

Carl Schmitt on the Transformations of the People in Modernity

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Abstract: This article argues that through the reinterpretation of the old theory of *pouvoir constituant* proposed by Sieyès, Carl Schmitt shows the impossibility of political modernity being anything other than authoritarian populism, whether by means of democratic or autocratic procedures. It is not that Schmitt's theory is authoritarian populism, but that modern politics, born out of the French Revolution, cannot be anything else. Schmitt's analyses of the idea of the people in political modernity in *Dictatorship* (1921), *The Crises of Parliamentary Democracy* (1923), *Volksentscheid und Volksbegehren* (1927), *Constitutional Theory* (1928), and *State, Movement, People* (1933) provide a fine analysis of the populist character of modernity. Something that those alive in the twenty-first century have been able to experience was theorized by Schmitt in an oracular way. Because of his keen insight he is still worth reading.

Contrary to the view, commonly assumed in the literature, that Carl Schmitt's theses are ideological in character, this article interprets Schmitt as a genealogist, that is to say, a critical thinker. His different analyses of the idea of the people in political modernity in *Dictatorship* (1921), *The Crises of Parliamentary Democracy* (1923), *Volksentscheid und Volksbegehren* (1927), *Constitutional Theory* (1928), and *State, Movement, People* (1933) provide a fine analysis of the history of political ideas that aims to show that in political modernity one can almost only be what we now understand as a populist, although, indeed, it can be of different types. Something that those alive in the twenty-first century have been able to experience was theorized by Schmitt in an oracular way at the beginning of the twentieth century. It is because of his keen insight that he is still worth reading.

This article begins with the question whether Schmitt's theory of the people is a typical defense of populist autocracy, as the mainstream literature supposes, or whether he tries to show the impossibility of political modernity

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as anything other than authoritarian populism. I take William E. Scheuerman, John P. McCormick, Andreas Kalyvas, and Pedro T. Magalhaes to hold representative positions in the growing mountain of interpretative works about Schmitt in recent years.¹ All point to the idea of the constituent power of the people as a key element of Schmitt's thought,² although only Kalyvas thinks that Schmitt's interpretation of constituent power of the people can be practically developed, in times of normality, in the direction of constitutional democracy.³ McCormick and Scheuerman insist on the importance of the constituent power for a theory of democracy, despite the inadequacy of Schmitt's thesis in the end.⁴

While McCormick and Scheuerman consider Schmitt to be unequivocally associated with the dictatorial approach,⁵ Kalyvas channels, as mentioned, Schmitt's theses on the political identity of the people, in combination with the principle of representation, into a constitutional democracy. Of course, Kalyvas maintains that, in the extraordinary moment, it is only possible to delegate power, but normal politics needs representation to the same extent that the people are absent and their sovereignty invisible in a constitutional order. In normal cases, the people only exist symbolically through their political representation in the ruler. In Kalyvas's opinion, thanks to this differentiation between normal and extraordinary cases, Schmitt's constitutional theory resolves the aporias of liberal constitutionalism. Hence, Kalyvas points to Schmitt's advocacy and promotion of a democratic principle of legitimacy in normal times based on a theory of the constituent power of the people that the president only represents *ex ante*. Indeed, dictatorial moments in politics, even in modern politics, are the exception.⁶

¹William E. Scheuerman, *Carl Schmitt: The End of Law* (Lanham, MD: Rowman & Littlefield, 1999); John P. McCormick, *Carl Schmitt's Critique of Liberalism: Against Politics as Technology* (Cambridge: Cambridge University Press, 1999); Andreas Kalyvas, *Democracy and the Politics of the Extraordinary: Max Weber, Carl Schmitt, and Hannah Arendt* (New York: Cambridge University Press, 2008); Pedro T. Magalhaes, *The Legitimacy of Modern Democracy: A Study on the Political Thought of Max Weber, Carl Schmitt and Hans Kelsen* (New York: Routledge, 2020).

²Scheuerman, *Carl Schmitt*, 81; Kalyvas, *Democracy*, 86–87; McCormick, *Carl Schmitt's Critique*, 142, where he speaks about the conversion of Schmitt to sovereign dictatorship.

³Kalyvas, *Democracy*, 294.

⁴Scheuerman, *Carl Schmitt*, 84, on the inadequacy of Schmitt's interpretation of the problem of legal indeterminacy; McCormick, *Carl Schmitt's Critique*, 297, on Schmitt's false "higher third."

⁵McCormick, *Carl Schmitt's Critique*, 299: "Schmitt indeed takes a 'democratic' turn when confronted with the technocratic tendencies of modern liberalism, but it is to an authoritarian democracy not a more substantively popular one." See also Scheuerman, *Carl Schmitt*, 315.

⁶Kalyvas, *Democracy*, 178.

Magalhaes properly understands Schmitt as a populist. His thesis regarding Schmitt's view of modern democracy focuses on two assertions: first, that it is neo-authoritarian because it formulates the necessity of personal rule in modern democratic polities without recourse to traditional conceptions of authority and legitimacy; and, second, that it is populist in that it sees "the people" as a homogenous collective subject, which results from the exercise of neo-authoritarian rule and constitutes the ultimate source of its validity.⁷ He argues that, by delineating an authoritarian reinterpretation of modern democracy, Schmitt aimed to fight liberalism with new weapons.⁸ Schmitt's populism, his theory of the "immanent popular foundations of modern political rule, is subsidiary and subservient to his neo-authoritarian decisionism."⁹ Simply branding Schmitt a decisionist is a doubtful move, but it seems clear that the texts indicate the very opposite of what Magalhaes assumes.¹⁰

In contrast to these discussions, the thesis argued here through a reading of Schmitt's texts is broader. It is not only, as Magalhaes supposes, that Schmitt is combating liberalism through a populist reinterpretation of liberal democracies by drawing on the old theory of *pouvoir constituant* as designed by Sieyès, but that Schmitt is showing the impossibility of political modernity being anything other than authoritarian populism—although he does not use this terminology—whether by means of democratic or autocratic procedures. It is not that Schmitt's theory is authoritarian populism, but that modern politics, born out of the French Revolution, cannot be anything else. This statement, which is not normative but descriptive of a de facto political situation, helps us to understand the populist inclination of liberal democracies.

