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RESEARCH ARTICLE

Technocrats in (the crises of) the state. Political change and state transformations in Italy

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ABSTRACT (max 150 words)

Technocracy is one of the main issues in contemporary social sciences scholarship. While many authors have written on, among others themes, the rise of technocracy, the concept and definition of technocracy, or the typologies of technocratic governments, the specific question of the relation between technocracy (and technocrats) and state transformations has been less explored. Through the study of the Italian case, we analyze the role of technocrats in three critical junctures (since the early 1980s to the present), and in light of the intertwined process of state transformation and neoliberalization. The paper thus provides for a long-term analysis of technocracy and the state, asking when, how, and in what conditions technocrats not only came to hold top-government positions, but also concurred to redefine intra-state institutional relations especially as regards the strengthening of executive power.

KEYWORDS: Technocracy; State Transformations; Italy; Expertise; Neoliberalism; Executive Power

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1. Introduction

The scientific literature concerned with the nature and the role of technocracy and technocrats is wide-ranging and has shed light on important – theoretical and empirical – aspects of this phenomenon. Academic works have analysed the consolidation of technocracy and expertise in contemporary society (Fischer 1990, 2009; Habermas 2015; Antonelli 2019), technocratic governments and the drivers of their formation (McDonnell & Valbruzzi 2014; Pastorella 2016; Wratil & Pastorella 2018), or the rule of technocrats in the European Union (Wallace & Smith 1995; Radaelli 1999; Scicluna & Auer 2019), this latter conceivable as the starkest case of a technocratic order (Giannone 2015). More recently, also hybrid forms of technocracy and populism, i.e. ‘technopopulism’, have been explored (Bickerton & Accetti 2021). Other works have called for a special attention to cases of ‘technocrats in the state’, shedding light on their role in specific critical junctures such as, in relation to the Italian case, the negotiations of the European Monetary Union during the early 1990s (Dyson & Featherstone 1996; see also Fabbrini & Donà 2003).

The aim of this study is reflecting upon the *agency* of technocrats in the state by (i) exploring the relation between technocracy and the transformations of the Italian state, while also (ii) paying particular attention to processes of neoliberal economic reform. In strict relation to these points, this work also aims to outline a more dynamic conceptualisation of technocrats as groups of individuals – a ‘collective intellectual’ (Cozzolino 2021) – that express ideas, interests and values (Lastrico 2015), and translate them into policy and political relations more broadly.

The analysis is carried on in a long-term perspective and zooms in on what we call ‘*technocracy-in-action*’ in three fundamental critical junctures of Italian history: (i) the early 1980s; (ii) the early 1990s; (iii) and 2011–12¹. These critical junctures are characterized by a deep economic and political crisis. Importantly, while in general terms ‘phases of emergency strengthen monocratic figures’ and can even change ‘the form of State’ (Musella 2021, 12 ss.), on the other hand they can also open a

¹ Also meaningful, albeit falling out of the analytical spectrum, is the recent establishment of a new technocratic government in Italy (the Draghi government, February 2021) in the wake of the Covid-19 pandemic. This testifies of the relevance of the ‘technocratic alternative’ in phases of emergency.

window of opportunity to modify the status quo and legitimate the establishment of technocratic governments by way of derogation from ordinary political party relations.

Compared to the existing literature, this study stands out for several elements. In the first place, we begin with a conceptualization of the state as a *terrain* of political agency and conflict; a terrain in which technocrats became one of the driving forces behind long-term processes of state transformations. In relation to this aim, another element of our study is the adoption of a long-term perspective. Through an in-depth analysis of specific critical junctures, the paper offers a diachronic study of technocratic agency, and shows how – and under what conditions – technocrats concurred to modify the balance of power within state institutions and legitimate processes of neoliberal economic reform.

In specific relation to state institutions, the paper also emphasises the *role of technocrats* in the strengthening of executive power in Italy. The Italian case has been aptly defined as a unique situation of transition from democracy to democracy (Musella 2019), namely from a political system dominated by the Parliament to one dominated by the executive, in which the Parliament came to retain a marginal policy-making role (Cozzolino 2021). In the light of this process, we argue that technocratic governments, especially in the first half of the 1990s, played a key role in transforming the state by fostering a process of presidentialization (Musella 2021).

The last element worth noting concerns the question of *constitutional change*. While the Italian Constitution recognises the centrality of the Parliament and its legislative and policy-making role (an institutional configuration actually ruling until the early 1990s), the gradual shift of decision-making power from the Parliament to the executive (i) altered the balance of power between state institutions as stipulated in the Constitution, (ii) and occurred without formal constitutional reforms (Calise 2005; Musella 2021). Crucially, if this element generally signals that such reconfiguration happened mainly via *practical* intra-institutional relations, this paper aims to shed light on the role of technocracy in this dynamic.

The article is organized as follows. The following section deals with the conceptualisation of the state and of state transformations. Subsequently, we offer a brief analytical framework of technocracy and technocratic governments. The section number four analyses ‘technocracy-in-action’: we focus on the three historical windows in which technocrats concurred to redefine intra-state relations and policy: (i) the early 1980s; (ii) the early 1990s; (iii) 2011–12. In section number five we provide for a broader reflection about the overall conditions that led technocrats to have such a relevant position within the neoliberal hegemony in Italy. The conclusions, eventually, discuss some limitations of this study and put forth a possible new research agenda revolving around a more dynamic understanding of technocratic agency.

2. Opening up the state, framing state transformations

A theoretical reflection about ‘technocracy-in-action’, and the contribution of technocrats to processes of institutional change, necessarily needs to begin with a more compelling understanding of the state and of state transformations. A dynamic conceptualisation of the state allows both ‘to grapple with the decisive problem of *internal contradictions within the State*’ (Poulantzas 1978, 131) and understanding technocracy as a special force *in* the state.

Theorising the state implies, analytically, to try to uncover the different layers and phenomena encompassed by the very concept of state (Barrow 1993, 10), and to identify the sources of state transformation. This step is particularly relevant for several reasons. The first of these is to avoid the trap of reification, namely looking at the state as a static ‘thing’, something that possesses its own ‘will’ (for a critique of such assumptions see Mitchell 1991). In other words, it is regarded as an autonomous and homogenous *unit* in society, capable to trigger coherent processes of change from above, while being also deprived of internal contradictions and conflicts – in their turn reflecting broader contradictions and conflicts occurring in society as a whole (for a discussion see Cozzolino 2021, chapter 2).

This kind of assumption bears a twofold analytical problem: on the one hand, it neglects the societal sources of state power; on the other, it renders increasingly difficult to understand the state as a dynamic terrain of political agency. In what follows, given our attention to technocracy as a force of change in the state, we concentrate especially on this second *problematique*.

A fundamental analytical step to understand the state and state transformations is to open up the ‘state box’ and conceptualize it as a terrain of political struggles and interactions among competing groups, with their own hegemonic projects and programmes. On the other hand, the state is a dynamic field that changes over time: not only in light of broader processes of change that occur in society (globalization, mediatization of politics, introduction of new technologies and so on) and that are *refracted* in and through state powers, but also thanks to political agency *in* the state. In other words, organized groups operating within state institutions may favour the redefinition of intra-state institutional relations and state reforms that can alter formal constitutional powers and relations – even without legal changes to the constitution. The strengthening of executive powers and so-called independent agencies (Cozzolino 2019) vis-à-vis representative institutions like the Parliament is a case in point (Musella 2019, 2021). And yet, a still open question is understanding what role technocrats played in this process.

As we argue below, technocracy does matter in processes of state transformations and policy change. But, before entering into a detailed analysis of such dynamics, here we put forth a conceptualisation of technocracy as a highly peculiar force in the state, usually operating within institutions such as central Banks (as the Bank of Italy, in our case), ministries of economy and finance, and independent agencies. This force, by drawing strength and legitimation by expertise and “technical” knowledge, can be able to influence the policy process and, to a relevant extent, inter-institutional relations. In specific relation to the Italian case, we show that – especially since the 1980s – technocrats were key both to the neoliberal restructuring of the country and to state transformations. In the next section, we introduce the concept of technocracy and put forth a more dynamic conception of techno-

cratic groups as force of change in the state, also paying attention to the relation between technocracy and neoliberalism.

3. Technocracy and technocratic governments in the neoliberal age

In general terms, technocracy is ‘the exercise of power based on expertise’ (Meynaud 1965, 28), namely specialized skills and knowledge that allow experts and technocrats to advocate efficient and ‘right’ solutions to resolve societal problems. As Sarfatti Larson (1972-73, 5) pointed out, ‘the experts’ role becomes technocratic only when it is inserted at high levels of responsibility in a public or private apparatus of power’. In this line of reasoning, Meynaud noted that ‘when he [*sic*] becomes a technocrat, the expert becomes political’ (1964, 262, quoted in McDonnell & Valbruzzi 2014, 657). These last points are useful to differentiate between ‘technicians, those who through training and expertise are given the management of a part of the administrative apparatus, *under the direction of other elites*, and technocrats, who do enjoy autonomy within their areas of expertise and may influence non-technical decisions’ (Centeno 1993, 310). In an ideal typical definition, technocrats are a ‘state elite [...] that seek[s] to impose a single, exclusive policy paradigm based on the application of instrumentally rational techniques’ (Id., 314).

The latter point highlights the existence of an implicit tension between democracy and technocracy, which emerges especially in times of crisis of democracy (Antonelli 2019). Various authors investigated the reasons for the crisis of liberal democracy, dating back it at least to the 1970s (Crozier et al. 1975). For instance, according to Norris and Inglehart (2019), the silent revolution in values brought about by the advent of post-industrial society and the rise of neoliberalism triggered a backlash which fueled support for authoritarian-populist parties, thus endangering liberal democracy. On the other hand, the belief in people’s aspirations for a strong democracy has been also greatly diminished: some studies have indeed shown that the main objective of citizens is a non-conflictual democracy (Hibbing and Theiss-Morse 2002). In this respect, the intrinsic strength of technocracy, and the source of its legitimation, lies in its (apparent) objective, technical and neutral knowledge,

which may lead to a non-conflictual decision-making, alternative to the authoritarian-populist one. And yet, more realistically, ‘professionals have all too often served the ideological function of legitimating decisions made elsewhere by political rather than scientific means’ (Fischer 2009, 4).

Before exploring the specific kind of hegemony exerted by technocrats, it is preliminary worth offering a conceptual clarification of the question of technocratic governments, relevant especially in relation to Italy. As a matter of fact, with four technocratic governments since the early 1990s to the present coronavirus crisis, the Italian case is one of the starkest examples of technocratic agency in the state.

Albeit generally representing only a small component of post-World War II overall governments in Europe, technocratic governments constitute a highly relevant case of experts in core executive positions. Following the definition and classification of McDonnell and Valbruzzi (2014, 656), a technocratic government is such when (I) major governmental decisions are not made by elected party officials; (II) policy is not decided within parties which then act cohesively to enact it; (III) the highest officials (ministers, prime ministers) are not recruited through party. At the same time, technocratic governments can be distinguished between *full* technocratic governments when these are composed only by technocratic (i.e. non-party) figures, and *technocratic-led* governments when (1) the prime minister is a technocrat²; (2) the majority of ministers are technocrats; (3) they have a mandate to change the status quo (McDonnell & Valbruzzi 2014, 662–64).

Another important question is also to understand the conditions that favour the formation of technocratic (or technocratic-led) governments. Adopting a comparative perspective, Wratil and Pastorella (2018) found that the formation of such governments mainly occurs in moments of crisis, which can be mainly linked either to political scandals, which erode the legitimation of existing parties, or to economic recessions, when harsh economic policies are enacted to (supposedly) re-

² In turn, a Prime Minister is a technocrat when he/she has never held public office under the banner of a political party; is not a formal member of any party; is publicly recognised to possess non-party political expertise which is directly relevant to the role occupied in government (2014, 657–58).

cover the economy. Finally, in the formation of technocratic executives, political parties seem to retain a central role in: agreeing to form a technocratic government may be interpreted as a “survival strategy’ used by potential formateur parties to shirk electoral responsibility and re-establish their credibility and that of their policies’ (Wrátil & Pastorella 2018, 451).

Taxonomies usefully provide for additional conceptual rigour to understand technocracy, yet they also bear the risk to limit the relevance of technocracy as a form of autonomous political agency and ideology in contemporary democracies. While a full-blown theoretical discussion of technocracy falls out of the scope of this study (on this see Lastrico 2015), here it is important to remark the type of hegemony exerted by technocrats, and its relation to processes of neoliberalization. With Meynaud (1965), we contend that technocracy is not a form of negation of politics: neutral and ‘objective’ solutions to societal issues cannot exist without connection to partisan values, ideas, and interests. Thus, technocracy is, first of all, a form of depoliticised political discourse based on the ‘competence’ and ‘skills’ of experts, which veils the partisan nature of policy choices. On the other hand, we also maintain that technocrats are groups of individuals that not only express ideas and worldviews and even political projects, but also that, from within state institutions, exercise a degree of political agency. It is here that our analysis intervenes: by exploring three critical junctures, we argue that technocrats (and technocratic governments) are not only a card put on the table by presidents or parties during a scandal or a recession, but a ‘collective intellectual’ (in the state) expressing forms of political and policy agency.

Crucially, the political strategy (and legitimation) rooted into technocratic logic is variously tied, theoretically, to neoliberalism, and, historically, to processes of neoliberalization and state transformations.

Concerning the first point, as Will Davies pointed out (2014, 18), neoliberalism can be conceived as ‘an attempt to replace political judgement with economic evaluation’. This involves the replacement of the pursuit of ‘justice’ with ‘the calculated maximization of efficiency [...] as the test of legitimate action’ (Id., 148). Effi-

ciency is best implemented through depoliticized forms of public policy and de-democratized forms of decision-making (Burnham 1999; Moini 2015). In this view, technocracy represents one of the three possible modes of depoliticized neoliberal governance,³ through which an attempt is made to limit the room for manoeuvre of democratic politics in favour of a technocratic management which is (more) able to present ‘the normativity of economic evaluation [...] as a quasi-constitutional template for the state’ (Davies 2014, 148).

Concerning the second point, rather being ‘value-neutral’, technocrats’ policy choices are straightforwardly neoliberal-oriented, directed to strengthen the scope of markets in several domains (monetary and fiscal policy, labour market and wages) while reducing public expenditures (e.g. McDonnell & Valbruzzi 2014, 663). In more institutional terms, we show that technocrats in the state promoted processes of centralization and insulation of decision-making, mostly by strengthening the core executive (Cozzolino 2021, chapter 4). Therefore, neoliberalization and *executivization* are two intertwined processes, and both put in serious question the shape of representative democracy. But also, importantly, technocrats provided for additional legitimation to unpopular reforms especially during phases of economic crisis and emergency. For all these reasons, we see technocrats not only as an option in difficult times, but as a group that, in specific conditions, dynamically and in various forms takes part into the political process.

³ Depoliticization can be conceived as a highly political governing strategy, which aims to camouflage the political nature of decision-making, through three different (but not alternative) forms: A) the governance by expertise, consisting of the reassignment of government tasks to ‘non-political’ bodies, such as the European Central Bank, or the placement of technocrats in government; B) the governance by numbers, that is the adoption of measures ostensibly to increase the accountability, transparency and external validation of public policies (Supiot 2011; Desrosieres 2015; Rottenburg et al. 2015); C) the governance by law, based on the acceptance of external binding ‘rules’ which limit government room for manoeuvre (Burnham 1999; for a detailed discussion see Giannone 2019, chapter 2).

4. Technocracy-in-action: the role of technocrats in critical historical junctures

Several elements make the Italian political and institutional system a privileged perspective to understand technocracy in more dynamic terms. First of all, technocrats have played a fundamental role in domestic policy-making since the collapse of Fascism and the establishment of the Republic, as the key figure of Luigi Einaudi (governor of the post-war Bank of Italy and later on President of the Republic) testifies (Masini 2019). Importantly, technocrats provided discursive resources that, in various critical moments of recent history, legitimated processes of change, often supplying to the party system and even to liberal political culture (Amyot 2004). The most interesting factor is the transition of leading technocratic figures through different roles in state's apparatuses, from technocratic ones (mostly the Bank of Italy) to the government.

In what follows, through a narrative analysis we explore three critical junctures that brought to the fore the role of technocrats in the state, thus retracing the key stages of such process since the 1980s. Following Capoccia and Keleman, we conceive critical junctures as 'relatively short periods of time during which there is a substantially heightened probability that agents' choices will affect the outcome of interest' (2007, 348)⁴. Such periods open 'macro-windows of opportunity' (Keeler 1993) for powerful political actors to change the status quo, and trigger new path-dependent processes and new institutional equilibria. In the case of this study, while we conceive the early 1990s as *the* critical juncture that favoured both the reconfiguration of the state and a massive neoliberal policy programme (Giannone & Cozzolino 2021), we re-trace the role of technocrats in the early 1980s to show the historical consolidation and role of this force in the state. Thus, we zoom in on three main critical junctures:

⁴ More specifically, 'critical junctures are characterized by a situation in which the structural (that is, economic, cultural, ideological, organizational) influences on political action are significantly relaxed for a relatively short period, with two main consequences: the range of plausible choices open to powerful political actors expands substantially and the consequences of their decisions for the outcome of interest are potentially much more momentous' (Capoccia & Keleman 2007, 343).

1. The late 1970s and early 1980s, which were marked by high inflation rates and, above all, a heightened cycle of political and social conflicts (Aldo Moro, the President of Christian Democracy, was kidnapped and killed by the Red Brigades in 1978). Technocrats *entered* into the political conflict through changing the monetary policy of Italy.

2. The early 1990s, with the crisis of the Lira and the democratic and economic crisis of the First Republic⁵, is the main critical juncture and is marked by both a political scandal and an economic crisis.

3. The years 2011-12, with the crisis of the sovereign debt – following the global financial crisis of 2008 – and the harsh neoliberal and austerity policy introduced thereafter, even through a modification of the constitution.

The next section is divided in three parts, each dedicated to a crisis in the state.

4.1. Manoeuvring in the state: technocrats in Italy in the 1980s

The 1980s can be conceived as a critical decade for the intertwined dynamic of state transformation and early processes of neoliberalization. In this phase several policy-makers, state representatives, and technocrats laid the foundations for the major changes occurred in the early 1990s, when technocrats achieved top-government positions and led the process of neoliberal restructuring. This moment is therefore fundamental to comprehend the epistemic, institutional and policy rupture that consolidated in the following decades. Here we argue that technocrats in the state exerted an autonomous political initiative aimed at depoliticising monetary policy by fostering the independence of the Bank of Italy (BoI).

Therefore, to understand this key historical moment is necessary to look at some critical policy choices of two institutions: the Bank of Italy and, to a lesser extent, the Treasury.⁶ In the early 1980s, both of these promoted a fundamental re-

⁵ This is linked to the investigation ‘Mani Pulite’ (Clean Hands) and the slaughters of the Mafia.

⁶ Let us note that while the state is globally a terrain of political agency, such terrain is *uneven*. This is to say that some branches in the state are directly exposed to popular-societal pressures, interests and conflicts, while others are more secluded from direct influence. If the Parliament and, to a lesser ex-

form of the monetary policy of the country, coupled with a process of centralization of policy-making concerning state budget and fiscal policy. But before shedding light on such changes, it is worth reflecting first of all on the Italian ‘technocratic collective intellectual’, especially in relation to the BoI.

Historically the BoI owned a ‘near monopoly of specialized economic knowledge’ for ‘it has been by far the most important think tank and research centre in the economic field in Italy’ (Quaglia 2005, 549). Such specialized knowledge was clearly influenced by neoclassical economics and monetarism, on the rise since the late 1970s and everywhere tied to central banks⁷ and neoliberal counterrevolution. On the other hand, several elements put the BoI at the forefront of neoliberal reform: the quasi monopoly of expertise, the reputation of the Bank, and crucially, the fact that ‘foreign authorities and international organizations often regarded this institution as their best or only resource in Italy for economic data and analysis of economic policy’ (ibid., 550). This last factor – the international dimension – is particularly relevant. Top-officials in the BoI were all trained (especially at PhD level) in leading international universities of the U.S. and UK, therefore ‘importing’ in Italy the latest advances in neoclassical/neoliberal political economy, showing also the transnational nature of neoliberalism on the other (ibid.).

In policy terms, the BoI, alongside with the Treasury, enacted – in 1981 – one of the most important reforms of monetary policy ever occurred in Italy. Such reform, the so-called ‘divorce’, was neither debated in the Parliament nor passed by a law. It happened overnight through a mere exchange of letters between the head of the BoI of the time, Carlo Azeglio Ciampi (later on Prime Minister in the first technocratic government of Italy), and the Minister of Treasury Beniamino Andreatta. In short, before 1981 the Bank purchased all the Treasury bonds that were not subscribed by private investors (through monetary base creation), while after that reform the BoI became *de facto* independent from the Treasury, and accordingly

tent, the government are examples of institutions more exposed to grassroots pressures, central banks are the paradigm of institutions way more insulated from democratic political forces – even in cases as the Italian, when the Bank was constitutionally bound to Treasury decisions.

⁷ The case of the U.S. Federal Reserve under the direction of Paul Volcker is a case in point (see Harvey 2005, 23).

from political authorities. After the ‘neo-liberal divorce’ – according to Gualmini and Schmidt (2014, 352) – the BoI ‘ceased to be the buyer of last resort of unsold government bonds and direct controls on credit and administrative obligations were dismantled in favour of a more market-oriented regulation’.

The new autonomy of the Bank produced enormous change in the monetary constitution of Italy (Graziani 1998; Cozzolino 2021, chapter 4). Generally, it favoured a non-accommodating policy towards wage-earners through curbing inflation regardless to unemployment level and recessive turns; set the stage for the fiscal policy of permanent balanced budget (permanent austerity), thereafter *the* imperative of Italian macroeconomic policy especially from the 1990s (Cozzolino 2020); finally, it allowed for the systematic resort to global financial credit markets to finance government expenditures. This last element, linked to the rise of real interest rates in the 1980s, produced a general increase in the level of government debt, while also improved the overall influence of international creditors on Italy’s macroeconomic policy.

This reform was the pivot of several other important changes occurring in the state, which ‘prepared’ the imposition of neoliberal policy and permanent fiscal retrenchment. Here it is important to stress especially the centralization of budget procedures, which slipped away from the Parliament to fall into the aegis of the executive-Treasury complex (Ferrera & Gualmini 2004, 61). Through the new autonomy of the BoI, the growing centralization of fiscal policy and budget, and the marginalization of Parliament’s policy-making role, the 1980s saw a series of fundamental while incremental movements of state transformations, setting the stage for the early 1990s broader transition.

4.2. Technocrats in government and neoliberal reforms in the 1990s

If the 1980s were a phase of incremental changes, the role of technocrats was indeed crucial in the early 1990s, which can be conceived as the critical juncture for realization of the premises laid down in the previous decade.

The overall context of deep emergency characterising Italy in the early 1990s opened a macro-window of opportunity for technocrats to achieve top-government positions. The crisis was twofold: a political scandal and an economic recession. In greater detail, in 1992 Italy was hit by an intertwined set of international and domestic crises, this also in the background of the key negotiations of the European Monetary Union (EMU) since 1990, which further empowered technocrats in the state (Dyson & Featherstone 1996).

Starting with the international dimension, since the 1980s the Italian economy was increasingly dependent on foreign creditors, and public debt started to rise especially due to growing interest rates (Graziani 1998). In this situation, a speculative financial attack pushed Italy to abandon the European Monetary System in 1992, causing at the same time a further rise in the public debt (skyrocketing to 121 percent on GDP in 1994, it was 56 percent in 1980) and the devaluation of the Lira. Such context of enduring emergency pushed political authorities to assure international creditors about the *credibility* of the Italian economic programme, especially via technocratic governments and the commitment to fiscal austerity and neoliberalizing measures.

In specific relation to domestic politics, the early 1990s witnessed to an abrupt and unique breakdown in the national political system. The triggering element of the political crisis was the scandal known as *Tangentopoli* ('Bribesville'), a network of corruption practices involving two of the main parties of the time, the Christian Democracy and the Italian Socialist Party, which were substantially downsized thereafter. Alongside the demise of the Italian Communist Party (the other larger party of that period) after the fall of the Berlin Wall (1989) and of the Soviet Union (1991), in the space of a few months the party system changed radically, with the old Republican parties wiped out and new parties entering the scene, especially Berlusconi's Forza Italia, the Northern League, and the post-Communist Democratic Party of the Left. Also, the structure of the political system changed, with the transition from a proportional electoral system to a mostly majoritarian one, thus favouring the formation of grand coalitions in the name of (since then never reached) po-

litical stability. Importantly, all these changes marked the transition from the First to the Second Italian Republic.

In the political vacuum left by *Tangentopoli*, and in the background of both the international financial emergency and the advanced phase of European integration (with the negotiations and then the signature of the Maastricht Treaty in 1992), technocrats found a window of opportunity, within the government, to introduce fundamental neoliberal reforms in a very short amount of time. In 1992, Giuliano Amato (a former Law professor) led an *ad interim* government that soon after was substituted, in 1993, by a technocratic government led by the former governor of the Bank of Italy, Carlo Azeglio Ciampi. After a short-lived centre-right executive led by Silvio Berlusconi, the second technocratic government of this period was established in 1995, and was led by another former top-member of the BoI, Lamberto Dini. Here we aim to stress in particular two elements: the first is the resort by these governments to decree laws and extraordinary legal measures, the second concerns their policy choices.

In relation to the question of decree laws, this is a crucial element to understand the progressive empowerment of executive powers (a key factor in the transformation of the state), and how early-1990s governments were fundamental actors in such process. As showed elsewhere (Cozzolino 2019, 2021), the decrees enacted by the executive skyrocketed between 1992 and 1996, altering the balance of power between state institutions especially at the expenses of parliamentary autonomous policy role. The number of decrees enacted in this period is unparalleled in the entire history of the Republic (for a general overview see Cozzolino, 2021 chapter 6). Crucially, while the Italian Constitution clearly stipulates that decree laws (also labelled ‘emergency legislation’) must be enacted only in extraordinary cases of necessity and urgency (art. 77), from these years onwards such emergency legal tools started to be used systematically, thus circumventing the Constitution and becoming *de facto* ordinary instruments to implement policy. Ordinary law, namely the law originating in the Parliament, begun to decline thereafter and today accounts only for a marginal source of policy-making.

The transformation of the state through the empowerment of the executive – vis-à-vis an ever-increasing marginal role of the Parliament – is the counterpart of the processes of neoliberalization. In short, in the space of a few years technocratic governments enacted – through decree – a series of neoliberalizing measures concerning privatization, pension system, labour market, industrial relations, and budget consolidation (McDonnell & Valbruzzi 2014; Cozzolino 2021, 72–73; Fazi 2021). For instance, in 1993 the Ciampi government passed a key reform in labour market concerning the modification of the collective bargaining system in order to pursue income and anti-inflationary policy. Also important is the reform of the electoral system, which changed from a proportional to a mainly majoritarian one to favour the introduction of a bi-polar political regime (legitimated by its improved stability, despite the reduction in the spectrum of political representation). But the 1990s were also a moment of intense austerity therapy: cuts in state budget were the leitmotif of this period, when governments of all political orientations passed several fiscal adjustment measures aimed to achieve surplus in state budget while also decreasing public debt and interest rates. The same discourse applies to Dini government, which continued on the pathway of economic restructuring especially in relations to pension and wage deflation, along with the policy of permanent fiscal consolidation (Table 1).

Table 1 - Technocratic governments and economic policy

Governments	Economic Policy
Ciampi government (1993–1994)	Reform of the collective bargaining system; public administration reforms; wage controls; adoption of a legal framework for supplementary pensions; electoral system reform
Dini government (1995–1996)	Introduction of a flexible retirement age; shift to a contribution-related formula for pensions; indexation of pensions to real wage growth; deficit cuts

Source: McDonnell and Valbruzzi (2014, 663).

The 1990s can be conceived as the phase of consolidation of neoliberal and austerity therapy and discourse, within a process of deep reconfiguration of the state. Such schema, as we argue in next paragraph, is reproduced also in the background of another financial crisis, that of 2011.

4.3. Back to the future: state of emergency and technocrats in 2011

The resort to technocratic governments was not just limited to the early 1990s. Actually, the critical juncture of the early 1990s, thanks to the agency of technocrats in the state, triggered a path-dependent process characterised by (i) the centralization of decision-making power, (ii) permanent austerity and neoliberalization (Cozzolino 2020). Above all, it created a historical precedent whereby the option of a technocratic government, under specific conditions, is always a possibility – as also testified by the actual technocratic government led by Mario Draghi (2021). The case of the formation of the technocratic government led by Mario Monti (2011–13) deserves particular attention for the conditions in which it occurred, and the consequences in institutional and policy terms.

The Great Crisis of 2008 hit hard Western economies, leaving long-lasting scars especially to those countries characterised by high public debt and slow

growth rates. Actually, among the consequences of the global financial crisis, the growth of public debts and budget deficits (mostly due to automatic stabilizers and discretionary financial intervention aimed to sustain the economic activity) were the most visible effects alongside economic recession. This situation soon led, only two years after (2010), to the crisis of sovereign debts. Portugal, Ireland, Spain, Greece and Italy were all hit by a crisis of international trust by credit markets about the sustainability of their public debts, in the background of the rapid worsening of their economic performance. Italy was at the forefront of this situation being one of the largest economies in the Eurozone and given the entity of its public debt. The immediate effect of this crisis was the growth of interest rates, in turn leading (as seen in the early 1990s) to a further rise in public debt.

The birth of the technocratic government led by Mario Monti needs to be understood in this context of financial emergency and increasing pressures exerted by both international financial markets and European institutions (Sacchi 2015; Moschella 2017), coupled with a shared distrust in the right-wing government of the time led by Silvio Berlusconi. It is also worth mentioning that in August 2011 the president of the European Central Bank Jean-Claude Trichet, together with his anointed successor Mario Draghi, sent a secret letter to the Berlusconi government. The letter urged Italian government to take immediate action and implement a programme of structural (i.e. neoliberal) reforms and austerity measures to reassure international creditors about the ‘virtuous’ pathway of recovery undertaken by Italy⁸. Interestingly, the letter pushed Italian authorities to enact such measure *by decree*, thus explicitly suggesting circumventing parliamentary scrutiny and discussion. Second, and even more importantly, the letter recommended *reforming the constitution* in order to make more stringent budgetary rule – an explicit commitment to permanent austerity.

⁸ The policy program envisaged by the letter comprised liberalization of public services and privatizations; a widespread strategy of fiscal consolidation through direct cuts in budget expenditures, pension reform, a new mechanism aimed at reduce *automatically* state expenditures when the deficit level exceeds the prearranged level; reform of the collective bargaining system from central to firm level, in order to adjust salaries and working conditions to the ‘specific necessity of enterprises’; reform labor law to facilitate dismissals (for a broader discussion see Giannone 2015, 112–116; Cozzolino 2021, 137–38).

Just a few months after this letter was sent, the change in the government occurred. In short, a series of pressures coming from financial markets and European institutions led the President of the Italian Republic of the time, Giorgio Napolitano, to push Silvio Berlusconi to resign. Napolitano masterminded the operation of the change in the government through appointing Mario Monti – former Dean of the private university Bocconi, former EU commissioner, and prominent neoclassical economist since the 1980s – first as ‘senator for life’, and then as Prime Minister in November 2011, holding also the position of Minister of Economy and Finance. Crucially, Monti executive ‘quickly adopted the ECB letter - and the structural reforms it prescribed - as its roadmap’ (Sacchi 2015, 85).

As for the technocratic governments of the 1990s, also in this case we pay attention both to the political-institutional dimension and policy measures. Starting with the first dimension, it is worth preliminary noting that the very creation of the Monti government amounted to an important twist of formal constitutional procedures. Actually, this government was ‘born neither with the official declaration of the government crisis and the early end [of the legislature], nor with the calling for regular elections to attain the formation of new government’ (Calvano 2014, 7). Another important aspect of the establishment of this technocratic government was the unprecedented political involvement of the President of the Republic – which, as already noted, masterminded the entire operation leading to the formation of the Monti executive.

Following the pattern established with the governments of the early 1990s, also the Monti executive soon resorted (and brought to the next level) to several extraordinary legal measures (Criscitiello 2021). Besides the unprecedented resort to decree laws, Monti government activated another instrument to put under strain the Parliament, that is, the so-called confidence question⁹ (see Cozzolino 2019, 345–47

⁹ The confidence question, introduced in 1988 (Law No. 400) to strengthen executive power vis-à-vis the Parliament, can be brought by the cabinet to the Parliament with respect to key bills, so as to reduce the risk of a parliamentary rejection. In this case, the executive advises its parliamentary majority to call for new elections in case of a negative vote on the bill covered by the confidence question. At the same time, this legal mechanism serves to fast-track the approval of the specific bill, re-

for a more detailed overview). The effect of the joint and systematic use of decree laws and confidence question was a further important reduction of the role and autonomy of the Parliament as regards policy-making and amending power. Yet, despite the escalation in the activation of such extraordinary and exceptional powers, maybe the key measure passed by the Monti executive is the reform of the Constitution. Voted in 2012 by a large coalition (spanning both the centre-left and right) of parties, this reform introduced in the Constitution the principle of the balanced budget and of the ‘sustainability’ of government debt (art. 81), and was legitimated as the domestic application of the European Fiscal Compact. This reform, in contrast with key principles of the Italian Constitution – which stipulates, among other things, the primacy of labour (art. 1), the right to work (art. 4 and 35), the right to a fair remuneration (art. 36), a socially oriented economy (art. 41) –, imposed, even on symbolic terms, the neoliberal principle of the permanent fiscal restraint. In relation to the specific policy measures, this government followed a pathway of harsher neoliberalization processes: reform of labour market and pension, cuts in budget expenditures, automatic fiscal adjustment through increases in the VAT tax, the already mentioned reform of the Constitution, and so on.

The experience of the technocratic executive born in 2011 is significant in several respects: the continuities in the international political economy dimension (i.e., crises and tensions on credit markets); the resort to exceptional measures to compress the role of political forces in the Parliament and silence political dissent (also outside of the Parliament); the acceleration on the pathway of neoliberalization. However, this executive was also characterised by a strong decisionist approach, a blatant distrust for unions and policy negotiations among social parties, and a direct monitoring and surveillance of EU institutions. The next paragraph discusses the role and consequences of technocracy in Italy from the perspective of state transformations.

ducing the time allocated for discussion and thus for the amending power of parliamentary forces to potentially be exercised (Cozzolino 2019, 346).

5. Technocracy as a force in the state. Insights from the Italian case

The article has sought to provide for an overview, by looking at three critical junctures, of the role of technocrats in fostering processes of reconfiguration of state powers and policies in Italy. We started our examination by remarking that the state is not a closed, static and homogenous unity/thing, but a stratified field of political conflicts and interactions (which in their turn occur within a broader societal structure crossed by many other socio-political conflicts) carried-on by different political forces *in* the state. Also, we argued that *within* the state as a terrain of political action, technocracy is part and parcel of political and policy processes – a factor which can also lead, and actually led, to the reconfiguration of intra-state institutional relations. Now, it is possible to say something more as regards what we called ‘technocracy-in-action’ and the reconfiguration of the state.

First of all, we understand technocracy as a force in the state with its own purposes and autonomy of action. On the other hand, we already argued that the construction of market economy is possible thanks to the mobilization of state executive powers. This argument implies two main consequences. First, the state and market economy enjoy an internal relation; accordingly, neoliberalism, as the dominant economic theory of the last phase of capitalism, is also a ‘state form’ as it constitutes a project to construct, adjust and reconfigure a specific ‘state formation’ (Giannone 2019), and in which state actors (as the technocrats) are critical factors in the construction both of market economy and state policies (Cahill 2014). In this regard, for instance, we are at odds with those views of an abrupt change in the state between the 1980s and 1990s, whereby ‘although in the 1980s some neo-liberal policy ideas were indeed adopted [...] were mostly focused on using the state to reform the rules for business and labour [...]. It was not until the 1990s that the state came to be viewed as the problem, not the solution’ (Gualmini & Schmidt 2014, 325). Actually, if we look at the state as a terrain of political action, between the two periods there are important *continuities* in the mobilization of state powers to reform social relations, regardless to how the state is conceived and its reform legitimated politically. Elsewhere, drawing on Gramsci’s lexicon, we conceptualised the 1980s

as a phase of war of position, slow and incremental (an accumulation of political awareness and force), while the 1990s as a case of war of movement, fast and capable in a few months – and in the wake of a series of intertwined emergencies and crises – to improve significantly the reconfiguration of the state and, through augmented executive powers, introduce neoliberal reforms (Cozzolino 2021, 70).

The other fundamental point to be raised in relation to technocracy and the reconfiguration of the state concerns constitutional change. Even only briefly for reasons of space, we showed that technocratic governments can be characterised, compared to ‘political governments’, for a style of steering based on a more intense resort to emergency legal mechanisms and, accordingly, a minor inclination towards policy negotiation. While, on the one hand, this can be easily explained by the fact that technocrats, unlike politicians, are not linked to elections and electoral constituencies for the sake of their own reproduction as a professional class, on the other hand this has important practical consequences on the overall *constitutional relations between state powers*. As already noted, the empowerment of executive powers (especially in early 1990s) concurred (alongside with other very important factors as the discredit of political parties) to modify the balance of power among state institutions in favour of the government and at the expenses of the Parliament – the opposite direction of how prescribed by the Italian Constitution and the primacy assigned to legislative power. Thus, despite the absence of a constitutional reform that explicitly recognised a new – *presidential* – institutional asset of the Italian state, such ‘great transformation’ can be conceived as a *de facto* constitutional change in which technocrats played a fundamental role, also for the legitimation of this change. In fact, in relation to this last factor it is important to stress that the overall position of technocracy in Italy is favoured by the delegitimation of the political class, especially from the early 1990s, when this latter came to be associated to endemic corruption and self-interest (in the background of a parallel disempowerment of political ideologies). This factor allowed technocrats – viewed as pragmatic individuals capable to manage difficult situations thanks to their expertise and knowledge, and willing to modernise the state – to increase their legitimation vis-à-vis professional

politicians. In turn, to improve the legitimation of *neoliberal modernization* as a means to rescue the country from longstanding bureaucratic inertia and other problems linked to an inefficient political class. Therefore, especially in highly critical junctures – with a strong international dimension linked to credit markets, the process of European integration and the role of European institutions –, the technocratic card was put on the table both to legitimate deeply unpopular measures and to drive further processes of neoliberal restructuring of the state. In this view, technocracy can be conceived ‘not so much [as] the attempt to provide a resolution of the economic crisis, as the attempt to resolve the political crisis of the state by trying to disengage the state politically from the economy so as to de-politicise economic policy formation’ (Clarke 1990, 27).

The question of European integration also deserves a special mention. Of course, many scholars pointed that this process constituted a strong source of pressure for Italian authorities to reform the country and improve the overall performance of national institutions. While we agree that the EU can be conceived as an institutional constraint since its nature of ‘rule of rules’ (Scicluna & Auer 2019), we also emphasise the role of national policy-makers, and technocrats prominently (Dyson & Featherstone 1996), in discursively resorting to Europe to legitimate national change and reform the state. For example, elsewhere we showed that the early 1990s juncture is fundamental to understand the characteristics of the discursive order that, in the following decades, legitimated neoliberal reform, austerity policy and state transformations (also) by systematically resorting to Europe (Cozzolino 2020; Fazi 2021). A schema that clearly returned during the Monti executive, when European authorities strongly backed Monti’s reform plan (Culpepper 2014).

6. Conclusions

In February 2021, Italy witnessed to the formation of a new technocratic government, led by the former President of the European Central Bank, Mario Draghi. Also in this case, an extraordinary situation of emergency favoured the

technocratic option, sign of what can be conceived as a now structural component of Italian politics (Fazi 2021).

In this paper we attempted to articulate several reflections concerning the relation between technocracy and state transformations, dovetailing this with historical insights from the Italian case. We tried to emphasise, in particular, the political and agential dimension of technocracy, and how this force in the state, far from being apolitical and neutral, has its own programme for change, and its own forms of political legitimation and discourse. A force that, from within the state, concurred in several occasions to redefine intra-state institutional power relations. A precondition the latter to impose ongoing processes of neoliberal restructuring.

On the other hand, this article constitutes a preliminary study for an all-encompassing research focused on technocracy in Italy. In this respect, for instance, more research is needed to explore the many shades of technocracy and its relevance in contemporary world: possible future avenues can include the analysis of the international dimension of technocracy as a transnational class of experts, and/or the interactions between international institutions – as the International Monetary Fund – and national technocrats. In relation to technocrats as a community of, in Gramscian terms, ‘organic intellectuals’, it would be of great interest for future research to explore further the biographies of prominent technocratic figures, and understand in greater detail the ‘revolving doors’ between state bureaucracies (like the BoI) or academia and the government, and likewise between European and national dimension.

