

Review of: "Neoliberalism, Strong State and Democracy"

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There is a growing scholarly literature on neoliberalism that goes beyond the boogeyman conceptions of neoliberalism to seriously address the complicated relationship between neoliberal theory, democracy, and authoritarianism in a way that avoids both hyperbole and excessive reverence. This paper is a worthwhile addition to this debate although it advances some questionable interpretations and does not bring that much new on the table. On the positive side, it is engagingly written, mostly fair to the sources it cites, and its normative conclusions are reasonable, although I disagree with some of them. On the negative side, there are some factual inaccuracies and overgeneralizations that deserve addressing, including with regard to Schmitt, Hayek, and authoritarianism, and with regard to the issue of monopoly capitalism. I will limit my observations on these two topics.

Let me start from the issue of monopolies. There was one sentence that surprised me: "Neoliberal market fundamentalism differs from neoclassical fundamentalism in its acceptance of mergers and acquisitions, thus serving the profit interests of 'big money' that exploit the idea of a unified global economic order (Wren-Lewis 2017)." Before discussing the factual accuracy of this statement, let me discuss the latter half of this statement. The normative judgment, here, is ambiguous on whether neoliberalism, according to the author, is merely accidentally complicit in the profit interests of 'big money' or whether it, in fact, is consciously conspiring to advance the interests of big business. As a throwaway line, it is rather reckless and in sharp contrast to some of the more measured statements in the piece. As the author elsewhere points out, neoliberals saw themselves as champions of consumer welfare. As a result, they have found themselves often at loggerheads with big business. But let me focus on the first half, their supposed "acceptance of mergers and acquisitions." This generalization seems misleading at best and downright false at worst. Neoliberalism, after all, is not a monolithic actor but a diverse "thought collective" (to use one influential term). Neoliberalism is usually taken to encompass the Freiburg/Ordo school as well as the early (pre-Friedman) Chicago school. Most of the scholars associated with these schools were (at least initially) heavily critical towards monopolization tendencies in the market. Many neoliberals saw a case for "strong state" regulation in the service of breaking down monopolies to the extent that mergers and acquisitions threaten to create economic deadweight losses that undermine both market competition and consumer welfare. The German Ordoliberals, in particular, emphasized the importance of pro-competition agencies and antitrust legislation. As a result, a lot of the European Union competition law has Ordo roots. Of course, these antitrust laws could, themselves, be considered "authoritarian" according to the author's normative framework - but they were (and are) "authoritarian" (if that is the right word) in the name of protecting consumers and small businesses against big business and the danger of institutional capture. (It is another thing whether they have been successful in their efforts. I will leave that for others to decide.) The very idea of the "Competitive Order" that featured prominently in the discussions of the early Mont Pèlerin

Society meetings, as well as in the writings of Hayek and the German Ordoliberals, was one of the most potent theoretical tools for empowering the state to combat monopolies. Of course, not all neoliberals accepted this conclusion. There has been a lot of intellectual diversity among neoliberals on this issue.

In fact, the presence of significant in-school or in-tradition diversity is something that the author downplays throughout, not just with regards to the issue of antitrust, but several other issues as well, including the issue of democracy vs. authoritarianism. I do not aim to recount the history of liberalism, authoritarianism, and democracy, here. I only wish to point out that the historical and theoretical story presented is, at best, one-sided. First of all, singling out Schmitt as an influence is an odd one. It is true that Hayek was influenced by (the early) Schmitt and this is shown by his own citations of Schmitt. At the same time, Schmitt was mostly seen as the arch-enemy of liberalism, both by himself and by the neoliberal thought collective, who considered him a representative of the kind of “strong state” that jettisons the rule of law in favour of the state of exception. (So much is admitted in the paper – but then quickly forgotten.) And although there are parallels in the criticisms of the administrative state and the dangers of parliamentary democracy made by Schmitt and many of the neoliberals, these similarities are largely overshadowed by the differences, most notably attitude towards legitimate authority. The most important differences centred on the neoliberals' insistence on the rule of law and constitutional guarantees. These were directed against BOTH top-down authoritarian takeover of the government (of the sort that Schmitt demanded as the only real kind of authority) AND bottom-up takeover of the government by partisan or populist forces (of the sort that Rousseau and the radical socialists consider necessary). The long line of constitutional democratic thinking that the neoliberals largely followed was, it is true, often skeptical towards unconstrained majority rule without sufficient safeguards of individual liberty and other institutional checks and balances. The aim of these checks and balances was to guard against what James Madison, in Federalist No. 10, called the threat of “faction,” and what James M. Buchanan - the economist, not the President! - called the threat of partisan “rent-seeking.” In the “economic constitutionalism” favoured by the neoliberals, the focus significantly shifted to securing the principles of the Competitive Order (both on the national and on the international stage), but the old liberal issues of religious liberty, freedom of the press, freedom to vote, and other typical civil and democratic liberties (of the sort that Schmitt did not take too seriously), were usually included as important desiderata. To describe such limits as “authoritarian” would be misleading. Indeed, the example of Schmitt is even odder considering the long history of the German Ordoliberals and the Austrian School members as fierce opponents of all the policies of the Nazi regime.