In order to justify my interpretation of Schmitt's judgment of political modernity, this article analyzes the relevant works in which an interpretation of the role of the people in politics appears in different historical contexts: first, *Dictatorship* (1921), where the people appear eminently as constituent power, that is, in its original revolutionary idea, as conceived by Sieyès; second, *Volksentscheid und Volksbegehren* (1927) and *Constitutional Theory* (1928), which are a theoretical reflection on the role of the people in mass democracies; and finally, *State, Movement, People* (1933), where Schmitt describes the role of the people in the total state. As can be seen in this sequence, Schmitt is more a genealogist of the idea of the constitution of the political subject "people" than a normative theoretician, defending a position. What will be deduced from this genealogy—and this is in my view

⁷Magalhaes, *Legitimacy*, 66.

⁸Ibid., 76.

⁹Ibid., 98.

¹⁰Montserrat Herrero, *The Political Discourse of Carl Schmitt: A Mystic of Order* (Lanham, MD: Rowman & Littlefield, 2015). In line with Kalyvas's thesis, I see the distinction between normality and exception, together with the centrality of the question of the concrete order, as key to understanding Schmitt's positions.

Schmitt's great thesis—is that the modern political condition, for which the idea of a representation of the people as a whole, as if the people were a single subject, is central, necessarily has a populist totalitarian character, whether in democratic or autocratic form. This article aims to point out Schmitt's magnificent comparison between revolutionary democracy and totalitarian sovereign dictatorships, a view that is bound to astonish the contemporary reader. His explanation helps us to understand why our political modernity, in whatever form, tends toward populism.

The article first deals with Schmitt's description in *Dictatorship* of the people in the conceptual transformation carried out in the theory and practice of the French Revolution, from which emerges the idea of the people as constituent power, which definitively orients modern politics toward what we might call populism and which Schmitt equates with the dictatorship of the proletariat. Second, the article addresses Schmitt's theoretical reworking of the historical thesis of the constituent power of the people, in which he proposes it as a key element in the constitution of the modern state in *Constitutional Theory* and *Volksentscheid und Volksbegehren*. Third, it discusses another way of interpreting the people in the context of the modern state, namely, the one inaugurated by the total national socialist state. This genealogy of the role of the people in politics exhibits the populist tendency that modern politics takes on, once the people are perceived as a homogeneous whole, with a single voice, which is what every political leader must decipher in order to govern.

1. The People as Constituent Power in Revolutionary Democracies

In a very general sense, the political itself is unthinkable without the popular element. This idea has been present since the dawn of political thought and practice; however, the conceptual definition of the people remains extremely complex, as it concerns one of the most vague political concepts. Every government has as its mission the all-important political operation of transforming the crowd into a people, of transforming a historically existing multitude of individuals into a political subject that can act in the public arena. Throughout history, the ways in which this transformation has been carried out have varied greatly, and depend on what is considered to be the real people. Athenian democracy excluded noncitizens from this category, French revolutionary democracy excluded aristocrats, and so on. Who is designated as the people at a given historical moment is an open question to be settled in political discourse. However, it is not only the political subject that needs to be defined, but also his role in the political constitution. In one of his first works, *Dictatorship*, Schmitt claims that political modernity was established with the birth of the people as a constituent power, as the true sovereign capable of giving the constitution. The gap between constituent and constituted power opens up the revolutionary possibilities of modernity, as will be seen below.

Indeed, prior to the revolutions, there was a realization that the people are always naturally and historically constituted in some way, that in their concrete history the people have shaped an order of families and other institutions and associations; even a certain legal order, which is everlasting. This medieval conception remained alive until the sixteenth century, both in the monarchomachists and even later in the writings of John Locke. When the monarchomachists speak of the people, whose rights they defend against princes, they do not refer to “the plebs or the *incondita et confusa turba* [the confused and disordered mob], but only the people who are represented by the organisation of the estates,” according to Schmitt.¹¹ The people is not an abstract unitary concept, a single political subject, but a collection of families, associations, and institutions of different kinds that are represented, that is, made present through those who speak and act for them.¹² Medieval parliaments thus became a reflection of the institutional constitution of the people, the embodiment of their plural political representation. Indeed, in the original parliamentary system, the unity of the will of the people, which is necessary for government, is made possible through public discussion.

By losing sight of the people’s historical constitution and interpreting it instead as an “unmediated and unorganised mass, rejecting representation,” Schmitt argues that “the new radicalism [came] into being.”¹³ He refers to the ideas of the revolution that wanted to break with the structures of the *Ancien Régime*. Indeed, with the advent of mass democracies, the people is supposed to be a homonegeous unity of equal single individuals. For Schmitt, this is the historical condition of the people in modernity, which opens up the political possibilities which we today call populism.

Although Schmitt’s emphasis is on French genealogy, the birth of what we can call the revolutionary people can be narrated starting from at least two genealogies, namely, that of the English Revolution leading to the Civil War of 1642 or that of the French Revolution in 1789. England indeed seemed, in a certain sense, to be ahead of the Continent when, at the beginning of the sixteenth century, the word “nation” began to be used as a synonym for people as the bearer of sovereignty, the basis of political solidarity and the supreme object of loyalty, as Liah Greenfeld has shown.¹⁴ When the word “nation” came to be used in this same sense in other countries as well, it

¹¹Carl Schmitt, *Dictatorship: From the Origin of the Modern Concept of Sovereignty to Proletarian Class Struggle*, trans. M. Hoelzl and G. Ward (Cambridge: Polity, 2014), 19.

¹²The concept of representation has been magnificently described by Álvaro d’Ors, “El problema de la representación política,” *Revista de Derecho Público* 28 (2016): 11–25. A classic on representation is Hanna Fenichel Pitkin, *The Concept of Representation* (Berkeley: University of California Press, 1967).

¹³“Only when a people appeared in its unmediated and unorganised mass, rejecting representation, did the new radicalism come into being.” Schmitt, *Dictatorship*, 19.

¹⁴Liah Greenfeld, *Nationalism: Five Roads to Modernity* (Cambridge, MA: Harvard University Press, 1993), 7.

acquired the definitive meaning of “a unique sovereign people.”¹⁵ Yet this more radical idea from early liberal revolutions did not become dominant in practice after the Glorious Revolution. Rather, the sovereignty of parliament became central, albeit always under the assumption that parliament is nothing more than the representation of the people.