From the perspective of democratic theory, it is still necessary to understand how technocracy and the rule of experts work (Caselli 2020), and how they have fundamentally impacted on the political structures of post-World War II national democracies, actually reducing the space for democratic-popular forces and preventing real alternatives to neoliberalism and austerity (as in the case of the EU order, see Giannone 2015). This is, for instance, an important step to understand the involution of mass democracies on the one hand, and the rise of populism on the other.

The relevance of technocracy in contemporary society is increasing in terms of political force and visibility, and studying this force in – and beyond – the state would further improve our understanding of contemporary politics and the (now endemic) crisis of democracy.

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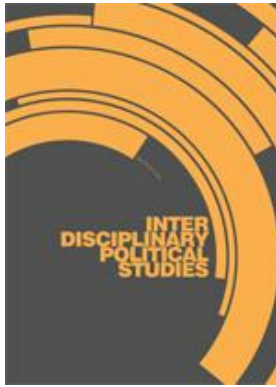
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RESEARCH ARTICLE

**The Italian Emergency Regime at the Covid-19 “Stress Test”:
Decline of Political Responsiveness, Output Legitimation and
Politicization of Expertise**

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ABSTRACT

During the Covid-19 pandemic, public trust necessarily shifted towards science and technical expertise worldwide. In some liberal democracies, the Constitution and Parliament have been bypassed, with Executives using scientific and technical expertise to legitimate political choices within the crisis management process. In Italy (March–August 2020), the Executive set up expert teams (such as the Comitato Tecnico-Scientifico) acting mostly by Decrees of the President of Council of Ministers (DPCM). The Italian Parliament was not sufficiently consulted. After reviewing the current research literature on constitutional changes during emergency regimes within representative democracies, and using insights from Italy, we try to frame the discourse concerning Executive’s choices during emergency regimes in terms of (i) decline of political responsiveness, (ii) prevalence of output legitimation and (iii) politicization of expertise (with the possibility for expertise, in turn, to influence policy making) to contribute to the overall debate on the reconfiguration of powers in times of crises.

KEYWORDS: Italy; COVID-19; Emergency regime; Politicization of science; Expertise.

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1. Introduction

The COVID-19 pandemic is a typical example of a crisis or emergency context, requiring decision-makers to adopt quick and efficient political choices within emergency regimes. Social sciences researches (Cavalli 1996; Keohane 2010) have shown that while routine activities require simple management, crisis management requires, almost by definition, something exceeding simple or routine management techniques, involving the capacity to guide an organization through unprecedented situations¹. Given the ‘rigidity’ of legal and institutional mechanisms, such as constitutions within liberal democracies, the COVID-19 pandemic well represents an inviting field of research for scholars interested in the interaction between (a) configurations of democratic institutional settings and (b) the crisis management provided during emergency regimes². In order to manage a crisis amid an emergency regime, liberal democracies’ Executives typically resort to constitutional change and delegation of power³. If the role played by technical expertise in time of crisis is important, it gets even crucial in case of prolonged emergency regimes - as in the case of a pandemic - which calls for a new a configuration between politics and institutional settings.

In the light of this, the aim of our article is to shed some light on an under-researched aspect of the relevant existing research literature: the political role of scientific and technical expertise in the context of emergency legislation in times of crises⁴. In particular, by relying on account of the situation in Italy between March and August 2020 as exemplary case, we attempt to investigate some aspects that lie at the crossroads between three different disciplines: political science, sociology

¹ The crisis management, in contrast to simple management, may assume the forms of a more or less pronounced ‘leadership’ to facilitate otherwise long and complex decision-making process, both at the level of international, regional and national politics (for the regional and international contexts see: Destradi 2008; 2011; Nolte 2010; Mattli 1999; Bruno 2018, 2019, 2020, Bruno & Finzi 2019, 2020).

² On the other hand, Executives have to deal with the ‘fixity’ of the constitutions, which even if merely at the level of an ‘ideological myth’ (Freedon 2013), poses the governments in front of important limitations.

³ As it will be illustrated in the following paragraph, the current political science and legal literature investigates emergencies by framing them as i) menaces for the territorial integrity of the state or its internal cohesion, ii) economic or financial crises and iii) natural disasters.

⁴ It is worth mentioning here that with COVID-19 being the first world-wide pandemic that post-WWII democratic constitutions have faced, this issue might have gone undetected.

(especially political sociology⁵) and constitutional law. The overall research goal of the article goes in direction of investigating changes in legitimization processes and the substantial increase in Executive power during times of crisis, with the possibility of talking *de facto* of a decision-making that is gradually, and steadily, moving towards a “perpetual” state of emergency⁶.

Our main argument is that the case of Italian emergency legislation can be fruitfully framed in terms of (i) decline of political responsiveness, (ii) prevalence of output legitimation and (iii) politicization of expertise (without neglecting the possibility, in turn, of expertise influencing policy making) to contribute to the overall debate on the reconfiguration of powers⁷. Our article, taking the developments in Italy between March and August 2020 as a paradigmatic case, aims to provide some insights into questions as:

1. How is it possible for the Executive to derogate from the Constitution and marginalize the parliament during an emergency regime as the COVID-19 pandemic?
2. Can expertise stemming from the epistemic authority be instrumentally used to legitimize the lack of accountability and parliamentary checks typical of emergency legislation?⁸
3. Do Executives and elected representatives feel less obliged toward the electorate in the frame of an output based legitimacy (i.e. problem solving oriented)?

⁵ In particular the approach seeing technocrats as a *sui generis* elite with specialized knowledge, turning into fully fledged technocratic when at high levels of responsibility in a public apparatus of power (Bruno 2019, 2020; Caselli 2020).

⁶ The authors are grateful to reviewer one for the interesting point raised here.

⁷ On the one hand, emergency legislation in Italy amid COVID-19 pandemic has been legitimized by invoking scientific and technical expertise (i.e. the epistemic authorities of renewed experts, scientists and international organizations, such as the World Health Organization); on the other hand, scientific and technical expertise - *sub speciem* of the task forces of the ‘*comitato tecnico-scientifico*’ – has in some cases influenced the political agenda by virtue of expertise (asymmetry of the knowledge-driven process of problem solving).

⁸ And given the asymmetry in terms of know-how, is there a risk that the *comitato tecnico-scientifico* influence the policy-making agenda, and that it escalate to a form of technocracy?

Preliminarily to the analysis, in the second paragraph we review a vast research literature, focusing on constitutional change during emergency regimes within liberal democracies, in particular (a) types of constitutional change (b) paths of emergency-produced or (c) emergency-related constitutional change and (d) constitutionalization of crisis and main features of emergency regimes.

In the third paragraph, we use the recent case of Italy (March-August 2020) as exemplary for further research on the role of expertise in emergency regimes, focusing on the establishment and features of the *Comitato Tecnico Scientifico* (CTS), the marginalization of the Parliament and the concentration in the hands of the Executive of both political communication and normative production.

In the fourth paragraph we try to provide some theoretical tools to make sense of the Italian emergency regime, using three strands of relevant scholarship, derived by the classic studies of Sartori (1970, 2005, 2011) and Scharpf (1997, 1999) on responsiveness and legitimacy, and the recent researches of Davide Caselli (2020) on the political role of expertise. In particular: (a) the notion of political ‘responsiveness’ based on expected reactions; (b) ‘the in-put and output’ legitimacies and (c) the political role of scientific and technical expertise as asymmetry.

2. Current research literature

Stability is arguably an important goal of any constitution. In pursuing it, constitutions aim at safeguarding fundamental rights and ingraining the allocation of power among the branches of government (Elkins *et al.* 2009). It goes without saying that major crises (be them economic, environmental, military, political or due to natural disasters) represent an unmatched challenge that threatens the stability, if not the very survival, of any constitutional order (Delledonne 2020). Against this background, and given the heterogeneity of constitutions around the globe, academic comparative literature has strived to map out the patterns of constitutional change in time of crisis. Nevertheless, an overview of the main findings will be provided in the following.

After briefly touching upon the main types of constitutional change, this section will provide an insight on the four main patterns of constitutional change in time of crisis as developed by recent academic literature.

Finally, the phenomenon of ‘constitutionalization of crisis’ will be evaluated, with a view to point out the advantages and the inherent dangers.

2.1 Types of Constitutional Change

In engaging with the different types of constitutional changes, the crucial distinction between constitutional provisions and constitutional norms must be addressed (Crisafulli 1964; Alexy 2002; Bernal 2014). While the former indicates the written statements of a constitution, the latter encompasses the set of meanings and praxes stemming from constitutional provisions as well as from generally accepted unwritten constitutional conventions (Bernal 2014). With the term ‘constitution’ we indicate both categories.

It should further be recalled that constitutional change can be grouped in formal and informal. Formal changes are those occurring in accordance with formal constitutional amendment rules (Karlsson 2016; Albert 2020). These are written constitutional provisions detailing the procedure for modifying the written constitution (Dixon & Holden 2012), endorse deliberation about constitutional meaning (Ku 1995), differentiate between constitutional provisions and ordinary law (Sajó 1999), indicate what can be subject to formal amendments and what is immune from it (Elster 1991), and even articulate constitutional values (Albert 2013). Informal amendments, conversely, are generally understood as ‘the alteration of constitutional meaning in the absence of textual change’ (Balkin & Levinson 2006; Albert 2017; Doyle 2017; Marshfield 2017; Passchier 2017; Lupo 2017). By far more frequent than formal, informal constitutional changes encapsulate all the constitutional modifications resulting from processes that are different from the procedures set forth by constitutional amendment rules.

Amendments to the constitution can occur by mean of at least seven mechanisms: enactment, acceptance, explicit derogation or abrogation, implicit

derogation or abrogation, interpretation, infra-constitutional mutation, and desuetude (Bernal 2014).⁹ In the light of the above, informal constitutional changes are the result of social acceptance of new constitutional norms, implicit derogation or abrogation, judicial interpretation, infra-constitutional mutation, and desuetude (Albert 2020). Informal changes (and those stemming from judicial interpretation in particular) often involve constitutional norms, rather than provisions. As a consequence, object of informal changes are often norms revolving around political ideas (e.g. freedom and equality) and political configuration and procedures, which in turns affects the allocation of power (Bernal 2014).

2.2 Paths of emergency-produced or emergency-related constitutional change

In time of crisis, constitutional change most likely occurs. States of emergencies are natural catalysts for constitutional change, whether formal or

⁹ Constitutional change can result from the *enactment* of new written constitutional provisions, which express new norms affecting the whole constitutional framework. Second, change could follow the *acceptance* of new unwritten constitutional norms. In Hartian terms, *acceptance* requires: i) practice of state officials accompanied by the habit of obeying a norm; ii) the imposition of sanctions and the rise of criticism in case of deviation from the norm; iii) that the negative consequences under ii) be regarded as legitimate, justified or based on good reason (Hart 1994). Third, change can be induced by *explicit abrogation or derogation* of constitutional provisions by means of formal amendment procedures. By amending or abrogating a provision, all the set of correspondent norms stemming from the meaning of the provision at stake will be affected. Fourth, a similar result is reached through *implicit abrogation or derogation* on constitutional provisions. In such instance, however, the amendment is the result of the enactment of a new constitutional or supraconstitutional provision which is partially or totally incompatible with the pre-existing constitutional provisions (Karlsson 2016). Fifth, constitutions can change by mean of *judicial interpretation*. Judges create the connection between constitutional provisions and constitutional norms. Therefore, the meaning attributed to each norm can change over time, thus in turn affecting a correspondent set of constitutional norms (Roznai 2016; Arato 2013). Sixth, we have the frequent phenomenon of *infra-constitutional mutation*. This term indicates the constitutional change resulting by the enactment of non-constitutional rank legislation (i.e. ordinary legislation, the ratification of international treaties, the undertaking of Executive action or the implementation of political practices) that is incompatible with the constitutional framework, yet not declared unconstitutional (Lupo 2017). This can happen for numerous reasons, e.g. Courts overlook the issue, or mechanisms of constitutional review are not in place. The result of this phenomenon are infra-constitutional norms. Of a lower rank than constitutional norms, they should be declared unconstitutional. If this does not happen, however, they may end up being accepted in practice: in such case, they will replace the contradictory constitutional norms in regulating the political life of the society and result in a constitutional change. Last, *desuetude* can cause constitutional provisions and norms to lose their force. Resorting to Hart once more, desuetude is understood as the fading over time of the habit of obedience – or of any other of the expectations of norm-acceptance - to a given norm or provision (Albert & Kenny 2018). As we will see shortly in the empirical part of the article, we consider points four and six, namely *implicit abrogation or derogation* and *infra-constitutional mutation* as having played a major role.

informal (Delledonne 2020). During an emergency regime, political and judicial actors may take advantage of crisis in order to change the constitutional order. Besides that, crisis challenge the capability of a given constitutional framework to adjust by mean of law – i.e. by mean of constitutional change – and by mean of codified derogations.

Mapping out the exact correlations between constitutional change and crisis is virtually impossible, as the interaction between the two differs in each legal order and is dependent on the widest range of variables (Balkin & Levinson 2006). Such variables include, *inter alia*, the intensity and the symptoms the crisis has shown in each country, the political system each time engaged, and each constitutional design (codified or not codified, flexible or rigid, equipped with a derogation clause or not, and so on).

Despite these difficulties, some comparative constitutional literature tried their hands with the challenge to identify general paths of emergency-produced constitutional change¹⁰. Four distinct paths of constitutional reaction have been mapped out by the study: *adjustment*, *submission*, *breakdown* and *stamina*. Each of these paths will be briefly addressed in the following.

(1) *Adjustment*: It consists in the combination of formal and informal change as the constitution adapts to the requirements of the crisis, and keeps up with the developments. Through adjustment, the constitution avoids becoming obsolete and should succeed in continuing performing its functions. Such process is slow and gradual, and each step of the adjustment entails great risk of failure. Adjustment requires an understanding of constitutional change as a tool for a gradual evolution, rather than a mean to attempt rebirth¹¹.

(2) *Submission*: This path is marked by a stand-still of the constitutions hit by the crisis. In this scenario, the informal constitutional change brought about by the crisis-induced legislative production, meets the indifference of the constitutions,

¹⁰They did so by analysing how several constitutional orders reacted to the global financial crisis in 2008, and by revisiting their similarities and differences under the prism of the common stimulus set by the crisis (See in particular the account provided by Contiades 2013).

¹¹A blatant example of such Constitutional path consists in the UK reaction to the 2008 crisis. Also thanks to the uncoded nature of its constitution, combined with the lack of procedural constraints, prompt adjustments took place.

which helplessly witness the erosion of their functions. In the absence of formal constitutional change, the constitution suffers from a gradual fading of its normative power, its symbolic function and the faith in constitutional safeguards. While on the ground the crisis inevitably causes a shrinking of rights and a reallocation of powers, Constitutions fail to provide guidance and simply succumb¹².

(3) *Breakdown*: Crisis and emergencies can result in the breakdown of the constitution. That is, its total revision or replacement following its crumble. Either the people themselves or political actors can be the drive of the end of a constitutional era and the following reestablishment of a new constitutional order¹³.

(4) *Stamina*: Constitutions experience stamina when no change at all, neither formal nor informal, occur. These constitutions prove to be able to face the requirements of the crisis without resorting to any constitutional change. By mean of stretching without being deformed and contracting back, the constitution maintains its symbolic function and its normativity¹⁴.

2.3 Constitutionalization of crisis and main features of emergency regimes

Managing major crisis proves crucial with a view to preserve the cornerstones of an existing constitution.

In the light of this, a great number of constitutions entails what are generally defined ‘emergency clauses’. This phenomenon is defined as ‘constitutionalization’ of crisis, that is, constitutional provisions allowing for temporary (yet codified)

¹²Examples of this pattern can be found in the constitutional reaction of Portugal and Spain, which have not undertaken any textual modifications.

¹³An example of breakdown can be found in the experience of Iceland. After the economic crisis has exposed the inherent weaknesses of the constitution in force, a participatory process of constitution-writing begun (carried out through social networks). Similarly, Hungary reacted to the crisis by enacting a new constitution, which took apart the pre-existing allocation of power and got rid of fundamental constitutional guarantees (Chronowski & Gárdos-Orosz 2017). Hungary started to walk the path of illiberal democracy (Pap 2017). Interestingly, some authors pointed out that the constitutional breakdown could have been fostered by the fact that Hungary was the only post-communist country when the transition to democracy was not accompanied by the enactment of a new constitution (Contiades 2013).

¹⁴Stamina is a typical reaction of the US Constitution (Balkin 2008). This is the experience of the US Constitution in the after 2008 crisis. Despite the difficulties in undertaking formal change, this constitution went through the recession unscathed thanks to its flexibility and a lively argumentative constitutional debate.

derogations from the general constitutional framework. Emergency regimes, in this sense, enjoy a paradoxical status: while allowing for changes in the constitutional order through the introduction of a certain degree of flexibility and elasticity, they do so with a view to restore the pre-existing constitutional 'normalcy' and to avoid a possible slippery slope towards an irretrievable reallocation of powers and jeopardizing of fundamental rights (Delledonne 2016; Ferejohn & Pasquino 2004)¹⁵. In this sense, crisis are simultaneously a serious threat to the constitutional order and the object of constitutional provisions (Contiades & Fotiadou 2015).

According to academic literature on comparative constitutional law, 'emergency' can refer to: (a) menaces for the territorial integrity of the state or its internal cohesion, (b) natural disasters, or (c) economic and financial crises (Contiades 2013). Many constitutions, however, use the term in a rather vague manner and refrain from providing a precise definition of what a 'national emergency' entails¹⁶.

To add on that, crisis increasingly emphasize a non-exclusively domestic dimension: let us think about the COVID-19 pandemic, terrorism, or the 2008 financial crisis. As a consequence, international public law – and human rights law most notably – are becoming crucial in order to understand the legal status, and the legitimate scope, of constitutional derogations which inevitably smother fundamental guarantees and human rights¹⁷.

¹⁵In this sense, their flexible yet conservative nature is best expressed when resorting to a famous quote from the Italian novel *The Leopard* (Il Gattopardo): "*Everything changes so that nothing changes*". A recent quantitative study has revealed that nine out of ten constitutions currently in force include emergency-focused provisions: these are generally defined as 'the set of formal legal provisions encoded in the constitution that specify who can declare an emergency, under which conditions an emergency can be declared, who needs to approve the declaration, and which actors have which special powers once it has been declared that the constitution does not assign to them outside emergencies' (Bjørnskov & Voigt 2018).

¹⁶The scenario is further complicated by the fact that, due to historical reasons, different emergency regimes can be regulated within the same constitutional framework, as it is for Germany and France. In France, three emergency regimes are regulated in the Constitution and ordinary legislation: extraordinary presidential powers (Art. 16 of the Constitution of 1958), state of siege (Art. 36 of the Constitution), and state of emergency (*état d'urgence*, law no. 55-385). In turn, the German Basic Law mentions a state of defence (Art. 115a), a state of tension (Art. 80a), internal emergency (Art. 91), and assistance during disasters (Art. 35).

¹⁷ See Art. 15 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, Art. 4 of the International Covenant on Civil and Political Rights, and Art. 27 of the American Convention on Human Rights.

There are several typical features associated with the implementation of derogation regimes. First, a vast majority of derogation clauses imposes limitations to – or prohibit altogether - constitutional change. In this scenario, the enactment of constitutional change affecting (the fundamental core of) the constitution (e.g. fundamental rights, the form of government and so on) are explicitly prohibited¹⁸. A similar result can be achieved by means of restrictive judicial interpretation of emergency clauses by constitutional Courts, as it happened in France (Mastor & Icher 2013).

Another typical clause is the obligation to restore the pre-existing legal framework once the crisis has come to an end.¹⁹

Finally, an essential trait of emergency legislation is its temporariness. For this purpose, many Constitutions resort to so called ‘sunset clauses’, whose nature and optimal functioning is vastly debated in legal scholarship (Ackerman 2004; Dyzenhaus 2012; Ranchordàs 2014; Varol 2014). Nevertheless, in many instances legislative or administrative emergency measures end up affecting a country’s legal order durably, even outliving of the crisis which justified the emergency regime in the first place²⁰.

3. An account of the Italian emergency regime (March-August 2020)

3.1 The establishment of the comitato tecnico-scientifico

In this article we consider the crisis-induced “constitutional change” that has been produced in Italy during the so called “first wave” of the COVID-19 outbreak, and point out at (1) implicit abrogation or derogation and (2) infra-constitutional mutation as the type of factors having played a major role. Since the outbreak of COVID-19, the Italian Executive set up several expert teams, task forces and

¹⁸ A blatant example of such clauses can be found in the Israeli Constitution (Barak-Erez 2013).

¹⁹ See e.g. Art. 228(5) of the Polish Constitution of 1997 (“Actions undertaken as a result of the introduction of any extraordinary measure shall be proportionate to the degree of threat and shall be intended to achieve the swiftest restoration of conditions allowing for the normal functioning of the State”).

²⁰ Striking example of this trend consist in the constitutional developments experienced by several countries after the 9/11 (Ackerman 2004) or the emergency measures enacted following the Paris and Île-de-France terrorist attacks in November 2015 (Guérin-Bargues 2016).

technical bodies. Among these, a crucial role was played by the Comitato Tecnico Scientifico (technical-scientific committee – ‘CTS’) promptly established in February 2020. Appointed as the leading epistemic authority in Italy to face the pandemic, the CTS was in charge of advising the head of the department of civil protection – the emergency commissioner Angelo Borrelli - on the adoption of the necessary preventive measures to deal with the spread of the Sars-Cov2. Consequently, the CTS was a crucial actor in the daily discussion and political communication during the pandemic²¹, to the extent that most of the health recommendations issued during the peak of the pandemic have been drafted by this body²².

3.2 Marginalization of the Parliament and strengthening of the role of the President of the Council

In the context of emergency regime, the Italian Parliament was not sufficiently consulted. As a matter of fact, on several occasions the Government-Parliament dialogue was limited to Prime Minister Giuseppe Conte speeches before the European Council meetings.

By relying to the CTS as a source of legitimization, the legislative power was largely exerted by the Executive *de facto*. In particular, the hard core of emergency legislation during the pandemic was mostly enacted by the PM himself, in an immediate and vertical way, with the consequent impossibility of any discussion,

²¹ See in particular: www.huffingtonpost.it/entry/crisanti-nel-comitato-tecnico-scientifico-mancano-le-menti-migliori-delluniversita_it_5f830c2cc5b62f97bac40ab4; www.ilfattoquotidiano.it/2020/10/07/scontro-sileri-cts-il-vice-ministro-dal-comitato-troppo-burocrazia-la-replica-critiche-avventate-e-superficiali/5957977/; www.quotidianosanita.it/lavoro-e-professioni/articolo.php?articolo_id=83929. Viewed 15 June 2021.

²² The CTS is made up of experts who simultaneously play Executive roles in the public administration and do not receive compensation for their activities. The CTS includes, among others: the Secretary General of the Ministry of Health, the Director-General of Health Prevention of the Ministry of Health, the Director of the Coordination Office of the Maritime, Air and Border Health Offices of the Ministry of Health, the Scientific Director of the National Institute for Infectious Diseases "Lazzaro Spallanzani", the President of the Higher Institute of Health, a representative of the Health Commission appointed by the President of the Conference of Autonomous Regions and Provinces, a coordinator of the Department of Civil Protection, with the functions of coordinator of the CTS. The CTS can be supplemented by experts in relation to specific needs. Health Minister Roberto Speranza also appointed Walter Ricciardi, a member of the WHO board, a consultant to the Ministry of Emergency and Relations with international health bodies. Source: www.agi.it/cronaca/news/2020-03-05/coronavirus-iss-comitato-7339017/.

amendment or verification by the Constitutional Bodies, such as the President of the Republic and Constitutional Court. Such essential counterweights and cornerstone guarantees for the rights of individuals have been bypassed, while recurring to the CTS as a source of legitimation²³.

Some rights have been compressed in a particularly clamorous way: personal freedom, movement and residence, assembly, religion, right and duty at work, freedom of private economic initiative. Although the Italian Constitution does not provide for a specific regulation of the state of emergency, except for the - different - state of war - which, in any case, must be declared by the Chambers - it nevertheless provides for a specific emergency legislation instrument: the law decree (*decreto legge*)²⁴. On this point, in fact, it should be remembered that the legislative decree no. 6/2020 set forth the mere attribution of power to the Government in the light of the health emergency, while it alarmingly lacked any limitation in terms of forms or contents of such delegation. The provision thus bypassed the constitutional guarantees, since it established the power of the Government, without specifying with sufficient determination the meaning of the chosen action²⁵.

²³See Conte's declaration on 28 April: www.lastampa.it/topnews/primopiano/2020/04/28/news/coronavirus-parla-il-premier-conte-non-sono-pentito-rischiamo-il-contagio-esponenziale-1.38770502.

²⁴When we speak of the limitation of fundamental rights, in fact, we are moving within a framework of systematic reservation of the law which imposes the scrutiny of Parliament, although possibly within the limits of the emergency regulations. It should be taken for granted, in fact, that when citizens' guarantees of freedom are restricted, it is their representatives who have to speak out on these very sensitive issues: that is the very essence of representative democracy. This can also be done ex post, in the case of the legislative decree, or in the context of the definition of delegation, as in the legislative decree, but surely a "blank delegation" is never possible.

²⁵The system of guarantees of individual citizens is under discussion, precisely in relation to the forms of control over the actions of the Executive in a very delicate matter: the limitation of individual freedoms in ways previously unknown and extraordinarily profound. Even the successive partial resolutions of the problems in question, by the D.L. n.19/2020, have occurred only late and accompanied by quite a few controversies on the need for a parliamentary procedure, perceived by some as a hindrance to the urgent situation. See in particular: www.lastampa.it/politica/2020/04/28/news/attacchi-ai-decreti-di-conte-politici-e-giuristi-chiedono-che-il-parlamento-possa-intervenire-1.38776097.

3.2 Centralization of political communication and normative production

Political communication during the COVID-19-related emergency regime has had several particular and unprecedented characteristics: simplification, immediacy, centralization in the figure of the President of the Council and the CTS, with daily TV briefings between the beginning of the outbreak until May, with a systematic representation of the extreme urgency. These phenomena seem to find their parallel in the innovative method of normative production and the consequent constitutional tensions. Even the collective limitation of individual liberties in the first phase of the emergency, occurred mainly through Decrees of the President of Council of Ministers (DPCM)²⁶, in a context of objective marginalization of the role of Parliament (however already underway in light of cross-cutting and multiple trends such as economic crisis, participation to the EU, global governance of various areas which renders impotent and too slow parliaments in the face of rapid decision-making that they require)²⁷. Communication has been simplified to the extreme, often without any particular concern as it comes to the constitutional consequences of what has been accepted, supported and desired; the rules, in parallel, have undergone an alarming simplification and deviated from the system of institutional guarantees and counterbalances, with the role of Parliament being marginalized.

In the same vein, institutional communication was largely centralized in the CTS and in the figure of the President of the Council; besides, it has generally been exerted informally and outside institutional channels (with numerous on TV lives, talking directly to the population often even before the announced measures were actually drafted). In parallel, rule-making was centralized in the hands of the PCM, especially through the instrument of the DPCM. It is to be noted that, initially, such

²⁶ A ministerial decree ("decreto ministeriale" or D.M.), in the Italian legal system, is an administrative act issued by a Minister in the performance of his duties and in the field of matters within the competence of his department. When this type of act is adopted by the President of the Council of Ministers (*Presidente del Consiglio dei Ministri*), it is the "Decree of the President of the Council of Ministers" (DPCM).

²⁷ See the analysis by Arianna Vidaschi (2020) "Italy and COVID-19: A Call for an "Italian Emergency Constitution"?" at www.justsecurity.org/70081/italy-and-covid-19-a-call-for-an-italian-emergency-constitution.

informal delegation of power was carried out in the absence of adequate delegation and delimitation of powers by the superordinate regulations.

4. Framing the Italian case in terms of responsiveness, output legitimation and expertise politicization

To summarize some trends emerging from the account of the Italian case, we note that (1) communication was used as a source of legitimation for the PM and partially delegated to the *Comitato Tecnico Scientifico*, with an interesting mechanism of centralization during the emergency regime of both (a) political communication and (b) legislative production, in the hands of the PM and the CTS; (2) the establishment of the CTS allowed the Italian Executive to use epistemic authority as a source of legitimation for an immediate and vertical legislative production, resulting in a particular form of top-down and technocratic approach to policy-making during the emergency regime; (3) there was a lack of transparency and gray governance of the CTS (including controversial accreditation as Executives of World Health Organization).

What theoretical tools can help make sense of the mechanisms in action in Italy in the first half of 2020? In this paragraph we try to provide some insights on the interplay between politics, institutional settings and technical expertise, based on the Italian case, by following three strands of scholarships from interdisciplinary political studies, including political science, political sociology and European studies. The three strands of scholarships are the following:

- the political ‘responsiveness’ scholarship;
- the ‘in-put’ vs ‘output’ legitimacy scholarship;
- the political role of ‘expertise as asymmetry’ scholarship.

The first scholarship strand, based on the notion of political ‘responsiveness’, was mainly conceived by Giovanni Sartori. He inferred it from the works of German-American professor and political theorist Carl J. Friedrich (1901-1984) on the ‘expected reactions’, in order to explain the behaviors of elected representatives in the context of the Schumpeterian ‘minimal definition of democracy’.

As concerns the scholarship of the 'into 'in-put' and 'output' legitimacies, it was originally proposed by Fritz Scharpf, based on the distinction of legitimacy built (1) upon electoral participation and consensus and a (2) legitimacy built on the capacity of governments to provide problem solving.

The third scholarship considers the concept of expertise fundamentally an asymmetric distribution in terms of knowledge and know-how among experts and ordinary citizens, and has been recently used in a theoretically and empirically innovative way by recent works of Davide Caselli.

4.1 The 'dampening' of the political responsiveness

In his classic *Democrazia: cos'è* (2011), a monumental work revised over the years from 1993 to 2011, Giovanni Sartori attempts at the hard task of defining the concept of 'democracy' in all its complexity and aporias. He does so by distinguishing its normative and descriptive aspects, considering both its horizontal and vertical dimensions (from the public opinions to the elites) and also confronting democracy with ideologies, from liberalism to socialism, dwelling upon what democracy is not and cannot be. Sartori moves within the horizon of the democratic conception developed by Joseph. A. Schumpeter (1942, 1947) and Robert Dahl (1971), defined 'minimalist', 'procedural' or 'competitive'. In particular, following Schumpeter, Sartori argues that 'competitiveness' is a key feature, as the competition between the selected elites in power is far more important than the possibility to select representative through the elections (Schumpeter 1947). According to Sartori, the demos is thus empowered, in a democracy, to judge the fortune of the competitors. The mechanism that allows to control the different sides of the competition is left to the 'demos', and is to be found in the key concept of 'responsiveness'. Such concept is inferred by Sartori from the works of Carl Friedrich (1941) on the 'expected reactions' (1941): according to this mechanism, elected representatives are sensitive and responsive (Sartori 2011: 108), as "[...] *in un contesto competitivo gli eletti sono quotidianamente condizionati dall'aspettativa di come i loro elettori reagiranno alle decisioni che prendono. Dunque la lotta competitiva produce 'responsiveness' o (in calco) responsività*".

Now, we propose that in times of crises, the mechanism of responsiveness of the elected representatives is temporarily soften or even halted, in particular during a pandemic, when public opinion was partially overridden by the epistemic community²⁸. This may help explain the politicization of science by the Italian Executive, i.e. the political use of science to legitimize, in essence, political decisions or, perhaps, circumvent responsibility, specifically by relying on “expert” opinion. Following this reasoning, we bring into play another strand of scholarship particularly adapt to explain the different typology of legitimacy induced during the peak of the first wave of Covid-19 pandemic in Italy: the in-put and output legitimacy.

4.2 The ‘trade-off’ between in-put and output legitimacy

The division of legitimacy into in-put and output was developed by Fritz Scharpf (1970, 1997, 1999) in the frame of researches concerning legitimization mechanisms in the European Union.

According to Scharpf, input legitimacy refers to the participatory quality of the process leading to laws and rules as ensured by the ‘majoritarian’ institutions of electoral representation, while output legitimacy is rather concerned with the problem-solving quality of those very laws and rules²⁹. The possibility to ‘split’ the legitimization mechanism in in-put and output can help us in adding an innovative element to what we have already seen in the review of the current research literature of constitutional derogation. In times of emergency legislation in the frame of emergency regimes - as in the case of Italy in the early 2020 - it is possible to identify a sort of ‘trade-off’ between the participatory quality of the decision-making process, under the belief that the bitter (output) ‘medicine’ would be effective in tackling the COVID-19 pandemic (problem-solving). The trade-off between participation and problem-solving may partially explain the possibility by the Italian Executive to

²⁸ With the words of PM Giuseppe Conte 28 April 2020: “I cannot let myself be swayed by public opinion, even if I understand those feelings very well myself.” Conte acknowledged the scientific committee advising him was “rigid”, but said the overriding concern was to prevent a second wave of infections. See www.aljazeera.com/news/2020/04/28/conte-defends-slowly-slowly-lifting-of-italys-lockdown/.

²⁹ Vivien Schmidt (2012) has added a third normative criteria: throughput legitimacy.

sideline constitutional and institutional settings, in particular if considered in relation to the undisputable existence of a pandemic and the “perpetual” state of emergency characterizing specifically the EU since the sovereign bond crisis started in 2011-2012

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4.3 A double-edged weapon: expertise, asymmetry and dependence

The third scholarship that may help us to better understand the Italian case revolves around the study of expertise as an asymmetric relationship, in particular the research of Caselli. Davide Caselli (2020) has been recently developing an innovative approach, in both theoretical and empirical terms, of ‘expertise’. In his view ‘expertise’ is conceived as a dynamic network of relationships, therefore extending beyond a pure, yet static, codified knowledge. Following the insights of a number of recent studies on the role of expertise in social sciences (among others: Flinders & Buller 2006; Flinders & Woods 2014; Sapiro 2009; Pellizzoni 2011; Moini 2012; Eyal 2013) and building upon the classic theoretical contributions of sociologists and philosophers, Caselli employs an interesting definition of ‘expertise’ as an³¹: “asymmetric relationship between actors recognized as bearers of a knowledge in a certain field and actors not endowed of this recognized feature or, in others cases, between actors possessing knowledges that are different in quantitative and qualitative terms”(Caselli 2020: 35; but also Pellizzoni 2011)³². Conceived as an asymmetric relationship, ‘expertise’ naturally tends to develop ‘dependence’ between the two groups of actors. To be noted, such ‘dependence’ is established behind the appearance of apparent neutrality, as the ‘recipients’ of the expertise are mostly unaware of the complex know-how dynamics behind the relationship (Caselli 2020: 31). Conversely, according to the lecture of the critical sociology reframed by Caselli *et al.*, experts themselves may interestingly develop strong dependence towards their commissioners or patrons, both in terms (a) definition of the problem to investigate

³⁰ In this regard see: Adriano Cozzolino (2019) Reconfiguring the state: Executive powers, emergency legislation, and neoliberalization in Italy. *Globalizations*, 2019, 16.3: 336-352.

³¹ In particular, Max Weber (2005), Pierre Bourdieu (2010, 2012) and Michel Foucault (2004, 2005).

³² Translation of the authors.

and (b) the expected solutions, once again undermining the possibility of neutrality (Bruno 2019, 2020, see also Bruno & Downes 2020a, 2020b)³³.

5. Conclusions

From an historical perspective, it is possible to consider Italy as a laboratory for what regards the role of technocratic expertise and centralization of decision-making power in the hands of the Executive³⁴(see McDonnell & Valbruzzi 2014 and their classification technocrat-led and technocratic governments). Conversely, some recent forms of populisms in Italy, and to some extent in Europe, can be regarded as strictly related to increasing role of technocratic expertise. Both technocracies and populisms have contributed, by taking advantage of the misuse and the of trivialization of complexity respectively, to the crisis of liberal democracy in Italy, with institutions in need of popular legitimacy and liberal constitutionalism requiring technocratic elements to function, highlighting an "elected-unelected" unavoidable tension.

Before passing to the conclusions of the article, it is again important to highlight how the analysis of the Italian case, with its specific recent developments in terms of *(i) decline of political responsiveness, (ii) prevalence of output legitimation and (iii) politicization of expertise (with the possibility for expertise, in turn, to influence policy making) to contribute to the overall debate on the reconfiguration of powers in times of crises*, shows how Italy represents a very specific and sui generis case. Indeed, if those peculiar developments emerged in the framework of the COVID-19 pandemic, from one hand can be regarded as part of a greater “perpetual” state of emergency, that has been interestingly framed as ‘crisification of policy making’ in the European Union

³³ Clearly, according to Caselli (2020: 21), the current relevance of experts and expertise has been growing, due to the proliferation of technical and regulatory standards and tools influencing everyday life, thus explaining experts being among the preferred controversial targets of populist parties, of both the right and left of the political spectrum (Parsi 2018; Author 2018, 2019; Author & Author 2020).

³⁴ Particularly important in light of the recent Executive led by Mario Draghi (March 2021).

(Rhinard 2019), on the other hand make the Italian case not easy to compare with other European countries.

As concerns the specific perspective of constitutional law, although the Italian case has resulted to be particularly controversial and problematic, the Judges of the constitutional court have stated that the model offered by the legislation in force appears to be in accordance with the constitutional design³⁵. To this regard, it is possible to say that the trade-off between responsiveness (input legitimacy) and technocratic solutions (output legitimacy) suggests that health emergencies do impact the balance towards output legitimacy, which is not a new phenomenon.³⁶ Once again, it is important to highlight that the main takeaways of the articles regards exclusively Italy, a country that represents undoubtedly a quite unique case of changes in terms of legitimization processes, through the political role of scientific and technical expertise often mis-used to increase the role of the Executive at the expenses of others.

The questions we tried to – at least partially - address in the article, concerned the mechanisms allowing the Italian Executive to derogate from the Constitution and marginalize the Parliament, as well as the use of expertise and epistemic authority as a source of legitimization during a pandemic-related emergency regime³⁷. Arguably, they are far too complex to be considered exhaustively examined. Adriano Cozzolino (2020), studying the evolution of legal and institutional mechanisms over the last forty years in Italy, argued that the strengthening of the policy-making role of the Executive during emergency legislation in time of crisis proved to be key in the insulation and imposition of neoliberal and austerity policies, in parallel with the constant marginalization of the policy-making role of the parliament.

³⁵ <https://www.open.online/2021/03/18/coronavirus-dpcm-incostituzionali-sentenza-corte-costituzionale/>

³⁶ The authors are once again very grateful to the anonymous reviewers for the extremely useful feedback provided.

³⁷ Mark Rhinard crafted the term ‘crisification’ to describe the crisis management features of the policy-making in the European Union in the last decades. Author and Parsi, among others, have talked of the complementary roles of technocracies and populisms in compressing party-politics and the role of parliaments.

Now, the concomitant centralization of both (a) political and institutional communication and (b) normative production in the hands of the Executive, together with the establishment of a gray technocratic body as the ‘comitato tecnico-scientifico’, goes exactly in this direction, in that it reconfigures institutional dynamics and power mechanisms. We believe that the framing of the discourse concerning the risks of policy-making during emergency regimes in terms of (i) decline of political responsiveness, (ii) prevalence of output legitimation and (iii) politicization of expertise (without neglecting the possibility, in turn, of expertise influencing policy making) can contribute to the overall debate on the reconfiguration of powers³⁸.

³⁸Interestingly enough, the role of parliaments, and party politics overall, in Europe and beyond is not endangered solely by the imposition of ‘technocratic’ top-down approaches: the almost omnipresent ‘crisification of policy making’ (Rhinard 2019) is an important source also for populist politics, in particular populist radical right parties (Bruno 2018, 2019, 2020; Parsi 2018). In fact, the direct and unmediated ‘bottom-up’ approach to politics typically invoked by such parties renders them increasingly involved with the shrinking space for political participation targeting party politics and political institutions. In this regard, see also the critics of Sartori (2011) of direct democracy and its supporters or of the non-well specified notion of political ‘participation’ within representative democracies.

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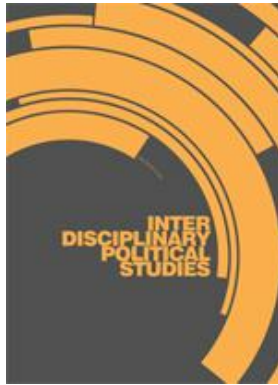
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RESEARCH ARTICLE

Translating Austerity: The Formation and Transformation of the EU Economic Constitution as Discourse

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ABSTRACT

The European Constitution is not a single text. Rather, it emerged, changed over time, and developed an incomplete and constantly transforming ensemble of texts, rules, institutions, competences and implementation procedures. The notion of dispositif grasps the form, outlook and logic of European economic governance and agenda-setting practices to analyse the logic of economic constitutionalism based on complex translation processes. With the 'discursive pentagon' model, the paper will show how an economic idea, grounded within the European constitution, was implemented by Greece, Italy, and Portugal through different forms of translation in the aftermath of 2009 financial crisis. The paper argues that austerity was part of the EU constitutional system moved through a mechanism of interpretation consisting of different stages, tools and discourses before it was finally (un)realised in different member states. The interpretative flexibility of the EU economics apparatus is finally illustrated by a discourse analysis of the European semester.

