aren't you? You are already reinventing everything. If it is up to you, it will not be a shared past that brings the diverse peoples of Europe together but your vision of our future.

Brexit advocates call for the democratic liberation of a whole continent. Of course. But how? Democratic choices are only democratic if made knowingly. And in Europe, we live under a strange new era of democratic interdependence: your democratic whims affect me



directly. So it is imperative to know each other, each other's funny habits and each other's quirky politics. Everything can help and you will do it better, faster, funnier – creative transnational political debating between schools, fun fact-checking across national media, and – why not? – organising a mega Agora Europe, a mega assemblage of citizens' assemblies embedded in a pop festival Woodstock of European politics, once a year, on Mediterranean beaches. Forget Brussels' call for, hum, standardised democratic participation... This will not be about harmony, but engaged and respectful disagreement across borders. Physical and virtual transnational agonistics.

Digital natives, you are already ahead of the game. If Brexit is part of a broader yearning for taking back control of our day-to-day lives, can you honour the message even if you were not the messengers? Will you reinvest the democracy of everyday life and make sure that technological innovation is matched by social reinvention? Can you figure out ways to better harness the amazing wisdom of the crowds while weeding out group-think? Will you reshape the rules that govern our togetherness to embrace a pollinated block-chained smart-networked transnational metropolis? Will you master chaotic pluralism and its network effects, distributed intelligence, heterogeneity, non-linearity and high interconnectivity? This stuff will make your interwoven communities more unpredictable but also more creative than the original architects of pluralist worlds ever imagined. In the process, can you cut through the bureaucratic fog and make the EU radically more open through your myriad ways to check and infiltrate power?

Thankfully, you do not believe in a new institutional magic bullet but in the power of mindsets and the technologies of sharing, sharing secrets and sharing power. In your democratic landscape, rules and institutions are a means of bridging ethos and praxis, not ends in themselves set in calcified stone.

Can you narrow the gap between power and politics, create diverse polycentric institutions to bring out the best in humans and their capacity to innovate, learn, adapt, trust? Can you reinvent a creative, tech-savvy bureaucracy to control those who take all the important decisions, international financial markets, corporate oligarchies and the like?

You know that democracy ultimately is measured by its emancipatory effect. This means pushing back against our very asymmetrical relationship to rules designed by experts. And this in turn does not just mean constraining the strong but empowering the weak to interpret, appropriate and remake existing rules.

You are rightly terribly impatient with the attitude of EU institutions in response to the myriad European citizen initiatives which have percolated through in the last few years. Here are thousands of people who have volunteered their time and enthusiasm for all sorts of causes, some more appealing than others. Why not say: whoa! How lucky we are, we bureaucrats, to be the addressees of committed young people who know how to harness the power of the internet! How can we learn from them? Why castigate direct democracy and referenda, why deny their transformative potential, when we should create the conditions for them to work?

Democracy is only real when truly indeterminate.

Teenagers, the EU could do worse than harness your democratic effervescence. To be sure, effervescence needs to be channelled effectively, as when champagne connoisseurs adopted the saucer-glass in 1848 – their desire for heightened sensation was no accident in an age of revolutions. In the alternative world of pluralist effervescence where struggles, arguments, compromise and agreement to disagree reign supreme, in conversation with others around the globe, you will explore a kaleidoscope of options, a hundred shades of meaning, and tame the dark side of modernity. You will rediscover the ethos of dissidence, the great gift from Eastern Europe, and the ethos of empathy, friendship and hospitality, humanity's saving grace. Like the 'imaginal cells' dormant in the body of the European caterpillar, you will awaken our societies again.

# European metamorphoses

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NICCOLÒ MILANESE

European democracy is undergoing a metamorphosis, but its new shape is still highly uncertain. If it can be argued that democracy is itself as a regime is always changing and being reinvented, democracy in the European Union has been undergoing a distinctive process of change since at least 2008, when the EU was hit by the global financial crisis without a constitutional settlement to enable it to adequately respond. Unable to robustly coordinate policy responses across either the single market or eurozone in a way that would justly and fairly shield European populations from the effects of the crisis, let alone intervene in the global frame to change the dangerous dynamics of financialised capitalism, the EU as a whole, and its member states individually, have been scrambling to find solutions to almost every political issue that has arrived since this period, whether the topic is migrants, technology, military aggression, climate change, terrorism or authoritarianism.