By 1789, England operated under a very different political model from the French one, having developed a system in which different powers controlled one another. But this was the product of a long process in which the more radical democratic options present during the Civil War of 1642–1651 were discarded. For the Levellers, for example, parliament’s power, including the ability to kill the king (the exact fate that Charles I met), was based on its representation of the people. In *An Arrow against All Tyrants* (1646), the leading Leveller, Richard Overton, argued that the commons of England had empowered parliament “with their own absolute sovereignty.”¹⁶ This last expression had appeared in Jean Bodin’s *Six livres de la Republique* (1576), referring to an absolute power that is, however, limited not only by the power of God, but also by the word given in conventions and contracts.¹⁷

But if sovereignty does not die, it is not because the prince is eternal, but because the people are. This idea could not have found its way into the modern world without the Hobbesian fictional artifice of the Commonwealth in which the people are detached from their natural and historical character.¹⁸ The remote theoretical developments that preceded and followed these revolutionary movements and shaped the modern idea of the people are found in ideas forged by Francisco Suárez, Jean Bodin, and Thomas Hobbes, and even earlier by Marsilius of Padua. Lucien Jaume has shown how, together with the representative apparatus that resulted from Hobbesian representational fiction, the subject “people” was generated.¹⁹ This “people” came to embody the legal abstraction of the Commonwealth as a whole, in which there is no people without a state, and no state without a people. This Hobbesian idea will be coined by Schmitt in *Constitutional Theory*, as we shall see below.

But the French revolutionary context and the linguistic transformation it brought about are undoubtedly fundamental to the conceptual elaboration of what we understand regarding populism. Although Schmitt devoted a good part of his work to Hobbes’s thought, *Dictatorship* speaks of the

¹⁵Ibid., 8.

¹⁶Richard Overton, *An Arrow against All Tyrants* (1646), ¶15, <https://oll.libertyfund.org/title/overton-an-arrow-against-all-tyrants>.

¹⁷Jean Bodin, *On Sovereignty*, ed. Julian H. Franklin (Cambridge: Cambridge University Press, 1992), 345.

¹⁸Montserrat Herrero, *Ficciones políticas: Tomas Hobbes en el ocaso de la modernidad* (Madrid: Katz, 2012).

¹⁹Lucien Jaume, “La théorie de la ‘personne fictive’ dans le Léviathan de Hobbes,” *Revue française de science politique* 33, no. 6 (1983): 1027ff.

English genealogy in only an accidental way and focuses on the French genealogy of the theoretical constitution of the people. Schmitt affirms Sieyès's theory of the constituent power as a cornerstone of the new theory of the people. In Schmitt's interpretation, Sieyès succeeded in getting the third estate—the people—to fight against the clergy and the nobility in the name of a complete nation, thus generating the national assembly as their representation.²⁰ Hence the nation could speak through this assembly. The “nation,” which, for Sieyès, is the true people and therefore the constituent power, has only rights, not obligations; the constituted power, however, has only obligations, not rights.²¹

Sieyès then admits the possibility of the people being represented and conceives of the delegates at the 1789 Constituent Assembly as representatives, rather than as bearers of a *mandat impératif* (imperative mandate). They are not meant to be messengers delivering an already existing will (the figure of the commissar);²² rather, they have to first “shape” it (they act for the people as their representatives). The will of the people does not have a specific content, but can take on any content depending on the circumstances and, above all, is shaped primarily through representation. However, representatives' dependence on this will still subsists. Sieyès's notion of constituent power postulates that there must be a power that is the actual giver of the constitution and that, in principle, is unlimited because it is not subject to the constitution and does not disappear with it. It is never left behind. It is constituent because it aims to create law from antecedent juridical nothingness. Hence, as Schmitt goes on to say, the constituent power is a nonconstituted and never constitutable power on which, nevertheless, a constitution is dependent. It must be a revolutionary concept capable of destabilizing the established order at any time:

In some of Sieyès's writings, the *pouvoir constituant* appears in its relationship to every *pouvoirs constitués* as a metaphysical analogy to the *natura naturans* and its relationship to the *natura naturata* of Spinoza's theory. It is an inexhaustible source of all forms without taking a form itself,

²⁰Something similar is proposed by Ernesto Laclau following Antonio Gramsci's concept of hegemony. See Ernesto Laclau, *On Populist Reason* (London: Verso, 2005) and Ernesto Laclau and Chantal Mouffe, *Hegemony and Socialist Strategy* (London: Verso, 2013).

²¹Schmitt, *Dictatorship*, 123. Schmitt thinks that Sieyès's theory is understandable only as an expression to find the unorganizable organizer as an echo of the Spinozan metaphysical relationship between *natura naturans* and *natura naturata*. This aligns with Antonio Negri's assumptions about Spinoza's political theory. See Antonio Negri, *Savage Anomaly: The Power of Spinoza's Metaphysics and Politics* (Minneapolis: University of Minnesota Press, 1999). See also Antonio Negri, *Spinoza for Our Time: Politics and Postmodernity* (New York: Columbia University Press, 2013).

²²The idea of the commissars who will set the revolution in motion was theoretically led by Rousseau, as Schmitt shows in *Dictatorship*, 19.

forever producing new forms out of itself, building all forms, yet doing so without form itself (cf. *die Diktatur*, p. 142).²³

Schmitt refers to this text of *Dictatorship*: “The people, the nation, the primordial force of any state—these always constitute new organs. From the infinite, incomprehensible abyss of the force [*Macht*] of the *pouvoir constituant*, new forms emerge incessantly, which it can destroy at any time and in which its power is never limited for good.”²⁴ He makes it clear in his accurate interpretation of Sieyès,²⁵ that Sieyès’s theoretical construction allows for the settlement of an ambiguity that is always producing new political possibilities for *changement* and puts the will of the people at the center of political life. As the will of the people is always uncertain and needs a “spokesperson,” whoever has the possibility to speak for the people can bring about political change and in the extreme case, revolution. When political life picks at the will of the people and makes the law dependent on it, then anything can happen in political praxis.