KEYWORDS: Economic expert discourse; European Constitution; Austerity; Translation; Dispositif

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1. Introduction

European intellectuals from different disciplines and political ideologies intensively discussed the need for, possibility and scope of a European Constitution for a long time. This debate has intensified in recent years due to manifold crisis experiences through the financial crisis 2007, the subsequent Euro crisis and the ongoing COVID-19 crisis. However, on which political, institutional, epistemic and discursive basics could such a Constitution be formed today? What are the conditions in contemporary Europe that could act as starting point for devising a European Constitution?

To date, the European Union has no formal Constitution comparable to the American *United States Constitution*, the German *Grundgesetz* or the Italian *Costituzione della Repubblica Italiana*. Yet, in recent decades, a set of de facto rules has emerged which work like a Constitution and locate the European Union somewhere between an intergovernmental system and an incomplete transnational state. This sort of European ‘constitution’ is characterised by four aspects. First, it does not exist as a single text read and understandable by everybody. It is rather a set of contracts, rules and procedures, and institutions. Second, it was not compiled and declared by a constitutional assembly but by sovereign nation-states. Third, this set of documents, rules and procedures, and institutions, that we will call a European constitution, changed over time and developed, until today, into a still incomplete and constantly transforming ensemble of texts, rules, institutions, competences, implementing provisions and so forth. In contrast to Constitution in the sense of a ‘social contract’, the European constitution is what Foucault once called a ‘dispositif’ (Foucault 1980). Finally, the European constitution is strongly influenced by economic thinking, concepts, wording and discourses. Next to law (and English), economics has developed as an ‘official’ language within and for Europe. For this reason, we use the notion of ‘European economic constitution’ since economic expert discourses have significant influence on the formation of Europeanisation processes.

Since the European Constitution does not exist as a single text supported by a clear-cut institutional structure, we use the notion of ‘dispositif’ in order to grasp the diversity of texts, the complexity of institutional fields and the heterogeneity of discourses to grasp European constitutional practices. Our paper will elaborate one important aspect of the European constitution, namely, how and why the installation of constitutional principles is based on complex processes of ‘discursive translation’. In contrast to institutionalist perspectives on Europeanisation (Fligstein & Stone Sweet 2002) that focus on the interaction between market dynamics and governmental regulations in order to study the evolution of fixed rules making integration processes possible, we will show that the European constitution can only work because of the interpretative openness and non-fixed and pragmatic character of the constitutional dispositif. Since the dispositif is an open and dynamic ensemble, translational discourse practices are needed in order to fix interpretations and resolve conflicts. The European constitution is and always was a discursive battleground open for diverse interpretations, conflicting implementations and political negotiations. In addition, we are also critical of legalist perspectives (Bruff 2014), diagnosing an “increasingly nondemocratic (state) through its subordination to constitutional and legal rules” (p. 116). However, what Bruff calls ‘authoritarian neoliberalism’ was indeed part of European crisis management based on the European economic constitution; yet, as we will show, authoritarian neoliberalism was predominant only within a relatively short period (namely between 2009 and 2015) and it was applied in full power basically to one country: Greece. What we want to show is that authoritarian neoliberalism is only one specific (and not very successfully) modality for translating austerity.

Taking the example of austerity politics during the financial crisis after 2009, we will show how an economic idea (neoclassic, ordoliberal thinking) that is grounded within the European constitution (especially through the so-called Maastricht Criteria) was implemented by different member states through different forms of translation. Our thesis is that austerity (as well as other economic measures) was not implemented as a doctrine through authoritarian instruction. On the contrary,

austerity policies as part of the EU constitutional system moved through a mechanism of interpretation consisting of different stages, tools and discourses before it was finally (un)realised in different member states. As for the current period, we aim to show how and why constitutional rules are open to different interpretations and produce unexpected outcomes. Looking at the EU economic constitution as an open discursive field can offer scholars, politicians, activists and ordinary people new ways to understand (and act in) the formation and transformation of the EU economic constitution.

Our argumentation is presented in six sections. Section 2 reveals the economic roots of the European economic constitution through a short historical reconstruction of the emergence of the European Union. Section 3 presents our analytical approach and Section 4 provides insights into the incomplete and crisis-prone character of the Maastricht rules, pointing to the constant and ongoing reforms, limitations and expansion of the rules between 1992 and 2020. This section provides the empirical backdrop for our idea to analyse the European economic constitution as a translation system. Against this background, Section 5 presents the ‘discursive pentagon’. This model shows how translational processes operate. It gives an idea of how various institutions, actors and texts come together in economically informed discourses where specialists, technicians, experts and politicians negotiate an apparatus for the perception, valuation and evaluation of, and intervention in, Europeanised social realities. The final Sections present two illustrative analyses showing how translation works on the level of institutional fields (Section 6) and on the level of institutional discourses (Section 7). Section 6 shows how austerity was translated in Greece, Portugal and Italy, pointing to the translational dynamics via member state implementation, and Section 7 takes the interpretative dynamics of EU documents into account, by showing how economic argumentation works. Both parts illustrate our thesis that the European economic constitution is not a monolithic bloc but a discursive system open to conflict, interpretation and social change.

2. The historical emergence of the EU economic constitution as an institutional apparatus

The institutional apparatus of the European Union, as we experience it today, was born out of a decades-long process where different professional epistemic actors from the realms of law, politics and economics were formed. In order to understand how the EU economic constitution is consolidated as discursive system where economics plays a privileged role, we need to briefly retrace how economics has come to hegemonize the discursive field of the contemporary EU system. In this section, we show how economics has hegemonized EU constitutional functioning since its inception. This historical account explains the analytical trajectories we develop to understand the institutional-discursive logics of the EU economic apparatus.

Nation-states are usually formed on the basis of culture, language and citizenship. In contrast, Europeanisation is deeply embedded within economic thinking, practices and structural transformation. As an economic governance system, the European Union can be analysed “as an evolving system of governance that makes and enforces market rules” (Fligstein & Stone Sweet 2002, p. 1214). The history of Europe and the evolution of the European economic constitution cannot be understood without these economic foundations. Accordingly, technical-judicial expertise is linked to a constitutional utopia that stems from transnational dialogues framing problems and addressing solutions in the reconstruction of continental economies in the post-war era. Those technical economic discourses were already at work in the three founding European communities: the coal and steel union (1952), the European economic community (1957) and the atom and energy union (1957). Initiated and pushed forward by these founding institutions, economic expertise emerged strongly and affirmed itself as governance language.

The idea for a single economic government of the European continent dates back to the interwar period, as an elite-oriented project devised by US, German and French business leaders (Van der Pijl 1984). However, at the end of the Second World War, juridical expertise offered this idea the means to construct a po-

litical union, moving from an elite strategy to a professional space of affirmation for political projects. As Cohen (2007) has shown, juridical expertise was used to construct a transnational institutional order able to present political matters as technical issues. Cohen highlight how the preponderant role of legal expertise “illustrates the strategies of ideological neutralization that have turned many of the political issues raised by European integration into technical matters, in particular regarding the ‘form’ and ‘structure’ of this loosely institutionalized trans-national order” (p. 113). The creative role of juridical expertise in the building of a legal order inspired by constitutional principles is elaborated through discourses of European jurisprudence.

Since the Treaty of Rome (1957), the logic of the constitutionalisation of a social market economy has been the main route to reconstruct and form Europe as an institutional space. Through this, the fundamental principles of a social market economy were integrated into constitutional laws and rules (Dardot & Laval 2013). The emergence of European institutional spaces occurred within a broader political-institutional movement towards political sovereignty legitimized over economic efficiency and elaborated by ordoliberal thinkers (Dardot & Laval 2013; Foucault 2008).

Throughout the ‘golden era of capitalism’ (the 1950s, ’60s and ’70s), the construction of constitutional scaffolding served as institutional technology to offer legal coverage of energy-sector mergers and trusts. Concurrently, the intercontinental General Agreement on Trade and Tariffs (GATT) and the construction of European Economic Community in 1957 forced national economies to construct their export-led models of post-war capitalism. The technocratic character of the common European market operated as a disciplining device reshaping the calculation of financial needs for the rhythm and expansion of national economic systems (see de Cecco 1997 for the Italian case). While economic policy infrastructure started to be experimented with by national cadres, the constitutional definition of economic governance remained frozen by the monetary policy of the Fed (USA). Only with the recurring monetary crises of the ’70s European was institution building re-

launched to face monetary instability. At the conference of Hamburg, financial architecture was inaugurated for the increasing construction of a safe space to protect continental economies from global turbulence in monetary markets, determined by the unilateral turn of the US (Arrighi 1994). The crisis of liberal corporate compromise transformed the European institutional space into a privileged site of affirmation for economic discourses. In the aftermath of the oil crisis in the 1970s, economic expert discourses arrived at the edge of governmental agendas thanks to their proposals for solving the economic crises at this time through a mixture of Keynesianism interventionism (i.e., ‘Werner plan’ idea, national fiscal policies) and neoliberal measures (i.e., Washington consensus).

At the beginning of the 1980s, economic discourses were central elements and transnational investors and industrial lobbies seized on the process of relaunching European integration. This continental socio-political re-composition was articulated in discourses such as a ‘national-champion strategy’ and ‘neoliberal competitiveness policies’ (van Apeldoorn 2002) led to the foundation of neoliberal ‘competition states’ (Hirsch 1995) informed by neoclassical economics and pushed forward by the increasing need to safeguard profit rates within an increasingly globalised world (Jessop 1993). Above all, what these discourses shared was a centrality of economics as shared language in the framing of the relaunch of the European formation process that started at end of the 1980s and the early 1990s. Whereas the first decades of Europeanisation were characterised first by juridical experts and then by sector-oriented economic thinking (energy and steel), from the late ’80s onwards the entire macro economy was increasingly seen as a governmental field through the lens of neoclassical micro economics (Huffschmid 1994).

3. Analytical approach: economics as discursive device

This historical-epistemic evolutionary process has methodological consequences for the role of ‘economics’ as a discourse analytical approach. As Mudge and Vauchez (2012) and Schmidt-Wellenburg (2017) have shown, economics was established as the main epistemic and discursive source in the ongoing process of

Europeanisation, especially after the Maastricht Treaty in 1992. Accordingly, we understand economics as a discursive device that contributes to form and transform the European economic constitution on the symbolic as well as institutional levels. We conceptualise economics analytically as a language, a system of metaphors and discursive devices that is part of a broader governmentality apparatus and a main instrument for forming a European constitution. As we have sketched out in the last section, the process of Europeanisation had economic language as the bulk of its functioning, which was an integrated element of the constitutional apparatus of Europe. Against this backdrop, we study the constitutional role of economics at the symbolic-discursive level (based on texts, speeches and other linguistic systems) as well as at the institutional (councils, administrations, policies) level in order to understand the logics and dynamics of Europeanisation.

This economic expert discourse approach draws on recent analyses and discussions in economic sociology (Callon 1998), cultural political economy (Hall 1989) and the economic history of ideas (Morgan 1990; Desrosières 1998). Especially, social studies of economics have highlighted how economics, as an epistemic-professional apparatus, does not simply describe socio-political realities but rather contributes to shape them (MacKenzie et al. 2007; Boldyrev & Svetlova 2016; Maesse et al. 2021). These studies focus on the social status of economics as a device of power, legitimacy and discourse that is used in many non-academic contexts as a tool for changing the economy and influencing social relations (Fitzgerald & O'Rourke 2016; Pühringer & Griesser 2020). Whereas orthodox Marxists have often understood economics as a ruling class ideology, and liberals conceptualise economics as 'pure science', social studies of economics analyse a broad variety of formatting practices in which economic expert knowledge is involved (Maesse 2015; Pahl & Sparsam 2015). In this vein, we understand economics neither as a hard science describing and observing economic reality, nor as a false consciousness; rather, we consider economics as a discursive and institutional tool for intervention to shape state/society constellations and power/knowledge relations (Schmidt-Wellenburg 2017). In this sense, economic expert discourses provide a language for governance,

interpretation and problem-solving. Economics as a device is a powerful tool for transforming social relations (Desrosières 1998).

In the case of Europeanisation, economics is the main cultural resource, because economics as a transnational language is the product of the most globalised academic cultures (Dezalay & Garth 2009; Maesse 2018; Rossier & Bühlmann 2018). Being detached from specific national contexts makes economics a powerful forming and integrating force of the European Union which often remains invisible to European laypeople, corresponding to an opaque system of signs that appear to outsiders like technocratic hieroglyphs (Maesse 2020a).

However, in analysing economics as a discursive device we need to understand it as a broader *dispositif* (Foucault 2008; Maesse 2020b) that allows us to analyse economic expert discourses as an empirical object. A *dispositif* consists of institutional constellations, texts and symbols, rules and procedures, conflicts over interpretation and it is formed through a historical evolutionary struggle. Thus, *dispositif* analysis approaches its object of study as a complex entity. The analytical approach has been outlined in detail elsewhere (Maesse 2015; 2018; 2020a, b). In this paper, we exemplify and illustrate how the Europe Union as an economic *dispositif* can be analysed by taking into account different aspects of it. Accordingly, we analyse economic expert discourse by combining different analytical tools such as genealogical reconstructions of institutional constellations (Section 2 and 4), economic analyses of policies (Section 6) and discourse analysis of economic expert texts (Section 7). Due to lack of space, the illustrative case studies in this paper are based on secondary literature on the historical genealogy, institutions, policy implementations and selective policy documents from the European Semester. Accordingly, economic expert discourses are analysed based on empirical data to guarantee an open research process. Economic expert discourses in the politics of constitutionalisation cannot be investigated from general concepts or theories but must be open to historical transformations reflected by empirical data.

In addition, analysing the European constitution from the point of view of economics as a discursive device can help us to understand the conflictual and in-

complete character of EU politics (Trenz et al. 2015). Europe is seen as a heterogeneous field of knowledge production, changing institutional constellations, diverse outcomes and conflicts induced by different forms of power and discourse. Economic expert discourses as transformative and dynamic devices became particularly relevant after the foundation of the EU through the Maastricht Treaty, because now a strong as well as flexible legal framework was established. This discursive-legal framework was used by different actors in the European universe as a tool for further, faster and deeper transformation processes within European societies.

A complex interpretative constellation emerged from the Maastricht legal framework which did not introduce stability to the economic constitution; rather, it provided the institutional background for permanent transformations, reforms and re-interpretations, as we will show in the next section. This paper grasps this new characteristic of the EU constitution with the notion of the ‘economic discursive square’.

4. After the Maastricht Treaty: from ‘authoritarian constitutionalism’ to the ‘economic discursive pentagon’

With the Maastricht Treaty in 1992 and the Amsterdam Treaty in 1997, the common market was finally realised. New member states joined the EU and the idea of a free trade area became more and more an institutional reality, based on a common economic foreign policy (customs union), equal access to all member states’ markets (common market), the free movement of goods, capital, people and services. In this section we want to show how and why the institutional constellation of the EU economic governance apparatus, which emerged from the Maastricht-EU treaties, opens up a socio-discursive space for translation. Thus, ‘neoliberalism’ is not manifested in the treaties. Rather, neoliberal politics results from a particular interpretation and discursive translation of treaties into national contexts mediated through a complex institutional system.

Aside from problem-solving European studies, critical scholars have analysed this EU foundation as a pure market-based integration of the EU and the idea

of the EU as a ‘neoliberal constitutional initiative’ (Gill 1998) and (later) ‘authoritarianism’ emerged (Bruff 2014). From the perspective of the written words of the Treaty, the Maastricht process does indeed reduce the EU not only on economic issues, it also removed many reform-oriented and Keynesian elements from the agenda, offering to neoliberalism ‘juridical-legal tools’. In the Treaty, the EU is constituted as a handbook style neoclassical free market area including fiscal discipline, and the ECB is devoted to targeting only inflation. Other economic and social goals such as targeting unemployment, promoting growth with fiscal measures, coordinating industrial policy and regional development based on a well-equipped European budget are mainly left to nation-states’ competencies (which are under the control of EU fiscal discipline). Only a few poorly equipped European Funds were made available to promote regional development, and member states were only gradually supported to improve industrial policy and social programmes (which were often restricted by EU competition law and fiscal discipline). Accordingly, the EU was designed according to a textbook style neoclassical free market economy, supervised by a fiscal policy state.

However, the formation of the EU economic constitution was, nevertheless, characterised by two additional aspects that contradict the idea of a one-sided neoliberal project. On the one hand, EU institutions reflect an ongoing conflict between member states, influential groups and ideological views (Miró 2017). These conflicts led to many compromises within the Treaties, institutions as well as rules, acts and procedures of the EU governance apparatus. On the other hand, the initial Maastricht framework simply formed inappropriate and non-working institutions unable to act when economic, financial and social problems arise (Busch et al. 2016). The EU governance apparatuses never formed a coherent system, they “were (and largely remain) more a space for negotiations between political representatives of member countries and other well-organized, powerful groups rather than unified expressions of popular political sentiments and policies” (Costantini 2017, p. 335).

Thus, soon after the Maastricht Treaty, a couple more institutions were established, and existing rules and procedures were changed. First, in 1997, the Stabil-

ity and Growth Pact (SGP) was approved, and the ECB was established in 1998. The SGP changed the calculating procedures, and the Medium-Term Budgetary Objective (MTO) was established. Then, a long discussion started about how to calculate a national budget in terms of expected GDP growth and calculated taxes. However, this entire system had already collapsed when many countries, especially Germany and France, could not submit a valid budgetary plan in the years between 2000 and 2005. In this period, a couple of further compromises between member states and the EU commission were made, changing the re-submit procedure, the calculation of future GDP growth and the categorisation of expenses. In consequence, the targets for budgetary expenses were diversified. “These included the need for public investments; the necessity for member states to pursue their efforts to implement structural reforms related to the aging of their populations as well as increasing employment and labour-force participation ratios; the prevailing cyclical conditions; the implementation of policies related to the Lisbon agenda; and the impact of R&D and innovation” (Costantini 2017, p. 338). In 2011 and 2012, the so-called Sixpack as well as the Fiscal Compact again changed the rules. Now, the commission has many more competencies to evaluate specific aspects of a country’s budget. According to Seikel and Truger (2019), these new rules provided the EU commission with more competencies to interpret certain aspects of a budget as ‘investment’ and ‘structural reform’ instead of ‘deficit’. Thus, to categorise member-state expenses as ‘problematic’ in terms of fiscal stability or as part of ‘implementing’ the commission’s recommendations to ‘improve stability’ and ‘promote competitiveness’ is today largely a matter of economic argumentation and political decision-making.

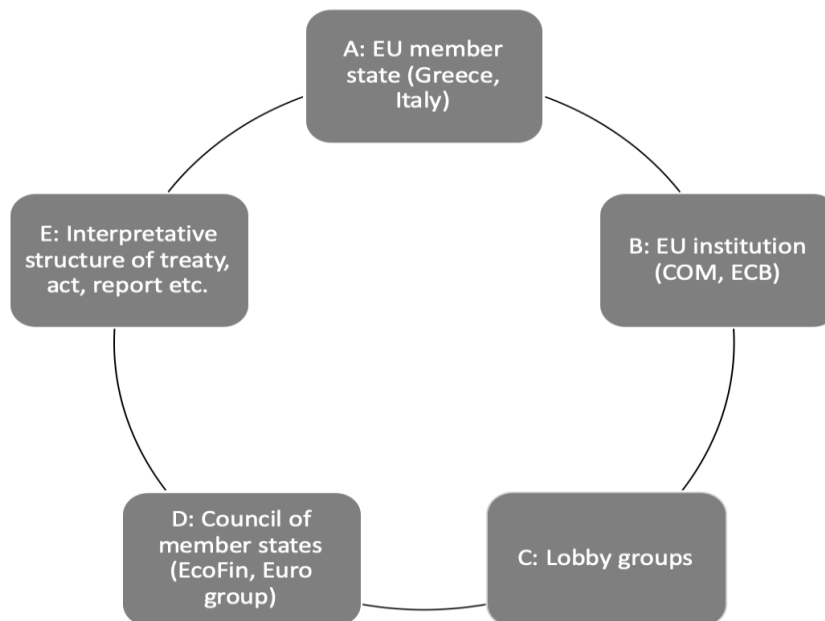
The scope for interpretation in terms of investment and structural reform already existed in the EU calculation system and the institutional framework of the SGP cannot simply be reduced to an ‘authoritarian neoliberalism’ machine. In addition, the fiscal rules are not only applied by the EU commission; all interpretations and suggestions from the EU commission must be confirmed by member states through the Economic and Financial Affairs Council (EcoFin). Therefore, member

states can reject or accept measures proposed by the EU commission. For this reason, the EU economic constitution is characterised by a high degree of interpretative openness, offered by three mechanisms: first, the conflictual-compromising character of all Treaties, institutions and rules/procedures; second, by interpretative flexibility of the diverse aspects of a member state's budget; third, by the multi-actor governance system of decision-making between member states and the EU commission. Also, during the financial crisis, a couple of new institutions and competencies emerged (ESM, Banking Union) and other institutions such as the ECB, the IMF and the 'Juncker Plan' (EU Infrastructure and Investment Plan) also started to intervene in this discursive game. This interpretative openness of the EU economic constitution can best be illustrated by a system of exchanges, translations and interpretations that we call the 'economic discursive pentagon'.

5. The discursive pentagon: the logic of economic constitutionalism

In order to make the complex interpretative dynamics of today's EU economic constitution visible, we suggest analysing decision-making processes with an 'economic discursive pentagon'. The idea draws on our understanding of Foucault's theory of *dispositif* applied to the case of the EU economic governance system as it is manifested in the European Semester. This model gives an idea of how various institutions, actors and texts come together in economically informed discourses where specialists, technicians, experts and politicians negotiate an apparatus for the perception, valuation and evaluation of, and intervention in, Europeanised social realities.

Figure 1. The economic discursive pentagon.



Source: Authors own elaboration

This pentagon consists of five elements and it makes translational processes of economic policy concepts possible. This illustration also explains how the dispositif covers actors, institutions and texts as well as their translational interactions. From such a discourse analytical point of view, austerity and other measures cannot simply be ‘implemented’, they are rather negotiated in complex translational processes. In the next section, we will analyse these translation processes from the perspective of two of angles of the discursive pentagon: A and E.

Yet, generally speaking, a couple of interpretative dynamics can be identified from this model. First, the affected member state brings into this discursive process a specific situation (i.e., low GDP growth, high indebtedness etc.), a particular equipment of institutions, partners and competencies as well as other elements that affect the discursive power position of the affected state. Second, the EU institution(s) enter(s) the discursive process with their competencies, internal facilities, actors, analytical instruments and capabilities. On this level, a couple of legal and professional aspects play an important role. Third, other member states are

always part of decision-making processes, especially because the EU commission has only a few legal tools in order to control, intervene in and/or instruct a member state. Thus, legal (EcoFin) or para-legal (Euro Group) member-state councils play an important role in these discursive economic games. Fourth, a couple of lobbying groups (mostly from the business world) influence these complex processes, especially when it comes to setting up new regulations by the EU commission. Finally, the interpretative structure of the legal documents themselves is of great importance because the EU is not a legal ‘dictatorship’ where technical rules emerge immediately from legal texts. Texts as well as situations must always be interpreted, analysed and argued. Therefore, a certain ‘economic crisis situation’ does not interpret itself; and the rules of the treaty (e.g., fiscal rules) are always open to diverse and even contradictory readings. Against this backdrop, the EU commission, the ECB and the member states are free to apply various readings of a particular situation as well as of a certain EU document.

Out of such complexity, different types of EU economic governance practices can emerge. One possibility is always discursive ‘chaos’ where no recognisable decision can be made. This is often the case, especially when member states expect more support for fiscal stimuli and other non-ordoliberal policies. Another option is ‘consensus’. Here, all actors agree on a common reading of problems and legal texts. This is the case with many non-binding initiatives in the realms of education, science, culture and mobility where the EU assists member states through the subsidiarity principle. These initiatives (such as the Bologna process or the Lisbon process) complement core economic policies. Yet, ‘domination’ is a further possible outcome, especially when a group of actors can prevail against the will of another (group of) actors. This was the case between 2000 and 2005 when Germany and France violated the fiscal rules, and in the case of the austerity policy against the will of the Greek government during the Euro crisis. However, ‘autonomy’ is a fourth option when an actor cannot be influenced by others for various reasons. The reaction of the Portuguese centre-left government after the 2015 elections may be one example of such a solution. Here, the government was able to leave the EU rescue

institutions in order to use its national financial leeway to find a way out of the fiscal crisis without support from EU institutions. In addition, ‘blaming’ might be another strategy that is usually applied by member states in order to shift the responsibility for unpopular measures to the EU. As we will see in the next section, Italian governments have applied this strategy in order to legitimate neoliberal policies since the 1990s. Finally, the most common output is the so-called ‘compromise’ when actors arrive at a common solution out of contradictory readings. Compromise very often opens up space for further (re-)negotiations and they leave almost all actors behind in a situation that requires upcoming communication processes because nobody leaves the political arena as a ‘winner’.

‘Chaos’, ‘consensus’, ‘domination’, ‘autonomy’, ‘blaming’ and ‘compromise’ are a few possible candidates for the outcomes of EU economic constitutional discourses brought about by the discursive square. However, many more can be imagined and found in empirical studies (Moravcsik 1997) and different modalities can also interact with each other. Yet, the main lesson we learn from such a perspective is that the EU economic governance system does not work as authoritarian one-way implementation. On the contrary, it is based on conflict, interpretation, reform and the endless foundation of new institutions. In the next section, we will illustrate the interpretative openness of the square by a short analysis of two aspects: in a first step, we will show how EU austerity directives fixed by the Sixpack and the Fiscal Compact have opened the way for flexible adoption by different member states that were in a similar situation. Here, we will quickly show how the cases of Greece, Italy and Portugal dealt very differently with the same economic doctrine. In this case, we consider how a ‘member state’ (top of the pentagon) translates the interaction between an ‘EU institution’ (right side of the pentagon), organized economic pressure (bottom right of the pentagon), a ‘text’ (left side of the pentagon) and the ‘council’ (bottom of the pentagon) into a political reality. In the final section, we will illustrate how the economic situation of a member state (Italy) is presented and changed by two discourses: the EU commission country report (European semester) published in February 2020 (before the outbreak of the corona pandemic) and

the response of the Italian government published during the corona pandemic in June 2020. Both illustrative analyses show the highly interpretative and discursive character of the EU economic constitution.

6. Translating Austerity: three selected case studies

In this section, we will describe three different translation strategies of austerity policies promoted by EU institutions and member-state councils during the financial crisis around 2009 into country-specific reform programmes. Our analysis is based on macroeconomic policy analyses (literature study) complemented by a study of the country reports of the European Semester between 2011 and 2015. We selected three countries: Greece, Portugal and Italy, for two reasons. First, all three countries are member of the so called PIIGS group, namely, those countries which were particularly hard-hit by the Euro crisis and candidates for (possible) EU rescue measures. Second, all three countries responded to austerity measures in very different ways. For these two reasons, these countries are perfect candidates to illustrate the differences in translating austerity. We will start with the very drastic Greek case and show how and why Greece adopted austerity comprising four different modalities, ranging from ‘consensus’ to ‘chaos’, ‘domination’ and ‘compromise’. We will then compare it with the Portuguese case by showing under which conditions ‘autonomy’ can change the translation process. Finally, we analyse the Italian case where the introduction of austerity before, during and after the crisis was based on a ‘blame’ game.

6.1. The Greek case: from consensus to chaos and compromise

Greece experienced rapid economic development in the post-dictatorship phase during the 1970s. After joining the European Economic Community in 1981, Greece experienced a second phase of economic growth, but experienced rapid transformation of its industrial structure as well. Since then, Greece has had a negative current account, with an underdeveloped industrial sector, a disproportionate service sector and agricultural production with a high, above average share of GDP.

Overall, the corporate structure is fragmented and familiar. Last but not least, foreign owners who benefited from privatisation dominate the Greek corporate landscape. The economic situation in Greece before the crisis was characterised by a recession in 2008, high public debt and a high but shrinking unemployment rate, as well as a fragmented and client-oriented welfare state with very low taxation rates. When the crisis started in 2009, the Greek state was already overloaded with financing firms in crisis, similarly the welfare system and the public administration, because interest rates for Greek bonds were high and still rising from 2009 onwards. Accordingly, the first Memorandum of Understanding was set up in 2010 when the Social Democrats took power and made the real financial situation public.¹

The Greek government received a loan of €110 billion through an agreement with the IMF, ECB and EU commission (Troika) in return for drastic cuts in wages, social programmes and pensions, and layoffs in public services. Further cuts in minimum wages, healthcare, and wages, as well as layoffs, privatisations, and the deregulation of labour markets, happened a year later, implemented by the 'technical government'. A second Memorandum was signed in 2012, including further austerity measures. After each round of austerity, a new government was formed accompanied by an entire economic and social downturn (in terms of high unemployment rates, GDP collapse, wages/income decrease, welfare cuts), a rise in public debt and increasing difficulty in refinancing the public debt. In 2015, the left-populist party SYRIZA won the election with an anti-austerity programme. This was the first government that explicitly did not agree with the idea that public debt can be reduced by austerity. Therefore, between 2009 and 2015, all governments acted on the basis of 'compromise' and 'consensus' with EU institutions (Chasoglou 2015).

With the take-over of government by the anti-austerity party SYRIZA, the Greek government entered into conflict with EU institutions. The Varoufakis/

¹ For a detailed description of the crisis management process, see EU-Com: https://ec.europa.eu/info/business-economy-euro/economic-and-fiscal-policy-coordination/financial-assistance-eu/which-eu-countries-have-received-assistance/financial-assistance-greece_en

Tsipras duo entered the scene by stopping all the austerity agreements of the former governments. At this moment, the Greek crisis was the starting point for a European discourse on the general direction of the EU. The conflict was not only about concrete measures in Greece; rather, general issues were debated such as exiting the EU, solidarity between member states, the role of the EU as a fiscal community and the general direction of economic policy in the EU. For the first time, austerity was no longer presented as a ‘technical necessity’ but a political choice.

After a year of a European-wide hot debate, another election and a referendum in Greece, SYRIZA and the Troika agreed on a third Memorandum. This Memorandum still contained austerity measures but it also opened up some reform possibilities for Greece. While SYRIZA could achieve some minor reforms and stop drastic austerity cuts, a general stop to austerity and a turn-around of economic policy was not possible against the will of the Troika. As a result (and below the surface of public attention), minimal economic growth, a small decrease in the unemployment rate, a couple of social benefits, improvements in healthcare, a state reform and some other changes could be achieved. Finally, SYRIZA managed to leave the Memorandum process (at least gradually) and an economic programme was formulated before the conservative party won the election in 2019 (Karamessini 2015).

Thus, what we learn from the Greek case is that ‘consensus’ and ‘compromise’ were replaced by ‘chaos’ and a domination-oriented style of another ‘compromise’. Whereas the first phase can be described as a ‘consensus’ between the Greek government and EU institutions on drastic austerity, the second phase under SYRIZA introduced first ‘chaos’ and finally a ‘compromise under pressure’. In contrast to other crisis-prone member states such as Spain, Portugal and even Italy, Greece did not manage to reclaim its ‘autonomy’ from the EU austerity programmes. But the Greek revolt against the Troika (through ‘chaos’) has changed European economic policy discourses in at least two aspects (Maesse 2020b):

- first, European fiscal solidarity through Euro bonds was discussed as a practical alternative to the existing fiscal system: this opened up new ways of

thinking that later paved the way for a debate on Corona bonds and finally made the EU recovery budget of €750 bn possible;

- second, the diversity of economic policy measures going beyond a pure neo-liberal technocratic way of thinking and arguing became visible as a controversy. This opened up the way for demanding more European measures and greater diversity of tools (represented by the Macron-Initiative and the Juncker-Plan).

6.2. The Portuguese case: ending austerity by regaining autonomy

Portugal is a young democracy, having abolished its military dictatorship in 1974. In 1986, Portugal joined the European Economic Community. After a period of rapid economic growth, the country experienced a phase of economic stagnation, financial instability and increasing public debt from 1999 until the outbreak of the financial crisis in 2007. Thus, the initial economic situation in Portugal before the Euro crisis was characterised by low GDP growth, increasing unemployment, increasing public indebtedness and a growing current account deficit. For these reasons, Portugal was dependent on foreign loans in order to refinance state apparatuses and economic activities.

The initial reaction to the economic and financial crisis was a fiscal programme in 2009. But the interest rates for state bonds rose and the public deficit grew as well, while public expenses increased step by step. The EU institutions did not support Portugal and in 2010 the Portuguese government decided to follow the EU strategy and fight the debt crisis with austerity programmes.

Between 2010 and 2014, a couple of austerity measures were initiated.² In a first step, the Portuguese government reduced public expenses. But it soon became obvious that this would not reduce the debt. In cooperation with the EU commission, ECB and European Council, further austerity measures were initiated in 2011.

² For a detailed description of the crisis management process, see EU-Com: https://ec.europa.eu/info/business-economy-euro/economic-and-fiscal-policy-coordination/financial-assistance-eu/which-eu-countries-have-received-assistance/financial-assistance-portugal_en

Austerity was basically implemented by cutting pensions, social programmes, healthcare, public investment and wages, as well as by deregulation of the labour market, reducing worker's rights and layoffs. The situation escalated in 2011 through strikes and social protests and Portugal was obliged to make an agreement (Memorandum of Understanding) with the so-called Troika (IMF, ECB, EU commission) in order to receive rescue loans of about €78 billion cuts, deregulation and precarisation were implemented between 2011 and 2014, accompanied by strikes and social protests (Lühmann 2015).

As a result of this austerity dynamic, the public debt increased, GDP growth was stopped, more and more jobs became precarious, wages were low and unemployment was high. In 2014, the austerity programme officially ended. The election in 2015 saw a change in government. Now, a centre-left coalition (Social Democrats, Greens-Communists and Socialists) formed the new government and stopped all austerity programmes. Through a reform-oriented political programme consisting of increases in the minimum wage, social programmes and public wages, the government managed to reduce unemployment and poverty as well as increase GDP growth. In contrast to Spain and Italy, the GDP per capita in 2018 (after just three years) was already at the pre-crisis level of 2008.

To conclude, what we see here is a switch from a domination-oriented 'compromise' between the EU institutions, the Council and the member state of Portugal to 'autonomy'. Even if the EU was sceptical about the road that the centre-left Portuguese government followed, the government managed to apply 'autonomy' through an 'internal' or 'implied compromise': it implemented some Keynesian reform measures in order to heal the worst wounds of austerity, but it never opted to revolt against the EU institutions (as Greece did). As a consequence, Portugal was able to move onto a reformist path, but without changing the discourses in the EU. Thus, the Greek revolt was true theatre with a visible impact on Europe; and the Portuguese strategy remained unheard of by most people in the EU.

6.3. The Italian case: embedding EU-austerity within national conservative reform strategies

In contrast to 'late-comer member states', Italy has been a constituent actor in the construction of the European institutional order since the beginning, mainly as a geopolitical strategy to remain anchored to Franco-German economic development. By the end of the '80s, new financial expansionism and industrial restructuring eroded the ruling post-war party system. Party political capital was made by state-holding industries guiding economic development and generating high public debt. In the early 1990s, a huge juridical campaign against party-industry coalitions delegitimized the traditional political class, empowering technocratic economists at the Italian central bank to guide the negotiation of Maastricht criteria (Dyson & Featherstone 1996). Since then, economic growth has been guided by centre-left and technical governments whereby neoliberalization and permanent austerity were widespread in party system discourses long before the 2008 crisis (Cozzolino & Giannone 2019).

The first consequence of the 2008 financial crisis was turmoil in the secondary markets, both EU institutions and financial interests pushed for the end of the Berlusconi coalition. Constitutional Europe worked through the Draghi-Trichet informal letter calling for the implementation of austerity provisions to calm secondary markets. A new technical government guided by an EU-inspired ordoliberal economist and former Commissioner, Mario Monti, seized power in 2011 to implement austerity measures.³ In the public discourse, the government was called upon to restore the credibility of the country through emergency measures. Economic indicators, such as spread, became the yardstick for ruling the country. The immediate provisions of the government were the reform of pensions from a retributive to a contributive system and increasing the pension age, as well as strengthening the budgetary norms in the constitution as a basis for strong cuts in social services. Both measures were evidently too unpopular to be carried by a political parliamentary coalition. While the pension reforms became part of the wider financial restruc-

³ For a detailed description of the policy process, see EU-Com: https://ec.europa.eu/info/business-economy-euro/economic-performance-and-forecasts/economic-performance-country/italy_en

turing of retirement management according to the European Union's recommendations and transnational financial interest preferences, the integration of balance adjustments into the Italian constitution represented a strong field of affirmation for economic discourse in broader political debates.

Thus, in contrast to almost all other larger EU countries, Italy applied austerity policies from the 1990s onwards and used the crisis to increase and deepen austerity programmes to discipline the political class's expenditure definition, even at the cost of sabotaging domestic industry. For this reason, the mostly conservative and right-wing populist governments in Italy never managed to bring the Italian economy onto a growth and innovation path: even if Italy is still a country with a high level of manufacturing and an average EU income, it is still suffering structural deficits at all levels of the economy: firms and investment, GDP growth and innovation, budget and industrial policy. Austerity measures were applied by conservative and techno-leftist governments, with or without the EU. In this context, the EU mainly constitutes a discursive reference 'to get blamed' in order to legitimise austerity and delegate the political responsibility to an actor outside Italy, as well as a discursive 'battering ram' to introduce in national debates new reform-policy agendas and transnational preferences. Thus, 'blaming' and 'battering' are strategies for translating austerity, designed for governments, that, for different reasons, want to remain aligned with EU core countries.

7. GDP as an argumentative trickster: how economic expert discourses offer and change interpretations

In this last section we propose a brief discourse analysis of two EU-related reports on and by Italy, to show how economic argumentation strategy works within the discursive pentagon. Indeed, in the following discourse analysis, we will only illustrate our general argument; therefore, we do not propose a policy-content analysis. We show that there is no single authoritarian neoliberal agenda looking at references to GDP. On the contrary, we underline how the EU economic constitution is formed by translation processes. In this sense, the politics of constitutionalisation

of and within the EU is disseminated through the complex and heterogeneous structures and processes that we have labelled the ‘discursive pentagon’. That is, EU semester reports and member-state translation is the field where it is possible to study the discursive translation process empirically.

An EU semester is a country report that offers an economic outlook for each member state, issuing a precise picture of what the economic situation is and, concurrently, what it should be, offering possible solutions and adjustments. In particular, the report enumerates critical problems of the country and the impact of legislative activity to solve them, including social welfare, health, economic outlook, productivity, wages, taxes, budget, competitiveness, ecological sustainability and so forth.

The economic semester is a procedure fixed by EU Treaties and constantly changed by reforms, acts and amendments made by EU member states, the EU commission and the EU parliament. The country report is in a first step written by the EU commission on the basis of a macroeconomic analysis of each country’s specific goals and criteria (i.e., climate change, social justice, institutional outlook etc.), as well as commonly agreed objectives of previous reports (i.e., budgetary consolidation, investment etc.). Each report prepared by the commission must be ratified by all EU member states’ Finance Ministers (EcoFin). The recommendations made by the European semester are all optional for respective member states. They have, nevertheless, a certain obligatory character because they document if a particular member state has cooperated in a constructive way with the EU/EcoFin in order to achieve the common economic goals of the European Union. Thus, they are part of an ongoing economic coordination process between the EU institutions and member states.

The report on Italy dates from 2 February 2020 and underlines the vulnerability of the Italian economy due to high public debt, low GDP growth, high unemployment, low wages, an unstable banking sector, an ageing population and so forth. In February (only a few weeks before the outbreak of the pandemic in Italy), the EU semester suggested that “high debt-servicing costs expose Italy’s public fi-

nances to a reduction in the fiscal space needed to implement growth and counter-cyclical measures” (EU Commission, 2020, p. 4). Therefore, the report suggests improving economic performance in order to decrease the pressure on the public debt and offer space for growth programmes fighting unemployment and economic recession. Starting from these data the report continues:

“A sustained budgetary-neutral public investment stimulus would substantially improve output and result in small but positive cross-border spill-overs. A simulation with the Commission’s QUEST model suggests that an investment programme would have a sizeable effect on real GDP, improve its external position and lower its public debt ratio. However, the potential output effects are greatly dependent on the extent to which public investment is efficient”. (EU Commission 2020, p. 5)

What we can see in this small excerpt is a typical reference to a standard economic argument about a trade-off between ‘budget’ and ‘investment stimulus’. Accordingly, high GDP growth would lead to declining unemployment, increasing wages and taxes and a decline in the public deficit. But the expected GDP growth for Italy in 2019, 2020 and 2021 is low. Therefore, ‘investment programmes’ could stimulate GDP growth. This money would usually be taken from the public budget, but the public budgetary deficit is high and further credits would increase the deficit. Therefore, the commission recommends ‘efficient investment’, because here the ‘output effects’ are high. This may imply two things: a huge investment programme is not advisable due to the high deficit; but no investment is harmful too because of the low GDP growth rate. What is interesting in this economic argumentation is that the ‘GDP growth rate’ works as the crux of argumentative matter here. It is the main starting point for interpreting all the other economic categories, such as ‘unemployment’, ‘budget’, ‘innovation’, the ‘need for stimulus’ and so forth. Thus, ‘GDP’ seems to play a special argumentative role in EU economic expert discourse.