Where the European Union has fuller competence (eg. data privacy) there may have been more success than areas where it has more limited competence (eg. migration, social or foreign policies), and where the most powerful states were able to instrumentalise Europe's democratic deficit for their own ends it had temporarily some robust if unjust and shortsighted policies (eg. the policy of austerity in favour of German and French banks during the Greek debt crisis). Still, two general assessments are worth emphasising: firstly, the EU as a whole has always been behind the curve, reacting rather than shaping the agenda; but secondly, the problems that have presented themselves during this period are quite obviously at the least 'European' in scope and content, such that no-one could seriously maintain that the institutions of the EU are irrelevant actors to deal with them, whether one approves of its individual decisions or not. The EU has become consistently front-page news across the continent, and the inadequacies of its current modes of making decisions, of agenda setting and of



coordination are all the more publicly apparent. With the prospect of treaty change endlessly postponed until conditions are more favourable (if that is ever the case), the strategic question therefore became how to approach the radically unfinished nature of the European project.

## **From the mask of technocracy to incipient politics?**

Political parties have their well-established repertoires for providing a vision of the future, and elections are central to them. Going into the European elections in 2019, various visions for the future of the EU could be discerned: the far-right attempt to build a nationalist international that would promote a ‘Europe of Nations’; the liberal Macron-inspired vision of a more deeply integrated Europe, with a strategic sovereignty, in a global marketplace; a green vision of the EU as the level of governance best able to lead on combatting climate change; and the attempts of the EU status quo of the Christian Democrats and Socialists to coopt different elements of these demands, mix them with different degrees of tradition or social policies, and maintain their overall hegemony.

Following the elections, the overall picture is that no one won in this face-off: the new Parliament is fragmented, with a higher Green, Liberal and far-right contingent than before, and no grand-coalition majority. Is the new European democracy one of unclear majorities risking paralysis, and backroom deals being the only way to get things done? Is it one of European ‘fudge’, which mixes elements of different visions, risking that none of them are well enough defined to move the European Union forward? Does it continue to be one where member states use veto power to wreck agreements for short-term domestic reasons? The process of nominating and ratifying the new European Commission since the elections suggests all of these tendencies are present. None of these futures is appealing, although each of them probably means the end to the technocracy that dominated the previous epoch of European decision-making, and which was enabled by the EPP-PES grand coalition. As a result, European politics is now decidedly political, but the question is if this politics is sterile or productive.

The formalised dimensions of European politics – institutions, elections, summits and so on – are, of course, at best only half of the

picture of democracy: the other and much more historically-decisive part involves the customs, habits, cultures, ideas and behaviours of the people. If financialisation, debt, precarity and the weaponisation of new technologies all risk poisoning the democratic culture of Europeans, the collective memory of resistance and invention is still alive. It exists in acts of rebellion and humour, kindness, outrage and welcome that still regularly fill public squares across the continent, in the rich civil society and NGO scene, and in cultural institutions. This living memory appears to be renewing itself across generations. The relationship between this lively civic invention and the formalised procedures of European democracy is yet to find a fruitful form. The bureaucracy of the institutions, like most state actors, tends to render such movements vapid even when it sincerely tries to welcome them, and, at worst, the European Union has ignored and frustrated these movements where most is at stake, in places like Ukraine or North Macedonia. Even what momentum came out of the European elections, with its uptick in turnout and general sense of having held the far-right at bay, has been quickly squandered by the imagination-deficient European political elite.

The lesson that needs to be learnt by the leaders of the EU is the one they are most unlikely to hear: that those who conceive of themselves as masters of the law have a legitimacy problem which they are powerless to solve, and yet in the resolution of which they have their responsibility. A lesson for the rest of us is perhaps as follows: 1968 and 1989 are shorthand for monumental changes in the cultural norms, social practices and geographies of Europe, but they may represent less political transformation than we once believed. Through the current metamorphosis we must act in continuity with these historic movements, but resolutely for a new form of European democracy which can be responsive to transformational energies and ideas coming from the living fabric of the society. We should work and struggle so that Europe's democracy will continue to metamorphosise, for if we fall asleep now and allow it to take a new monstrous form when we awake, we may find this was the last stage of Europe's living history and it is too late.



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