The most immediate field of experimentation of that theoretical piece was the French Revolution of 1789. Schmitt explains at length that at that time the people constituted itself as the subject of constituent power and gave itself a constitution on the assumption of its political unity and capacity to act. Here, the true people was made manifest in its self-conscience. Since then, the absoluteness of power has resided in the people.²⁶ In *Theory of the Constitution*, Schmitt observes that, until the French Revolution, no prince had been the absolute subject of constituent power, but after the Revolution, during the monarchical restoration, the king became the subject of constituent power, usurping this absolute power from the people.²⁷

The doctrine of the representation of the people in the assembly began to arouse suspicion and the most revolutionary sectors began to ask anew why the general will was better placed in representatives than in the general body of citizens or in civil society.²⁸ This once again represented a

²³Carl Schmitt, *Constitutional Theory*, ed. and trans. Jeffrey Seitzer (Durham, NC: Duke University Press, 2008), 128.

²⁴Schmitt, *Dictatorship*, 123.

²⁵On Schmitt’s interpretation of Sieyès see Stefan Breuer, “Nationalstaat und *pouvoir constituant* bei Sieyès und Carl Schmitt,” *Archiv für Rechts- und Sozialphilosophie* 70 (1984); Pasquale Pasquino, “Die Lehre vom *pouvoir constituant* bei Abbe Sieyès und Carl Schmitt: Ein Beitrag zur Untersuchung der Grundlagen der modernen Demokratietheorie,” in *Complexio Oppositorum: Über Carl Schmitt*, ed. Helmut Quaritsch (Berlin: Duncker & Humblot, 1988), 371–85; Renato Cristi, “Carl Schmitt on Sovereignty and Constituent Power,” *Canadian Journal of Law and Jurisprudence* 10, no. 1 (1997): 189–202.

²⁶Schmitt, *Constitutional Theory*, 101.

²⁷*Ibid.*, 89.

²⁸Hence, Jan-Werner Müller, *What Is Populism?* (Philadelphia: University of Pennsylvania Press, 2016), 101, defines populism not as an authentic part of modern democracy, not as a kind of pathology brought on by irrational citizens, but as a permanent shadow in representative politics. He makes the idea of populism

displacement and a search for the “real people.” For Robespierre the idea of a representative government was always accompanied by the idea of the people’s betrayal. On July 29, 1792, he denounced “representative despotism.”²⁹ Revolutionary ideology rejects the need for intermediate bodies. The idea of the people as a “symbolic instance” in the form of a virtuous moral unity requires morally irreproachable, unitary representation.³⁰ Only irreproachable and virtuous leaders can reflect the image of the “true people,” which refers to a unity without empirical existence as such, and which must be symbolically constructed again and again.

In the aftermath of the French Revolution, the Jacobins were strengthened by their claim to credibly represent this symbolic construction, hence official dogma claimed that the Jacobins were the people. They could not be seen as a mere faction of the people, but rather had to claim the whole. Robespierre went so far as to claim that Jacobin society was, by its very nature, incorruptible, and thus incapable of betraying the interests of the people. The real people have the essential competence to “authorize” representatives; only in its name can government action be carried out. This corresponds to the important figure of commissars, that Schmitt analyzes in detail throughout *Dictatorship*. They were persons elected by the people to carry out their mandates and do not represent, but execute orders. Indeed, the commissarial structure of the Revolution brings the revolutionary people into play and, as Jaume also points out, makes it possible for Jacobinism to go beyond democracy.³¹

The semantics of the “revolutionary people,” that is, a people in action as a constituent power and the motor behind historical development, is an abstraction that contains many intermingled connotations such as sovereignty, the nation, and unification as a totality. As Schmitt points out, it also contains potential for negation, originating in the fact that it can only be defined negatively (that which is not magistracy, that which is not organized, that which does not govern), allowing for continuous evolution of symbolic content and thus continual differentiation from empirical facticity. As he

dependent on representative construction. According to him, populism’s other six characteristics are anti-pluralism; immunity to criticism that comes from its identification with the real people and what they assume to be their good; it is not participatory, but rather authoritarian in its determination of the popular will; it pits statism versus civil society; it is a revulsive for liberal democracy.

²⁹Maximilien Robespierre, *Œuvres de Robespierre*, vol. 4, *Les journaux*, ed. Gustave Laurent (Paris: Société des études robespierristes, 1939), 317–34.

³⁰Lucien Jaume, “Le nom du peuple dans la révolution française,” in *La “Représentation” du politique: Histoire, concepts, symboles*, ed. Paula Diehl and Alexandre Escudier, *Les Cahiers du CEVIPOF* 57 (Centre d’étude de la vie politique française, 2014), 43–51. Jaume notes that the revolution took the idea of the people’s moral unity, as well as the idea of the *pars sana*, from the religious world.

³¹Jaume, “Le nom du peuple”, 44.

notes at the end of *Dictatorship*, the idea of the people as the dictatorship of the proletariat is none other than the one born in the French Revolution. This continuity between the ideas related to the constituent power of the French Revolution and the totalitarianisms of the twentieth century is essential to the genealogy of exceptional situations that Schmitt elaborates in *Dictatorship*.³²

Schmitt's interpretation of the theory and practice of constituent power makes us aware of the absolute character that the popular will acquires in postrevolutionary democracies, postrevolutionary dictatorships, and even postrevolutionary kingships. Beyond the difference between political forms, the dialectic between the real people and the people represented in the assembly, which was opportunistically exploited by the Jacobins, so well described by Schmitt in *Dictatorship*, opens the way to a populist use of the signifier "people," insofar as what constitutes the "true people" or the "real people" remains an open question that can be exploited to seize political power. Whoever answers this question satisfactorily for the people and speaks in the name of that people capitalizes political legitimacy, that is, the right to govern that people. Schmitt makes us aware that this is the condition of politics in the modern era: a populist condition.

2. The Homogeneous Identity of the People in the Modern State

After *Dictatorship*, Schmitt elaborates on the idea of the people as an essential dimension of the direct democracies characteristic of political modernity in his 1927 text *Volksentscheid und Volksbegehren: Ein Beitrag zur Auslegung der Weimarer Verfassung und zur Lehre von der unmittelbaren Demokratie* (Referendum and petition for a referendum: A contribution to the interpretation of the Weimar constitution and to the doctrine of direct democracy) (1927), and later in *Constitutional Theory* (1928).³³ After describing the

³²Schmitt, *Dictatorship*, 179. Jacob L. Talmon, in *The Origins of Totalitarian Democracy* (London: Secker & Warburg, 1955), 128, offers a similar thesis, but using a different analysis. He argues that totalitarianism, far from being a twentieth-century phenomenon, has its origins in the eighteenth century. His book is a history of the French Revolution from the perspective of the origin of "totalitarian democracy."