A few months later, in the middle of the corona crisis, the Economic and Financial Document 2020 issued by the Italian Ministry of Economy and Finance responded to the initial report by the commission, redefining and questioning the economic statements of the EU semester. This has been taken further by an economic statement from the Minister of the Economy and Finance, Gualtieri, presented in the Introduction of the report. Here, the initial negative diagnosis of the GDP is recognised: “[Given] the fall in production and consumption already recorded and these difficult short-term prospects, the official GDP forecast for 2020, which dates back to last September’s Update to the Stability Programme, has been lowered from an increase of 0.6 per cent to a contraction of 8 per cent. This new forecast predicts a fall in GDP of more than 15 per cent in the first half of the year and a subsequent rebound in the second half of the year” (EUC 2020, p. III). Following the recognition of this ‘marked revision of the macroeconomic scenario’, the report reframes the commission’s suggestions as follows:

“In the Update to the Stability Programme 2019, the policy objective of net borrowing for this year was set at 2.2 per cent of GDP. In the light of the subsequent improvement in public accounts for 2019 and the good performance of revenues in January and February, it can be estimated that if the economy had not been affected by the covid-19 pandemic the net borrowing in 2020 would have been no more than 1.8 per cent of GDP. However, as described above, the macroeconomic scenario has changed dramatically over a short period: the lowering of the forecast for GDP growth compared to the Update to the Stability Programme 2019, by 8.6 percentage points in terms of annual average growth, leads to a higher deficit of 4.1 percentage points of GDP”. (EUC 2020, p.12)

With this response, the Italian member state implicitly argues that the EU commission’s suggestions are no longer valid (which was later supported by the Commission). This was not primarily initiated by the corona crisis as such, the number of

infected people or the death rate. Rather, in a first (often implicit) argumentative step, the ‘health crisis’ must be translated into an economic indicator in order to become relevant in the argumentative register of economic expert discourse. This is done by reference to expected GDP growth (‘lowering of the forecast for GDP growth’). This change to GDP as an economic indicator changes the entire argumentative structure and offers a new space of interpretation. Following Levi-Strauss’ theory of discursive change (Levi-Strauss 1966), we can call the ‘GDP’ indicator a discursive trickster. Levi-Strauss used the notion of trickster to identify elements within the cultural symbolic universe of tribes which make social change possible. It is the starting point for the collapse of a universe of meanings. And indeed, through expected dramatic GDP losses, former EU policy agenda was immediately suspended. In addition, member states agreed on an entire set of help and rescue programmes at the EU level that were completely unthinkable before the corona crisis.

In this sense, EU commission documents are powerful tableaux for economic interpretation of the EU economic constitution. They offer the main language for framing future legislative agendas. However, economic analyses of the EU are constructed by texts that are negotiated by member states and the commission, and implemented through interpretations by affected member states. There is no automatic (neoliberal or other) policy mechanism. All economic suggestions must be argued and discussed through and within discursive games occurring in institutional devices and multiple decision-making procedures. This shows how the EU constitution is open to interpretation.

8. Conclusion

The contemporary European economic constitution is neither a single text from which every political decision can be derived automatically, nor is it an authoritarian mechanism based on a legally fixed and coherent institutional order. Rather, it resembles a Foucauldian *dispositif*, consisting of a complex assemblage of texts, institutional constellations, transversal fields and rules open to various interpreta-

tions. These interpretation processes are much more chaotic, contingent and open to socio-political struggle, working on the basis of ‘discursive translations’.

In its epistemic-historical evolution, the EU was founded on economics and law as privileged languages. We have argued that, starting with the re-launch of European economic integration in the late 1970s, economic discourses became a manifest semantic battlefield for the construction of the EU constitution. To understand the (trans-)formational processes of the EU economic constitution as the outcome of complex discursive systems, we developed the idea of the ‘discursive pentagon’ as a model that allows examination of the dynamic interaction of different fields, institutions, rules and discourses. This model explains how sovereign actors, inter-governmental institutions and specialized texts interact in translation processes. From this point of view, we have argued that economic measures cannot simply be vertically implemented; they are, rather, negotiated in complex socio-politically context-based translational processes.

Domination in Greece and autonomy in Portugal as well as blaming and battering in Italy, are only a few examples of how discursive translations operate. Indeed, these cases aimed to underline the openness and unexpected outcomes of globalised and Europeanised economic discourses. In the final section we illustrated, with an analysis of GDP as a discursive trickster, how the so-far dominant economic interpretations have been re-negotiated in the face of the 2020–21 health emergency. As this section argues and illustrates, not only do institutional constellations between the EU level and the national level open up spaces for interpretative flexibility, but economic texts too can themselves be read in different ways depending on the circumstances. The corona crisis has opened up new spaces for negotiating the post-pandemic order in and of the EU. After a year of long, complex negotiations, it seems to us that our analysis can be confirmed: also, the expansionary measures issued to rescue European countries from the pandemic are the object of constant conflict, interpretation, re-interpretation and contestation, rather than a monolithic authoritarian mechanism. In this sense, looking at the EU economic constitution as an open discursive field can offer scholars, politicians, activists and

ordinary people new ways to understand (and act in) the formation and transformation of the EU economic constitution.

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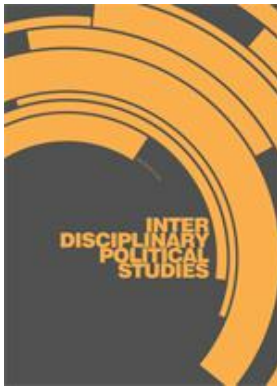
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RESEARCH ARTICLE

The New Economic Governance: The Reaffirmation of a Fiscal Governance Machine

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ABSTRACT

This article engages critically with the International Governmentality Studies, delineating a new use of Foucault's toolbox applied to analyse the New Economic Governance (NEG) reforms. The main argument is that the NEG is a reaffirmation and a reinforcement of the fiscal governance machine established with the Stability and Growth Pact (SGP). The fiscal governance machine is an ensemble of techniques shaped by and through which the European art of government is able to work in the entire European space. The article analyses how the Treaty on Stability Coordination and Governance reaffirms this fiscal governance machine. By looking at three techniques – the structural deficit, the Fiscal Council, and the Automatic Mechanism – it shows some key features of this fiscal governance machine: a new discretionary power in the hand of the European Commission and of its DG Finance, a decentralised and semi-automatic form of control on Member states, the structuration of a euro-national ensemble of executives and finance institutions.

KEYWORDS: European Union; New Economic Governance; Governmentality; Foucault; Fiscal Governance Machine.

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1. Introduction

In the last decades, International Governmentality Studies (IGS) have been the best tool to analyse reforms, programmes, or plans of the new emergent global institutions (Walters 2012). In fact, researchers deploying a governmentality approach have been very effective in exposing the ‘taken for granted’ of the emerging global governance (Walters 2004; Shore 2011; Isleyen 2014; Zanotti 2016). However, the continuous emphasis on multiplicity as much as a passive understanding of actors – being institutions or states – only able to perform in their daily routines ideas and discourses shaped elsewhere, has put the IGS in a conundrum, where they have been unable – and not interested – to analyse the economic and financial crisis and the European institutional answer to it.

From the one hand, this article will constructively engage with the IGS concerned with European integration criticising them on three points: their focus on the plurality of powers and resistances, but not on their articulation (Mezzadra & Neilson 2013); the interest on plans and reforms, but not on their application (Lemke 2007); and the specific relations between knowledge and power, but not on the broader socio-economic context (Jessop 2010). On the other hand, it will delineate a new use of Foucault’s toolbox to be applied in the analysis of the New Economic Governance (NEG).¹

¹ In this article when we talk about New Economic Governance we refer to the Six-Pack, composed by: Regulation (EU) No 1175/2011 of the European Parliament and of the Council of 16 November 2011 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies; Council Regulation (EU) No 1177/2011 of 8 November 2011 amending Regulation (EU) No 1467/97 on speeding up and clarifying the implementation of the excessive deficit procedure; Regulation (EU) No 1173/2011 of the European Parliament and the Council of 16 November 2011 on the effective enforcement of budgetary surveillance in the euro area; Council Directive (EU) No 85/2011 of 8 November 2011 on requirements for budgetary frameworks of the Member States; and the so-called Macroeconomic Imbalance Procedure, namely Regulation (EU) No 1174/2011 of the European Parliament and of the Council of 16 November 2011 on enforcement measures to correct excessive macroeconomic imbalances in the Euro area. The Two-Pack, composed by: Regulation (EU) No 473/2013 of the European Parliament and the Council of 21 May 2013 on common provisions for monitoring and assessing draft budgetary plans and ensuring the correction of excessive deficit of the Member States in the euro area; Council Regulation (EU) No 472/2013 of the European Parliament and the Council of 21 May 2013 on the strengthening of economic and budgetary surveillance of Member States in the euro area experiencing or threatened with serious difficulties with respect to their financial stability. The European Semester codified in the Regulation No 1175/2011 (EU), part of the Six Pack. And The Treaty on Stability Coordination

Our analysis starts from the idea that in the European Union the liberal art of government has been reformulated in a specific combination of ordoliberalism and neoliberalism, an *ordo/neoliberal* art of government. This art of government works through different techniques, some of which are composed and stabilised in governance machines. The fiscal governance machine has governed the European economic governance making fiscal prudence the only acceptable economic discourse. Therefore, our main argument is that NEG is a reaffirmation and a reinforcement of this fiscal governance machine, initially set up with the Stability and Growth Pact (SGP).

The argumentation of the article is developed in three steps: first we introduce how governmentality has been used in International Relations and European Studies. Second, we delineate how the *ordo/neoliberal* art of government works in the European space. Third, we explore how the fiscal governance machine has been reaffirmed in the NEG, looking specifically at three techniques: the structural deficit, the Fiscal Council, and the Automatic Mechanism. Through their analysis we are able to show some key features of the reaffirmation of the fiscal governance machine: a new discretionary power in the hand of the European Commission and of its DG Finance, a decentralised and semi-automatic form of control on Member states, the structuration of a euro-national ensemble of executives and finance institutions kept together by an *ordo/neoliberal* discourse.

2. Governmentality in European Studies

Since the ending of the Cold War, International Relations (IR) has been forced to open its debate between Realism and Liberalism to a new set of questions and points of view. Traditional IR was questioned by new emerging critical approaches more able to analyse the global situation and the new emerging global challenges (Dunne et al. 2013). The same capacity to open up the traditional debate did not occur in European Studies, where Neo-functionalism and Intergovernment-

and Governance entered into force the 1st January 2013, and signed as an international treaty and not part of the EU legal framework.

talism are still dominating the discipline, with their binary division between national and supranational, intergovernmental or supranational, economic or political integration (Manners & Whitman 2016).

Mainstream European Studies takes for granted its field of research, understanding itself as objective, apolitical and rational discipline. The different mainstream approaches – even if in different ways – share an ahistorical view on the human nature, which is considered rational, individualistic and utilitarian. This is what Ryner (2012, p. 649) defines an instrumental reason, based on *ceteris paribus* assumptions, which leads to analyses that “isolate and treat all but selected dependent and independent variables as constant” (Cafruny & Ryner 2003, p. 33). Nevertheless, even during the crisis, Neo-functionalism and Intergovernmentalism remained the alpha and the omega to refer to (Fabbrini 2013; Vilpišauskas 2013; Bickerton et al. 2015; Niemann & Ioannou 2015; Schimmelfennig 2015; Caporaso & Rhodes 2016).

In these years, scholars inspired by Foucault – in many different ways – have called into question this mainstream debate highlighting how theories are not objective. On the contrary, theories have the capacity to inform their field of analysis through their conceptualization, in this way, they have used Foucault to reveal the connection between the production of knowledge and the question of power, exposing the non-neutrality of the researcher’s position (Diez 2008). From this stance, European Studies does not merely describe the European system, but it actively contributes to the construction of the system. Hence, the mainstream debate is shaping a ‘disciplinary orthodoxy’ which is producing and constraining the European space (Selby 2007, p. 327).

In the ’90s, Foucault was mainly applied to study the transformations of social programmes at the national level: the shift from regimes of welfare to regimes of workfare; from vertical judgement to peer evaluation; from authoritative decision-making to good practices (Burchell et al. 1991; Barry et al. 1996; Cruikshank 1999; Rose 1999; Miller & Rose 2008). In the English-speaking countries, these studies flourished after the publication of the *The Foucault Effect: Studies in Governmen-*

tality by Burchell, Gordon and Miller (1991),² and they proved to be very effective in analysing the neoliberal turn of welfare institutions.

Since the early 2000s, Foucault has entered into IR discipline opening the discipline to a new set of reflections and debate.³ There is a very heterogeneous use of Foucault both in IR and European Studies. Selby (2007) proposes to divide this heterogeneous body of works in three different groups: first, works who have used Foucault to criticise the realist debate (Shapiro & Alker 1996; Rosenow 2009; Walker 2009); second, works who have used Foucault with the empirical purpose to bringing to the fore the discourses, practices and techniques of the new emergent neoliberal governance (Huysmans 2004; Zanotti 2013; Isleyen 2014); third, works who have used Foucault as a basis for a new broad analysis of the contemporary global order (Hardt & Negri 2001, 2006, 2011, 2017).

The first and second group of works can be labelled under what Walters (2012) calls 'International Governmentality Studies' (IGS), a constellation of works who have used governmentality as a form of political analysis for international relations. This constellation, contrary to what is generally thought, does not use Foucault as a postmodernist author who privileges discourse over materiality, but on the contrary, it applies governmentality as a tool to study the relation between knowledge and power in international politics as an empiric site of analysis (Walters 2012, p. 88). In this article, we will take into consideration only those International Governmentality Studies concerned with the European space and European integration, their research agenda, and their critique to the mainstream European integration theories, what we could define European International Governmentality Studies.

Foucault introduces the category of governmentality in the courses of 1977-78 and 1978-79 at the Collège de France: *Security, Territory, Population* and *The Birth of Biopolitics* (Foucault 2008, 2009). In these two lectures on governmentality,

² This book introduced Foucault's concept of governmentality in the English academic debate, even though the two Foucault's lectures on governmentality were published only in 2004 and 2005 in France, and translated into English in 2008 and 2009.

³ On this debate, see Kiersey & Weidner (2009) and Shani & Chandler (2010).

Foucault connects his previous analysis on discursive formations (Foucault 1972) and disciplinary power (Foucault 1995) to a new set of problems: how power is exercised on population and how this power rationalises itself. In these lectures, Foucault examines how a pluralisation of discourses is articulated in ‘a rational art of government’, first the liberal art of government, and then its ordoliberal and neoliberal rielaboration.

Governing Europe by Walters and Haahr (2005) is the first book that systematically applied a governmentality approach to an analysis of European integration. For the two authors this means denaturalizing the idea of Europe, to expose the teleological inspiration presented in many mainstream theories, and shows how struggles about meanings, representations, and images of Europe have shaped the existing European Union. According to Walters and Haahr, governmentality as a form of political analysis explores mainly four issues: rationalities,⁴ forms of power, subjectivity, and technologies.

First, Governmentality Studies have a focus on the rationality of government. These rationalities can be disclosed through looking at discursive formation, this means connecting discourse analysis to governmental practices, to analyse the materiality of discourses, and in this way avoiding the constructivist division between ideas and the material world. This has signified a special attention to policy papers, reports, legal texts, but also charts, graphs, and figures, rather than media or popular discourses, to search for what Walters, using Latour, calls the power of inscriptions (Walters 2002). This attention on the micro practices of governing shows how the European space has being created, assembled, and made visible. This has led many scholars to focus only on the micro-level of single programme or plan, but a governmentality analyses should be used also to examine the general art of government and its transformations. On this issue, Jessop argues that Foucault’s ap-

⁴ Walters and Haahr adopt the term mentality, but I think it is more appropriate to talk about rationality, because mentality bears a reference to an individual mentality, rather than rationality clearly refers to society. Merlingen defines rationality as: “a discursive formation, intimately linked to structures of power that produce effects of truth with regard to specific fields of governance” (2003, p. 366).

proach is *scalable*, in fact in the *The Birth of Biopolitics* Foucault is mainly concerned with macro-institutional transformations rather than specific governmental practices (Jessop & Sum 2011, p. 63). Furthermore, as Lemke (2000) adds it is necessary to reveal what does it happen between and after a programme or a reform plan, which resistances do they encounter and how they are really implemented.

Second, governmentality refers to a specific form of power that emerges in the Sixteenth Century, but becomes fully developed only in the Eighteenth Century: the liberal art of government. A governmentality approach analyses the transformation of the liberal art of government, and its interconnection and separation with sovereignty and discipline. Governmentality Studies have first focused on how a certain neoliberal rationality has changed the way of governing at the national level, to, later, scale up the ‘government at a distance’ to the global level (Walters & Larner 2004). This has permitted, for example, to expose the narrative used by the European Commission on governance as a decision-making process in itself more horizontal, participatory and open to civil society (Shore 2011). But there are two set of problems in this process. First scaling up to a global level the ‘government at a distance’ assumes that the liberal art of government had a similar development every where, instead Foucault’s analysis is focused only on France and the European space (Joseph 2009). Second, in process of scaling up there has been an under-evaluation of what Dean (1999) calls ‘the illiberality of liberal government’, that is to say the contradiction at the centre of the liberal art of government between security apparatus and the production of freedom, a vector at the centre of liberalism. Hence, the liberal art of government does not simply enables and restrains the subjects (Haahr 2004, p. 209), but it can also discipline and exclude (Opitz 2011).

Third, governmentality as a form of political analysis reflects on the forms of subjectivities that the exercise of power produces. In fact, for Foucault, power does not simply repress individuals but it shapes their subjectivities.⁵ This is possible because Foucault views power as relational: “Power comes from below, that is,

⁵ It is important to notice that a process of subjectivation is not only a passive process of ‘subjection’ but a process through which the subject constitutes itself (Kelly 2013, p. 513).

there is no binary and all-encompassing opposition between rulers and ruled at the root of power relations” (Foucault 1978, p. 98). Here, the accent has been posed on the variety of subjectivities envisioned in the different European programmes and policies (Haahr & Walters 2005), but we believe that this emphasis on multiplicity needs to be correlated with an understanding of articulation. It is not sufficient to enumerate the different subjects that are envisioned in a reform – the self-entrepreneur, the active-unemployed, the excluded – but we need to ask how this multiplicity is made to work as an ensemble and under which conditions connections between these different elements are created (Hall 1986, p. 53; Mezzadra & Nielson 2013, p. 194).⁶

Fourth, governmentality as a form of political analysis investigates technologies. The emphasis is on ‘How’ of governing instead of the ‘Why’.⁷ How is the European space made and remade? How is European identity constructed? Through which governmental actions, programmes, and tools? How did something like the European Union come into existence? By which technologies and vocabularies is authority constituted and rule accomplished? (Dean 1999, p. 31). This has meant an attention to technologies of power – the tools through which power is exercised. Technologies are defined in a very broad sense, Walters (2004, p. 161-162) suggests three levels of understanding technologies when applied to the study of European governance. The first level is the micro level, where we can find charts, scoreboards, timetables, benchmarks, evaluations – all of which make Europe visible and calculable. The second level of understanding is the *machine*, and it is the one on which we will draw upon. Machines are relatively durable arrangements of re-

⁶ This implies the recognition of multiple actors, discourses, and regimes in conflict with themselves over the exercise of power, which does not mean that the exercise of power becomes impossible, but it is contested. “From this point of view, an emphasis on the heterogeneity of discipline and biopolitics as technologies of power cannot but go along with and attempt to grasp the unitary moment and rationality of their articulation” (Mezzadra & Neilson 2013, p. 194). In this perspective, a multiplicity of practices, different forms of power, and the coexistence of different rationalities need to be thought together with their articulation and hierarchisation.

⁷ The evasion of any ‘Why’ question is an intrinsic limit of any governmentality approach. I believe it is actually interesting to relocate Foucauldian-inspired Governmentality Studies in the broader socio-economic context, whilst avoiding a universalising and totalising understanding of capitalism (Bilancetti 2019).

gimes of knowledge and practices that constitute subjects and objects over which power is exercised. Europe could be considered as an interconnection of different machines, able to work on different spaces and levels at the same time, a series of European technological zones (Barry 2001, p. 68).⁸ The third level of understanding is viewing the European Union itself as a site where new technologies are created – a space of political creation – such as harmonisation or European citizenship.

Therefore, we will apply governmentality avoiding only a focus on the micro-level, without erasing the illiberality of the liberal art of government, taking into consideration articulation, and referring to the second level of technology, the machine.

3. The ordo/neoliberal art of government in the European Union

Applying a governmentality approach permits us to reposition European governance as a reformulation of the liberal art of government whilst exposing its techniques of government.

In the economic realm of the European Union, the prevailing discursive formation is based on the interconnection between ordoliberal and neoliberal ideas. For Foucault, ordoliberalism is based on: market as a foundational principle for the state, the active role of government to establish free competition, and a society ruled in the name of competition. For this author, the main difference with Hayekian and American neoliberalism is the role of government. For ordoliberals, government should play a role in the market, setting and safeguarding a particular ‘or-

⁸ The machine is a Deleuzian category developed in his reflections around war. Despite drawing on the Foucauldian reading of Clausewitz, Deleuze will develop a different reading of the relation between war and modern power, stating that the war machine is external from the state, which is only able to appropriate this machine for its use (Reid 2003). Walters, inspired by both Foucault and Deleuze, analysing the first two decades of European integration talks about the planning machine configured in the French state and the social-market machine configured in the German state, both at play in the construction of the European Community. “It is a case of how these machines come to provide the conditions of possibility by which a series of decision-making centres, whether located formally within the EU or within national governments, can both see and act on ‘Europe’” (Walters 2004, p. 168).

der', whereas for neoliberals it should not (Foucault 2008, p. 79-100). Furthermore, for Foucault, neoliberals conceive all human behaviour in economic–rational terms, envisaging redefining society as a form of the economic domain (Foucault 2008, p. 216-238).

These two reformulations of the classical liberal art of government have both shaped the European institutions. In fact, the European Union has evolved differently from other free trade zones (e.g., NAFTA or ASEAN) merging neoliberal ideas of free market and abolition of tariffs with a rigid institutional architecture. Hence, the European Union has not only developed a single market but also a European Monetary Union (EMU) governed by the Stability and Growth Pact (SGP), fostering an idea of Europe as a competitive economic space, based on the fiscal responsibility of Member states and the construction of entrepreneurial societies.

The borders of this ordo/neoliberal discursive formation that shape the European economic space are continuously blurred by struggles and the emergence of new practices. But at the same time, the capacity to deal with these conflicts creates a certain stability. This ordo/neoliberal discourse needs to “be seen as anchored in (and helping to anchor) specific social practices, organisational routines, and institutions and/or as partly constitutive of specific social identities in the wider society” (Jessop 2014, p. 355). This means that when the ordo/neoliberal discursive formation emerged, other discourses became less effective – as the one on Social Europe. Hence, this ordo/neoliberal discursive formation is not a unity, but instead of looking only at its multiple forms, we should look for its moments of stabilisation and crystallisation, that is to say the formation of a system of powers. At the same time, we should look for disjunctions, contradictions, and inconsistencies in this system, for the purpose of deconstructing and transforming it (Foucault 1978, p. 92).

In this ordo/neoliberal art of government, Member States are not passive actors but they are active in shaping this discursive formation at the European level, and active in its promotion at the national level. Hence, States are not simply actor

on which governmentality acts upon (Fouquier 2008), but they actively contribute to delineate the ordo/neoliberal discourse, or strategies to change it. However, the ability of a state to shape this discursive formation is based on global hierarchies structured around economic development, military force, and colonial heritage.

Furthermore, this neoliberal discursive formation is not only shaped by Member states, but by struggles between civil, economic and political actors that continuously take place at the domestic, national and international level. Similarly to what we have said for Member states, not all actors are able to shape discourses and practices in the same way or to the same extent, and these struggles over meanings and practices are continuously blurring the borders of this ordo/neoliberal discursive formation. In fact, the ordo/neoliberal art of government functions in different ways, and with different outcomes, when applied to different countries and regions of the European space.

This ordo/neoliberal art of government takes the form of a government at a distance, through governmental, disciplinary and biopolitical techniques. Governmental techniques are all those techniques that foster the responsabilisation of Member States, of their civil societies and their populations, such as the techniques envisioned in the Open Method of Coordination (OMC) (Haahr 2004). Disciplinary techniques are all those that monitor, measure and control subjects over whom power is exercised, these include all the techniques of visibility, as the ones used in the NEG reforms (Walter 2002). Biopolitical techniques are all those which aim to conduct the conduct of populations as a whole, in the European Union these include all the techniques used to regulate migration, in what has been defined the 'border regime' (Walters 2006, 2010).

It is evident how during the crisis we have seen a reinforcement of the disciplinary apparatus: the Six Pack, the Two Pack, the TSCG and the European Semester have all envisaged new mechanisms to monitor, control and sanction Member states. The NEG reforms have the aim to reinforce the apparatus of surveillance of the SGP preventive arm and the disciplinary power of the SGP corrective

arm. This is what has been defined an authoritarian turn of the European governance (Bruff 2014; Oberndorfer 2014; Menéndez 2016).

Hence we think governmentality can help us to: first, to not look at states as monolithic actors, but as spaces where a continuous reshaping of practices, discourses, and institutions takes place, and become organised and re-organised in an art of government. This art of government is not defined only at the national or local level, but also at the European and global level. It is around this continuous reshaping that struggles take place, new practices try to emerge, and counter-conducts take different directions. Second, to analyse power as relational. This means that any relation of power entails a resistance to it. But at the same time, we need to acknowledge that not all relations of power are equal, and these differences form the differential possibility of resistances emerging, and contributing to shape new discursive formations. This differentiation is not always clear in Foucault's writings, as well as in many subsequent studies on governmentality. Third, to grasp the mutual constitution of power and knowledge, between processes of subjectivation and the exercise of power. However, this mutual constitution is not always linear, and not all knowledge (*savoirs*) are able to shape power in the same equal way.

4. The New Economic Governance: a reinforcement of the Fiscal Governance Machine

This ordo/neoliberal discourse has been challenged during the crisis, and its framework has been renegotiated, and at the end it has been reaffirmed and reinforced through the New Economic Governance (NEG). Instead of looking at the supposed intrinsic economic logic of these reforms, or instead of demonstrating their non-adherence to a certain economic logic, we want to look at the context of their emergence, and at “the strategies in which they take effect, whose general design or institutional crystallisation is embodied in the state apparatus” (Foucault 1978, p. 92).

During the crisis, intergovernmental readings have flourished, highlighting the new centrality of the European Council, and in this forum, the renovated ability of the German government to led negotiation process (Puetter 2012; Schimmelfennig 2015; da Conceicao-Heldt 2016). Even though this renovated German ability is undeniable, as we can see in the process which led to the signature of the Treaty on Stability Coordination and Governance (TSCG), many reforms included in the NEG empower the European Commission with a new role of surveillance and guidance of national economic, fiscal, and social policies (Bauer & Becker 2014; 2016).

From our perspective, the ensemble of reforms part of the NEG reinforces what we call a ‘fiscal governance machine’ set up with the SGP and implemented in all the Member states. This reinforcement has meant a turn towards the application of more disciplinary technologies able to scrutinise, monitor, and make visible. By ‘fiscal governance machine’ we point out an ensemble of different institutional devices, organised on different scales and levels, that share the same apparatus of knowledge and power based on a competitive economy, fiscal stability, entrepreneurial society and individualized responsibility, that have the aim of steering the political economy of Member States.

Conceiving fiscal stability as a machine of governance means to take into account a range of interacting socio-technical entities among which we can list: neoliberal think tank, international economic organisations, fiscal agency, public authorities, fiscal and economic ministries, universities, statistical offices, independent bodies, computer models, forecasts and algorithms. Such an account looks how fiscal stability has become the main objective of European and national institutions (Bousquet 2014). As we have explained in the previous section, this is not the sole machine at work in the European space, and instead of conceiving the European Union in terms of political bargains between states (Walters 2004), we could think at the European Union as an assemblage of different governance machines in conflict with each other (Acuto & Curtis 2014).

The Six Pack, the Two Pack and the TSCG contain measures regarding the fiscal and economic governance of the Union, co-ordinated by the cycle of the European Semester (Verdun & Zeitlin 2018, p. 138). The principle aims of these reforms is well surmised by the third article of the TSCG, where we read: ‘the budgetary position of the general government of a Contracting Party shall be balanced or in surplus’ (art 3.1a). Since the European institutions have considered excessive deficit and debt the main problem to main cause of the financial crisis, how to enforce effectively the balanced budget rule in all Member states and their sub-state actors is the central question beyond these reforms.

For question of space, in this article we examine in depth only three techniques envisioned in the NEG: the Structural Deficit, the Fiscal Advisory Council, and the Automatic Correction Mechanism. These techniques highlight three exemplar features of the NEG: a new discretionary power of the European Commission, the automatization or semi-automatization of rules, and independence of the relevant national agency from state institutions, at the basis of the reinforcement of the fiscal governance machine.

3.1. The Structural Deficit

Since its approval, the SGP has triggered a debate around the relation between fiscal stability, that for the pact is expressed in the 3% threshold, and economic growth. After the conflict between the European Commission and the Council on the French and German Excessive Deficit Procedure (EDP),⁹ in 2005, a reform of the Pact clarified the procedure for Excessive Deficit. The nominal ceiling of the 3% was replaced, and the structural deficit was introduced (Council Regulation (EC) No 1056/2005).

⁹ In 2003, a procedure for Excessive Deficit was open against France and Germany. Even though the two countries did not comply with the path set up by the Commission’s programme, the Council did not approve the sanctions proposed by the Commission. For this reason, the Commission brought the Council before the European Court of Justice for exceeding its authority, and the Court ruled against the Council.

Today, Member states are expected to respect the Medium Term Objective (MTO), or to be heading towards it by adjusting their structural budgetary position at a rate of 0.5% of GDP per year as a benchmark.¹⁰ The MTO is calculated in structural terms, therefore taking into consideration business cycle swings and filtering out temporary measures. The structural deficit is considered by European institutions a better way to calculate the deficit than nominal values, because it is more flexible and able to take into consideration the economic cycle (Wyplosz 2013). This calculation is presented as a technical question of statistics, without any political implications. But who and how can decide which measures should be filter out as temporary and which should be considered structural?

The structural deficit is the difference between present and potential output. The potential output is not observable but is an estimation based on the economic capacity of a country. There are different models to calculate the potential output, and the European Commission, the IMF and the OECD do not apply the same one. And this means that they produce different forecasts.¹¹ This estimation is based on different economic assumptions, subjected to significant errors and revisions, and it end up being highly contested in the economic discipline (Gros & Alcidi 2014; Radice 2014; Heimberger et al. 2017). In 2013, after that the Spanish Non-Accelerating Wage Rate of Unemployment (NAWRU)¹² forecast was equal to the real rate of unemployment, the DG Finance had to revise its model of calculation (Havik et al., 2014; Gechert et al. 2016). Hereafter, different Member states have challenged this calculation, and in 2015, the European Commission had to re-

¹⁰ Art. 3.1d of the TSCG stays that where the ratio of the general government debt to gross domestic product is significantly below 60% the lower limit of the MTO can reach a structural deficit of 1,0 %.

¹¹ In 2016, for example, the output gap for the euro area was estimated 1.0 by the European Commission autumn forecast, 1.2 by the IMF October outlook, and 1.9 by the OECD November economic outlook.

¹² The Commission calculates the potential output as an outcome of human capital, investments and productivity. Hence, it considers production a function of trend capital, labour and total factor productivity. The labour component is calculated on the basis of NAWRU that indicates the level of unemployment below which wages are supposed to rise (Mourre et al. 2013).

lease a communication on the use of flexibility in the SGP.¹³ On the basis of this communication, during the Covid-19 crisis the SGP has been suspended, and the general escape clause has been activated (Commission Communication (EU) No 123/2020).

Here, it lays a new power of calculation assigned to the DG Finance, which is the European institution responsible for this and other measurements. In fact, during the European Semester, the DG Finance is continuously collecting data and information on Member states to make them legible and visible, through what has been called an “information-driven surveillance process” (Savage & Howarth 2018, p. 212). For implementing the reinforced SGP preventive arm, an entire apparatus of knowledge and power has been elaborated based on supposedly-objective economic experts and statistical agencies with the aim to monitor and control different institutional actors. This has turned to be the way through which depoliticise the public debate on economic and fiscal issues, asserting the necessity of fiscal stability as the only valuable alternative. Thanks to this power of calculation, the European Commission, and its DG Finance in particular, has gained a discretionary power on how to calculate and what to make visible, governing the relation between economic forecasts and economic governance. And even though the SGP at the moment is suspended, this capacity of measurement and control it is still active, and it will be deployed to control the implementation of the Recovery Fund by the Member states.

3.2. The Fiscal Advisory Council

For years the IMF, the OECD, the ECB and the European Commission have advocated for independent agencies controlling national budget. In 2006, the European Commission launched a survey about the institutionalisation of Fiscal Council, at that time only the Netherlands, Denmark, and Belgium had a national

¹³ In 2015, the Italian economic Minister Padoan has criticised the NAWRU calculation in the Draft Budgetary Plan. Following this open contestation, the European Commission has released a Communication on making the best use of the flexibility within the existing rules of the Stability and Growth Pact (Commission Communication (EU) No 12/2015).

independent Fiscal Council. The crisis has opened the momentum to achieve their institutionalisation. The Six Pack was the first NEG reform to foster the introduction of Fiscal Councils in all Member states. Then, the TSCG affirmed in its third article that an independent supervisory institution should monitor the actions of the Member states. Finally, the Two Pack has restated this necessity. Today all the European Member states have set up Fiscal Councils, but following different institutional models (Tesche 2019).

The Two Pack envisages mainly two tasks for the Fiscal Council: first, monitoring compliance with fiscal rules, and second, producing or evaluating macro-economic forecasts (art. 5 Council Regulation (EU) No 473/2013). Fiscal Council shall be an independent body, from a structural point of view against any national economic or fiscal authority, and from a functional point of view, operating with its own budget and regulation (art. 2 Council Regulation (EU) No 473/2013). Finally, Fiscal Council shall be composed by economic experts rather than politicians, and it shall have access to all economic data and information of the Member state.

The creation of independent Fiscal Councils to monitor fiscal policies is part of a larger ‘agencification’ process, which outsources regulatory power to independent agencies and bodies centred on the role of experts (Jordana et al. 2011). In this way, issues considered technical are subtracted from public debate and regulations are separated from policy making (Majone 1994). European and national agencies have proliferated in the last twenty years, representing a significant change in the organization of the state apparatuses (Andoura & Timmerman 2008). Today, there are 44 decentralised agencies in the European Union, coordinated by the EU Agencies Network. The Commission describes ‘agencification’ process as a maturation of the EU system and as a strategy to enhance credibility, efficiency and transparency (Commission Communication (EC) No 718/2002).

Creating national Fiscal Councils, the European Commission had the intent to, first, depoliticise certain dimensions of fiscal policy, similarly to what happened for monetary policy (Debrun & Kinda 2014, p. 4). Second, to improve compliance with the fiscal rules controlling Member states from the inside, but without

creating competing competences between the European and the national level (Tesche 2019, p. 3). For this reason, in 2015, it was set up the European Network of Independent Fiscal Institutions (EU IFISI), and, some months later, the European Fiscal Board (EFB), an independent advisory body with a consultative role towards the Commission (Commission Decision (EU) No 221/2016). Thus, at the centre of this decentralised network of fiscal advisory councils, we find, again, the European Commission and its DG finance.

The aim of this decentralised network of Fiscal Councils is to enhance compliance with the *ordo*/neoliberal rationality, and not to improve the democratic legitimation of the new Euro-national procedures (Fasone & Fromage 2016). It fosters a process of surveillance on the political economy of Member states, adding to the top-down dimension of control, an horizontal dimension of control organised directly at the national level, what Sánchez-Cuenca (2017) defines a ‘technocratic federalism in fiscal policy’.

3.3. The Correction Mechanism

If the introduction of Fiscal Councils added a horizontal dimension of control, the idea of an automatic Correction Mechanism goes beyond the simple surveillance on Member states towards direct control. This Correction Mechanism was introduced, in the first place, in the third article of the TSCG where we read that in the event of significant deviations from the MTO or the adjustment path towards it, a correction mechanism has to be triggered automatically. Later, this has been inserted in the European legal framework through the Two Pack.

The common principles of the Correction Mechanism are set in a communication of the European Commission (Commission Communication (EU) No 342/2012). The activation of the Correction Mechanism shall occur in well-defined circumstances characterising a significant deviation (principle 3), and the size and timeline of the correction shall be framed by pre-determined rules (principle 4). The automatic mechanism shall correct the situation through the implementation of counter measures. These counter measure have to restore the structural balance at or above the MTO within a planned deadline, and they should give a prominent op-

erational role to rules on public expenditure and discretionary tax measures (principle 5). Hence, Member states are required to adopt a corrective plan that has to be binding over the budgets covered by the correction period, with rules decided *ex-ante* and not specific to the circumstances. Once this mechanism is adopted, it should be controlled not only by national government, but by an independent body.

The automatic Correction Mechanism can be read as a form of decentralized and peer surveillance, where a move beyond the government at a distance is taking place towards a direct intervention into state institutions. Similarly to the rationale beyond the corrective mechanism, the idea is to move from a top-down dimension of control towards a decentralized system of control, that in the end refers to the DG Finance of the European Commission.

These three techniques reveal important features of the NEG: a new and reinforced discretionary power of the European Commission, the enhanced role of its DG finance, the relation between economic forecasts and economic governance, a decentralised form control on national institutions, and the emergence of a Euro-national system of interconnected institutions. This express not only the reaffirmation of the fiscal governance machine but its reinforcement deploying new disciplinary techniques, exacerbating the illiberality at the heart of the *ordo*/neoliberal art of government. In fact, this reinforcement has accelerated the crisis of parliamentary democracy, giving prominence to the economic and executive institutions both at the national and European level.

5. Conclusion

In this article we engaged critically with the International Governmentality Studies on the European Union to analyse the NEG. Following this perspective, we have defined the European Union as an ensemble of machines, sometimes in conflicts between each other, kept together by the continuous reshaping of an *ordo*/neoliberal discourse that defines the language and objectives of its Member States.

Going beyond a simple emphasis on multiplicity, and the micro level we have focused our analysis on the reaffirmation of the fiscal governance machine after the economic crisis of 2008. This fiscal governance machine, set up with the SGP, has been reinforced with the NEG. We have showed this shifting examining three techniques envisaged in the NEG reforms: the structural deficit, the Fiscal Council, and the Correction Mechanism. Here, we have highlighted how a new discretionary power of the European Commission and of its DG Finance is emerging, as much as a new decentralised and semi-automatic form of control. At the end, we have pointed out how the organisation of this governance machine is creating new connections between economic and fiscal institutions at the national and European level, consolidating a Euro-national space dominated by an ordo/neoliberal rationality. Hence, the conflicts we see between national economic ministries and the European Commission are just part of this art of government which governs through institutional competition. Therefore, to transform this art of government is necessary to challenge the ordo/neoliberal rationality, not simply the institutional level of its decision-making. So even if during the Covid pandemic the SGP has been suspended, this ordo/neoliberal rationality has not been challenged yet. For this reason the Recovery Fund implementation risks to be another reaffirmation of the same discourse, but probably transforming the techniques involved.

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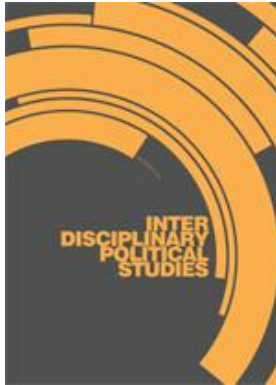
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RESEARCH ARTICLE

Draghi's 'Bumble Bee' Challenges to Securitization Theory: a Comparative Analysis of Political and Media Discourses about the Eurozone Crisis

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ABSTRACT

This article examines the tipping point of the Euro crisis as a turning point for EU integration processes. First, I introduce the concept of securitization and its usefulness to grasp breaches within the constitutional order. I then define the concept of 'crisis' around which this article revolves. A contextualization of the Spanish bail-out and the ECB's intervention of mid-2012 follows. Before moving on to the results of the analysis, brief methodological comments are made. Reading the episode at hand through the discourses of a variegated sample of political actors provides hindsight into its complexity. While newspapers' discursive strategy fits the concept, Rajoy and Draghi's interventions defy the logic of securitization by acting extraordinarily while denying threats and their own exceptional behavior.