³³Carl Schmitt, *Volksentscheid und Volksbegehren: Ein Beitrag zur Auslegung der Weimarer Verfassung und zur Lehre von der unmittelbaren Demokratie* (Berlin: Duncker & Humblot, 2014), 52. Barbara Nichtweiss points out that Erik Peterson's *Heis Theos* (1920) influenced Schmitt in what relates to the topic of acclamation. Barbara Nichtweiss, *Erik Peterson: Neue Sicht auf Leben und Werk* (Freiburg: Herder, 1992), 740. For more on the theological-political transference, see Montserrat Herrero, "Acclamations: A Theological-Political Topic in the Crossed Dialogue between Erik Peterson, Ernst H. Kantorowicz and Carl Schmitt," *History of European Ideas*, 45, no. 7 (2019): 1045–57. Armin Adam identifies three sources of inspiration for this concept in Schmitt: Roman state law, German conservatives, and the role of

revolutionary historical moment from which the modern idea of the people originates in *Dictatorship*, in these two works Schmitt generalizes theoretically the thesis of the constituent power of the people and proposes it as a key element in the constitution of the modern state.

In these books, Schmitt insisted that the assembled multitude's declaration of their consent or disapproval is the natural form for directly expressing a people's will in modern states.³⁴ "Acclamation is an eternal phenomenon of the whole political community. No state without a people, no people without acclamation."³⁵ Acclamation, an "amen" of the people, is the most democratic manifestation of the will of the people concerning their agreement; silence evidences disagreement. "Yell high and low, cry with joy or complaint, strike shields with weapons, say 'Amen' to a pact of any kind or avoid this acclamation with silence."³⁶ And he adds: "The people can only say yes or no to a single question posed to the vote, exactly formulated. If this is not the case, then every result coming from millions of individual votes could be interpreted in a very multifarious way."³⁷

As Schmitt declares in *Constitutional Theory*, the modern state is constituted by two opposed but complementary principles: identity and representation. All political unity receives its concrete form from the realization of these principles. No state is possible without a people. No people is possible without state.³⁸ A people are primarily without authority or state magistracy and are made up of those who, in principle, are not organized, do not exercise organic functions of authority and do not govern. In this sense, the people is a "negative" concept, defined by that which it is not. Moreover, when one or more parts of a people are organized, they stop being a people:

It would not only generally involve something sociologically essential, if one defined the people negatively in such a manner (for example the audience in a theater as the part of those present who do not perform), but this distinctive negativity also does not permit itself to be mistaken for the

acclamation in the church. See Armin Adam, *Rekonstruktion des Politischen: Carl Schmitt und die Krise der Staatlichkeit, 1912–1933* (Weinheim: V. C. H. Acta Humaniora, 1992), 79–83.

³⁴Schmitt, *Constitutional Theory*, 131.

³⁵Schmitt, *Volksentscheid und Volksbegehren*, 34. Another example of this type of statement appears in Carl Schmitt, *The Crisis of Parliamentary Democracy* (Cambridge, MA: MIT Press, 2000), 16. On the relevance of acclamations in Schmitt's political theory see Adam, *Rekonstruktion des Politischen*, 78; Rüdiger Kramme, *Helmuth Plessner und Carl Schmitt: Eine historische Fallstudie zum Verhältnis von Anthropologie und Politik in der deutschen Philosophie der zwanziger Jahre* (Berlin: Duncker & Humblot, 1989), 215–17.

³⁶Schmitt, *Volksentscheid und Volksbegehren*, 34. The translation is my own.

³⁷*Ibid.*, 36.

³⁸Schmitt, *Constitutional Theory*, 239.

scholarly treatment of political theories. In a special meaning of the word, the people are everyone who is not honored and distinguished, everyone not privileged, everyone prominent not because of property, social position, or education.³⁹

Even though defined “negatively,” the presence of a people is a condition of the public and therein lies its importance for Schmitt: “Only the present, truly assembled people are the people and produces the public.”⁴⁰ If at some point they take on governing activity, it is merely by proxy. And yet Schmitt claimed that a people come before and are above (in terms of importance) any positive constitution: “no constitution can clearly assure who might be a people. A people can be any group that irrevocably appears as such and decides who specifically, that is, who in the given political and social reality, acts as a people.”⁴¹ However, the people are also not possible without a state, which is to say, without being represented. Thanks to the state, a people reach a higher mode of existence, namely, political existence, making a crowd into a people as a unique political unit.⁴²

At this point, Schmitt separates himself from the revolutionary antirepresentationalist doctrine. In his view, through the practice of representation, that is, of ruling the people, a people become politically active. Representation is always at the heart of politics because of the dialectical character of the people, namely, between absence and presence. It is not that the people are unworthy, but rather that, because of their very way of being, although always potentially present, they are absent from political decision-making and so must become somehow politically present, that is, actually present. A people cannot enter political life without a certain determination of their being, and their representative(s) mediates between an absent people and a politically present one: “To represent means to make an invisible being visible and present through a publicly present one.”⁴³ Moreover, “Only he who rules takes part in representation.”⁴⁴ The representative brings this conversion about, making it possible for a people to become a political unit and transform into a constitution-making power. At this moment, a people slide into a political situation:

The dialectic of the concept [of representation] is that the invisible is presupposed as absent and nevertheless is simultaneously made present. That is not possible with just any type of being. Indeed, it presupposes a special type of being. Something dead, something inferior or valueless,

³⁹Ibid., 271.

⁴⁰Ibid., 272. See also Schmitt, *Crisis of Parliamentary Democracy*, 16: “The people exist only in the sphere of publicity.”

⁴¹Schmitt, *Volksentscheid und Volksbegehren*, 50.

⁴²Schmitt, *Constitutional Theory*, 240.

⁴³Ibid., 243.

⁴⁴Ibid., 245.

something lowly cannot be represented. It lacks the enhanced type of being that is capable of an existence, of rising into the public being.⁴⁵

Schmitt is aware of the deep-rooted relationship between political power and a people's consent or approval (*Bereitwilligkeit*) found in every political form: "next to weapons and the development of technical means, the technical methods by which the public opinion and general will of the people are formed is of great importance to the modern state's position of power."⁴⁶ For achieving consent, every constituted power has its own methods, including education and schooling, the press, radio, and television. "All modern states have the obligation, despite serious proclamations regarding fundamental rights and freedom, despite the abolition of censorship, despite the fundamental parity and neutrality, to exercise a vast control over radio and television."⁴⁷

But the crucial question is how a united people adopts a concrete and unified decision regarding its mode of political existence in its "not formed state." The people as a constituent power only have certain capacities, which are exclusively expressed when they are gathered together. Schmitt affirms, as we have already pointed out, that the people can only participate in representation via acclamation or protest.⁴⁸ The will of the people that corresponds to its essence is made manifest independently of all prescribed procedures and processes: "Who the people are in this sense cannot be clearly established by any constitution. The people can be any multitude that irrevocably appears as such and thus decides who in concrete terms, i.e., who in political and social reality, acts as the people."⁴⁹

Here Schmitt is surreptitiously criticizing the parliamentarism of liberal democracies that he has made explicit in *Crisis of Parliamentary Democracy* (1923). Certainly, in his view, parliamentarism presents the possibility of achieving the will of the people through open discussion. But in the absence of publicness and discussion, parliament transforms into a regime of secrecy that elevates the scoundrel: "Parliament is in any case only 'true' as long as public discussion is taken seriously and implemented."⁵⁰ But, as Schmitt argues, today the reality of parliamentary and political-party life is far removed from such beliefs. Parliaments work with "increasingly smaller committees that make their decisions behind closed doors, conditioned by multiple negotiations of all kinds. Just the contrary of the old parliaments

⁴⁵*Ibid.*, 243.

⁴⁶Carl Schmitt, "Machtpositionen des modernen Staates" (1933), in *Verfassungsrechtliche Aufsätze* (Berlin: Duncker & Humblot, 1958), 368. See also Carl Schmitt, *On the Three Types of Juristic Thought* (Westport, CT: Praeger, 2004), 74.

⁴⁷Schmitt, "Machtpositionen des modernen Staates," 368.

⁴⁸Carl Schmitt, "Der bürgerliche Rechtsstaat," *Abendland* 3 (1928): 202. See also Schmitt, *Volksentscheid und Volksbegehren*, 33.

⁴⁹Schmitt, *Volksentscheid und Volksbegehren*, 50. The translation is my own.

⁵⁰Carl Schmitt, *Crisis of Parliamentary Democracy*, 4.

that were born in the struggle against the secret politics of absolute princes."⁵¹ Now "the popular sense of freedom and justice was outraged by arcane practices that decided the fate of nations in secret resolutions."⁵²

In contrast to frequent interpretation,⁵³ Schmitt does not, therefore, criticize parliamentarism as such, but rather its corruption based on confusion of this kind of regime, typical of medieval societies, with modern mass democracies, which have arranged the crowd as a homogeneous people which functions politically as a constituent power. Parliamentarism is of course the opposite of Bolshevism or fascism, notes Schmitt, which are defined by radical working-class politics, but it is also the opposite of mass democracy, which demands the unrepresentable people's homogeneity and, therefore, excludes both proportional representation and open discussion of governance issues. Thus, what Schmitt criticizes as extemporaneous is the adoption of parliamentary procedures in mass democracies. Indeed, he notes that the development of modern mass democracies has made public discussion an empty formality, thus also making genuine parliamentarism impossible. With his criticism, Schmitt simply warns that the modern liberal-democratic state is an empty formula in constant threat of being overturned by the force of absolute revolutionary power, implicit in the political structure of the modern state. This was the fate, for example, of Louis-Philippe's bourgeois monarchy, a constitutional parliamentarism, with his paradigmatic representative, François Guizot. In a footnote Schmitt quotes this passage from Guizot, the best representative of parliamentarism in his opinion, via Hugo Krabbe:

"A system that nowhere acknowledges the legitimacy of absolute power to oblige all citizens constantly and without restriction to seek truth, reason, and justice, which have to check actual power. It is this which constitutes the representative system: (1) through discussion the powers-that-be are obliged to seek truth in common; (2) through publicity the powers are brought to this search under the eyes of the citizenry; (3) through freedom of the press the citizens themselves are brought to look for truth and to tell this to the powers-that-be." In the phrase representative system, representative refers to the representation of the (rational) people in parliament.⁵⁴

⁵¹Ibid.

⁵²Ibid., 50.

⁵³See Armin Adam, *Rekonstruktion des Politischen*; Helmuth Becker, *Die Parlamentarismuskritik bei Carl Schmitt und Jürgen Habermas* (Berlin: Duncker & Humblot, 1994); Joseph W. Bendersky, *Carl Schmitt: Theorist for the Reich* (Princeton, NJ: Princeton University Press, 1983); Carlo Galli, *Genealogia della politica: Carl Schmitt e la crisi del pensiero politico moderno* (Bologna: Il Mulino, 1996); McCormick, *Carl Schmitt's Critique of Liberalism*; Günter Maschke, "Drei Motive im Anti-Liberalismus Carl Schmitts," in *Carl Schmitt und die Liberalismuskritik*, ed. K. Hanser and H. Lietzmann (Opladen: Springer, 1988), 55–79.

⁵⁴Schmitt, *Crisis of Parliamentary Democracy*, 97.

Schmitt fights against the secrecy characteristic of liberal politics and, mindful of the new modern state structure that inaugurated revolutionary democracy, designs his commitment to the people's direct participation in the constitution of the political sphere. Acclamations, however, by their nature, cannot be a continuous phenomenon. They are an important part of exceptional moments in politics, even if they can also occur in other circumstances. As Schmitt notes, "In times of peaceful order, these types of expression are rare and unnecessary. That no special will is perceivably expressed simply signifies the enduring consent to the existing constitution. In critical times, the no that directs itself against an existing constitution can be clear and decisive only as negation, while the positive will is not as secure."⁵⁵

Not surprisingly, Schmitt was interested in Max Weber's concept of charismatic legitimacy.⁵⁶ Analogous to the way the idea of charisma represents an extraordinary gift of grace for the ecclesiastical community in the language of St. Paul, Schmitt introduced the purely qualitative and nonquantifiable into the sphere of politics by highlighting the possible action of the assembled people in their ability to agree with or reject the political decisions of their representatives.