KEYWORDS: Securitization; Euro crisis; Exceptionality; EU Integration; Critical Discourse Analysis

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1. Introduction

This article focuses on a crucial episode of the Euro crisis to discuss its implications in terms of constitutionality and exceptionalism. From early 2010 onward, speculation on structural governmental debt triggered devaluation spirals affecting the whole eurozone (Kutter 2014). These speculative pressures were closely tied to EU authorities' incapacity to provide a satisfactory resolution to the 2008 global financial crisis. Spain's bailout in 2012 didn't prevent speculation on the Euro to keep building up. It was only with Mario Draghi's unexpected intervention that fears declined – as he claimed that 'the ECB will do whatever it takes to preserve the Euro'. This episode has been identified by numerous observers as the episode during which the Euro crisis culminated (Hodson 2013; Holmes 2014).

This episode is all the more relevant when considering the subsequent constitutional reforms to the architecture of European governance that were undertaken (Kutter 2014). These steps were taken on an extra-legal basis and through quasi autocratic procedures challenging founding principles of the EU, such as the equality of member states, democratic control, etc. (White 2015). Of course, EU enlargement has always been the result of ad hoc bargaining processes, challenging the notion of a well-established juridical framework for negotiation. Since its early days, the EU regime of enlargement policy corresponds with a technocratic working ethos and a paternalistic approach (Kutter & Trappmann 2010). Nonetheless, the integrative steps done under crisis management represent a deviation from the European 'legal normalcy' that have blended into a permanent configuration of authority (Kreuder-Sonnen 2016). That which before the Euro crisis needed to be accomplished through exceptional measures has now been constitutionalized, implying that what was previously labeled as extraordinary action was turned into normal politics. The blurring out of constitutional restraints to executive rule poses a theoretical problem by changing the normative coordinates with which to assess the democratic character of our societies (Agamben 2004).

The first section will introduce the concept of securitization used in this paper. Indeed, the appearance and/or construction of an emergency situation

constitutes the core justification for exceptional measures (Buzan et al. 1998, 23). As the case study consists of a crisis episode, the second section suggests that 'crises' are a defining feature of our societies. Crisis-related threat production gives us the opportunity to study how exceptionality operates, as it becomes visible in the media. As such, this article focuses on the episode with which speculation on the Euro was brought to a grinding halt by enacting constitutional reform *avant la lettre*. The fourth section provides an overview of the Euro crisis. I then explain the methodology, share the results and conclude with some final remarks about eurozone exceptionality.

2. Securitization and exceptionality

Buzan, Waever and de Wilde coined the concept of securitization to designate a process by which certain political decisions are no longer bound to standard procedures responding to an alleged exceptional situation. As such, security studies are a useful framework of analysis to describe governmental threat management. Successful securitization brings the issue into the realm of security, in which decisions are no longer subject to the scrutiny of parliamentary deliberation (Buzan et al. 1998). Conversely, desecuritization means that a certain issue returns to regular parliamentary politics. Securitization is not a static nor universal category: issues can become "desecuritized" or "resecuritized" over time (Hansen 2012).¹ Engaging with Carl Schmitt's work (Schmitt 1985, 2014), securitization studies' have criticized the fallacious legitimation of exceptional political action (Angelov 2012; Williams 2003).²

The anti-democratic implications of exceptionality lie at the heart of the security realm, defined by state secret (Kreuder-Sonnen 2018). If the decision-making process implied by parliamentary systems is made public, strategic and tactical

¹ Securitization scholars have argued thoroughly that securitization processes require the adherence of the audience in order to successfully elevate certain issues to the realm of security. The assessment of the effects of the discourses under study on the population fall outside of the scope of this article, in which I discuss whether these discourses can be fruitfully captured by the concept of securitization.

² Securitization relates to the Schmittian concept of sovereignty, according to which the sovereign is the person 'who decides on the exception' (Schmitt 1985). When Schmitt refers to the exception, he means the state of exception, that consists in suspending the law (in liberal regimes, the constitution) to protect the law.

efficiency is compromised. In other words, the enemy should not have the opportunity to know one's strategy beforehand. However, securitization studies observed that, once the Cold War ended, securitization processes were no longer only tied to the military sector, and indeed spread to other sectors of society, such as the economic sector, the political sector, the ecological sector, and alike (Buzan et al. 1998; Gross 1999). In fact, since the fall of the Berlin wall, securitization processes have been extended to issues such as immigration, disease control, natural catastrophes, etc. (Karyotis & Patrikios 2010; McInnes & Rushton 2013; Baele & Sterck 2015; Ejdus & Božović 2017).

The concept of securitization could seldom be properly applied to economic events, as the bankruptcy of companies is a part of the normal functioning of capitalist competition. Relative economic insecurity is seen as pushing actors towards efficiency, making it hard to label failures as extraordinary. As such, the identification of existential threats around the economic sector usually finds its justification in the consequences that these economic problems could have in other sectors. As the Copenhagen School (CS) points out, 'the major exceptions even for liberal governments are very large manufacturing firms and especially banks, whose collapse would threaten the stability of the entire economy and, in the case of banks, possibly the stability of the international financial system' (Buzan et al. 1998, 100-101). This sort of events relates to the concept of economic state of emergency, a specific sort of exceptionalism roughly characterized as a bypassing of normal technical and bureaucratic processes to face up to extremely fast and complex financial dynamics (Best 2017; Atilés-Osoria 2018).

The financial collapse of the 2008 sub-prime crisis fits the concept of securitization: the alleged threats are straightforward and their definition lacks ambiguity; the measures to counter them are simple and are expected to solve the problem (Debelle dos Santos 2013). The difference between the exception and the norm is well-defined, and the competent authority in each case justifies its actions by appealing to a concrete exception. Specific events justify extraordinary measures that are to be applied only for a limited amount of time (Buzan et al. 1998). Securitization has a

straightforward heuristic capacity to describe this sort of exceptionalism, as exceptional measures are explicitly defined as responses to extraordinary circumstances.

Yet, researchers diverge about how the eurozone crisis fits the concept. For Langenohl's (2017, 139), the eurozone crisis lent itself much closer to 'classical' securitization, because the crisis was framed in terms of defaulting *states*, not defaulting *banks*'. On the contrary, Abulof (2014, 400) considers that the 'existential threshold' of the eurozone crisis is rather limited in scale and scope. These debates attest that, as the 2008 crisis settled in, securitization processes became harder to track. Threats are more elusive, the periods over which they operate expand, and extraordinary measures are no longer the object of discussion (Debelle dos Santos 2017). It thus matters to take a closer look at the meaning of crisis and its relationship with exceptionality.

3. From crisis as exception to 'state of crisis'

Broadly speaking, the last decade shook the foundations of the relatively stable world system described by securitization studies. In line with these considerations, contemporary societies are best described as being subsumed in a 'state of crisis' (Rodrigues dos Santos 2001; Baumann & Bordoni 2014). This has implied new governance techniques that have been alternatively labeled as 'neoliberal authoritarianism' (Bruff 2014), 'liberal exceptionalism' (Best 2017), 'authoritarian constitutionalism' (Oberndorfer 2020), or 'ordo-liberal constitutionalism' (White 2015). The present article focuses on the latter, although generally drawing from this strain of literature to further the critical dimension of the piece.

The semantic origin of the concept of crisis can be traced back to the ancient Greek word *krisis*, referring to the doctor's observation of a disease's decisive moment, in which the patient's fate balances between life and death. Hypocrates's (460 b.c. - 370 b.c.) first definition of *krisis* illustrates a moment of struggle in which an existential threat either substantiates or is withered away. More precisely, the word crisis refers to the decision of the doctor. The word *krisis* finds its origins in the verb *krino*, that means to examine, to judge, to decide (Starn 1976). Diverse Greek authors

made the word spread to other fields, often without significant theoretical elaboration. Starn (1976, 6) points out that historians do not employ the word in any significant way until after the Renaissance. The definition of crisis as a critical moment thus prevailed for centuries.

The meanings of the word expand between the XVIIth and the XIXth century, to depict breaking-points in a broader sense. The concept starts to refer to the dysfunctions of a system, as economists and historians elaborate crisis theories. Marxism emerges as a critical theory claiming that crisis is inherent to capitalism (Ordioni 2011). Meanwhile, liberals were divided between Say and Keynes' visions. Schumpeter's thesis on the creative destruction caused by crises also became influential (Schumpeter 1942). All in all, the use of the concept of crisis boomed in the 20's and 30's of the XX century. In all these meanings, the idea of a turning point prevails (Graf 2010; Graf & Föllmer 2012).

What remains shared by both definitions is the reference to a risky and uncertain moment (Müller & Waterlot 2013). It invokes the notion of perturbation, either seen as a moment of decision or indecision (Morin 1976; Stegăroiu 2005). Still, the original semantic meaning of the word is interesting as it includes the agency of an observer, capable of integrating complex processes in a narrative structure to identify a point of inflection (Graf 2010). In this line of thought, Castoriadis insisted that 'the crisis is the feeling of crisis', bringing to the fore the *perception* of the crisis (Castoriadis 1980, 247). Still, how to identify real threats remain unclear, as no objective measurements can certify their existential character beforehand (Buzan et al. 1998; Žižek 2002).

The 70's mark a turning point for the concept of crisis, that becomes a key element for the survival of institutions. Modern governmental techniques conceal inequalities and legitimate oppressive policies invoking crisis narratives grounded on a logic of confrontation with threats and enemies (Ordioni 2011; Krisis 2015). Neoliberalism turned the crisis into a device through which internal antagonism is created, concealed and neutralized (Cadahia 2012). The permanent threat is met with constant discretionality by the executives, in a repetitive attempt to shield referent

objects from annihilation. Permanent threats imply that responding to the illegitimacy stemming from allegedly preventive actions is postponed, as the enemy immediately reappears.

The eurozone is very peculiar with regard to this issue, as its constitutional configuration tends to generate securitization processes, in what Dyson (2013) has called a semi-permanent state of emergency. Among other explanatory factors, what might be designated as the ordo-liberal ideology informing the blueprint of the ECB is a significant one (Draghi 2013). The ECB stands as an unelected technocratic entity operating under a strict mandate of price stability, defying the classic notion of sovereignty. Since the eurozone crisis, a growing body of literature has dissected the so-called 'German ideology' (White 2015; Wigger, 2017). The lack of solidarity shown by dominant countries of the eurozone lacked an *explanandum*, as their dogmatism endangered the single currency – and thus, their own long-term structural interests (Debelle dos Santos 2017).

Ordo-liberalism seeks to maintain an orderly economic system (*Ordnung*) which minimizes conflict between labor, business and the state (Midgley 2014). Economic constitutions are used to create a framework of technical means for a stable market society, following a foundational moment that institutionalizes basic principles (White 2015). Laws, central banks, technocrats, boards, advisory committees and other entities negotiate the consensus underlying this rule-based economic system. Ordo-liberalism does not dismiss state action, although it constrains discretionality in conformity with the economic constitution. In practice, fiscal restraints and conditionality on financial support posited by ordo-liberalism have characterized the European architecture since its early days (Cozzolino & Giannone 2019).

Paradoxically, the emphasis on a constitutional framework of policy-making would seem to invite the escalation of political rhetoric – a politics of emergency – when interventions hard to qualify as 'formal' are pursued (White 2015). The following section traces the contours of the crisis episode at hand, taking the aforementioned elements into account. Considering that 'the crisis' has become a

technology of government, the narrative provided below attempts to identify a point of inflection, to capture the growing feeling of crisis, and to describe the salutary decision by the relevant authority, while acknowledging the concrete institutional framework which constrains the events.

4. The culmination of the Euro crisis

This paper reads the global financial crisis as a turning point for class politics, with the kick-off of a new epoch of accumulation by dispossession (Harvey 2014). At first, the bankruptcy of companies such as Goldman Sachs and Bear Sterns was deemed to be a threat to the stability of the overall system, elevating those corporations to the status of ‘Too Big To Fail’ (Hudson 2010; Engle et al. 2015;). After the Emergency Economic Stabilization Act (EESA) in the US, bail-outs multiplied throughout the world. By November 2008, the EU had already spent over 4 billion in state funded interventions (La Caixa 2008). These measures revealed the financial fragilities caused by financialization (Lazzarato 2012).³ Yet, the indignation of the population and the divisions caused within political parties were ignored (Rodrigo Mendizábal 2011; Hanan & Chaput 2013). Media narratives of the crisis quickly developed to explain what became known as the Great Recession (Aalbers 2015).

The first bail-outs followed a straightforward There Is No Alternative (TINA) argumentative strategy, achieving the short-term goal of preventing economic collapse (Debelle dos Santos 2013). Often limiting themselves to reduce uncertainty, they operated more to restore trust than to make structural interventions (Hudson 2010). Then again, in the long term they ended up contributing to the eurozone crisis, as they increased public debt. The European sovereign-debt crisis started in Greece in late 2010, as public debt turned out to be much higher than previously acknowledged. Greece’s difficulties can hardly be considered exceptional by themselves, as they are a direct consequence of the structural imbalances within the Eurozone (Rakopoulos 2014). Yet, the Greek crisis can be seen as a catalytic

³ Financialization consists in a process through which the indicators of profitability and market capitalization obtain an increasing importance in states’ and companies’ strategies (Almiron Roig 2006).

moment during which the new regime of governance of the EU began to emerge (Kutter 2014). The collective agreement aimed to counter structural imbalances between member states amounted to deep-ranging austerity measures and coercive policies on debtors, without dispelling doubts about the solvency of peripheral eurozone countries (Blyth 2013). Germany's constitutional fiscal 'debt-brake' was exported to the rest of the eurozone with disastrous consequences (Tooze 2018).

Speculation over the default of Italy and Spain was on the rise when, in May 2012, Spain's Prime Minister Rajoy negotiated a bail-out while publicly denying it. Rajoy's statements came as a response to the bankruptcy of Bankia, the state-owned 'bad bank'. During a first press conference Rajoy acknowledged that Bankia needed a capital injection, while rejecting the idea of a bail-out to get funds for Bankia. Then, money was borrowed from the eurozone to rescue Spanish banks, while Rajoy claimed that it wasn't a bail-out and that the credit would not compute to Spain's debt. Rajoy's statements caused confusion. The Eurogroup issued a statement clarifying that Spain was bound to repay the debt, interest, and enforce certain measures upon its banking system. By July 2012, financing costs for Italy and Spain peaked. Widening speculative pressures threatened the Euro itself. Indeed, while bailing out Spanish banks was still feasible, rescuing the fourth economy of the Euro-zone was troublesome for the remaining partners of the single currency (Soares 2012).

It was not until late July that speculation went down again. ECB's president Mario Draghi made unexpected statements about the institution's policy at an investors conference in London. This discourse has been identified as the episode that ends the 2012 Euro crisis (Smith 2013; Holmes 2014; Braun 2016). Draghi's statement that the ECB would do 'whatever it takes' to protect the Euro immediately reduced speculation. By then, the eurozone had agreed on the implementation of the Outright Monetary Transactions (OMT), a bond-buying program funded by member states. Even if Germany's green light was missing, discourse translated into material reality. The German parliament eventually returned from its summer break and approved the proposal. But the funds destined for the OMT were never used, as speculation was kept at bay long enough for other rescue mechanisms to take over.

It is worth underlining that the OMT program clashed with Article 123 of the Treaty on the Functioning of the European Union, concerning the ‘no bailout clause’, thus making it highly controversial. In fact, it was preceded with the Market Securities Program, which could also be said to contravene the ECB’s *ordo-liberal* concern of restraining from intervention beyond the creation of a well-functioning order. Institutional arrangements for crisis management were then upgraded with the creation of the European Stability (ESFM), later replaced by the European Stability Mechanism (ESM). These entities have been granted a special status that locates them outside the EU founding treaties, while also superseding them. This also applies to the Fiscal Compact, which enforced greater fiscal controls over member states (White 2015). This ‘ever closer union’ can be seen as a success only when overlooking the qualitative characteristic of these integrative steps, often done under the cover of exceptionality.

In 2014 the German Constitutional Tribunal would claim that the OMT program violated the constitutive norms of the union. By presenting this claim to the EU Court of Justice, it challenged Draghi’s move to counter the speculative spiral. The contentious episode came to an end in 2015. The judge ruled that the measures taken by the ECB – including the OMT – were constitutional. As the Advocate-General put it, the issue at stake was ‘to consider whether a programme such as OMT may be classified as a monetary policy measure or is, instead, an economic policy measure and, therefore, prohibited so far as the ECB is concerned’ (Villalón 2015, 30). The statement clarified that ‘the OMT program belongs to the field of monetary policies and is thus a part of the competences of the European System of Central Banks’, besides also declaring that the OMT program is generally ‘compatible with Article 119 TFEU and Article 127(1) and (2) TFEU’ as well as with ‘Article 123(1) TFEU’ (Villalon 2015, 52).

As stated in the document, the OMT programme was created ‘in response to a situation regarded as exceptional for the viability of the ECB’s monetary policy’, while the precise context in which Draghi’s statement took place was one of ‘investors’ lack of confidence in whether the euro could survive’ (Villalon 2015, 4). The

general attorney conceded that the premium charged for the financing of certain member states were excessive, favoring the interpretation that the ECB identified extraordinary circumstances and acted to 'reestablish the transmission mechanism of monetary policy' (Villalon 2015, 16). As some authors pointed out, it might be due to the fact that the EU Court of Justice chose not to confront EU-exceptionality altogether (Kreuner Sonnen 2016).

5. Critical Discourse Analysis

This piece uses Critical Discourse Analysis to examine the selected sample, emphasizing the social meaning of discourses, defined as the use of language in social contexts (Giró Martí 1999; van Dijk 2006; Fairclough & Fairclough 2013). On a first level, discourse analysis studies meaning as part of the social process (Fairclough 2001). On a second level, discourse also refers to the language used in a certain field or social practice. Political discourse is an example of this sort of discourse. Finally, discourse also means a way of constructing particular aspects of the world from a specific social perspective. An example of this is the *ordo-liberal* discourse on fiscal policy. In short, discourses are ways to represent and act upon certain aspects of the world.

Discourse analysis matters because language is simultaneously constitutive of social identities and systems of knowledge, representation and belief related to the world (Pujante Sánchez & Morales López 2012). Discourse can reproduce these dimensions or contribute to transform them. Generally, discourses can be identified with postures or perspectives of different social actors (Fairclough & Fairclough 2013). Critical discourse analysts tend to study speech acts in concrete socio-historical contexts to critically assess their content (Jones & Collins 2006), discuss the dominant meanings that characterize them (Hall et al. 1978), and evaluate if the claims they contain are true or false, just or unjust (Fairclough 2001; Morales López 2013).

Furthermore, securitization processes require the adherence of the audience in order to successfully elevate certain issues to the realm of security. As Vuori (2011, 112) put it, 'the question remains what is the relevant audience'. That is, not all

securitization discourses will be public on any level, and there could be various relevant audiences in a single securitization process. Anyhow, critical research highlighted that securitization is context-dependent, audience-centered and power-laden (Balzacq 2005). In the case study at hand, price signals' capacity to present a kind of universal evidence that insulates itself from negotiation illustrates well the effects of context on securitization moves. This article puts emphasis on market audience, which has the particularity of not being defined by entering into a relationship of co-constitution of a collectivity (Langenohl 2017).

Indeed, it matters to underscore that 'sovereign debt ratings, as their name does not suggest, fully rely on the obligation market, and thus from international financial investors' (Lordon 2019,174). Markets set benchmarks for the intensity of threats, leaving little ground to deny the urgency of the situation. More broadly, economic developments are deeply tied to the elemental forces of opinion and beliefs (Lordon 2007). While economies correspond to material events, they are always mediated by discursive and extra-discursive forces (Hanan 2010). The strong market impact of politicians and central bankers' statements shows discourses are a crucial part of the economy (Bligh & Hess 2007; Perrone 2010).

The complex interrelationships between finance and security are a key feature of the eurozone crisis. According to Langenohl (2017, 140), the fast-paced integration steps led by crisis-management amount to an 'institutionalized supranational securitization'. It also implied 'macro-securitization', as member-states securitizations aligned with supranational ones. Finally, and against the reading of an all-encompassing 'deep securitization', protest movements and disruptive political parties performed significant counter-securitizing moves (Abulof 2014; Bruff 2014; Oberndorfer 2020). The present piece aims to provide greater detail on eurozone exceptionality by showing how the selected discourses fit the concept of securitization. As such, CDA's traditional focus on the rhetorical tricks used to increase the effectiveness of the texts is subsidiary to the present analysis.

5.1. Sample

This paper focuses on the speech given by Rajoy on June 10th, and on Draghi's speech, that took place on July 26th.⁴ Thus, I focus on two crucial levels: the central bank of the single currency and the main political leader of Spain. These primary texts of the sample are complemented by an analysis of how newspapers recontextualized these discourses. This multi-level approach has shown useful to tackle the complexity of discourses about EU institutions (Kutter 2015). In other words, I look first at the discourse of the main political leaders involved and then at the editorial reactions of four reference newspapers. Both interventions correspond to high points of media visibility, understood as the occurrence of a certain actor/topic in the media (Kantner et al. 2008).

The newspapers under scrutiny are the *Wall Street Journal (WSJ)*, the *Financial Times (FT)*, *Le Monde* and *El País*. The first newspapers specialize in finance reporting, while the latter are generalist newspapers. All of them are prestigious, renowned and influential political actors at the international level (van Dijk 2006). The sample is thus diverse in geographical terms, including newspapers from the US, the UK, France and Spain respectively. These newspapers were selected due to their loose correspondence to different monetary authorities: the WSJ with the dollar, the FT with the pound, Le Monde with the euro. El País allows us to have a perspective from the country being bailed-out. The case study's relevance allowed for a synchronous selection of texts, as shown below:

⁴ Rajoy's first speech, made by on May 27th, would deserve to be analyzed separately, as all the important information is provided as responses to journalists' questions at the end of his speech.

Table 1 - Eurozone crisis sample

	El País	Le Monde	Wall Street Journal	Financial Times
Rajoy - June 10th				
11/06	Rajoy niega el rescate		Europe's latest bailout	The eurozone buys itself some time
06/13	Tareas pendientes	Du bon usage de la crise financière européenne		Euro blame game
Draghi – July 26th				
07/25			Spain blames Mario	
07/27	Palabras mágicas	Urgence économique, désinvolture politique		
07/28				The ECB talks tough on the euro
08/01			The music men	

Source: Author's elaboration

Table 1 shows in gray the selection of nine editorials, chosen as close as possible to the discourses of the political representatives. Three editorials were needed to provide a complete analysis of the *WSJ*. For reasons I thoroughly discuss below, this newspaper only comments on Draghi's statements almost two weeks later. The texts of the sample were analyzed on two levels. First, by the means of a micro analysis, using tools from the field of pragmatics (Giró Martí 1999; Richardson 2006). Then, each text was processed using tools from the field of argumentation theory. Having highlighted the implicit messages at the micro level, I proceeded to reorganize its most relevant aspects using Fairclough and Fairclough (2013) diagram.

6. Threat assessment and management

Before moving on to the theoretical discussion, the threat assessment of each political actor is first summed up for the reader. The following sub-sections are thus eminently descriptive and aim to provide a clear reading of each actor's position. A brief discussion at the end of each sub-section assesses the discourses' correspondence to the concept of securitization.

6.1. Rajoy and Draghi denial strategies

Starting with Madrid's announcement of the bail-out, one finds many details about Rajoy's own policies and the claim that the bail-out is a positive outcome of these. Rajoy claims that 'what was achieved yesterday' is a success due to the three tools employed by his government: the 'purification of public accounts', 'structural reforms' and the 'restructuring of the financial system'. Conversely, the underlying problems would be an excessive deficit and debt, and a lack of economic competitiveness. According to him, 'if we had not done what we did during these five months what would have been discussed yesterday would be the rescue of the Spanish Kingdom, and, as we have been doing our homework, what was settled yesterday was a credit line for our banking system'. Rajoy concludes that 'the economic situation was and is still very delicate, and we're obliged to make a great effort to clean up our debt, that is huge, both the public and the private one'. In short, Rajoy diverts attention towards his own measures while denying the consequences of the European bank bail-out.

On the contrary, Draghi addressed fears head-on. An introductory metaphor is used to compare the Euro to a bumblebee, that 'shouldn't fly but instead it does.' He then makes a technical assessment of the arguments that are being put forward about 'the fragility of the Euro ... and maybe the crisis of the Euro'. Against those voices, Draghi claims that the Euro 'is much, much stronger than what people make of it today' and compares the eurozone with the US and Japan in terms of inflation, employment, productivity, deficit and debt. He considers that this comparison is favorable to the eurozone and underscores that 'extraordinary progress

has been made during the last six months' in terms of 'deficit control and structural reforms'. Draghi insists that member states count on levels of social cohesion absent in the US and Japan, and adds that this 'is a very important ingredient for undertaking all the structural reforms that will actually graduate the bumblebee into a real bee'. Having debunked the critiques to the Euro, Draghi then makes his central claim: 'Within our mandate, the ECB is ready to do whatever it takes to preserve the euro. And believe me, it will be enough.' After that, Draghi shares some of the problems the ECB is tackling, such as financial fragmentation and risk aversion, and clarifies what falls within the mandate of the ECB.

These two discursive events had a great impact on market pressures. Rajoy's confusing claims furthered the acute bond market crisis, bringing it closer to the point of no-return. Draghi's discourse had significant performative effects, establishing the anchoring monetary authority that the eurozone had hitherto lacked (Searle 2002; Tooze 2018). Far from suggesting that speculation was 'not real', these threat management strategies illustrate the weight of trust for monetary and financial institutions. On the one hand, the mild results of Rajoy's denial strategy and Draghi's strong statements are in line with CS's claim that language is crucial to the constitution of security (Hansen 2011, 2012). Yet, the impact of these two discursive events is partly due to unuttered actions. The incongruousness between discourse and practice seems to have had a weight of their own, thus requiring going beyond text analysis.

Interestingly, Rajoy and Draghi denied (existential) threats requiring exceptional measures. Both European leaders provided many technical details about the economic situation and the necessary character of the austerity measures. European leaders stated that the Euro is an irreversible project, that austerity is necessary and that the population (in the case of Rajoy) and the governments (in the case of Draghi) must understand that these obligations are not negotiable. While these discourses' explicit willingness to comply with the rules have a depoliticizing effect, the clearly exceptional character of their actions returns us to the issue of sovereignty. Could it be, then, that Rajoy and Draghi were trying to *desecuritize* the Euro crisis, as they denied the threat and the need for further exceptional measures?

6.2. Newspapers' editorial responses

The Spanish bail-out and Draghi's statements generated considerable discursive complexity in newspapers coverage, as political representatives' claims of normality failed to match their exceptional practices. The first newspaper I will look at is *El País*. This journal claims that 'Rajoy denies the bail-out', while pointing out his uncontrollable and unpredictable attitude. The editorial identifies the contradictions in which Rajoy got tangled, in what the journal considers to be a 'stark display of political realism'. In short, the newspaper directs its criticism to the way Rajoy accepted the bail-out, not the bail-out itself. The editorial published after Draghi's intervention is more optimistic. *El País* says that Draghi's 'magic words' have offered 'the break that Spain and Italy were asking for'. But these magic words need to be met with actions, and 'Spain must apply the demanded reforms correctly to avoid a state rescue'. For *El País*, the threat is still looming. Draghi's 'verbal intervention' and the bail-out are seen as good news, but they are not sufficient to overcome the threat of default.

While *El País* focuses on Spain's policies, *Le Monde* directs its attention towards European politics. Just like *El País*, *Le Monde* makes a detailed criticism of Rajoy's attitude and of his denial of Spanish banking sector's 'pitiful condition'. This is seen as problematic because 'it could destabilize the whole eurozone', but also because member states 'take advantage of the Euro' endangering the eurozone. *Le Monde* concludes that 'communitarian banking supervision is necessary'. After Draghi's discourse, *Le Monde* criticizes European politicians for their incompetence, as 'cacophony reigns where there should be strong coordination'. Due to this political debacle, 'stock markets are going down everywhere, risk premiums on Spanish and Italian bonds are skyrocketing (...)'. Although Draghi praised member states' efforts in his speech, *Le Monde* surprisingly fails to reconstitute his statements, and claims that the president of the ECB 'is one thousand times right when he also diagnoses that the 17 [member states] are not doing their job'.

Moving on to specialized newspapers, one finds devastating comments. The *FT* finds Spanish situation critical and argues that ‘states and banks remain in their lethal embrace’. The journal considers that Spain was rewarded with favorable conditions for its ‘genuine commitment to austerity and structural reform’, but the rescue could make things worse ‘if the state of Spanish banks is much worse than expected’. The editorial proposes to ‘cap taxpayer exposure’ and concludes that ‘protecting the banks themselves only prolongs the problem’. In its second editorial, the *FT* describes Draghi’s magic words as ‘the financial equivalent’ of *Dirty Harry*’s ‘make my day’ scene, in which Clint Eastwood defies a thug to test him. Just like *El País*, the *FT* claims that Draghi’s words must translate into action, otherwise ‘his bluff will soon be called’. Several solutions are discussed to end up concluding that ‘the ESM is superior to direct ECB bond-buying’. In short, the *FT* broadly agrees with *El País* on the positive nature of the bail-out, but adds that banks must take a hit. Regarding European politics, the *FT* agrees with *Le Monde* that eurozone institutions should be empowered, but analyzes the pros and cons with technical factors, instead of the moral ones employed by *Le Monde*.

As for the *WSJ*, Spain’s rescue amounts to a ‘self-bailout for the rest of Europe’, that is still carrying the burden of the ‘original sin’ of Greece’s bail-out. The good news is that Madrid avoided a ‘sovereign bailout’ and obtained ‘more favorable terms than other countries’ both in terms of interest rates and conditionality. However, Spain must ‘use the money and time for a thorough financial house-cleaning and wider reform’. Then, just before Draghi’s discourse, the *WSJ* publishes an editorial echoing the statements of Spain’s Minister of Economy. Using irony and sarcasm, the *WSJ* suggests that Luis de Guindos is an idiot, as he would be using Monty Python’s ‘nudge nudge wink wink’ strategy to relate with EU institutions. The editorial also criticizes Rajoy’s denial of Spain’s economic problems, and supports Draghi’s refusal to act ‘as a crutch for ineffective national governments’. Again, further austerity measures are needed, otherwise ‘Spain will soon be back to Brussels with the begging bowl’. Finally, Draghi’s statements obliged the *WSJ* to provide a more nuanced position. The last editorial compares central bankers with the ‘Music

Men', in reference to a movie in which a group of con men fool the population of a small village. The general message is that 'The residents of River City were fooled by Harold Hill because they wanted to be', meaning that everyone is 'putting so much faith in the magical powers of central bankers'. In other words, the *WSJ* refuses to believe that Draghi's statements solved the problem, making it the only journal of the sample which thoroughly criticizes Draghi. The *WSJ* shares *Le Monde's* criticism of troubled member states, but puts more emphasis on the need for structural reforms. The critique of the bail-out is made on ideological terms, while *El País* criticisms focus on concrete elements, such as Rajoy's contradictions. Both the *WSJ* and the *FT* argue in favor of austerity, but the *WSJ* insists further on the fact that this is the only realist solution on the table.

To sum up, no newspaper makes a critical assessment of finance's responsibility in creating the threat in the first place. The unambiguous criticism of politicians by the *WSJ* and *Le Monde*, and the heavy criticisms of Rajoy by the *FT* and *El País* indicate that newspapers added pressure on the political system in order to have the bail-outs approved. Hand in hand with the bail-out, all journals identify structural reforms as measures to which there is no alternative in order to avoid a sovereign debt bail-out. In fact, all newspapers support Rajoy's willingness to conduct austerity measures *before* the bail-out. Still, they were critical of Spain's bail-out, and made a complex technical assessment of available alternatives. Specialized newspapers pointed out that the economic situation could worsen if the money was not used wisely. These newspapers provide two ways of interpreting how Draghi handled the threat. The *FT* sees Draghi as Dirty Harry pointing his gun to a thug, while the *WSJ* considers that central bankers are Music Men, conning a public eager to be fooled. Both consider that the threat is still looming, as central bankers are either seen as sweet-talking investors into believing a lie or as defying them. On the contrary, generalist newspapers fail to discuss supranational interests, and limit their criticism to nation-states' representatives.

In line with CS's framework of analysis, threat production is here at full throttle: journals tried to securitize the issue pressing for extraordinary measures. In

fact, while Rajoy and Draghi denied and downplayed the threat, journals contributed to amplify it until Draghi's speech, after which they moderated their anxieties.

7. Undeclared exceptionalism and sovereignty struggles

As we've seen, the interplay between a eurozone member state (Spain), the relevant monetary authority (ECB) and the four newspapers under study (*WSJ*, *FT*, *Le Monde*, *El Pais*) is complex.

Against the Schmittian fixation on state sovereignty, exceptionalism has shown to be located at several levels of political authority (Hanrieder & Kreuder-Sonnen 2014). Until Draghi intervened, emergency Europe was defined not by a single authority, but by the absence of any single authority (White 2015). It could be tempting to conclude that the eurozone crisis was halted by the ECB's political message. The ECB finally proved willing to deploy unrestricted firepower to curb financial unrest, as the enthusiasm of most newspapers confirms. But, as Tooze (2018, 438) puts it, saying that Draghi's 'whatever it takes' solved the crisis is a retrospective construction. The struggle over the direction of ECB policy that had begun in 2010 would not end with Draghi's speech.

This reading has the advantage of bringing our attention back to member state politics. While Langenohl (2017, 141) concludes that eurozone securitization processes consisted in 'the struggle over the question of *whether* single nation-states can be allowed to perform legitimate audienceship to supranational securitizing moves'⁵, it seems that the struggle was about *which* nation-states dispose of this capacity. Germany's formal and informal vetoes weaken the reading of Draghi's statements as those of 'Europe's sovereign'. Furthermore, Spain's role should be given more attention, as Rajoy's refusal to bow his head was the equivalent of playing the 'game of chicken' with stronger eurozone partners.

By acting extraordinarily, Rajoy and Draghi respectively managed to obtain preferential treatment for the bail-out and to put an end to speculation on the Euro. Rajoy's refusal to take the bail-out amounted to a defensive move against finance and

⁵ Italics added.

eurozone interference. While investors saw through the preposterous claims made by the prime-minister, it remains that Rajoy managed to use the collective risk implied by Spain's default to nibble a preferential treatment for the bail-out. Something similar can be said about Draghi, as he refuted the arguments against the single currency's stability. Their actions implied a fair amount of conflict with countries obtaining structural benefits from the Euro, namely Germany.

It has been noted that the need to maintain internal stability can make state authorities adopt a hostile stance towards foreign countries and capital, supra-national organizations, etc. (Ong 2008). Rajoy and Draghi accommodated authoritarian pro-market arguments with conflictive actions against the dominant interests within the eurozone. They seem simultaneously favorable to the free market while acting against speculative pressures; in favor of European fiscal restraints and against short term interests of the dominant countries of the eurozone. The results thus illustrate that benefiting from transnational capital flows relies on accommodating neo-liberal and authoritarian policies (Fotopoulos 1997; Ong 2006, 2008, 2012).

Rajoy and Draghi's authoritarianism suggest the need to adopt a nuanced stance on (de)securitization, as the clearly exceptional nature of political representatives' actions clashes with the classic definition of the CS. Critical securitization studies show that it remains a relevant and useful framework when studying authoritarian or totalitarian contexts (Vuori 2008). Here, it allowed to illustrate how the eurozone tendency to generate states of economic exception unfolds in practice. With the eurozone crisis, the tension between tight budgetary restraints and executive-led action was brought to its paroxysm. Interestingly, parliamentary restrictions often come hand in hand with expanding executive discretion (Giannone 2015). All in all, the Euro crisis appears less as a moment of classic exceptionality – where a return to normality is expected – than a new founding moment (White 2015).

What required extraordinary procedures before the Euro crisis now stands as a mechanic response, generating the difficulty of studying a paradoxical 'normalized exception'. This paradigm change has serious implications in terms of discourse studies, as some securitizing moves stop being verbalized as the CS theorized them

(Huysmans 2011). Although securitization studies were useful to expose the complex interplay between the different scales composing the eurozone crisis, they become rather limited to make sense of the results by themselves.

The authoritarian component of political representatives' discourses received the full support of newspapers, suggesting the need to look further into the working of contemporary forms of exceptionality. As classic securitizing actors, all newspapers first pressed for a bail-out and then applauded Draghi's move. More generally, the media joined in on the consensus about debt and austerity, which continue to cause widespread misery across Europe (Clua-Losada & Horn 2014). The media paved the way for exceptionality, providing preemptive support to political action lacking the backing of parliamentary instances. By making the audience crave and applaud pre-made technocratic arrangements, media debates became the circumstantial substitute to 'politics as normal'.

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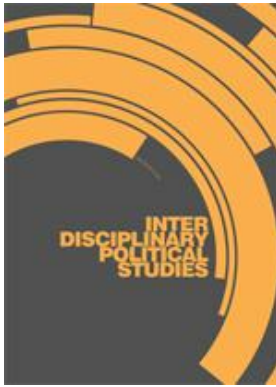
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RESEARCH ARTICLE

Cultural Policies as a Driver for a Participatory Transformation of Democracy in the European Union

ABSTRACT

Across Europe, culture is acquiring an increasing constitutional relevance by fostering experiments of bottom-up reflexive and self-organised participation able to bring policymakers closer to citizens. This paper adopts a European Union (EU) standpoint, observing how the EU could use cultural programs to support these practices and promote democracy and inclusion in the wake of the 'crisis of political representation'. The objective is to draw recommendations for EU institutions to connect with local communities by multiplying the opportunities of equality and inclusion without interfering with local democracy.

The investigation starts from an analysis – also through the case study of Italian constitutional transformations – of how the 'distrust' towards representation transformed the constitutional settlements of democratic participation. The study emphasises the need for new participatory forms and the relevance of spontaneous bottom-up initiatives in that direction, especially in the cultural field. Against this backdrop, the article will explore how EU cultural policies could be more inclusive so as to improve their social approach and trigger a direct dialogue with grassroots experiences.

KEYWORDS: Cultural and Creative Spaces; Participatory Democracy; Creative Europe; Constitutional Transformation; Crisis of Representation

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1. Introduction

This paper adopts a European Union (EU) standpoint, observing how – in the current constitutional transformations due to the so-called ‘crisis of political representation’ – the EU could use its cultural programs to promote democracy and inclusion by supporting culture and namely cultural and creative spaces.

Culture and cultural spaces are central in this essay because they have demonstrated to be a booster of bottom-up reflexive and self-organised initiatives that are key in the effort to improve EU democracy and narrow the gap between policymakers and citizens. Of course, cultural programs are not the only leverage that can be used to favour bottom-up participation and inclusion at EU level. However, this text is focused on that specific sector because its importance appears to be underestimated in both national (see para. 2.2) and EU budget choices (see para. 4.1). The article brings to light culture as the base of important experiments of grassroots participation. Therefore, it makes the case for an acknowledgement and support of its role by the EU.

Then, recommendations will be formulated for EU institutions to support such practices by fostering equality and inclusion without interfering with local democracy.

The analysis holds a constitutional law approach, addressing pressing questions and challenges related to the theory and practice of representation. In this framework, culture acquires a constitutional relevance as a fundamental right itself and as an essential driver of grassroots practices that are rethinking democratic mechanisms and proposing new participatory institutions through self-organisation. At the same time, constitutional law represents an essential contribution to cultural policies, able to connect them with participatory rights and improve the role of local communities in decision-making.

After the example of what was made by Practice Theory in the field of the International Relations (see Neumann 2002, 629; Adler and Pouliot 2011, 14 ss.; Cornut 2017, 4 ss.), this article will give relevance to the strengthening of relatively small participatory practices. These ‘micro-policies’ can have a deep impact in

constitutional systems, by elaborating new forms of political self-organisation and self-determination by means of concrete experimentations, trials and errors, and even successes and pitfalls of utopian aspirations (Latour 1983, 164–165).

This fact-based approach is deemed even more appropriate for this study because culture and participation are social rights¹, related to substantial equality. This assumption explains the need to focus not only on abstract rules, but also on their aptness to remove concrete barriers to economic, social, and political inclusion.

Two methodological consequences can be drawn from this choice.

Firstly, the intrinsic multilevel approach. Micro-practices of participation address crucial issues of democracy at all levels because they are the final point of impact of different measures and initiatives adopted by various authorities. Therefore, starting from practices also imposes a reflection about how these different levels can interact with each other in order to maximise the response to fundamental needs of society.