In the last years of his life, Schmitt's imagination veered toward the possibility of a direct democracy, without mediation of representatives, based on technological advances. Certainly in ancient democracies, the people had to be physically assembled; however, thanks to technical means, this condition has disappeared. "Representation in the old sense no longer exists. Neither as a political form, nor as a state form, nor as a parliament or similar, because modern technology seems to develop convincing means and methods, which technically allow a concrete, permanent, and transparent identity of social and political groups."⁵⁷

3. The People as Ethnic Homogeneity in the Total State

We cannot forget that, for Schmitt, as he recounts in the *Crisis of Parliamentary Democracy*, "Bolshevism and Fascism are, like all dictatorships, certainly

⁵⁵Schmitt, *Constitutional Theory*, 132.

⁵⁶This can be seen in the papers and notes found in Schmitt's archive. He refers over and over again to the notion of charisma and charismatic legitimacy; see, e.g., Nachlaß, NRW 265-K 16; NRW 265-K 173; NRW 265-K 180. The following brief entry from his 1972 diary is noteworthy: "Gesetz & Gnade/Nomos & Charisma" (law and grace/nomos and charisma) (NRW 265-K 131). In *Politische Theologie II*, he waxed ironically about Weber's notion of charismatic legitimacy as a Protestant derivation through Rudolf Sohm's interpretation of ecclesiastical charisma. Carl Schmitt, *Politische Theologie II: Legende von der Erledigung jeder Politischen Theologie* (Berlin: Duncker & Humblot, 1970), 42.

⁵⁷Carl Schmitt, "Von der TV-Demokratie: Die Aggressivität des Fortschritts," *Deutsches Allgemeines Sonntagsblatt*, June 28, 1970, 8. The translation is my own.

antiliberal but not necessarily antidemocratic.”⁵⁸ Indeed he continues: “In the history of democracy there have been numerous dictatorships, Caesarisms, and other more striking forms that have tried to create homogeneity and to shape the will of the people with methods uncommon in the liberal tradition of the past century.”⁵⁹ What we might nowadays call the populist condition of political modernity is expressed not only in revolutionary democracies, but also in totalitarian regimes such as the one National Socialist Germany experienced, albeit in different forms. In *State, Movement, People*, Schmitt describes the political system introduced in Germany in 1933 as a sovereign dictatorship different from the sovereign dictatorship that was at the origin of the establishment of democracy in France, which he referred to in *Dictatorship*. He also saw it as different from the dictatorship of the proletariat described in the last chapter of his 1927 text *The Crisis of Parliamentary Democracy*, in which the importance of the people’s direct expression is outweighed by the dialectical evolution of the extreme contradiction between the bourgeoisie and the proletariat that leads to a part of the people rising to totality, as revolutionary Jacobinism thought.⁶⁰ In that case, the Communist Party served as an instrument to channel that dialectic that operates in an almost necessary way. For Schmitt, communist revolution is also conceptually dependent on the popular principle generated by the French Revolution, as we have already pointed out.

If the true form of political ritual in sovereign democracies is acclamation and direct action, in the sovereign dictatorship that inaugurated the national-socialist regime as a plebiscitary regime, these kinds of acclamatory practices make sense in the context of what Schmitt calls the Movement. “When the leader’s deputy utters the following sentence: ‘All the powers come from the people,’ this is essentially different from what was meant by the liberal-democratic Weimar Constitution when it used the same words in its Article 1.”⁶¹

Indeed, the people change position when the organization of representation changes in the state. In *State, Movement, People*, Schmitt describes how the national-socialist theory rejects the bipartite construction of the democratic state and defends the tripartite unity of the authoritarian, national-socialist, fascist states in which a party is generated as an intermediary element that sustains both the state and the people: “The new state structure is marked by the fact that the political unity of the people, and thereby, all the regulations of its public life appear to be ordered into three distinct series. The

⁵⁸Schmitt, *Crisis of Parliamentary Democracy*, 16.

⁵⁹*Ibid.*

⁶⁰*Ibid.*, 51–64. An idea that, with influence from Gramsci, Ernesto Laclau’s populist theory exploits through the concept of hegemony. See Laclau and Mouffe, *Hegemony and Socialist Strategy*.

⁶¹Carl Schmitt, *State, Movement, People: The Triadic Structure of the Political Unity*, trans. Simona Draghici (Corvallis, OR: Plutarch, 2001), 7–8.

three series do not run parallel one to the other, but one of them, the Movement, which carries the State and the People, penetrates and leads the other two."⁶²

The three parts of the state have an organicist relationship; that is, each of the parts constitutes the whole thanks to its relationship with the others. Each, however, serves a particular aspect of the whole that is political unity: "the State must be regarded strictly as the politically static part; the Movement, as dynamic political element, and the people, as the apolitical side, growing under the protection and in the shade of the political decisions."⁶³ The people only have the capacity for self-administration of the professional, economic, and social orders, and for communal self-government based on local neighborhoods. Beyond that, the representation of the true people is carried out by the Movement. In effect, the Movement serves as a substitution for what in the parliamentary regime would be the parliament and its discussion, or in radical democracy, the assembly; that is the medium which makes a politically absent people present.

Schmitt appeals to Hegel's tripartite construction at various points, for example, when he interprets § 250 of the *Rechtsphilosophie*, where Hegel states that corporations mediate between civil society and the state. However, in Schmitt's opinion, after the decline of medieval society, with its orders, estates, and guilds, neither the neutral class of civil servants in the monarchical state, which Hegel foresaw, nor the pluralistic party system, with its parliamentary functioning, have fulfilled a task comparable to that of the old corporations that went beyond the selfishness of individual interests.⁶⁴ The national-socialist party's task became, in his view, finding how to form a true "generous" people in the absence of a strong structure of corporations; and he finds this truth in the "national substance."⁶⁵ The Führer's

⁶²Ibid., 11.

⁶³Ibid., 12.