Secondly, the focus on practices imposes an interdisciplinary take. While being rooted in the field of constitutional law, the study holds a constant dialogue with policy studies in order to give specific attention the factual implementation of rules and their impact at micro-level.

In particular, this factual investigation is based upon the findings of the ongoing EU policy project *Cultural and Creative Spaces and Cities*² (CCSC). The project involved seven Urban Labs – i.e. different local experimentations of policy co-creation across Europe (Arreaga, Frías Hernández & Rodríguez 2020, 235–127) – studied by means of interviews, focus groups, co-creative events and field work, conducted in collaboration with practitioners and policy officers. Data were analysed and made comparable through qualitative indicators, based on shared values composing a Charter of principles of the project consortium³, including the local coordinators of the

¹ A deeper argumentation of this assumption will be presented in the subsequent part of the text.

² www.spacesandcities.com. Further information on the methodology can be found in Torre 2020, 12-31.

³ <https://www.spacesandcities.com/wp-content/uploads/2020/01/CCSC-Charter-of-Principles.pdf>.

Urban Labs themselves. Namely, these values pivoted around topics that are central in this research: ‘Culture as a common good’, ‘Urban commons’, ‘Bottom-up processes’ and ‘A new basis for the legitimisation of the EU’. The analysis was further developed through two co-creation events, involving researchers, multilevel policy-makers and cultural actors, exploring issues related to the EU impact on local policy-making.

This research will be articulated in three parts.

In the first part, the article will discuss the crisis of representation, as well as the reasons for its persisting indispensability. The research will elaborate on why spontaneous bottom-up initiatives deserve a special relevance in constitutional studies concerning the renewal of democratic forms. At the same time, it will outline possible risks and open questions of participatory processes.

In the second part, the theoretical issues examined in the first part will be analysed through a case study: the institutional reforms in the Italian legal context. Italy is chosen as a testing ground for at least two reasons. Firstly, this Country was among the most affected by the economic crisis in 2008 with harsh effects on inclusion and cohesion. The fallout of these events has been challenging equal political participation and, in turn, trust in representative democratic mechanisms. Secondly, and consequently, it is also symbolic in terms of constitutional transformations brought by the crisis of representation: at the time of writing, a referendum vote has just approved a reform that downsized the consistency of Italian Parliament. By now, it has the lowest ratio in the EU between numbers of Members of Parliament and inhabitants⁴.

The case study exemplifies that objecting the traditional forms of representation does not automatically lead to more democratic institutions; oppositely, they can have distortive outcomes if inequalities are left unaddressed. Moreover, the example also sheds light on how new forms of participatory democracy can stem from

⁴ Camera dei Deputati – Servizio Studi & Senato della Repubblica – Servizio studi, Riduzione del numero dei parlamentari. Il testo di legge costituzionale e il referendum ex art. 138 della Costituzione, August 19th, 2020, 48.

spontaneous civic initiatives, especially in the cultural field. In this context, the impact of the economic crisis itself highlights the role of the EU intervention, with its contradictions and opportunities.

Finally, the third part – building on the theory and the evidence of the Italian case – aims to investigate how the EU can support initiatives of spontaneous participation in the cultural field, by drawing potential recommendations on possible regulatory solutions.

2. The Crisis of Representation as a Battleground for Constitutional Transformations

2.1. Crisis of Representation as a Crisis of Social Inclusion

Representation is a mechanism – somehow a ‘fictional’ mechanism (Kelsen 1924, 160) – allowing the presence of those who are absent in a decision-making process (Pitkin 1972, 8–9; Denquin 2013, 6). Therefore, it has an intrinsically ‘aristocratic’ aspect (Manin 1996, 189–190), since it legitimises representatives to exert decision-making powers with *erga omnes* effects (Leibholz 1973, 70 and following). However, in democratic regimes this aspect is supposed to be compensated by a ‘representative relationship’, through which representatives are held politically accountable – through the electoral renovation of representative charges – for their actions towards the constituency.

In a social State, the aim of representation is not only a practical one – the impossibility of gathering the whole constituency simultaneously – but also, and especially, a systemic one: to avoid an unmediated confrontation between unequal particular interests, which could lead to a predominance of those who are endowed with greater economic, cognitive, social or organisational capital (Innerarity 2015, 294).

Indeed, participation is a costly activity, requiring time and capitals that are hardly affordable for some people. This settlement is an intrinsic recognition that participation is a social right: a right that can only be enforced with a material intervention of the public authority. Another side of this acknowledgement is that

democracy imposes a duty to institutions, which is to overcome economic inequalities and provide everyone with the means for a social, economic and political inclusion.

Representative regimes respond to this task by regulating institutional organisation and decision-making in order to aggregate and represent the interests of these categories through parties and parliamentary groups, thus levelling the different stakeholders' weight in public decision-making.

This theoretical justification of political representation is widely accepted in theory, but still one of the most controversial issues in practices. Indeed, the legal affirmation of universal suffrage did not tackle the inequalities that needed to be addressed for everyone to be able to concretely participate in the economic, political and social life of the State. This failure is a substantial part of the 'crisis of representation' that is currently affecting EU countries.

Across Europe, the widespread 'distrust' (Rosanvallon 2006) of representative democracy was the outcome of a crisis of traditional parties and ideologies but is also connected to the above problems of representation. Namely, the global economic crisis exacerbated the unsolved contradictions of the social transformation of constitutions, by provoking the marginalisation of an increasing number of people.

Here the problem is observed in the context of the EU which is also facing growing perplexities concerning its so-called 'democratic deficit'. The alleged lack of legitimacy and responsiveness of EU institutions is a major concern for EU constituencies. EU bodies are perceived as less accountable, since not all of them are directly elected and their decision-making is hardly accessible due to its procedural complexity and supranational nature. Moreover, in the aftermath of the economic crisis, a sense of delusion accompanied the acknowledgement – especially in the most precarious categories – that the EU was renouncing to mitigate the hardest social backlashes.

To be sure, EU institutions have a weaker representative legitimisation than national institutions: while the European Parliament is directly elected by constituents, the Council, the European Council and the Commission only enjoy an indirect legitimisation. However, the argument of the 'democratic deficit' is also a controversial one, since many authors insist on the existence of democratic guarantees in the

EU system (Moravcsik 2002, 611 ss.). Moreover, scholars have highlighted the existence of processes of ‘informal governance’ able to involve civil society actors in decision-making, thus compensating the reduced electoral legitimacy of EU institutions (Kleine 2013, 3–7).

This last point is central in the constitutional approach that usually interprets the direct involvement of private stakeholders as an ambiguous phenomenon, entailing threats and opportunities for democratic regimes.

In the context of the EU, a part of the scientific literature has highlighted that the alleged inadequacy of the current institutional structures to manage economic development and new social demands (Crozier, Huntington & Watanuki 1975, 12 ss.) was an alibi for the introduction of a new political and regulatory rationality in decision-making at both national and supranational level. Rather than political accountability, market became the main instrument of interpretation and evaluation of existing rules (Weiss 2000, 796 ss). States are influenced by an ‘economic constituency’ (Ferrara 2006, 270–271), prevailing over the political one, who is able to pressure the public sector through the threat of withdrawing economic investments. Even beyond the mere *laissez-faire* (Nahamowitz 1992, 549), this pressure induced governments to shape their regulations according to the needs of the market, i.e. ‘to conceive the State as exponential of general and overall interests of capitalism’ (Ferrara 1979, 518) and to compete between each other in creating the most welcoming environment for private investments.

With the financial crisis in 2008, it was even clearer that market did not advocate for mere inaction and rather pressed for a complaisant action and regulation. For example, austerity required an analytic set of accounting rules that limited the power of States, especially in the social expenditure, and pushed to the privatisation of public debt. Along with a similar ratio, EU decision-making was burdened of very specific requirements and procedures (Garben 2018, 232) aiming at a ‘better regulation’, exactly with the objective of avoiding that various stakeholders, and especially

small and medium-sized enterprises, might perceive the EU as too distant and at the same time too intrusive in imposing regulatory burdens⁵.

This ideological and political turn is the framework under which private stakeholders have been involved as regulators and co-regulators through advanced legal mechanisms (Galgano 2009, 76 *contra* Cassese 2006). These decision-making procedures were able to relate with plural and everchanging forms of aggregation, articulating the involvement of different actors in different procedures with flexible modalities, able to change *ad hoc* and adjust to the circumstances. However, these mechanisms – being rooted in the market-oriented framework described above – do not tackle the basic democratic need of including everyone in decision-making and are rather directed to the involvement of the strongest and most influential private stakeholders⁶.

This analysis highlights, once again, that participation is still characterised by structural inequalities that do not disappear automatically when representation is questioned in favour of a more direct involvement of stakeholders. Rather, in the absence of a specific and overall regulation – attentive towards factual inclusion – the opposite is true.

2.2. Participation, Deliberation and Spontaneous Initiatives in the era of 'distrust'

The above reasoning should make clear that equality, rather than representation itself, is the main challenge of European democracies. Then, the main question to address is how representation – which is still an essential pillar of democracy – can be complemented with different forms of participation that are able to reach a greater responsiveness of institutions and inclusion of marginalised categories in decision-making.

In this essay, the issue is addressed by exploring the innovative potential of participatory democracy in the framework of representative constitutional structures.

⁵ European Commission, European governance - A White Paper, COM/2001/0428 final, OJ 287, 12/10/2001.

⁶ In the context of 'better regulation', see Alemanno 2015, 11-12; more generally, Bunea 2019, 127 ss.

This expression is an umbrella concept (Sintomer 2009, 133–172), covering different forms of ‘*interaction, within public procedures* – above all administrative, but also regulatory – *between society and institutions*, which aims to achieve, through both collaboration and conflict, a unitary result, attributable to both of these subjects, on a case-by-case basis’ (Allegretti 2010, 7). It involves a broad range of practices and instruments, with very different genesis and purposes, with top-down or bottom-up nature, stemming from movements claiming self-determination against undesired interventions in their local area (Boullier 2001, 45 ss), the defence of local participatory traditions, the presence of political powers in need of a new electoral base, the reaction to corruption and clientelism... Finally, there may be a different degree of intensity of citizen intervention, ranging from simple information, to consultation, to partnership, to actual involvement in decision-making processes (Arnstein 1969, 216–217).

The purpose of these mechanisms is to enlarge the toolbox of political rights. In objective terms, participatory democracy also entails a shift of mindset: people are not considered as a manipulable mass of citizen-users of a service, but as an active subject of public policies, bearing their own heritage of knowledge and theoretical-practical skills (Landemore 2011, 251). In a subjective sense, the informal nature of these procedures allows the involvement of those that are not part of the constituency entitled to voting rights.

This paradigm is intertwined, but not overlapping, with the one of deliberative democracy. Deliberative processes are based upon the consensus of all interested parties in a rational exchange of arguments. They aim to involve everyone who bears a qualified interest in the matter (Elster 1998, 8) and to trigger a rational exchange of arguments among these actors that would ensure a better decision-making by transforming everyone’s opinions and interests themselves (Blondiaux 2000, 331; Bouvier 2007, 18) through argumentation.

These forms were particularly developed at local level. Participation in local decision-making is empowering for citizens, because it is easier for them to have an impact on the public debate and, consequently, public policies. In parallel, cities and local areas are gaining an increasing centrality in the agenda and political scenario.

These ones are increasingly understood as the final point of impact of regional, State and even global policies (Harvey 2012), being the place where the enjoyment of rights is ultimately experimented and vindicated. Therefore, essential problems of contemporary democracies are more easily addressed by building up from local vindications and experiment with institutional changes at local level.

However, many questions need to be answered about how to regulate the concrete participatory practices in order to attain these results. In that sense, this research observes at least three kinds of challenges that communities need to address in the context of participatory processes.

The first one is that public administrations are often organised through a rigid bureaucratic structure which is highly formal and often sectoral⁷. This circumstance can be a prejudice in the dialogue with grassroots movements, since the social needs are inherently cross-sectorial, and therefore demand transversal responses from the Administration (Torre 2021, 36–37).

For example, the Italian model of ‘regulation on shared administration of commons’ is a virtuous example of a framework allowing a civic regeneration of urban spaces. Nevertheless, it constitutes a discrete *corpus*, even separated from the general regulation on the management of public property; oppositely, to produce an effective change in decision-making, it would need to be part of a whole strategy involving culture, urban planning and budget policies (*Rete Nazionale dei Beni Comuni Emergenti e a Uso Civico* 2019). In the Urban lab of Timișoara, Romania, the CCSC research showed that city funded cultural initiatives were hindered by legal uncertainties over the property of the land where a festival was to be organised, due to the fragmentation and lack of transparency of the registers of public property⁸. In all these instances, not only citizens, but also open-minded civil servants – willing to support participatory processes – can find obstacles in the approval and

⁷ Its limits are well analysed in O’Reilly (2010, 29 and following), even with some criticalities in the solutions proposed, that emphasised the need for a strong role of private parties, rather than a strong social intervention of the public sector.

⁸ The data emerged from an interview with the coordinator of the Urban Lab Ambasada within the CCSC project.

implementation of participatory policies. For these reasons, local institutions themselves often provide for mechanisms of connection between different sectors in order to facilitate both participation and innovation⁹.

The second type is given by political and cultural contingencies, that can undermine the collaboration between citizens and local government or between the latter and the higher levels of government.

Participation requires a strong political engagement from the administration, in order to invest appropriate resources for a more transparent decision-making and implementing the outcomes of participatory processes, especially when they raise topics that were not originally in the administration's agenda. In that sense, changes of political majority can negatively affect existing participatory experiments, as recently happened in Madrid with the participatory experience of Prado MediaLab, interrupted after local elections and now experiencing an uncertain future¹⁰. The same case of Timișoara – during the implementation of the project for the European Capital of Culture 2021 – highlighted that a well working experimentation can also depend on the alliances with higher levels of government, for example, with regard to transports an infrastructure for mobility towards the city.

Finally, the third and most structural challenge is linked to social barriers that impede participation, like the lack of time, energy or specialist knowledge¹¹ (Iossifidis 2020, 48). The deliberative paradigm assumes that everyone is able to master public speaking and the use of a specific language, while the reality shows that participation is also a matter of mediation between different languages and level of alphabetisation, even with the inclusion of non-verbal languages. Moreover, citizen initiatives struggle to keep the pace of administrations that decide and operate through remunerated staff and organised structures¹².

⁹ In that direction, see the experimentations of CoBoi, Region of Skane and City of Lund during the CCSC project (Torre 2020).

¹⁰ <https://wearethelab.org/>.

¹¹ Within the CCSC project, this was well explained in: Jacobson & Ershammar 2020, 4.

¹² The data emerged from an interview with the coordinator of the Urban Lab Ambasada within the CCSC project.

In the most extreme cases, the lack of public investments for inclusion can transform participation in a delegation of public interest initiatives to private actors that are able to bear the burdens of philanthropy and, because of this economic power, also become privileged interlocutors for the administrations. For example, banking foundations who invest huge capitals in urban renewal and cultural initiatives – thus becoming the main drivers of these sectors – have a stronger negotiating power with regard to how urban policies are shaped¹³.

To address these questions, the essay starts from the assumption that no encompassing solution can be proposed at this stage, where broad, inclusive and egalitarian participation is still far from being achieved. Any attempt could not but be utterly abstract at this stage. Rather, a realistic goal is to investigate how law can lay the groundwork for fostering emerging dimensions of participation and enable them to create the conditions for a broader transformation of current democracy.

For this reason, the article will use the Italian case study – chosen for the reasons illustrated in the introduction – to illustrate how experiments of ‘participation through collaboration’ (Noveck 2010, 62 ss) and participation through self-organisation can allow individuals and organisations – especially at local level – to take part in the democratic life through the organisation of spontaneous initiatives of public interest.

3. Crisis of representation and Constitutional transformations. The Italian example

The trends described above will be analysed through the case study of Italian law. The transformation of the Italian Constitution is the legacy of a long institutional debate where the ‘distrust’, described above, has been used to weaken the legitimacy – and therefore the power – of the representative assembly. However, this path has not favoured participation, but rather the opposite, since the weakening of the legislative power has played in the hands of the executive power.

¹³ For a case study on Turin, see (De Tullio & Torre 2020).

In this context, bottom-up practices, also in the cultural sector, are observed as a possible engine of new participatory institutions stemming from grassroots self-organisation.

3.1. Crisis of representation and Perspective Constitutional Reforms

The underlying assumption of the Italian Constitution, as conceived in 1948, is the centrality of the Parliament and the proportional electoral formula. Given the post-war fragmentation, a faithful representation of all parties was deemed vital to prevent, as much as possible, exclusions that could bring to further conflicts. However, over time, and across different political majorities, this system of mediation and representation and the parliamentary institution itself was delegitimised, being considered as the root of inefficient decision-making and waste of public money.

The first tangible outcome of this process is the change of the electoral law.

Since 1993, the proportional law was blamed for the inefficiency and instability of the Italian political system (Volpi 2015, 2–3) and substituted by formulas based on majority rules or majority bonuses. These laws encouraged political parties to coalesce before the elections; therefore, despite being in a parliamentary democracy, they gave the impression that votes were given directly to a governmental majority (Furlani 1957, 875; Chessa 2004, 40). Moreover, the electoral law of 2005 artificially strengthened parliamentary majorities by means of a disproportional majority bonus which was indeed censored by the Italian constitutional court in 2014.

Of course, the fragmentation of the political scenario was not resolved by the legal artifice of a new electoral law; moreover, parliamentary oppositions were marginalised in the democratic dynamics, due to the automatism of the majority bonus. The reform produced fictional majorities and a *fictio* of direct ‘investiture’ (Carlassare 2006, 201; Bilancia 2009, 1816; Caretti 2008, 5–6) of the government¹⁴. In turn, this façade was used in governmental rhetoric to weaken minorities and justify the dogma of ‘governability’, i.e. the idea that the political direction rewarded by the

¹⁴ See also Sartori 2002, 229, quoted in Barbera 2008, 879.

popular vote – embodied by the majority and the government – would not find institutional obstacles to its most complete implementation (Barbera & Fusaro 1997, 19; Bartole 2001, § 4; De Minico 2018, 51).

This trend has pushed numerous attempts of unsuccessful constitutional reforms¹⁵ that demonstrated the need for ‘small steps’, thus posing an end to broad strategies proposing all-encompassing modifications.

The present legislature is characterised by a different ideological approach to representation (Conti 2018, 5), but arguably also a continuity in the attempt to weaken the Parliament as a representative body. In particular, two reforms are emblematic in that sense.

The first one is the modification of the discipline of parliamentary groups, that discourages Parliamentarians from leaving their own group (Contieri 2018, 11–12), thus strengthening the grasp of party boards on them. This reform was implemented in 2017 by the Senate of the XVII legislature; however, the XVIII legislature proposed to insert this rule in a proper constitutional modification (Fraccaro 2018).

The second one is the reduction of Parliamentarians, that was proposed under the XVII Legislature and then again in the XVIII¹⁶. The second attempt learned from previous experiences and proposed a policy of ‘little steps’. Rather than being embedded in an all-encompassing reform – as in 2016 – the provision was voted, and approved by referendum, as an individual modification.

Such a vote, hitting the representative body *par excellence*, was emblematic of a distrust towards political representation. This was also clear in the main political

¹⁵ See the proposals elaborated by ‘Bozzi’ Commission (1983–85); the second Bicameral Commission, known as ‘De Mita-Iotti’ (1992–94); the third Bicameral Commission, so-called ‘D’Alema Commission’ (1997–1998); the constitutional law proposal of November 16th, 2005, No. 2544–D, G.U. 18/11/2005, rejected by a constitutional referendum in 2006; the proposal of constitutional revision of the Commission for Institutional Reforms, established by the President of the Republic, Giorgio Napolitano (2013); the so-called ‘Renzi-Boschi’ reform (constitutional law - then rejected by constitutional referendum - *Disposizioni per il superamento del bicameralismo paritario, la riduzione del numero dei parlamentari, il contenimento dei costi di funzionamento delle istituzioni, la soppressione del CNEL e la revisione del titolo V della parte II della Costituzione*, 16A03075, GU n.88 del 15-4-2016). See Pisaneschi 2015, 5–6; Villone 2014, 69–291.

¹⁶ The reform will be applied since the next election.

argument supporting the reform: economic efficiency, i.e. the reduction of public expenditures. Parliament was described as an *élite* which did not deserve its privileges.

After all, the mere reduction of the number does not have a clear constitutional *ratio*, other than the economic one. In terms of democratic legitimacy, it is an easy remark that the numeric reduction also reduces the pluralism within the Chambers, especially that of minorities (Luciani 2018, 1). On the other hand, numbers do not *per se* improve the quality of the Parliament's work if the functioning, decision-making and political practices remain the same (Tripodina 2020, 12, *contra* Fraccaro 2018); oppositely, a reduction of the organism can obviously impair its ability to sustain the workload required in a contemporary democracy.

In conclusion, the Italian case highlights that the 'crisis of representation' was an alibi – transversal across parties and legislatures – for the delegitimisation of the Parliament that was rather driven by concerns of economic efficiency and accountability to markets. As a result, the weakening of the legislative power did not correspond to a more inclusive participation, but only to an advantage for the executive power and the boards of the majority parties.

3.2. *The Role of Local Experimentations in Renewing Democracy*

The above illustration underlines that a well-working participation does not depend on the weakening of representative mechanisms. Rather, it should be based on a reinforcement of representation through new forms of participation able to include everyone and particularly marginalised categories.

In the Italian context, local participation was deeply innovated by self-organised civil society that fostered the establishment of a new administrative paradigm, i.e. 'horizontal subsidiarity'. In particular, this principle – recognised in the Italian Constitution since 2001 – refers to a duty of the public sector to support grassroots movements that respond collectively to social needs, through solidarity and mutual aid networks. These forms of action cannot, by themselves, influence the production of legally binding norms. Nevertheless, they are a form of political participation, since they collectively answer to aims of general interest (Albanese 2002, 66). Through their

spontaneous activities, they organise a public service by themselves and, at the same time, produce new forms of political organisation that propose their own policies and forms of intervention in public decision-making. Therefore, the recognition of these practices – contained in the reform of 2001 – is a permanent open door to bottom-up institutional innovation.

These participatory phenomena might have uncertain outcomes in official policies, when there is a poor dialogue between citizens and administration, since the formers are not formally part of any decision-making process; nevertheless, their advantage is that they can be put in practice ‘here and now’, and thus – in case of success – gain the legitimisation that is needed to vindicate recognition and support from the administration, in order to replicate and scale up the practices of reference.

In the Italian case, this is very evident in the debate about urban commons, which highlighted how the bottom-up management of goods and services of public interest allows the experimentation of new legal arrangements for democratic participation.

The beginning of the ‘legal way’ to commons is usually identified in the ‘Rodotà Commission’s law proposal of 2007 and the immediately subsequent ‘Water Referendum’ of 2011 (Lucarelli 2011), accompanied by a popular law proposal – drafted from bottom-up by the Italian Forum of the Water Movements (*Forum Italiano dei Movimenti per l’Acqua*) – aiming to enact a participatory management of water as a common. Urban commoners, with a special role of cultural workers, took the legacy of this debate. Since 2011, communities have occupied theatres – firstly, Teatro Valle (Cirillo 2014) – and other abandoned and underused spaces, making them available to everyone as means of production and places for solidarity and mutual aid initiatives. These experiences have been called ‘emerging’ commons (Micciarelli 2014, 67), qualified as commons not because of their nature or function, but because of the direct role of the community in their management.

With these conflictual actions, ‘emerging commons’ have joined the international movements occupying squares, streets, public and private spaces in order to

claim decision-making power and protest against precarity and right to the city (Kioupkiolis 2017, 51 ss).

In the legal debate, the emerging commons even produced their own community-made legal forms, starting from the landmark case of l'Asilo (ex Asilo Filangieri) in Naples. This experience has begun in 2012 as an occupation of a city-owned building, aimed at opening the latter to cultural workers and inhabitants in general. Its assemblies are accessible for everyone, without the need for prior registration, and decide by consensus, with a complete ban of any exclusive use of the space: the use is only possible under strict criteria of sharing or rotation. These rules were written in a Declaration of urban civic and collective use, then formally recognised by the City of Naples through two Resolutions (Nos. 400/2012 and 893/2015) and extended to seven additional spaces (Resolution No. 446/2016). This legal arrangement – engineered by the community itself – is called ‘urban civic and collective use’, and set a legal and political precedent in the management of public property, consisting in a public law pattern, strengthened by grassroots participation (Micciarelli 2017, 159): the city recognises – and also materially supports – the self-government of an open and informal community, without selling or entrusting the good to any physical or legal person (De Tullio 2018). The material support provided by the city, by assuming the utilities and extraordinary maintenance, is exactly a tool for substantial equality in participation. However, it is also a consequence of the acknowledgement of what is usually not recognised: the ‘civic profitability’ of the experience, i.e. the social, political and cultural profitability, not directly related to an economic advantage.

In that sense, this new legal arrangement was emblematic of how a community can take the initiative through concrete actions and promote an alternative to a speculative government of the city and its spaces. What is more, the network of commons was also able to propose its own participatory forms and vindicated the appointment of two consultative organisms: the Observatory on Commons¹⁷ and the

¹⁷ <https://www.comune.napoli.it/flex/cm/pages/ServeBLOB.php/L/IT/IDPagina/38205>.

Council of Audit on Public Debt and Resources¹⁸ of the City of Naples. Both organisms were composed through a public call, aimed at selecting those who are expert in social, political and economic activism, and represented a new kind of administrative board, in a dialectical position with respect to administration, with the function of analysis, proposal and control on the protection of the Urban Commons.

Of course, this is only one case among the many urban commons existing in Italy. However, it is an example of many similar grassroots practices, where communities engage themselves in a ‘creative use of law’.

Namely, at the beginning of 2019, more than twenty among these organisations decided to build a ‘Network of Emerging and Civic Use Commons’¹⁹ (*Rete Nazionale dei Beni Comuni Emergenti e a Uso Civico*) to strengthen existing connection and obtain a stronger voice in the national political and legal debate. The Network, also in connection with other grassroots networks, has the aim to democratise knowledge and exchange interdisciplinary and practical tools – including legal and policy ones – to obtain recognition and support from local and national institutions, as well as transform institutions themselves. By now – through a series of five open assemblies gathered all across Italy – it is working on amendments to the existing proposals of law on commons and on coordinated proposals to amend the local Regulations on commons. This work is producing a whole political reasoning on commons – in connection with alternative economies and ‘conflictual mutual aid’, ecology, depatriarchalisation, and digital activism – as well as new strategies to transform policy-making.

In this context, these experiences of self-organisation innovate democratic participation at all levels: the local one, but potentially the national and the EU one, too. This multi-level grasp is a consequence of the fact that needs, as experienced by local communities, naturally cross the sectoral and jurisdictional barriers imposed by legal systems.

For example, in the case of urban commons, local authorities hold a position of proximity to these experiments and have at least the responsibilities of urban

¹⁸ <https://www.comune.napoli.it/flex/cm/pages/ServeBLOB.php/L/IT/IDPagina/39860>.

¹⁹ www.retebenicomuni.it.

administrators and owners of part of the real estate property. These competences allow them to give voice to civic experiences which – despite they are often small in size – are able to propose, starting from their own practices, new mutualistic and democratic methods.

However, it is also necessary to recognise that local institutions cannot be substituted for the national ones, as they have neither the scale nor the resources²⁰. Therefore – when the national government is inactive – the EU programmes represent one of the few sources of funding that local authorities can rely on to achieve cultural activities and initiatives for inclusion and participation. Hence, the substantial role of the supranational level goes beyond its formal scope, which is supposed to be only a support to the States' policies (art. 5–6 TFEU).

Clearly, this circumstance has an impact on the constitutional arrangement of local decision-making, with regard to both the role of representative institutions and the relationship with other territorial levels of government. The European cultural programs – which formally do not provide for sanctions – in fact have significant legal effects, exactly because of the budgetary constraints that limit the power of the local elected institutions. Where EU funding is among the very few means to implement cultural and participatory policies, the local entities are substantially forced to adapt themselves to the EU directions, if they want to fulfil their tasks with respect to the safeguard of culture and inclusion. Moreover, when a local institution decides to apply or to support a private party's application, this decision is hardly controllable by the constituency. Indeed, there are at least two filters: the criteria set out in the Decision and the technical discretion of the applicant.

Undoubtedly, this circumstance produces a transformation in the system of legal sources. This state of the art interrogates the jurist in depth: one can wonder whether it is preferable to pursue strict respect for local democratic forms – even at the cost of renouncing the satisfaction of social rights – or see the rights implemented, albeit based on the EU approach.

²⁰ In the Italian case, the limits imposed by budget rules were even deepened by the cut of transfers of resources from the central state to local level (Antonini 2015, 365–371).

4. Local Participation in the European Union's Cultural Programs

The case study demonstrated an emerging democratic role of cultural and creative spaces, which gives a true constitutional relevance to EU cultural programs aiming to support cultural and creative activities by financing both local institutions and cultural actors themselves. These programs have an unavoidable influence on decision-making; therefore, a reflection is needed on how this effect can be steered towards the objectives of broader inclusion and enrichment of – rather than competition with – local democratic processes.

In light of this observation, the attention on local practices situates this analysis at the crossroads of both internal and EU 'democratic deficit'.

In that sense, the participatory logic of the EU, in its relationship with local communities, has to take into account the transformations of the traditional representative mechanisms, as highlighted above. An enhancement of the role of European Parliament – which is the EU's elected institution – would improve the connection between EU and local community. However, it would not be enough, given the crisis of representation itself. Even less could grassroots interests be represented by national governments, which can even be politically adversarial to local entities, as happens when local governments are composed by political majorities different from the national ones.

Rather, there is the need for a direct support of experiences of spontaneous participation, as the ones described in para. 3.2. These policies would entail a clear and strict definition of participation itself in cultural programs in order to shift from a logic of 'participation as consultation' – adopted in the Structured Dialogues and other EU programs on participation – to the construction of spaces of dialogue and encounter between the community itself and institutions at all levels (Cremer 2021, 124 ss.). Such a definition should be completed by a proactive effort of the EU to expand its outreach outside of the circles of the 'usual suspects', i.e. individuals and organisations that have already been in contact with EU programs and networks, and therefore are more likely to be included again. In the cultural sector as well as in other ones, an action of inclusion should target the excluded ones in first stance. Then, each

EU call should start from an active mapping of bottom-up practices that are potentially transformative, that are in need of support, and that have not been involved in any program before. Many of these actors might not even know the existence of the opportunities brought by the EU, unless an action of communication and democratisation is done by EU institutions themselves.

In that sense, supporting bottom-up experiments – and accept to be surprised by them – could be an opportunity for EU to give away a part of its power in order to gain new legitimacy by adopting a listening approach and preserving spaces of bottom-up institutional transformation. This objective would be in line with the needs of cohesion and EU-local connection highlighted in the Council's Work Plan for Culture itself.

Hence, the working hypothesis of this research is that the EU should compensate its democratic gap through a direct involvement of local communities as creators and protagonists of participatory processes. This is only possible if two steps are addressed. The first one is to tackle the precarity of the cultural sector as a factor of social and political exclusion. The second one is to rethink cultural programs in order to mainstream strict guidelines for participation in them and aim to listen, recognise and fund local civil society organisations engaged in bottom-up participation.

4.1. Safeguarding Culture as a Social Right in the European Union

The first step – EU support to culture and social rights – needs to be examined in the broader context of the protection of social rights in the EU law system. Indeed, culture is analysed here as both an enabler of social rights – then also a precondition for the effective enjoyment of participatory rights – and a social right itself.

Culture, in its anthropological sense, is a toolbox for sense-making, for everyone to give meaning to their life and their (social) environment (Gielen & Lijster 2015). It shapes the government of territories because it defines visibility and conforms our physical, social and political living space. In that way, culture can multiply the forms of expression, change human relationships, improve health and create

inclusion. For these reasons, it was correctly defined as a labour of care towards society (D'Andrea & Micciarelli 2020).

In addition to that, culture is also a social right itself, exactly as participation: it is not sufficiently protected by the sole market and requires the public sector's social intervention. In that sense, culture is also emblematic of the same inequalities that also affect participation: the sector experiences a huge precarity of labour and marginalisation from market-oriented policies. In light of this situation, the 'non-interference' of public authorities is not enough to safeguard the free cultural expression because it only protects the cultural expressions that can survive autonomously. Instead, it fails to empower precarious, experimental or marginalised manifestations, that do not find enough resources in the market.

In other words, a 'cultural politics' is needed to avoid that the market law becomes the sole discipline of the sector.

Therefore, there is a double thread linking culture, inclusion, and participation, and – given this connection – it is no coincidence that culture was the base for the creation of innovative responses to the 'crisis of representation'.

For these reasons, culture is recognised in the EU both as a value itself²¹ and a multiplier of other values²², such as, on the one hand, economic development and, on the other hand, participation and social inclusion²³.

However, the sector is under the States' exclusive competence: the EU cannot use norms of harmonisation – unless justified by other legal bases, as the Single

²¹ Council conclusions on the Work Plan for Culture 2019-2022, 2018/C 460/10, 21/12/2018.

²² Cfr. Council conclusions on cultural and creative crossovers to stimulate innovation, economic sustainability and social inclusion, 2015/C 172/04, point 4. Concerning inclusion, see also: European Parliament Resolution of 12 May 2011 on Unlocking the Potential of Cultural and Creative Industries (2010/2156(INI), 2010/2156(INI), 2012/C 377 E/19).

²³ Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions 'A New European Agenda for Culture', {SWD(2018) 167 final}, 22/5/2018, pp. 2-4. On the two profiles, see respectively the OMC reports: The Role of Public Policies in Developing Entrepreneurial and Innovation Potential of the Cultural and Creative Sectors, Report of the OMC Working Group of Member States' Experts, 2018, pp. 96 ss.; Participatory Governance of Cultural Heritage, Report of the OMC Working Group of Member States' Experts, 2018, 57. The recommendation was preceded by the Conclusioni del Consiglio sulla governance partecipativa del patrimonio culturale, 2014/C 463/01, 23/12/2014.

Market – but only acts that encourage cooperation and support Member States' actions (Art. 6 TFUE).

The relatively small amount of resources invested in culture is also a key indicator, given the social nature of cultural rights. In 2018, the European Parliament's Commission on culture warned about the scarcity of resources allocated to culture, asking for them to be even doubled²⁴. The European Commission itself recognised that culture generated 5,3% of GDP, and that – due to the scarcity of funds – 'a large number of good applications are rejected'²⁵ in cultural programs.

These data affect not only the number of actors that can enjoy a protection from the EU, but also the more general direction of cultural policies. Indeed, the scarcity of funds generates programmes characterised by a highly competitive nature, which undermines exchange and confrontation and, above all, increases access barriers, which can only be overcome by those who have specialist expertise in drafting applications. Moreover, the absence of a structural investment makes it unrealistic to support fragile, precarious and excluded realities, which need more resources and exposes the financier to greater risks. It is no coincidence that funding programmes impose co-financing or require candidates to provide credit guarantees and/or demonstration of economic sustainability (Acosta Alvarado 2020, 8–9). Therefore, they benefit especially actors who are already established in the market or in other programmes.

As an alternative, the EU tends to finance projects that are supported by the voluntary action of citizens and inhabitants. Therefore, the value generated by the project is increased by the unpaid labour of active communities, that acts as a multiplier of efforts and resources and enables to fulfil meaningful actions without remunerating all the work that is provided in the process. For example, people can be

²⁴ European Parliament – Committee for Culture and Education, Opinion to the Interim Report on the Multiannual Financial Framework 2021-2027 – Parliament's position with a view to an agreement, PE 626.946v02-00 A8-0358/2018, COM(2018)0322 – C8-0000/2018 – 2018/0166R(APP), 7/11/2018. Cfr. Ciancio 2018, 34.

²⁵ Mid-term evaluation of the Creative Europe programme (2014-2020), Report from the Commission to the European Parliament and the Council, COM(2018) 248 final, 30/4/2018, in <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52018DC0248&from=EN>, p. 5.

invited to produce ideas in workshops, hackathons, contest of ideas, participatory artworks and many other occasions where they give their time and competences for the sake of general interest or other individual incentives.

In sum, the resources mostly allow one-off interventions which rely on the prior existence of mechanisms that multiply the value invested: those of the market and/or those of voluntary participation²⁶.

In that sense, the safeguard of culture and participation in local communities attains a broader and systemic discussion in the EU law: the protection of social rights. The first step for the EU should be to go towards a shift of mindset able to put social rights, and their enforcement, on the top of the agenda.

Currently the approach of EU Treaties appears to be rather the opposite.

In principle, the EU seems to promote individual and social cohesion as fundamental values (Art. 3 Treaty on the Functioning of the European Union - TFEU) and points towards the improvement of working and living conditions. However, these values are not intended as a project of 'substantial equality' and are rather a counterbalance to the most extreme effects of the Single Market. Indeed, social policies have always been a Member States' exclusive competence (art. 5 TFEU): the EU cannot operate through a formal harmonisation of national laws, but only with acts of encouragement to cooperation and support to Member States' actions.

This choice became part of a strategy where 'soft law' is presented as a means for 'better regulation' (Garben 2018), along with the subsidiarity and proportionality principles (Art. 5 Treaty on European Union-TEU). The objective of 'better regulation' was to introduce a form of legal intervention and, at the same time, avoid being considered too intrusive by the civil society, especially the small and medium enterprises which could distrust the EU rule-maker because of its distance from the local contexts.

²⁶ The OMCs on culture have underlined the relationship with both needs, even if there is the risk that culture is conceived as instrumental to the other values (Psychogiopoulou 2018, 271).

The non bindingness of these policies has been supported through different arguments, based on the claim that a full and coercive safeguard would have been impossible, or at least would have required longer negotiations (O'Hagan 2004, 384). Flexibility has been deemed necessary in multilevel systems (Laffan, O'Donnell & Smith 2000, 201); moreover, along with an approach based on 'little steps', some authors have underlined that even a 'soft' provision can be the basis for further developments and agreements (Cini 2001, 195; Simmons 2013, 281) or a 'manifesto' that can legitimate a given policy approach (Luther 2018, 54–56).

However, many scholars claim, on the contrary, that soft law is structurally insufficient to ensure social rights, which require – by definition – institutional intervention, directly tackling the factors of inequality (Seeleib-Keiser 2019). Rather, the soft law approach has been considered as an expression of 'neo-voluntarism' (Streeck 1995), where States keep the power of deciding whether to cooperate and how (Rogowski 2019, 289).

The debate was not pacified by the approval of the European Pillar of Social Rights (EPSR)²⁷, despite the statements of principles contained in the declarations (Juncker 2019). Different authors highlight that the Strategy provides a limited advancement in terms of safeguard of human rights (Augenstein 2018, 261; Bonciu 2018, 65–66; Giubboni 2018, 562–563; Grohs 2019, 28), or even a retreat, in comparison to the fact that social rights had been already introduced – among other rights – in the so-called 'Nice Charter', namely in Title IV and Artt. 31 and 34 (Cozzi 2018, 518)²⁸.

This context radically hinders any democratic effort, since it shows a renunciation to eliminate the roots of exclusion.

This problem cannot be entrusted to cultural programs or participatory tools and methodologies. Rather, it needs to be tackled through structural measures,

²⁷ European Commission Recommendation of 26.4.2017 on the European Pillar of Social Rights, C(2017) 2600 final; Council of the European Union, Proposal for an Interinstitutional Proclamation on the European Pillar of Social Rights, 13129/17, 20/10/2017. The Interinstitutional Proclamation, in particular, expressly excludes any expansion of EU's power in social policies (Ibid., consid. 18).

²⁸ Charter of Fundamental Rights of the European Union, 2000/C 364/01, 18/12/2000.

like the identification – and financial support – of minimal standards of protection of social rights at EU level (Vesan & Corti 2018, 130; Seeleib-Kaiser 2019, 233–234), even with a shared taxation specifically targeted at the equalisation among social categories and territorial communities (Ferrera 2018, 581).

4.2. Rethinking Cultural programs for Local Participation

The second step – mainstreaming citizens’ involvement in funding programs – requires funding and recognition as forms of support and legitimisation of social actors, as well as fostering networks of mutual help and learning among the cities and their communities. This objective entails the need to create a broad framework enabling and supporting experimentations as well as recognising them as potential beneficiary of EU cultural programs.

In that sense five recommendations are proposed in this paper.

The first recommendation is to change the requirements of funding programs – and namely of Creative Europe, the biggest EU cultural program – to facilitate the access of small and grassroots organisations. A major barrier, in that sense, is the requirement of legal personality provided to access grant applications, since many social initiatives stem from informal communities in first place. An abolition of this requirement would allow cultural programs to fund informal communities directly; in the meantime, the EU could use mechanisms of cascade funding to support them through an intermediary subject. A second major barrier is represented by financial stability requirements, that actually exclude the most precarious categories, since they require to grant a co-funding or to obtain a guarantee. The basic values of equality and inclusion would impose an abandonment – and even a reversion – of such rules. EU is not a private investor, but an institutional funder, committed to values of cohesion and social inclusion; therefore, it should not seek a return of investment, but rather privilege individuals and organisations that experience financial instability, along with criteria of ‘positive discrimination’.

The second recommendation is to introduce simplified and flexible accounting rules. The present accounting requirements drain resources from the already

limited cultural budget, and especially from the cultural work itself (Gielen 2020, 29), and are unaffordable for smaller cultural actors. Moreover, they do not acknowledge that projects – as highlighted in the Italian case study – need to risk and experiment in order to produce innovation in culture and participation. In that sense, transparency and openness of implementing processes towards local community should be considered as an essential element for the accountability in the use of public EU funds. Complex reporting rules rather privilege specific expertise on accounting, while a comprehensive report is not *per se* a guarantee of the social value of the project.

The third recommendation is to develop guidelines for participation as mandatory requirements for local institutions that want to apply for and participate in EU-funded programmes. With regard to these guidelines, the EU should also act as an impartial overseeing authority, similar to those provided in the paradigmatic model of the French ‘débats publics’ (Rui 2007, 104 ss.). These guidelines should set minimum qualitative thresholds for collaborative agenda-setting, transparency, data sharing, inclusion, non-discrimination and the appropriate allocation of time and resources. Local institutions should also be required to provide specific motivations when they do not implement the outcomes of a participatory process. These measures would be a necessary counterbalance of the requirements of stability and efficiency imposed in the same programs to local institutions: a way to compensate the heteronomy of EU standards – imposed in cultural programs, as described above – with an empowerment of local communities in the agenda-setting as well as the deliberation and implementation of the project proposal.

The fourth recommendation is to acknowledge that ‘participatory processes are labour-intensive, and as such necessitate some kind of compensation’ (Iossifidis 2020, 52), or indemnisation. The *ratio* of such a remuneration would be the substantial equality, i.e. the need to bridge the gap between grassroots initiatives and strong vested interests, who have specific resources for lobbying.

Such compensation ‘could be in the form of in-kind support in training and consulting’ (*Ibid.*), or happen through the allocation of public asset, as in the case of the ‘urban collective and civic uses’, described above (Cozzolino & Parenti 2020, 18).

Therefore, the EU could provide the local institutions and communities with a legal framework and an appropriate training allowing to entrust a part of the municipal/regional real estate property to self-organised and self-governed collectives of inhabitants and/or cultural and creative workers. Indeed, as demonstrated by the Italian ‘emerging commons’, spaces are resources that can be used by communities and workers to develop policies and networks of mutual aid, with a strong transformative potential.

Of course, this could not be a way to substitute the social intervention needed to fund cultural labour, nor would it bridge the social gap that hinders participation, in the sense highlighted above. Nevertheless, it would be an essential support to commons and other grassroots movements, since it is one of the ways through which institutions can support social needs without interfering with their self-determination.

Finally, the practical and political expertise that citizens bring in participatory processes should be valorised in addition to the academic one, and remunerated where possible, because of its contribution to better policy-making.

Fifth and last one, the EU can support local institutions by proposing a range of legal tools that they can use to allocate public and private spaces to cultural participatory initiatives. Such a measure would allow civil servants to overcome different obstacles mainly related to budgetary rules that encourage the privatisation of public property as a means of generating revenue for local institutions.

In that sense, the EU can draw from the experiments of many local institutions and communities that have developed different tools. Sometimes this involves ad hoc tools provided in local regulations, such as the Italian ‘pacts of collaboration’ for the shared care, regeneration and administration of commons or the assignment for community management made with Can Batlló in Barcelona²⁹ based on its civic profitability and valorising the social return on investment. In other instances, these legal instruments are the result of the creative use of legal tools provided by private law, all of which are especially useful when a good is privately owned. For example,

²⁹ See <https://www.facebook.com/canbatllo/>.

instruments such as Heritable Building Rights or Community Land Trusts have been used to impede the sale of the good on the speculative real estate market and to impose affordable house rents.

In the long term, the most complex question concerns the procedures for grant-making. Indeed, the logic of public granting requires transparency and impartiality of selections. Usually, these criteria are pursued through an evaluation based on parameters defined *a priori* by the EU. However, community-led experiments are by definition not identifiable *ex ante* and from top-down: the criteria of their recognition can only come by the community itself.

This apparent paradox can only be addressed if the process of recognition and evaluation of grassroots practices is entrusted to grassroots practices themselves. In that sense, an interesting example can be found in the agroecological field, which has developed Participatory Guarantee Systems (PGS), for example for organic products (FAO 2018). These forms of certification are based upon mechanisms of trust among networks of producers and consumers, which are built first of all as a way to exchange knowledge and build solid relationships (Cuéllar Padilla 2010, 3–4). In these systems, common standards are defined within each network – through a technical evaluation and a negotiation of values – and enforced through regular visits in each other’s fields, that give place to a certification. The aim of the certification is to favour the encounter and mutual learning, rather than merely controlling: sometimes even the sanctions are also meant as a way to provide solidarity aid to farmers that have experienced involuntary violations (Ibid., 11). In that way, these systems provide a federated certification based on trust that some States have recognised as equivalent – in terms of impartiality and reliability – to the third-party certifications which are based, instead, on the identification of *a priori* requirements and the validation of an independent expert.

The lesson learnt from these cases is that being external to an experiment does not mean necessarily to be an expert of the field; rather, the opposite is true, since only participants themselves can assess how helpful an experience is in terms of participation. In these cases, with the same logics of open-source software, the

quality is not guaranteed by secrecy and impartiality, but by the social control enacted by networks of producers and users. It is time, then, that new criteria – similar to these ones – are recognised by EU programs and taken as a point of reference for funding who are meant to support participation.

Of course, transporting the institution of PGS to the cultural field is a question, more than an answer, since it needs to address different issues, such as: how the systems can work on transnational scale, where there is no proximity among the actors involved (Cavallet, Canavari & Neto 2018, 10); how to ensure the openness of the networks, which is the real guarantee of the system; how to identify the relevant networks.

Moreover, in the present scenario, fragmented by precariousness and competition, specific funding would be needed for pilot programs aiming to foster networks of trust and mutual aid that can enact forms of PGS. In that sense, even smaller grants – reaching a wider number of actors – would grant resources that organisations can invest in creating networks and agreeing on common standards. The EU could employ its own human resources to facilitate and support these processes, in order to lighten the material burdens of networking and create the preconditions for a mutual connection among grassroots cultural actors.

5. Conclusions

The above reflections show that culture and grassroots participation are now ineluctable fields of interest for constitutional law, being pivotal in the dynamics of representation. Namely, spontaneous collective engagement in activities of general interests – even if in small-scale experiments – can represent a deep and widespread transformative force in local communities. Self-organisation, especially in the cultural sector, has demonstrated to be able to create new legal tools and new institutions by building up from participatory artistic, social and political practices. Culture is the base of these initiatives, keeping open spaces of possibility and making new social and political imaginaries possible.

In particular, the work focused on the role of EU cultural policies which are central, not mainly because of their legal instrumentation, but especially due to economic incentives that EU programs entail for local institutions and grassroots organisations. Given this context, recognising the autonomy and reflexivity of grassroots experiments can be a way to integrate local representation – without interfering with it – by actively supporting actors that undertake a daily work for the fulfilment of social rights and institutional innovation through cultural activities. Such a path involves a rethinking of the EU system of social protection, as a necessary precondition for an inclusive democracy and therefore a necessary answer to the ‘democratic deficit’ of the EU.

Conclusively, the paper addresses the current ‘crisis of representation’ through a community-led approach to participation. In that sense, it understands the empowerment of social initiatives as a ‘needs-based approach’ to a multilevel participation, able to tackle EU’s democratic deficit as well as the subjection of national constitutions to contrasting pressures of the market and the citizens’ ‘distrust’.

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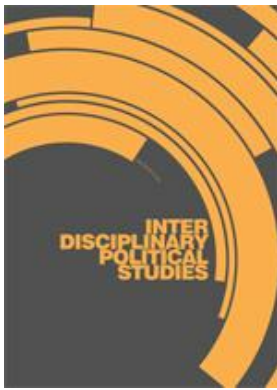
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RESEARCH ARTICLE

So Far, Yet So Close: Italian Parties' Immigration Discourses During the Gentiloni and the First Conte Governments

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ABSTRACT

The article compares the immigration discourses of three Italian parties (League, Five Star Movement and Democratic Party) under the Gentiloni and first Conte governments (2016–2019). To this aim, it performs a quantitative and qualitative analysis of the Facebook posts published by the parties and their leaders during seven periods of interest, with the goal of reconstructing the parties' ideal-typical basic discourses. The results prove that the centre-left Democratic Party's and the populist Five Star Movement's discourses elude xenophobic forms of Othering of migrants. However, the qualitative analysis shows how these actors' approaches actually 'spectralise' the migrants, thus legitimising stricter measures and lending credibility to the right-wing League's discourse. The three discourses may instead be correlated with different degrees of policy dramatisation. These results underline the importance of integrating discourse analysis in party-comparative studies and contribute to the formulation of new hypotheses to be tested in other cases.

KEYWORDS: Migration; Othering; Framing; Basic discourse; Spectralisation; Policy dramatisation

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1. Introduction

After decades of growing salience, immigration has become one of the most important issues on the political agenda of many European states. The asylum crisis of the 1990s (Luedtke 2019) and the migration crisis starting in 2015 (Triandafyllidou 2018) especially have been turning points for the politicisation and even securitisation of the issue by a wide range of actors (see Buonfino 2004). While European institutions, after the Schengen agreements, have increasingly pressed for the strengthening of the external borders of the Union and the strict control of migrant flows (van Munster 2009), the issue has often become owned by radical right parties and movements across Europe at the national level, putting party systems under strain (Bale et al. 2010). In Italy, Matteo Salvini's League cemented its hold on the issue after the 2015 crisis, which saw Italy as a key country on Europe's Mediterranean border. The party further capitalised on it after the 2018 national elections, forming a government (the first Conte government) with the Five Star Movement (M5S) and becoming the most voted party in the European 2019 elections.

Existing literature on migration discourse generally focuses on the depictions of migrants as 'Others' and the discourses built around them in the media and political context at large, or on quantitative analyses and comparisons of the frames adopted by media and political actors on the phenomenon. As a result, we miss a comparative analysis of how different actors depict the migrant Other (i.e., the migrant who is constructed as different from us and in distinction from whom our identity is defined, secured and maintained) or introduce further Others in migration discourse. Mainstream parties, and in particular centre-left parties, are often absent in this strand of research. Thus, while most works agree that the immigration issue has been increasingly presented to the public through securitarian lenses (see for example Huysmans 2006), we know little about whether this is coupled with a homogeneous change in Othering practices by most actors, or if different images of Others are mobilised by different actors even when they share a common frame. Indeed, if different frames are deployed to increase consensus and legitimise policies (Entman 1993), also different ways of depicting Others produce different discourses and

imperatives to action (or inaction) (Hansen 2006).

Mapping the variations in the Othering practices of different actors in migration discourse can aid the comprehension of another facet of how actors create consensus and legitimise or delegitimise certain immigration policies. In perspective, we might find correlations with the characteristics of proposed policies, with electoral results and with the ways racism and xenophobia spread, and investigate the interactions between the findings on this level of analysis and others, such as communication frames. In particular, it is important to understand what images of the Other are produced by those actors who do not initially own the migration issue and are forced to confront themselves with it, and whether and how these images fuel into the securitarian and identitarian hard-line rhetoric of radical right parties.

This work intends to perform a hypothesis-generating descriptive analysis of a case-study (Lijphart 1971). The case under study will be the Italian one, as after the 2015 crisis the country saw governments led first by the centre-left mainstream Democratic Party (PD) and then by a populist alliance of the Five Star Movement and the radical right League. My research question is: what are the dominant Others and the discourses constructed around them in the migration-related communication of the main Italian political parties between 2017 and the end of the first Conte government, in 2019? To answer it, I will focus on the social media discourse on Facebook of the three parties and their leaders: the Democratic Party, the Five Star Movement and the League. While the PD's political positioning is clear, the M5S and the League require further clarification as they represent different forms of populism. The League was originally born as a regionalist party claiming to represent the interests of Northern Italy but has then steadily shifted towards nativism and radical right populism (Mudde 2007), with the main conflict in its narrative being a cultural one between an ethnically defined Italian people and immigrants and Muslims (Ivaldi et al. 2017). The M5S's populist stance at its birth was instead devoid of markedly radical right elements and notably fuzzy on the left-right spectrum, simply positing the party as representing the common people versus the Italian political elites (Ivaldi et al. 2017; Mosca & Tronconi 2019).

Italy has been chosen as the country under analysis due to it having been one of the European countries most affected by the new migratory flows of the recent years. While being one of the main entry points to Europe from the African continent, Italy was not the focus of attention at the height of the refugee crisis starting in 2015; nonetheless, successive Italian governments have suffered or exploited the pressure of a public opinion increasingly concerned with new arrivals.¹ The year 2015 actually marked a slight decrease in arrivals (153,842), down from 170,100 in 2014. After the closure of the Eastern Mediterranean route, the number of arrivals rose again in 2016, reaching 181,436 (UNHCR 2019).

Within this context, despite their ideological difference, both the centre-left Gentiloni government in 2017 and the first Conte government in 2018 and 2019 adopted controversial immigration policies, often criticised for their humanitarian outcomes (see Hermanin 2017; Strazzari & Grandi 2019). In particular, the Gentiloni government was criticised for its controversial agreements with Al-Sarraj's Libyan government to stem the flow of migrants, its restrictive 'immigration decree' and the attempt to impose a 'code of conduct' on NGO ships operating in the Mediterranean. The following Conte government saw Interior Minister Salvini, the League's leader, implement his 'shut ports' doctrine against migrant-rescuing at sea and produced two so-called 'security decrees', restrictive towards asylum seekers, the Italian reception system and NGOs. Choosing these two governments thus makes it possible to analyse the communication of parties that have all adopted at least partly restrictive immigration policies despite their opposing political stances; moreover, the similar context in which they act allows us to effectively compare the discourses between different parties and between the same party when in office or in opposition.

The paper is structured as follows: section 2 will first review the main literature related to migration discourse and to migration and party competition. Then section 3 will explain the methodological choices adopted for this study. Section 4

¹ According to Standard Eurobarometer data, the share of people considering immigration one of the two most important problems in the country almost tripled in 2014 to 17% (up from 6%) and then doubled again in the following two years, before stabilising at 34% and then eventually decreasing to 22% in the first six months of 2019.

will review the results of the analysis and discuss the findings, identifying the dominant discourses of the main actors in specific contexts and discussing their interactions. Finally, section 5 will present some final remarks.

2. Policy stances, frames, Others: A review of migration literature

Immigration is an extremely multi-faceted issue, spanning several policy fields. As such, it is first necessary to clarify what its facets are, in order to avoid conceptual stretching or ambiguity. In particular, in order to define immigration, we need to distinguish it from integration. According to Akkerman (2015), immigration refers to issues of labour immigration, access to citizenship, asylum, illegality and family reunification. Integration is instead related to social rights, the relationship with religious minorities (Muslims in particular) and assimilationist or pluralist trajectories of integration. If, however, according to Heckmann (2003, p. 46) integration is 'the inclusion of new populations into the existing social structures of the immigration country', then we should also include in it the sub-field of citizenship access, as the main gate to institutional inclusion. Immigration should instead aggregate those sub-fields that govern migrants as incoming subjects and – once arrived – distinct aliens and not as prospective full members of society: asylum, labour immigration, repatriation and reception policy, but also border control and externalisation, and all policies meant to tackle the so-called 'push factors'. Importantly, a policy pledge related to an immigration sub-field may well be justified through reference to another sub-field, or to integration considerations.

A sizeable literature has already developed on the theme of different parties' immigration stances (see Odmalm 2019 for a comprehensive review); the main objects of research are parties' positions and electoral strategies on the immigration issue. From a party competition view, the immigration issue becomes relevant in the 1980s, with the increasing salience of the issue within the electoral agendas of radical right parties. It is since the late 1980s and the 1990s that immigration has truly become one of their most important owned issues, however (Mudde 1999; Sonia & da Fonseca 2011). The salience of the issue has considerably grown since then,

prompting most actors and party systems to make choices and undergo transformations in reaction to it.

Most of these works focus on parties' positioning relative to each other according to their chosen policy approach to immigration. Immigration has often been seen as a valence issue, with a directional consensus in the electorate towards stricter policies and parties competing over their competence and ability to provide the desired outcome (Odmalm & Bale 2015). If parties treated immigration as a valence issue, we would expect differences and increases in salience in party manifestos not to be related to the parties' ideological positions. However, this does not seem to happen (Morales et al. 2015). Ideology has proven time and again to be an important factor in determining party positions, although in conjunction with factors such as competition from radical right parties (Mudde 2004; Sonia & da Fonseca 2011), public opinion shifts (Odmalm & Bale 2015), leaders' decisions (Bale & Partos 2014), other parties' behaviour (Bale et al. 2010) and incumbency (Castelli Gattinara 2016). Mainstream left parties, at least in Italy, seem to maintain more open and humanitarian positions than their opponents, shifting to pragmatic stances when in government (Urso 2018). The Italian mainstream right has instead usually adopted securitarian stances, also espoused by more radical parties such as the Northern League (Castelli Gattinara 2016).

Most of this literature performs quantitative analyses of party manifestos; as a result, we risk missing the ways parties justify their positions and frame the very issue of immigration accordingly. Authors such as Helbling (2014) and Castelli Gattinara (2016) have instead used frames specifically developed for the immigration issue to capture this dimension of party competition. Frames are, according to Entman (1993), schemes of interpretation that promote a particular problem definition or causal interpretation. Frames have more often been used for studies on media and immigration (Greussing & Boomgaarden 2017; Vollmer & Karakayali 2018) or on dominant political discourses, without a comparative approach between parties and party families (Triandafyllidou 2018; Guillem & Cvetkovic 2019). The framing approach is particularly useful when considering not party manifestos, but party

officials' declarations or other means of public communication. Through it, we can understand how parties compete not only by adopting different evaluative stances on the issue, but by changing the terms through which the issue is perceived as a problem, a moral duty or a resource.

Helbling (2014) uses seven framing categories: national, multicultural, moral-universal, economic prosperity, labour and social security, security (including both national security and terrorism on one side, and law and order on the other) and the neutral pragmatic. These categories are defined in more detail in the following section. The security frame might be further articulated into a proper security (or geopolitical, as Chouliaraki & Zaborowski (2017) term it) frame that refers to terrorism, national security and war, and a law and order frame which accentuates cases of domestic deviancy and criminality. In Italy, negative framings of immigration have historically focused on this theme of insecurity and 'urban safety', i.e. law and order (Marzorati 2013). Greussing and Boomgaarden, who adopt a statistical approach to identifying clusters of words which they then label as different frames (2017), also find economicisation (which is centred on the economic burden represented by immigrants) as a main frame in the Austrian press in 2015.

The use of these frames, however, does not capture the Othering discourses of party actors; indeed, the discursive images of the immigrant Other are studied in works that do not compare parties. In the literature we can traditionally find two main ideal-types of images of the immigrant Other (Anderson 2008): the villain, or evildoer, and the victim. The first is a radical Other, characterised by an irreducible diversity that challenges the identity and the value system of the community that depicts it as a threat (Hansen 2006). Radical Otherness satisfies a community's desire to locate responsibility for the dangers and pain of life in an out-group that can be held accountable for them and nullifies the potential for questioning the very nature of one's identity that the Other retains by defining it as evil or irrational (Connolly 1991). The in-group is thus shielded from criticism or blame for any societal stress that is occurring. This radical diversity and opposition may be constructed on different grounds, however: the migrant may be enemified and associated with terrorists (Squire 2015)

or be considered culturally unassimilable and threatening to national unity (Marino 2015) and/or prone to turn to delinquency and commit serious crimes that disrupt the social order (Vollmer & Karakayali 2018). Delinquency itself can be explicitly traced back to the immigrant's cultural and racialised roots or be attributed to other socio-economic causes (van Munster 2009), or not be contextualised. These processes are common to most countries harbouring hostility towards migrants by parts of their society, including Italy: here, migrant Othering is mainly based on cultural difference and criminalisation (Benveniste et al. 2016). These cases are usually related to nativism, an ideology (in Mudde's (2007) definition) in which the in-group is identified with the culturally homogeneous native inhabitants of the nation-state.

Otherness, however, does not need to be radical. Hansen (2006) posits the existence of more degrees of Otherness, which are all instrumental in defining by opposition the Self of the in-group community, but which may do so in other ways than threat, and which may all be used to legitimise specific policies. On the opposite side of evil-doers, migrants may also become a victimised Other. Victims are passive subjects who have had to endure violence, poverty or other forms of pain in their origin country and/or during the perilous journey or even after their arrival in the immigration country. In this context, victimised migrants are not viewed as a threat, but they are still clearly considered different from the population of the reference community and are treated as passive actors without agency, towards whom we have a charity duty. This also turns them into dehumanised beings (Chouliaraki & Zabrowski 2017). In this case, the in-group does not necessarily coincide with the population of the host-state as a whole but may also be identified with smaller groups of benefactors, while also being opposed to variously depicted groups of abusers both in the migrants' home and host states. At the same time, however, these depictions strengthen long-standing images of underdevelopment and its opposition to the developed and 'civilised' world (Agustín 2003).

The overlaps between these images and the categories of refugee and economic migrant are instrumental to most discursive strategies: in particular, the economic migrant is often conflated with the criminal evil-doer through the use of the

lexicons 'illegal' and 'criminal', through which economic migrants and even refugee claimants are already depicted as breaking the law and associated with delinquency (Gilbert 2013). Thanks to this overlap all those who have not yet been granted asylum become illegal immigrants, and illegal immigrants become problematic or dangerous criminals.

All these images are mediated by the tropes of silencing, collectivisation and de-contextualisation (Chouliaraki & Zaborowski 2017): migrants are stripped of their voice, presented as parts of collective referents and never as individuals, and deprived of the background reasons for their journey, as though they have perpetually existed in the state of the migrant flow. This way, they can more easily be attributed the specific characteristics of one of the previous stereotypical images and better fit within an overarching narrative. Moreover, migrants are racialised and gendered: groups are associated with racial attributes and victims are generally associated with children and females, while males are more strongly associated with cases of violence (both general and gendered one) (see Johnson 2011; Wilmott 2017; Tyler 2018; Gray & Franck 2019). Victims and evil-doers are also different with respect to agency: while both are silenced, for victims this means that they are without agency, just a vulnerable body; evil-doers are instead ascribed agency, but also maliciousness, which restricts the immigrant's agency to their capacity to harm the host society (Chouliaraki & Zaborowski 2017).

By using the concept of the Other, we can avoid limiting ourselves to a quantitative comparison of the frequency of different frames or images of the Other, but we can instead construct each party's 'basic discourses' and compare them. Basic discourses, in Hansen's (2006) interpretation, are analytical constructs through which the construction and linking of identity and policy can be studied. They 'construct different Others with different degrees of radical difference; articulate radically diverging forms of spatial, temporal, and ethical identity; and construct competing links between identity and policy' (Hansen 2006, p. 46). Basic discourses are ideal-types of specific associations that compete or become hegemonic within a wider debate and are strongly linked with the concepts of identity and Other. Through them, we can

not only consider different frames, Othered subjects and policy sub-fields separately, but we may also analyse how they together build a coherent discourse that competes with others in the public arena. In the Italian case, such constructs would allow to confirm whether the League mainly combines a law and order frame with a criminalised Othering of migrants, to understand what depictions are combined with the PD's likely mixed humanitarian-pragmatic stance, and to map the M5S's approach to the issue. The M5S's case is particularly interesting, as Gianfreda (2018) has shown that the party has actually shied away from addressing migration and the very figure of the migrant in the parliamentary debates on the 2015 refugee crisis.

3. Methodology

The aim of this work is to identify the Othered images present in political discourses of various Italian actors over the immigration issue during the Gentiloni and the first Conte government. From these images and through their comparison with the frames employed by the parties, a series of ideal-typical basic discourses (Hansen 2006) attributed to each actor in a certain context may be constructed, and their relationships investigated. The selected period is still characterised by limited research due to its proximity in time. Moreover, it is a unique chance to study and compare the characteristics and evolution of actors' discourses in a period of shift between a mainstream centre-left government and a populist-radical right one, where an actor with a seemingly mostly pragmatic discourse (if we assimilate it to the previous record of the centre-left Renzi government in 2015 (Colombo 2018)) has been replaced in office by a government characterised by a much harsher rhetoric. At the same time, both governments have been accused by several critics of implementing illiberal measures against migrants; therefore, we might hypothesise that the discourses of such different actors may be more similar or interact with each other in ways that we do not capture only by coding and analysing their manifestos.

The selected actors are the PD, League and M5S. They have been chosen as they were all a major ruling party during one of the two governments under study; moreover, they have been the three most voted parties both in the 2018 national

elections and in the 2019 European Parliament elections. Their choice allows for a comparison of a mainstream left, a radical right and a populist actor in the same time frame.

The data for the analysis have been scraped from the Facebook communication of these actors and of their leaders. The choice of a social media such as Facebook for this kind of work needs justification, as most other studies focus instead on media outlets, party manifestos or parliamentary debates (see Guillem & Cvetkovic 2019; Odmalm 2019). The choice to focus on media rather than manifestoes is demanded by the object of the analysis, as it allows to gather more data on the communicative approaches parties adopt not only to propose policies, but also to constantly describe and interpret the varying actors and events of the Italian migration issue before the wider public. Moreover, the political communication of parties is nowadays increasingly influenced by their social media strategies, as social media allow political actors to bypass the media in setting the agenda and refine and spread their own framing of specific issues (Ross & Bürger 2017). This means that by focusing on social instead of traditional media we can find a version of actors' discourses closer to what they actually intend to spread. Furthermore, networking and transcoding allow the social communication of one actor to reproduce messages of other actors or distributed on other media (Schulz 2014), which means that we still have access to a plethora of communication forms, from simple posts and self-interviews to interventions in TV debates and press articles. Therefore, the results should not be excessively biased by media-specific contents and tropes; instead, using social media may make it possible to focus on a 'purer' version of the actors' intended discourse.

Amid the main social networks, Facebook was preferred over the others for the analysis. Facebook's role in Italian political communication has been highlighted in particular with reference to League's leader Matteo Salvini, who had built at the time an online community of more than 3,800,000 'friends' on the platform (see Bobba 2019). Facebook remains the most common social media in Italy, having been used by 90.4% of online users in 2018 (Coppola 2019). While fine-grained statistics

are not yet available for Italy, Facebook use does not seem to be particularly influenced by age, census or membership of a specific ethnic group in those countries where similar studies were carried out (Pew Research Center 2019). Nonetheless, it must be remembered that a series of biases are potentially present: only 48% of the adult Italian population were social media users in 2017 (Pew Research Center 2018). Furthermore, language on social media is more emotional and more prone to putting blame on opponents (Hameleers et al. 2017). Therefore, the results of this study will have to be balanced with those obtained through other more traditional media.

Posts were collected from the Facebook pages of PD, League and M5S and of their leaders (Matteo Renzi, Maurizio Martina and Nicola Zingaretti during their respective mandates as party secretaries for PD, Matteo Salvini for League and Luigi Di Maio for M5S). To these was also added the page of Council President Paolo Gentiloni (who, as PD member, has been included in the PD cluster), while Giuseppe Conte, not being formally a member of any party, has been excluded from the collection. Posts were not collected over the entirety of the three-year period, in order to obtain a sample of manageable dimensions; instead, a series of periods coinciding with critical events or processes related to immigration in Italy were identified, and all immigration-related posts from these periods were collected.

The periods were selected in correspondence both with sudden and/or unanticipated events and with the presentation, discussion and implementation of policies or programmatic points put forward by some of the actors and opposed by others. As a result, I will refer to them using the more generic term ‘contexts’. The contexts selected were:

- the signing of the Italo-Lybian memorandum in February 2017;
- the legislative conversion process of the Orlando-Minniti decree on immigration between February and April 2017;
- the defamation campaign against NGOs in March-May 2017 (during which NGO ships in the Mediterranean were accused of conducting a shady ‘immigration business’, being paid by the traffickers);
- the presentation of the code of conduct for NGOs in July 2017;

- the Macerata attack (when on the 3rd February 2018 an Italian individual shot and tried to kill several migrants hosted in the town);
- the sudden block imposed in August on the Diciotti vessel (one of the first of Salvini's campaign against rescue ships, with an importance amplified by it being not an NGO ship, but an Italian military ship);
- the legislative conversion processes of the two Security decrees in October-December 2018 and June-August 2019 (whose latter period also includes the Sea Watch 3 case, another extremely mediatised case of an NGO vessel being denied permission to land).

The collection periods were selected differently according to the context, but always included at least one week before and one after the event, policy, or act, or the two weeks after it. For legislative acts, the periods ranged from the week prior to the act's formal presentation in Parliament, as the legislative proposal had usually already been made public, to the week after its approval. For the Lybia memorandum and the code of conduct there was no clear-cut end to the debate: in the former case, the collection period included the two weeks after its announcement, as this represented the first moment the agreement was clearly presented to the public. In the case of the code of conduct, the period started when the code was first anticipated on 2nd July 2017 and ended one week after its coming into effect, on 1st August 2017. For the other unanticipated events, the period started from the day of the event until two weeks later. The case of the NGO defamation campaign did not fit well into these categories due to its continuous and sustained nature: therefore, the period selected ranged from the first news on a judicial inquiry by attorney Zuccaro on NGOs, on 17 February, to two weeks after a televised interview of the same attorney on 27 April. The final periods are thus: from 02/02/17 to 11/05/17; from 02/07/17 to 08/08/17; from 03/02/18 to 17/02/18; from 16/08/18 to 30/08/18; from 27/09/18 to 01/12/18; and from 08/06/19 to 12/08/19, for a total of more than 41 weeks of collection. The longer periods have allowed for the collection also of several posts related to episodes of criminality, European politics and negotiations,

relationships with foreign states (France in particular), electoral speeches and other more generic interventions on the immigration issue.

Posts were collected on the basis of a keyword search on each page,² integrated through the collection of posts directly from the page feed. Such complementary collection was manual, as Facebook's current API limitations do not allow to automatically scrape all posts from a page through dedicated software, but only a pre-selected sample of them (Facebook 2020). This double collection made it possible to include both posts hidden from the main feed (through the search) and photos and videos whose lack of text would have excluded them from a keyword-based search. The only exception to this collection method was in the League and Salvini's case: their Facebook posts published before the 2018 elections were not accessible through the feed, as the website proved unable to retrieve them as the feed was scrolled down to earlier dates. As this technical issue could not be solved and repeated itself across multiple instances and devices, in this case only the posts from the keyword search were collected. The analysis section will also deal with the consistency of these posts with the others scraped from the two pages, including the potential biases arising from them. In the case of other media being attached to the posts, they were coded as well if their content was produced by a party member or inasmuch it was clearly endorsed and referred to by the post; in the case of contents whose link was not available anymore, the posts were coded whenever their text and the attached title were enough to provide material for the coding.

Only contexts related to immigration proper have been selected: given the higher salience of immigration policy compared to integration policy in Italy, the analysis adopts the former as its focal point. While the border between the two is

² The keywords used for the search were: 'migrante/i' (migrant/s), 'immigrato/a/i/e' (immigrant/s), 'clandestino/a/i/e' (illegal migrant/s), 'irregolare/i' (irregular/s), 'richiedente/i asilo' (asylum seeker/s), 'rifugiato/a/i/e' (refugee/s), 'africano/a/i/e' (african/s), 'arabo/a/i/e' (arab/s), 'musulmano/a/i/e' (Muslim/s), 'ONG' (NGO), 'migrazione/i' (migration/s), 'immigrazione' (immigration), 'Macerata', 'Diciotti', 'Sea Watch', Carola, Rackete, 'decreto sicurezza' (security decree), 'decreto Minniti' (Minniti decree). These keywords attempt to cover most of the approaches to the issue: several refer to the individuals involved or often associated with immigration, while the others refer to the phenomenon as a whole or are associated with one of the aforementioned contexts, either being the name of a relevant actor, of a setting or of a piece of legislation.

indeed permeable, integration issues present in posts have been included in the analysis whenever they are referred to in order to support a specific stance on immigration. For the same reason, in parallel, only posts referring to migrants or migrant sub-categories have been included, while posts related exclusively to Roma or Muslim individuals already established in Italy have been excluded. It must be underlined that the sample used for the analysis is *not* meant to be a representative sample in a statistical sense; it is designed to attempt to represent most party positions with reference to a broad and exhaustive series of contexts of the immigration debate, while satisfying the need for a small enough sample to be analysed qualitatively.

The posts collected and analysed amount to 112 for the PD, 106 for the M5S and 314 for the League (see Table 1 below). In the League's case, however, only a third of them (32%) belong to the party's opposition period, due to the above-mentioned collection difficulty.

Table 1 – Number of posts collected by party and period and proportion (%) of posts by party for each period.

<i>Period</i>	<i>PD</i>		<i>M5S</i>		<i>League</i>		<i>Total</i>	
		<i>%</i>		<i>%</i>		<i>%</i>		<i>%</i>
02/02/17 to 11/05/17	14	14	34	35	49	51	97	100
02/07/17 to 08/08/17	13	31	17	40	12	29	42	100
03/02/18 to 17/02/18	19	31	5	8	38	61	62	100
<i>2018 elections</i>								
16/08/18 to 30/08/18	15	25	16	27	29	48	60	100
27/09/18 to 01/12/18	27	20	10	8	96	72	133	100
08/06/19 to 12/08/19	24	17	24	17	90	65	138	100
Total	112	21	106	20	314	59	532	100

Source: own elaboration

Collected posts have undergone both a qualitative discourse analysis and an extensive coding based on several criteria. Firstly, as for the coding, each post has been coded for every Othered subject (not only migrants) present and the way they

are constructed. The villain-victim dichotomy is expanded into five categories: enemified, criminalised, victimised, reified and a fifth category for all the other images depicted as despicable but not included within the previous ones (see Table 1). The Others identified were collective subjects who were differentially defined from the Self to which the actor referred, and towards whom the actor acted or wanted to act according to reasons deriving at least partially from that very difference. The (actually absent) instances which provided positive images that did not fit within this scheme were to be coded separately, in order to avoid a potential bias towards negative and/or passive images.

A second set of codes has been applied to the frame or frames present: I have here mainly drawn from Helbling's (2014) evaluative frames (see section 2), but with two additions: 1) a law and order frame (separated from security) and an exploitation frame (needed in particular for categorising the M5S's peculiar communication) (see Table 2); 2) Greussing and Boomgaarden's (2017) economicisation frame has been conflated with the economic and social burden frame. In all cases, the coding unit was the post, to which one or more codes have been assigned according to the frames present.

Table 2 – Nature of each Othering category.

<i>Enemification</i>	<i>Criminalisation</i>	<i>Reification</i>	<i>General Negative Othering</i>
Construction as enemy Use of war-related language	Construction as criminal Reference to illegal status	Construction as a non-human object Representation through numbers	Construction of the Other as despicable for some reason (generally moral) that does not coincide with the other categories
<i>Victimisation</i>			
Construction as victim			

Source: own elaboration

These codes allow for a better justification of the results of the discourse analysis. The frame-based coding is present to provide suggestions as to how images of Others and the traditional evaluative frames may interact in producing specific meanings. With this amount of data it is possible not only to identify what images of Others are present or dominant, but we may also construct for each actor the models of the basic discourses in which these Others have been embedded in different periods.

Table 3 – Nature of each framing category.

<i>Economic and Social Burden</i>	<i>Economic Prosperity</i>	<i>Exploitation</i>	<i>Humanitarian</i>
Economic disadvantages of immigration Labour and welfare competition Reception as a waste of resources	Economic advantages of immigration	Other actors' economic or political advantages in producing and exploiting the immigration problem	Solidarity towards the weaker Protection of human rights Prevention of deaths
<i>Law and Order</i>	<i>Multicultural</i>	<i>Nationalistic</i>	<i>Pragmatic</i>
Increased criminality and illegality Infiltrations or strengthening of criminal organisations Need for the respect of law Unacceptability of immigrants with illegal status	Favourable opinion towards cultural and religious diversity and tolerance	Defence of national identity and traditions Defence of national borders	Technical statements Statements which do not provide a justification for the advocated policy
<i>Security</i>			
Terrorist infiltrations Grave destabilisation			

Source: Own elaboration

4. Analysis and Discussion

4.1. The Quantitative Results

The results return varied insights on a relevant portion of the Italian political discourse on the immigration issue: all three actors under study frame the issue and depict migrants in different ways (Tables 4 and 5). The results have been aggregated according to the actors' incumbency or opposition role. It is important to note that the League's posts from the opposition periods are consistent with the party's communicative choices while in government, suggesting that there has been no major change in its rhetoric. Their results are somewhat more radical, with even less victimisation and humanitarian frames and more security ones; this might be due to a bias in the keyword collection, returning more written posts and short videos, accounting for a direct and less nuanced rhetoric, against longer videos and interviews.

Table 4 – Proportion (%) of Facebook posts coded for the presence of each frame.

Frame	PD			M5S			League		
	Gov.	Opp.	All	Gov.	Opp.	All	Gov.	Opp.	All
Economic and Social Burden	0	0	0	0	4	2	21	15	19
Economic Prosperity	2	6	4	0	0	0	0	0	0
Exploitation	0	0	0	41	71	57	18	19	19
Humanitarian	41	50	46	24	9	16	9	3	7
Law and Order	17	13	15	18	0	8	61	51	58
Multiculturalism	20	21	20	0	2	1	0	0	0
Nationalistic	0	4	3	0	0	0	10	10	10
Pragmatic	63	31	44	37	7	21	12	7	10
Security	7	7	7	0	25	13	8	24	14

**Each post could be assigned more than one code; column totals in all tables thus do not equal 100
Source: own elaboration*

The PD's two main frames are the humanitarian and pragmatic ones, with the multiculturalism and law and order ones in third and fourth place. When considering images of the migrant Other, victimisations and reifications of migrants are the

most common, followed by criminal images. Furthermore, at a closer look, the frequency of the law and order frame and criminal images are misleading: in the PD's opposition period, all the criminal images and 67% of the law and order frames are used in the context of the first Security decree in order to criticise the government's policies, which will produce people more likely to turn to delinquency due to the lack of integration. In the party's period in office, all of the criminal images and 90% of the law and order frames come from Matteo Renzi's Facebook page: in both cases it is specific individuals who are negatively framed, but without suggesting that they should be less deserving of assistance or be repatriated.

Table 5 – Proportion (%) of Facebook posts coded for the presence of each migrant image.

<i>Frame</i>	<i>PD</i>			<i>M5S</i>			<i>League</i>		
	<i>Gov.</i>	<i>Opp.</i>	<i>All</i>	<i>Gov.</i>	<i>Opp.</i>	<i>All</i>	<i>Gov.</i>	<i>Opp.</i>	<i>All</i>
Enemified	0	0	0	0	0	4	4	6	5
Criminalised	15	9	11	6	13	9	41	45	42
General Negative	0	1	1	0	0	0	7	6	7
Reified	37	13	23	6	2	4	7	9	8
Victimised	22	43	34	14	2	7	11	4	9

Source: own elaboration

The M5S is especially focused on the immigration 'business', with a seemingly mono-thematic obsession on exploitation when in opposition and a more moderate stance when in government, tempered by pragmatic and humanitarian frames. Also the presence of security frames drops to 0% when occupying office. However, part of the exploitation frames were simply replaced by law and order frames after the promulgation of the two Security decrees, which enshrined many of the NGOs' actions in the Mediterranean as legal infractions. The Movement's most peculiar attribute is evident when considering migrant images: only a small portion of the Movement's Facebook immigration-related production refers to migrants, and when it

does, it swings between criminal, victim and reified images. Moreover, criminal images of migrants mainly focus on their irregular and thus illegal status (90% of the criminal images), but do not suggest further associations with delinquency and crime. Therefore, they are not only much less numerous, but also less intense and radical than those of the League.

Finally, Salvini's League focuses especially on a law and order framing of the issue, with a series of ancillary frames supporting it: in particular the exploitation and economic and social burden frames (this latter one is significantly adopted only by the League, amid the parties under study), and, more rarely, the nationalistic and security frames. As for migrant images, the dominant one is the criminal image, followed by a group of more generic negative depictions: these identify immigrants either as culturally incompatible or as lazy 'failed citizens'. There are also some associations with terrorists and, more generally, people who 'don't flee war, but bring it here'. At the same time, however, there is a proportion of humanitarian frames and victim images: these are associated either with the need to stop the sea crossing in order to avoid more deaths, or with elders, women and children who really flee from war (versus young males who do not). A common element to all actors is the absence of any reference to positive migrant agency.