⁶⁴Schmitt, *State, Movement, People*, 35. As Mika Ojakangas asserts, Schmitt sees the totalitarian state as a concept that corresponds to the West's concrete reality. The total state is the description of the twentieth-century European democratic state. See Mika Ojakangas, *A Philosophy of Concrete Life: Carl Schmitt and the Political Thought of Late Modernity* (Bern: Peter Lang, 2006), 117. And he quotes from Carl Schmitt, "Further Development of the Total State in Germany," in *Carl Schmitt: Four Articles 1931–1938*, ed. Simona Draghici (Washington, DC: Plutarch, 1999), 20: "One may dismiss the 'total state' with any kind of shouts of outrage and indignation and barbaric, servile, un-German or un-Christian, but the thing remains that one does not get rid of it in any way."

⁶⁵Schmitt, *State, Movement, People*, 36. Within that possibility, he admits the formation of "genuine ranks" in the martial court and in the party. Many differentiations could also be made in the field of communal autonomy. In any case, a top-down direction is conceived, a formal unitary thinking that completely shapes all spheres of public life.

idea of government is unprecedented because it is fundamentally based on “ethnic identity”:

Our concept is neither necessarily nor appropriately an intermediary image or a representative simile. Neither does it come from baroque allegories and representations nor from a Cartesian *idée générale*. It is a concept of the immediately present and of a real presence. For that reason and as a positive requirement, it also implies an absolute ethnic identity between leader and following. . . . Only ethnic identity can prevent the power of the leader from becoming tyrannical and arbitrary. It alone justifies the difference from any rule of an alien-transmitted will, however intelligent and advantageous it might be.⁶⁶

In a national-socialist government, the general will is replaced by the Movement, a kind of instantiation of this will; but, in the end, the Movement itself is replaced by a substantial identity encoded in ethnic homogeneity, thus becoming what we might today call a biopolitical identity. The leader’s will, as head of the body, becomes the central truth of that body. Or, with an analogy that Schmitt uses at the end of *State, Movement, People*, if for Montesquieu the judge is *la bouche qui prononce les paroles de la loi*, for national socialism, the Führer is the mouth that speaks the truth of his people. This kind of leader is what we call today a populist leader.

4. Authoritarian Populism and Schmitt: Conclusions

In Schmitt’s view, the specifically modern political form consists of making the people the constituent power. This political form comes with the idea of the people as an all-encompassing and unlimited power. Its concrete historical form was born in the French Revolution with the idea of constituent power, and has been transformed historically through the different modes of representation/nonrepresentation that it acquires.

The genealogy of constituent power that Schmitt develops in *Dictatorship* leads him to a belief in the impossibility of returning to political forms of the past, such as the noblest form of parliamentarism from the Middle Ages. In modernity, the people become part of the political as a homogeneous totality, either as a nation, a social class, or an ethnic identity. The re-edition of forms of parliamentarism of the old medieval order turns out to be only a simulacrum, a pluralist façade that is always ready to be subverted by majorities driven by demagoguery, as happened in the Weimar Republic, or by the politically interested alliance of minorities, as happens in many liberal democracies nowadays. Indeed, modern politics is distinguished by the presence of a people as a unit of action prior to and above all political representation, which holds all the power. The question becomes how this idea of the people can be made effective in concrete cases and across different political

⁶⁶Ibid., 48.

situations. Schmitt tries to outline possible ways of shaping the political in modern times, given its unique character. One way corresponds to a properly revolutionary, commissarial democratic regime, that is, a sovereign dictatorship, which he heavily criticizes; another corresponds to direct representative democracy, which is difficult to implement in large states. Lastly, he describes autocratic regimes, which attempt popular participation through mediation of the communist party or the Movement.

Thinking through this problem with Schmitt can be of interest to us today because it sheds light on the extent to which modern politics forever slides towards populism. Modern politics was itself born with the idea that the political sphere's defining operation is to define what the "real people" are, and then who speaks for them and how to do so. Direct mass democracies and populist autocracies, such as dictatorships and Caesarist regimes, reclaim the direct participation of the people in the form of acclamation. Through the immediate presence of the physically assembled people, the truth of the people is made clear to the representatives who, as rulers, no longer have to discuss their opinions, but rather must execute certain actions based on the trust that the people have reposed in them. In the case of a revolutionary people, the truth of that people is put into action and revealed through commissarial activity. The totalitarian national-socialist regimes of the twentieth century obtained the people's truth through the Movement that speaks through the mouth of the Führer. In the end Robespierre and Hitler do not have such different faces. Both could be described as populist leaders.

At this point, we can recall the questions we raised at the outset: Is Schmitt's theory of the people in fact a defense of a populist autocracy? Do the positions and the concepts developed in his work lead him to an authoritarian populist position? Or is Schmitt trying to show the impossibility of political modernity manifesting itself in anything other than a populist autocracy or democracy? The scholarly literature has generally answered the first two questions in the affirmative. However, analysis of Schmitt's work from the perspective of a theory of the people has led us to an affirmative answer to the third question.

This article has principally aimed to point out Schmitt's superb comparison between revolutionary democracy and totalitarian sovereign dictatorships, an insight that does not fail to astonish the contemporary reader. Schmitt strives to understand historical moments of rupture in which expression of the people's power became absolute, including the sovereign dictatorship of the French Revolution, the founding moment of modern constitutions, and, finally, the power structure of national socialism, based in an exception to the Weimar constitution. By reflecting on the people and their political formation as they enter into representation, Schmitt reveals that the political condition, which accompanies the idea of total representation of the "true people," necessarily has a populist totalitarian character, whether in democratic or autocratic form. Hence it was possible to convert democracy into autocracy, as Weimar Germany tragically experienced, as Schmitt himself analyzed in

his short text *Legality and Legitimacy* (1932). Conceptual analysis of the comparison between these different historical events leads to a better understanding of the lamented populist and authoritarian drift in contemporary democracies, be they of one political position or another, as Aviezer Tucker has pointed out.⁶⁷ And this is not just a maladjustment of democracy, but its modern historical condition following the French Revolution. Only the renunciation of the idea of the constituent power of the people could lead liberal democracies out of the populist crossroads: this phrase, never used by Schmitt, seems to be a consistent derivation of his ideas. While critics habitually blame Schmitt for being an authoritarian populist, he attributes that same authoritarian populism to the modern political condition itself, which he himself helps unveil.

⁶⁷ Aviezer Tucker, *Democracy against Liberalism: Its Rise and Fall* (Cambridge: Polity, 2020).