The results also allow us to study the images of further Othered subjects in the posts, so that we may better understand the articulations of the actors' discourse. These results have been summarised in Table 6, aggregating enemy, criminal and negative images for each relevant subject. While enemy images will be also treated separately later in the text, in many cases the distinction between criminalisation and a more general negative depiction was blurred and influenced by how much legislative power the party could wield, thus making a certain subject's actions unlawful or not. The PD focuses on two subjects: the human traffickers in the Mediterranean, demonised as the new slavers, and its right-wing and populist opponents, who fuel hatred and racism in the Italian society and lean towards authoritarian positions. The dominance of each subject is inverted with the passage from government to opposition, with traffickers reduced to nothingness and the frequency of political opponents

more than tripling. The M5S constantly refers to a fuzzy group of elites as its main target: i.e., right-wing and mostly left-wing politicians, the cooperatives working in the immigration sector, journalists and experts, and other prominent public figures. NGOs are associated to these individuals and groups in a general ensemble of people illegally or at least despicably profiting from immigration or defending those who do. Traffickers and the EU are other recurring subjects: the former for the same reasons as the PD, and the latter due to its inability to help Italy or even its willingness to trick Italians into carrying the burden of immigration alone. The frequency of these subjects changes as well, with the traffickers' and NGOs' proportions shrinking after the elections while the presence of the EU becomes more prominent. A common element between PD and M5S is the disappearance of traffickers from their discourses after the 2018 elections.

Table 6 – Proportion (%) of Facebook posts coded for the presence of an Othered subject that is not a migrant.

<i>Frame</i>	<i>PD</i>			<i>M5S</i>			<i>League</i>		
	<i>Gov.</i>	<i>Opp.</i>	<i>All</i>	<i>Gov.</i>	<i>Opp.</i>	<i>All</i>	<i>Gov.</i>	<i>Opp.</i>	<i>All</i>
Eastern Europe	4	4	4	2	0	1	0	0	0
EU	7	4	5	31	13	21	11	3	9
France	0	0	0	6	4	5	6	0	4
Human Traffickers	33	0	13	2	27	15	7	9	8
NGOs	2	0	1	27	71	50	34	18	29
Political Opponents	2	66	48	-	-	-	-	-	-
Elites	-	-	-	61	77	69	-	-	-
Do-Gooders	-	-	-	-	-	-	34	42	36

Source: own elaboration

Lastly, the League places blame in particular on NGOs and 'do-gooders' (in Italian *buonisti*, with a strong negative connotation). 'Do-gooders' is a label used by populist radical right parties to refer to a varied group composed of leftist politicians,

journalists, experts, cooperatives and transnational elites (at times led by billionaire George Soros himself), who, at best, are putting Italy in danger with irrational immigration policies from which they profit, and at worst are willingly planning to ethnically replace Italians and destroy the country's sovereignty. The label is also used against common people opposing radical anti-immigration policies.

A final element to consider is the frequency with which the actors have produced enemy images of these subjects in their Facebook communication. Indeed, all of them have, but in different ways. The PD has enemified only human traffickers, doing so in 20% of the cases in which it cited them while in government. The best example is Graziano Delrio's interview with newspaper *La Repubblica*: 'We are at war with the traffickers. A true war, not in TV debates' (Delrio 2017). The M5S has also enemified NGOs (4% of NGO posts), elites (3% of elites posts) and traffickers (19% of trafficker posts). The League has done the same with do-gooders (3% of all do-gooder posts) and NGOs (11% of all NGO posts).

4.2. The Basic Discourses

By integrating the previous results with a detailed qualitative analysis of the sample, we can now describe the basic discourses produced by each actor. Basic discourses are ideal-types which identify particular sections of the wider public discourse: they associate Selves and Others on the basis of specific spatial, temporal and ethical identities and construct links between identity and policy (Hansen 2006).

4.2.1. League

As we have seen, the League's posts are predominantly against immigrants, but with a significant proportion adopting humanitarian frames and victim images. Indeed, Salvini and his party articulate a clear rhetoric of deservingness (Boltanski 1999; Holzberg et al. 2018; Rheindorf & Wodak 2018; Vollmer & Karakayali 2018), where 'real' refugees fleeing from war are opposed to economic illegal immigrants. The former are exclusively identified with elders, women and children, so that young males are associated with clandestine migrants. A clear example of this distinction

comes from Salvini's interview on TV program *Pomeriggio 5*:

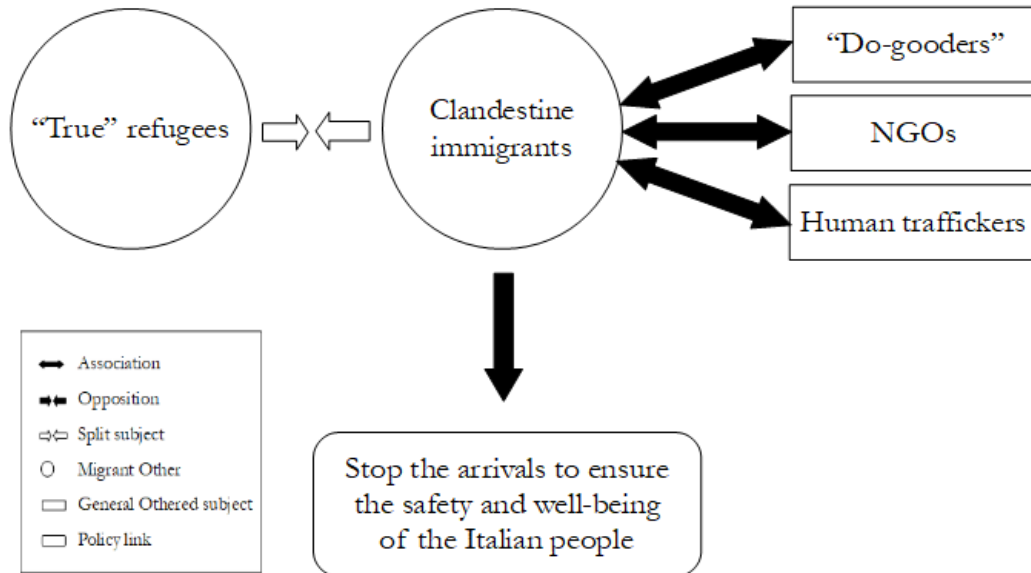
Those who flee from war, women, children, my home is their home. The problem is that among the hundreds of immigrants who have arrived, some – let us think of San Lorenzo, in Rome [where three migrants had been charged with killing a young girl] – have brought war in our home. And I do not need these people in Italy (Salvini 2018).

Salvini and the League succeed in making the border between refugee and illegal immigrant overlap with that between grateful migrant and terrorist, criminal or simply disrespectful. Illegal migrants are despicable predominantly because they commit crimes, but also because they are disrespectful towards Italian culture, religion and traditions and because they represent a burden which prevents millions of Italians in poverty from being helped:

With 4 million and a half Italians who survive below the poverty line, I believe that we need first to care about these people, before letting a single immigrant land or regularise them (Salvini 2017b).

Illegal immigrants are associated with other negative subjects: human traffickers, NGOs and the wider group of the 'do-gooders'. Traffickers are criminals who break the law and profit from the lives of migrants (although this is often not enough to empathise with those they exploit, when they are not poor and do not flee from war (Salvini 2019a)). NGOs are associated with traffickers and sometimes even considered outright enemies, as in the Sea Watch case (Salvini 2019b); in another example, Salvini's Facebook page shares on 28 March 2017 a conspiracy theory which claims that European elites are plotting to replace white Europeans with Africans, according to the century-old so-called 'Kalergi plan' (Salvini 2017a). The resulting discourse (see Figure 1) is in its entirety a clear example of securitisation and moralisation of borders (Rheindorf & Wodak 2018).

Figure 1 – Graphical representation of the League’s basic discourse.



Source: own elaboration

The main Other is the illegal migrant, associated with other nefarious subjects and clearly split from its opposite, the victimised deserving refugee. Against illegal immigrants, who seem to make up almost the entirety of the immigrant population, the League and its leader depict themselves as the defenders of an ethnic Italian Self which they represent. It is this Self that is in danger and must be rescued, through the closure of borders and the repatriation of all those not worthy of remaining in Italian territory.

4.2.2. M5S

The key distinguishing element of the M5S's discourse is the relative absence of migrants. Migrants are present in few posts and with conflicting depictions: sometimes as illegal irregulars, sometimes as victims (although the relative dominance of these two is inverted after taking office). The lion's share of Othered subjects belongs to a heterogeneous group of elites, followed by NGOs, the European Union and traffickers. Apart from the European Union, these subjects are generally depicted as

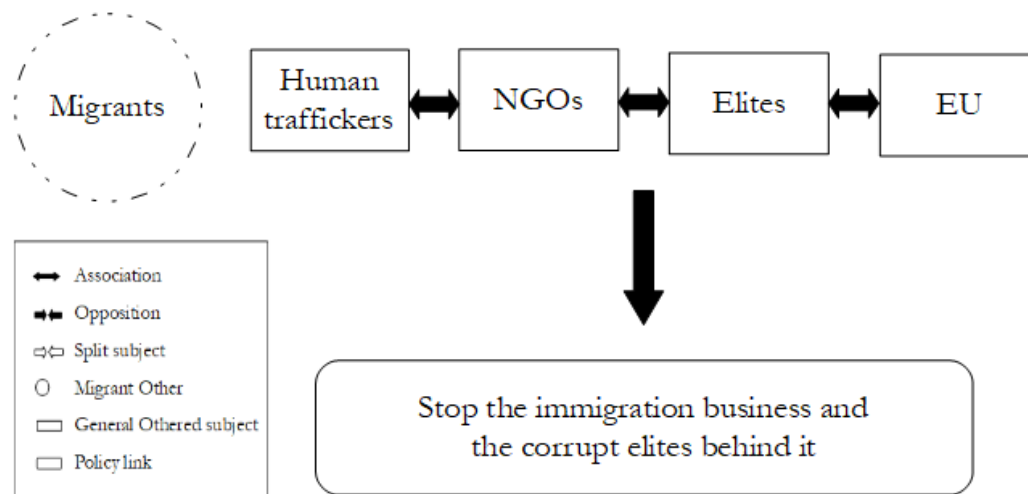
criminals or despised for supporting those who criminally profit from the 'business'. They may also be enemified: at the height of the NGO scandal in April 2017, the Movement's leader Di Maio's official page shares an interview by attorney Carmelo Zuccaro on TV channel *Rai3*, in which Zuccaro declares:

In my opinion NGOs might be financed – some NGOs, I repeat – by the traffickers. I know there are contacts. It is a business that now rewards as much as drug smuggling [...]. It might also be possible – the matter might be even more disquieting – that some of these NGOs pursue different goals, to destabilise the Italian economy for example. Those who would profit from a weak Italian economy, weakness which is doubtlessly incremented by an uncontrolled influx of migrants, might see such situation as advantageous (Di Maio 2017).

Similarly, also politicians are sometimes defined as 'traitors' of the Italian people: both the PD (M5S 2017) and Berlusconi (M5S 2018) undergo this radical Othering process.

While the M5S somewhat moderates its stance when in government, the articulation of its discourse does not change (see Figure 2). It is an atypical discourse, which does not correspond to any of the types already identified in literature; only Gianfreda (2018), analysing Italian parliamentary debates, already notices its peculiarity. The Movement's focus is related to its 'pure' populist origins: instead of articulating a conflict between an ethnic Italian Self and a migrant Other, it draws a line between the Italian people and the elites that the populists oppose. The immigration issue is only another field in the fight against the caste of the privileged, and the role of migrants is overlooked; we might term this a case of 'absconded Other'. This is likely to be intentional, in order not to lean towards any of the extremes of the political spectrum while effectively criticising the PD first and supporting the League later. As other parties make instead explicit in the wider debate the presence of migrants, however, it is fair to assume that this discourse alone is not capable of justifying why migrants should simply suffer the collateral damage of policies that are presented as theoretically not targeting them.

Figure 2 – Graphical representation of the M5S’s basic discourse.



Source: own elaboration

4.2.3. PD

The PD's discourse presents some structural changes which make it useful to distinguish between the period in office and that in opposition. Its distinctive attribute is the duality between the victimised migrant and the reified migrant. When leading the government, the PD uses predominantly reified images of the migrant Other: migrants are de-individualised and either turned into a de-humanised collective form ('flows'; 'the migratory phenomenon') or expressed as numbers. A typical expression is 'governing the flows', expressing a technical and de-humanised approach to the issue. Gentiloni announces the Libyan memorandum with these words:

We talk in this deal about the organisation of the camps in Libya and the cooperation in this with the international organisations, the repatriations from Libya to the origin countries, we talk about border police, coast guard, it is the description of a possible path to reduce and govern the migratory flows (Gentiloni 2017).

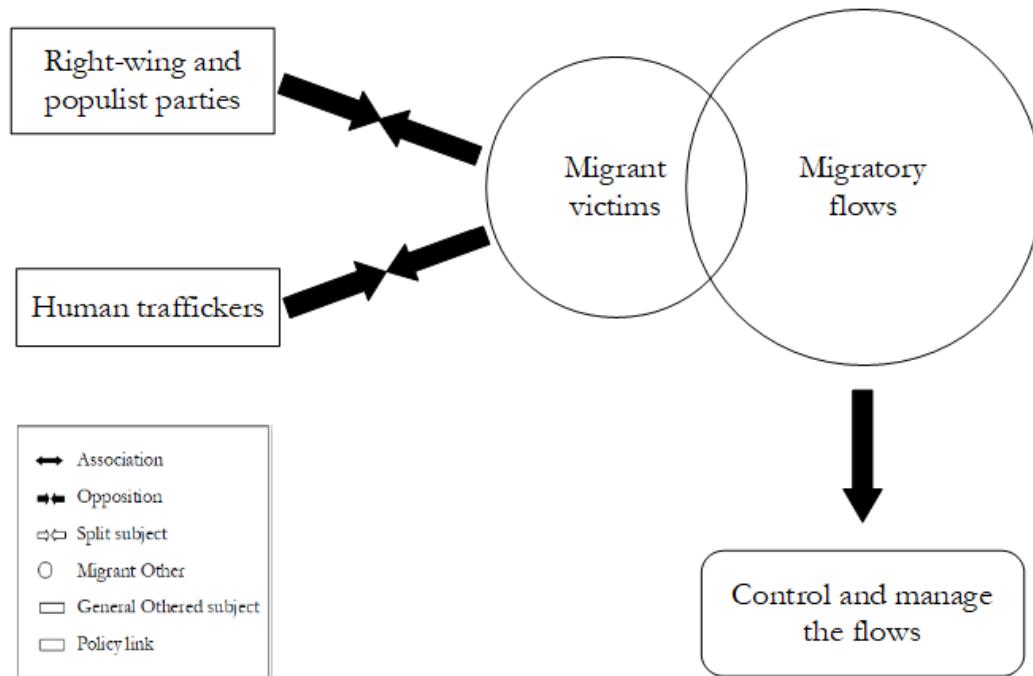
Victim images are present in the collection periods only with reference to the crossing of the Mediterranean, and not to the condition of the Lybian camps. The victimised migrants are opposed to the politicians who campaign on the immigration issue, eliciting xenophobia, but most importantly to the human traffickers,

with whom the PD constructs a radical and even war-like opposition. Their inhumane nature is often highlighted, for example in this passage by Renzi:

This happened after we saw the images – when the shipwreck sank and there were the children locked in the hold, they had locked them up because they were noisy, during that journey of death (Renzi 2018).

Here lies a specific and under-investigated articulation of Self and Others (see Figure 3), often considered an instance of pragmatic rationalisation (Triandafylidou 2018). The reified migrant Other is dehumanised and turns immigration into a technical issue of management, where ‘governing the flows’ does not elicit problematic associations with the humanity and individual biographies of migrants. Victim images can still be used when it may mark a difference from more radical parties, appeasing a section of the party’s electorate. Despite referring to the same migrants, these images are not associated to each other, nor are they put in opposition; their relation is simply left in ambiguity. Moreover, while migrants are an explicit target of the government’s policies, the main opposition is not with them, but between the State Self and the trafficker Other.

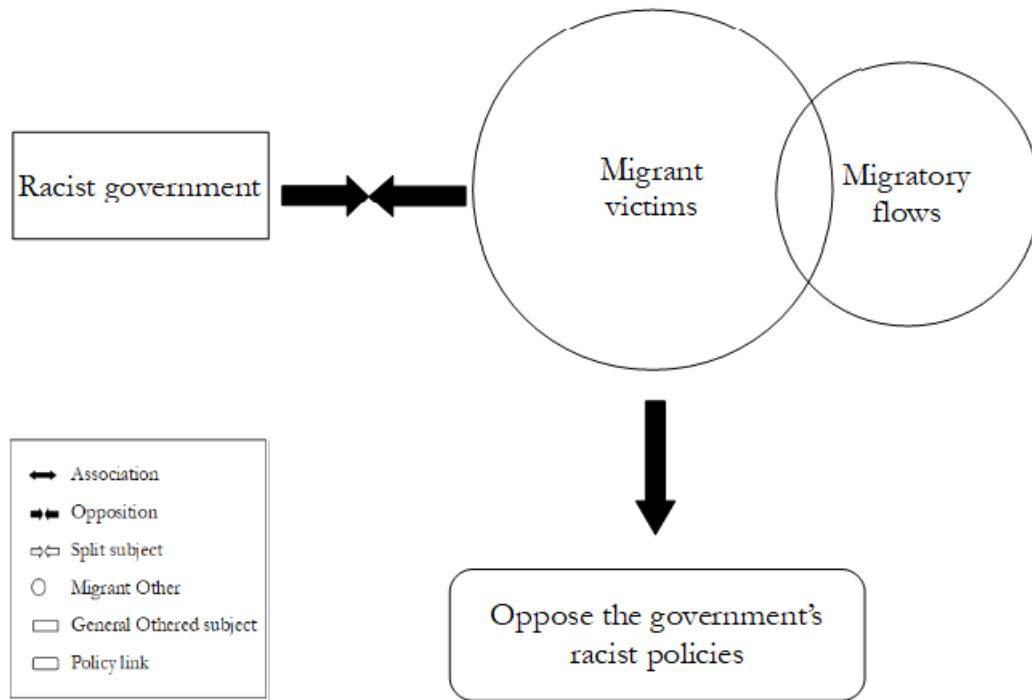
Figure 3 – Graphical representation of the PD’s basic discourse while in office.



Source: own elaboration

When in opposition, victim images become predominant over reified ones (see Figure 4); besides the sea crossings, they also become related to immigrants already in Italy's reception system. Moreover, traffickers disappear, while the main opposition is constructed against the Conte government and Salvini in particular, who is increasingly viewed as a dangerous and inhumane minister (PD 2018). The imperative becomes, therefore, to oppose the government's policies; thus, also here the main Self-Other opposition does not relate to migrants directly, but is inscribed in the wider critique of the racist and authoritarian posture of the government.

Figure 4 – Graphical representation of the PD's basic discourse while in opposition.



Source: own elaboration

4.3. Discussing the Results. New Hypotheses for Party Competition Models

The basic discourses presented above allow us to understand in more depth each party's stance. While the League's discourse reproduces most of the anti-immigration discursive practices already analysed in the literature, both the M5S's and PD's discourses are interesting in different ways. The M5S's is an atypical one for a party opposing immigration, although actually traceable to the party's populist background. The PD's discourse might seem dominated by a pragmatic and rational framing when in office, but if we investigate the images employed, we understand how this actually produces a considerable de-humanising potential. The party's discourse while in opposition becomes again more typically humanitarian.

These discourses do not exist as monads but interact with each other and the wider media environment. When considering their interaction, the logical

structure of each discourse becomes an important factor. The League's discourse (and the PD's opposition one) are complete in their structure: they identify a problem and associate it with an opposing Other who is delegitimised and whose nature and characteristics justify their action. The M5S tries to do the same, but by bundling the immigration issue with another one which they own, i.e. the fight against the elites. Therefore, migrants are hidden, but should their presence be made clear no justification is present as to why they should just endure the collateral damage of a policy action not aimed at them. The discourse rests on overwriting the migrant Other with another one more suitable to the party's programme, but it becomes weaker if the migrant Other is made explicit. The governing PD also tries to shift the blame to the trafficker Other, but without enough strength; at the same time, it focuses on its technical policy-making ability to solve the immigration issue. Migrants are reified as a technicality and the issue is pragmatized, but there is very little justification why the issue should be a problem at all.

I thus argue that both discourses, while they try not to explicitly take stances that might displease parts of their electorate, have to rely on external sources to maintain their consistency. This source is the more radical right-wing discourse, which delegitimises migrants as a radical Other and constructs immigration as an urgent problem. Therefore, while trying to defuse or bundle the issue, both parties are actually legitimising the most radical discourse and its main elements. The result of this process is a *spectralisation* of the migrant Other in the political discourse. Besides the radical right's criminalised immigrant, migrants for the other main parties become a spectre, an open secret avoided by official communication but which produces and justifies a diffuse sense of societal unease. This unease, in turn, fuels into the most radical representations of the migrant Other. We might hypothesise that this interaction is at work also in other national party systems.

We might also wonder whether some policy choices are correlated with certain discursive constructions. In order to provide an answer, I would like to introduce a new concept: while actually most of the discourses have seemed to justify restrictive policies, either through radical Othering or through other forms of de-humanisation,

it seems possible that radical Othering is correlated with the *dramatisation* of those policies. We might define a policy as dramatised when it is planned, implemented and communicated in order for it to be clearly visible and to exalt the role of its proposers over those who are damaged by it. Policy dramatisation occurs together with the discursive production of a radical Other whose different nature is perceived as threatening. Rather than imagining policy dramatisation to be caused by radical Othering or vice versa, we should conceive of them as organic to one another: indeed, they both rest on aggressive communication aimed at exalting the difference between two subjects. However, we can assume that dramatised policies do not only differ in the way they are communicatively presented, but also in some of their attributes, which would thus be correlated also with the parties' basic discourses. In the immigration field an actor who avoids radical Othering and dramatisation will likely focus first on border externalisation and, if necessary, stopping boats on the high seas, rather than preventing disembarking when already in the harbour, as in the *Diciotti* case, where it is more likely to draw attention. Moreover, being able to dramatise one's policies means multiplying the chances for an actor to employ radical Othering discourse.

Policy dramatisation, together with issue ownership, provides a useful means of interpretation of parties' behaviour in the Italian case, which may be generalisable to other cases. During the PD government, the pressure posed by a radical right party owning the immigration issue (the League) pushed the other two office-seeking parties with lower issue ownership to try not to lose electorally to this trend while adopting a blame-shifting strategy. The PD's blame-shifting approach targeted human traffickers while being supported by a pragmatized discourse, while the M5S tried to overwrite the migrant Other with the Italian elites. Policy dramatisation might be the key to explaining the PD's sudden discursive shift when in opposition: once the League began to govern and was able to implement more dramatised immigration policies the previous uneasy balance of the PD's discourse, based on hiding the controversial migrant subject, became impossible to sustain without making explicit its contradictions. The PD thus began to target the governing parties themselves and the League in particular. These hypotheses might allow us to reconsider the effects of

discursive practices and interactions on party competition over immigration. For instance, they may provide us with a different interpretation of mainstream left parties' tendency to adopt more pragmatic stances when in government. While the traditional interpretation is that mainstream left parties shift to pragmatic stances when, and due to, being in government, we might actually hypothesise that their more open and humanitarian stances do not simply represent a 'default' approach that changes when being incumbent, but constitute a response to being in the opposition of parties who employ radical Othering and policy dramatisation. Parties such as the League, when in government, combine their radical discourse with the chance of dramatising immigration policies. The result is that the pragmatic mainstream left discourse, which hides the migrant subject becomes unsustainable due to the extreme mediatisation of the issue which leads to a more opposing humanitarian stance.

5. Final Remarks

The results of the present work are useful from more than one perspective. A variety of Others have been identified in the discourse of three relevant Italian party actors, compared with dominant frames and used as a foundation for the characterisation of each party's basic discourses. In a European context stably characterised by tough stances on immigration, the results show in detail how broadly different discourses may similarly justify stricter policies, reinforcing each other and sustaining a wider spectralisation of the migrant in the public debate. From a theoretical point of view, they provide bases for a better interaction between different strands of research in the migration field. The work indeed suggests some further categories for coding in quantitative analyses which might better capture the discursive nuances employed by certain actors, avoiding simple 'humanitarian' or 'pragmatic' classifications through an increased focus on images of Others. Finally, the last hypotheses might expand our understanding of the interactions between actors' discursive shifts, contextual political competition and policy choices. Their suggestions should be verified in other countries in order to accept their validity.

A few limits are present within this work. On a theoretical level, the

categorisation of Other images has been quite arbitrary, in a literature which has not yet consistently articulated the idea of different Other types according to different radicality or other characteristics (see Croft 2012 for a review of different Other types, which however does not focus exactly on degrees of radicality). Moreover, focusing only on Facebook communication has allowed for a 'purer' analysis of parties' discourse, but has at the same time excluded further media outlets which might have challenged the actors' attempts at setting the agenda on their own terms and prompted them to develop different discursive articulations. Besides developing the above-mentioned hypotheses on party competition, further country-comparative research might help us understand whether the basic discourses found in Italy are common ideal-types in other European states; at the same time, other party families should be included in the analyses. Most importantly, further research should also study the interplay between parties and the other actors who produce discourse in the public sphere; while this study has assumed, based on previous research, that public discourse was generally favourable to tougher stances and migrant radical Othering in Italy during this period, different contexts might influence the production of different basic discourses and the modalities and outcomes of their interaction.

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BOOK REVIEWS

Constitutionalism Under Extreme Conditions: Law, Emergency, Exception, by Richard Albert and Yaniv Roznai (eds.). Cham, Switzerland: Springer, 2020, pp. 452.

Clyde Ray

Lincoln Memorial University

Constitutionalism Under Extreme Conditions is the product of a 2020 conference on the subject by scholars from fields ranging from law, politics, and economics. The work sets out to clarify the importance as well as the many pressures that confront the rule of law in moments of crisis. On such occasions, a constitution's purpose in guaranteeing civil liberties is perhaps most important; on the other hand, legal limitations on political discretion may hinder the efforts of the political branches to defend national security. How do we achieve a sensible balance between liberty and security in these fraught moments? This volume tries to answer this question, and in doing so is an important contribution to our understanding of constitutional government under extreme pressure.

The book is divided into three sections detailing the pressures on constitutionalism in the twenty-first century: the malleability of emergency declarations, the amorphous threat of global terrorism, and the challenge any universal legal system

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confronts in ethnically divided states. An impressive number of case studies flesh out these main dilemmas, including ongoing constitutional crises in Tunisia, Spain, Egypt, Cyprus, and the Philippines. The predicaments posed by these three foci and their illustration through the case studies show how discretionary power entailed by emergencies “stretch our commitment to generality, publicity, and the stability of legal norms” (p. 3).

As Ming-Sung Kuo points out in his opening chapter of the volume, a lack of precision when it comes to articulating times of emergency can lead to an indefinite stage of constitutional emergency, such as the global War on Terror, where civil liberties are circumscribed on behalf of combating an open-ended national security threat. As history attests, the normalization of emergency conditions is often a useful lever for political power to take actions that press and in many instances undo unrelated restrictions imposed by the rule of law. This danger is underscored by the sheer number of actual or potential emergency situations the twenty-first century poses, from climate change to cyberwarfare to domestic terrorism.

Yet even as citizens should be cautious about how we define the term “emergency,” political officials should also be granted the constitutional authority to respond to these instances in an effective if legally circumscribed manner. Published during the COVID-19 global health pandemic, the volume is a timely contribution about emergency powers, arriving as many governments have adopted (or not adopted) measures of debatable constitutionality in order to stem the spread of the coronavirus. Together, these arguments succeed in showing that the survival of a constitution is ultimately tied to its ability to flexibly respond to these urgencies. As Chief Justice John Marshall of the United States wrote in 1819, a constitution is “in-

tended to endure ... and, consequently, [is] to be adapted to the various crises of human affairs.”

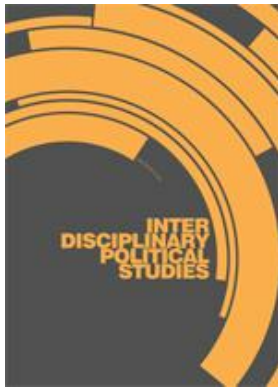
In addition to the tension between discretion and constitutionalism, there exists the similarly challenging problem of creating constitutions in times of civil unrest. A major problem for establishing a durable constitution is that posed by the temporal context in which they are drafted. At a moment that calls for clear, sober, long-term thinking, the exigencies of the nation make quick, short-term therapeutics attractive. The drafting and ratification of the American Constitution, which was undertaken in a relatively deliberative manner, seems to be a historical exception to the rule of modern constitution making. More might be said about the mechanisms available for promoting forethought at this critical stage, particularly in divided societies, and what trade-offs those mechanisms inevitably entail for the document’s legitimacy. For instance, would secrecy promote candor and foresight or corruption and public cynicism?

A bigger oversight in the authors’ arguments concerns how emergencies arise in the first place. Many of the contributors rely on the political thought of Carl Schmitt and his idea of the “state of exception” wherein the genuine sovereign power becomes visible as that which names and confronts the enemy that poses an existential threat to that political community. Schmitt’s theory lends itself to defining emergencies in dramatic, adversarial, and dichotomous terms that make sense in the often xenophobic rhetoric used in the Western fight against Islamist terrorism. Yet confining our definitions of emergency to spectacular and confrontational terms risks omitting accumulative emergencies that may emerge subtly but are no less threatening to human rights. Encroachments on privacy seem to fit these more

slow-burning, accumulative emergencies that raise serious questions about constitutional protections concerning freedom of expression and security of property.

Ultimately, this text is both a thoughtful contribution to understanding the global spread of constitutionalism as well as a warning against overreliance on paper documents alone for purposes of standing regimes in good stead in times of upheaval. While the threats to constitutional government may appear in new forms, the necessity for civic vigilance to defend rights and liberties from encroaching power remains a constant. We can better discharge that duty, however partially, by refining our own constitutional thinking based on the arguments offered in these pages.

Clyde Ray



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BOOK REVIEWS

New Economic Constitutionalism in Europe, by George Gerapetritis. Oxford: Hart Publishing, 2019, pp. 351.

Chiara Russo

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A decade after the banking and financial crisis hit Europe, George Gerapetritis's *New Economic Constitutionalism in Europe* provides a detailed and interdisciplinary interpretation of the consequences of those events from the constitutional standpoint in Europe. Main argument of the book is that the economic crisis has brought about a new era in European constitutionalism: "new economic constitutionalism". In this historical phase, still shaping European's reality today, economic provisions have gained priority both in the drafting and reading of constitutions – thus bringing a "significant change of paradigm in the economic governance of the respective States" (p.80). This upgrade of the economic provisions mirrors the establishment of "financialism as an economic constitutional identity" (pp.3, 201).

The first chapter of the book clarifies the notion of new economic constitutionalism. Gerapetritis argues that if we consider society as composed of "functionally differentiated subsystems" (p.11), economy – intended here as one of its subsystems – gained prevalence since the end of World War II. This "upgrade" of economy reaches its peak with the financial crisis, as evidenced by the transferral of economic

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competences to the supranational level of governance and the priority given by constitutions to economic provisions, as in the bail-out clauses of the Treaty of the functioning of the European Union (Articles 125 and 123). On one side, therefore, the economy has begun to enjoy a normative capacity as the subsystems of law and politics. On other, constitutions shifted from tolerating or abstaining from intrusion in the economy to the prioritization of these aspects. This dynamic lies at the heart of financialism.

Gerapetritis carries out a great tracing exercise in elucidating how financialism could come to be embraced by States and supranational entities in Europe – whose legal orders are also part of the analysis. Constitutional identity could in fact be assumed to be a notion pertaining to the realm of the State. However, the European Communities were exactly established on that ordoliberal economic identity. Thus, “national States exported constitutionalism and imported economic identity”, searching for *functionality* while “the supranational entities exported their economic identity and imported constitutionalism”, searching for *legitimacy* (p.29).

Having established the concept of new economic constitutionalism, the author proceeds to assess the impact of this new paradigm on constitution-making (ch.2), on constitutional interpretation (ch.3), on governance (ch.4) and on politics (ch.5).

In terms of constitution-making, few Member States’ constitutions included economic governance provisions in their text prior to the crisis. This has not undergone profound changes, as the post-crisis adaptation was attained “without wide constitutions revisions or EU Treaties’ amendments” (p.318). Clear examples are the cases of France and Austria. The obligations deriving from the Fiscal Compact in the first case and from the Balanced Budget Rule in the second were transposed as ordinary statutes since the requirements for constitutional laws were not satisfied. This

absence of major constitutional revisions is mitigated by the recognition of the paradox between the extremely fast pace at which economy develops as a subsystem (“agile economy”) and its integration in the Constitution, which by reason of its rigid nature cannot embrace this fast adapting and futuristic character (p.22).

The lack of amendments in primary law texts has granted though a noteworthy role to the judiciary, called to verify the compatibility of the new legislation with the constitutional provisions (p.224). This is extensively examined in the third chapter. The sample of laws considered – divided by topic, country and origin (domestic/European court level) – is outstanding in its size and comparative prospect. While the reader could have benefit from some more guidance on the rationale behind the structuring of chapter 3, this contribution greatly enriches the existing literature, which has been focusing either on specific cases, singular countries or single levels of governance. The last section of the chapter examines the case of property. Particularly interesting is the discussion on how the national and EU courts have reduced their judicial review because of the presence of “complex technical judgments or political choices” (p.185), leading to judicial self-restraint and highlighting the risks for authoritarian drift and for human rights’ protection.

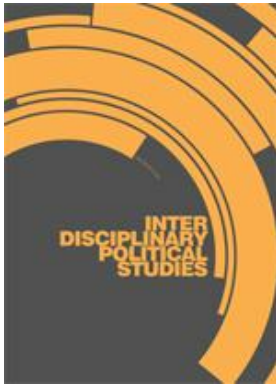
With respect to governance, Gerapetritis raises two interesting points in chapter 4. The first one deals with judicial responsiveness, as the Court of Justice is called out to be “from the very beginning, [...] part of the problem” since it did not actively intervene when it had the chance to make Member States adhere to rules of financial discipline, as illustrated by the 2004 cases of Germany and France’s excessive deficit (p.227). The second point pertains to the doctrine of implied powers. While in the pre-crisis legislation this doctrine was very cautiously acknowledged by the Court, the author underlines how the Court of Justice has incurred in “serious technical contradictions” by employing conflicting interpretations of the principle of conferred

powers in *Pringle* and *Gauweiler*, substantiating the competence of Member States in the former post-crisis case and the competence of the European Central Bank in the latter (p.250).

The fifth chapter presents the effects of new economic constitutionalism on politics. These include the increase in euro-scepticism and dichotomies such as *lenders vs debtors* and *financial stability vs social cohesion*. Another illustration is the recourse to technocratic governments, leading to a depart from representative democracy. In the successive chapter Gerapetritis addresses these neglected consequences on legitimacy and rule of law. He criticizes indeed the mere use of tools of economic governance to solve the crisis, advancing an “EU Recalibration proposal” which focuses on deliberativeness, global solidarity and intergenerational sustainability, better understanding of market’s functioning and – most crucially – strengthening of institutions’ resilience.

To conclude, Gerapetritis’ book provides not only a detailed analysis of the effects of the economic crisis on constitutionalism, but also informed and forward-looking solutions for a better crisis-management capacity at the European level. The multidisciplinary nature of the book – touching upon law, economics and political science theories and practices – is among the main merits of Gerapetritis. He himself underlines the very limited number of constitutional revisions – weakening the claim of a paradigm shift – and the doubts on the willingness of Member States to accomplish the needed institutional restructuring. Nevertheless, this in-depth study remains an excellent starting point to understand how constitutionalism endured the economic crisis, the development of constitutional interpretation and the accountability and risk management challenges we are still facing.

Chiara Russo



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BOOK REVIEWS

Unrivaled: Why America will Remain the World's Sole Superpower, by Michael Beckley. Ithaca: Cornell University Press, 2018, pp. 231.

Carlo Catapano

University of Roma Tre

Despite the many contrasting opinions on the trajectory of US power and the forthcoming structure of the international system, a conventional wisdom seems to have emerged in the literature, which suggests that the era of US unipolarity is fading and China is ready to step up as a superpower able to equal – or even substitute – US primacy in terms of material capabilities. Michael Beckley's work counters this widespread interpretation and tackles the empirical observations on which it rests. It does so by pursuing an accurate criticism of the gross indicators (like GDP or military spending) conventionally employed to measure state power, and by proposing an alternative methodology to evaluate states' capabilities in net terms.

Without considering the costs that countries face for protecting their territories and populations, he argues, gross indicators tend to overstate the capabilities of large and populous countries. Accordingly, Beckley proposes (Chapter 2) to deduct three types of costs (production, welfare and security costs) to the gross indicators of states' economic and military resources. From this operation, it derives a net measurement of one country's power that – Beckley maintains – is more accurate and

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revealing than classic indices. To prove this point, he offers a recalculation of the capabilities of the great powers involved in prolonged, militarized rivalries over the last two centuries and shows that – when their resources are measured in net terms – the power asymmetry between them is an effective means to predict their failure or success. The best examples are the major conflicts involving China and Russia in the nineteenth and twentieth centuries such as the two Opium Wars between China and Britain or the Russian-German rivalry culminated in WWI, to name but a few. In terms of gross indicators, China and Russia represented the strongest side in all the conflicts considered; nevertheless, they have always been defeated. By counting state capabilities differently, in fact, however, those countries' net power position compared to their rivals (either Britain, Japan, or the US) was considerably weaker; it is exactly this gap in net resources – Beckley argues – that explains their defeats.

Moving on to the emerging rivalry between China and the United States, Beckley acknowledges that the Asian giant is its most likely challenger. However, his detailed evaluation of Beijing's economic and military resources leaves no room for doubts: China lags behind the US on almost every net indicator, and the gap between the two is unlikely to vanish any time soon. This conclusion is surprising if one considers the constant references – in academia and the media – to China's rise and the Asian century. Beckley points out the weaknesses of the Chinese economy (Chapter 3), the hidden costs for a large, populous and developing country that are not included in gross estimates, and the various advantages that the US economic system still owns despite the limited growth of the post-2008 period.

Similarly, he compares (Chapter 4) the net military capabilities of the two powers by subtracting, for example, the costs to maintain security at home from their overall military assets. Also, he addresses the geopolitical factors that separate the US and Chinese ability to project their military power abroad. From this analysis, it

emerges that China's position is severely constrained by the high costs paid to assure its internal security and the defense of its national borders as well as by the welfare costs associated to the large number of troops composing the People's Liberation Army. Beckley argues that China's rising military capabilities are also constrained by the continued presence of US outposts in the region and the improvements made by China's neighbors to their own military forces. Overall, this assessment leaves few chances for Beijing to obtain the regional hegemony that it would need to challenge the US on a global scale.

Beckley's analysis also indicates the path forward (Chapter 5), starting from the rejection of the theories usually employed to predict the fate of US power (balance-of-power theory and "convergence" theory). All indicators suggest that the US will retain its role of leading global power in the coming years, notwithstanding China's uninterrupted rise. Beckley is eager to point out, however, that this conclusion should not be confused with the praise of American superiority or invincibility. At no point, does his analysis suggest that Washington's primacy is uncontested or destined to last forever. Instability with weaker countries, unnecessary wars, internal polarization and disunity, can all produce unpredicted losses and undermine the position of the most powerful country in the world (Chapter 6). Beckley's argument, therefore, consists in a re-evaluation of the sources of power that have guaranteed the US primacy since the end of the Cold War. Those same sources still place the United States in a category of its own, apart from the other great powers of the system. This book's claim, in the end, is about the duration of the unipolar era, which it predicts will last more than usually expected, not about the infallibility or moral virtues of US power.

A few years later on the publication of this book, its central tenets are even more relevant. Events such as Trump's nationalist policies, the trade war with China,

the COVID-19 outbreak seem to have accelerated history and the shift away from the post-Cold War unipolar configuration. Beckley's work, however, invites to reject simplistic predictions about the dismissal of US primacy. The decline in Washington's global influence as well as the retrenchment from its international responsibilities do not necessarily mean that its net position in terms of material capabilities has collapsed or that a condition of power parity with China has finally emerged. Even if outcomes are not favorable to US interests, it does not mean that US power has vanished. This is a relevant reminder for policymakers in both Washington and Beijing.

At the same time, Beckley's contribution warns us not to take the perpetuation of unipolarity for granted. Over the long period, erratic strategies and idiosyncratic choices risk damaging irreversibly US capabilities and its role as a global leader. Washington, in other words, will likely remain the most powerful actor in the system, but it has few guarantees other than sharp and efficient policies to keep this condition in place.

Carlo Catapano

July 2021

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