Of course, all this discussion raises an interesting theoretical point. What counts as “authoritarian”? If we take the term as neutrally as possible, it turns out that almost every political force and ideology claims the mantle of “legitimate authority” - whether primarily intellectual, moral, or legal, or the combination of all three. If the term “authoritarian liberalism” has any normative bite (and not mere “deterrence effect” against neoliberal apologetics), one must interrogate whether the “authority” that neoliberal “governmentality” (to use the felicitous expression used by Michel Foucault) demands on itself, and imposes on the population, is legitimate, how it is exercised, and against whom it is targeted. The term “authority” is ambiguous between several different conceptions. It could refer to a mode of governmentality that is imposed a) from the commanding heights of the society as opposed to “bottom up” (in this sense most government actions are authoritarian) or b) in a way that is not responsive to the opinions or desires of the people (but here we need to define what counts as

being responsive to the “people” and who is included in “the people”).

With regard to the “top-down” criterion, most governments are authoritarian. Even social democrats must exercise authoritarian measures to enforce their policies against dissenting minorities and recalcitrant interest groups. All legitimate authority is “authoritarian” in a trivial sense. Some versions of neoliberalism are more authoritarian than others to the extent that they demand higher levels of power to themselves on various levels of decision-making. The longing for a “strong state” certainly requires “centralizing” powers (whether concentrated in constitutions, courts, central banks, or parliaments) that can become problematic. But if one measures the degree of authoritarianism by the degree to which some aspects of decision-making are NOT centralized to top-down authorities, and instead left to the individuals, families, businesses, and local communities themselves, it is hard to accuse most forms of neoliberalism of being ESPECIALLY authoritarian, compared to other political or economic ideologies. Indeed, most neoliberal governments are deeply anti-authoritarian because they, at least, TRY to leave more room low-level actors in decision-making. Their desire for authoritarian concentration, if we can call it that, has a paradoxical self-effacing element to it: the neoliberals generally desire the concentration of power to “strong” liberal institutions in order to prevent other kinds of (what they consider even worse) “strong” concentrations of power (such as fascism, socialism, or economic populism). Is it authoritarian to act swiftly and to impose strict limits on what the government can do its people? Or is it authoritarian precisely NOT to act swiftly if this leads to bad actors accumulating more power to themselves? Again, it depends on one’s point of view. Even the blessed Lord Keynes - whom both myself and the author of the paper hold in high regard - could be accused of being very authoritarian. Indeed, there are good grounds for thinking that Keynes was an elitist whose authoritarian sentiments exceed those of all the neoliberals. After all, similar to Schmitt, and unlike Hayek, Keynes firmly believed that the “state of exception” in fiscal and monetary policy - the unilateral imposition of strong top-down policy interventions – was frequently required to save capitalism from itself. What is this if not a form of “authoritarian technocracy,” of the sort that is often seen as an antidote to “neoliberal authoritarianism” – a case of the pot calling the kettle black, perhaps?

Regardless of who was more authoritarian, Hayek or Keynes (and the evidence is mixed here), the takeaway is that authoritarianism comes in many forms, ranges from good to bad, and is often hard to define. Aside from the “top-down” vs. “bottom-up” debate, the second aspect of authoritarianism, the supposed absence of “responsiveness to the people” is equally problematic. In the end, almost EVERYBODY believes in some version of the “popular will” theory. (Even the Nazis!) But different ideologies follow different versions of it. Usually, popular will requires some kind of legitimate representation. Here, there is an important difference whether “the people” are defined as being primarily represented by “the widely supported liberal constitutional order,” “the current democratic majority” or “the rights and freedoms of each individual citizen.” All of these are possibly legitimate forms of popular representation. It is not self-evident which of these conceptions is “most democratic” or “most authoritarian.” (Probably, a good democratic system requires some pluralistic account.) This ambiguity also explains why neoliberalism appears “authoritarian” to some people but not to others. If we empower the constitutional order (which many neoliberals want to do), we thereby both constrain and empower the actions of democratic majorities, and both constrain and empower the actions of individual citizens, families, business, and local communities. If, on the other hand, we primarily empower parliamentary democracy (as the privileged representative of “popular will”), we almost certainly will erode the guiding democratic power of the constitutional rules

(since these will frequently come into conflict with majoritarian decision-making) as well as the sovereign power of private individuals and communities. And if we empower individual veto power over majoritarian decision making, we thereby decrease the authoritarian power of democratic majorities while empowering the authoritarian power of private agents to make decisions that have huge impacts on the whole population. Each of these centers of power can be seen as empowering democracy or weakening it. If we empower one center at the expense of another, have we become more authoritarian? Or more democratic? Depends on who you ask.

Finally, to conclude, let me make some observations on the historical record. Historically, the most immediate point of reference for an archetypical “authoritarian liberalism” - and one that is rightfully discussed in the paper - is that of Pinochet. This is perfectly fair. I am not criticizing the paper for pointing out legitimate problems in the Pinochet regime or its neoliberal “fans” (such as Hayek, to some extent). It is perfectly valid to demand these neoliberals to repent and not to repeat the mistakes of the 1970s and 1980s when some of them (but not all of them) flirted with authoritarian governments. Likewise, it is also important not to forget to criticize the countless socialists and progressives who flirted with authoritarian governments in dozens of countries - including Allende's Chile before it became Pinochet's Chile. The existence of “authoritarian socialism” under a “strong state” is an obvious historical fact that hardly needs commenting. My point, here, is not to engage in “whataboutism” but to highlight the one-sidedness of the story and the difficulty of defining “authoritarian rule” in a way that is satisfactory. The fact that some neoliberals flirted with Pinochet does not make European antitrust legislation or Friedmanite monetary policy a form of Pinochet authoritarianism. Let me sum up: 1) Almost all governments are authoritarian to some extent, and this is widely deemed legitimate. 2) Some conceptions of “authoritarian” rule are innocuous or even virtuous, such as the “authoritarian” imposition of basic human rights or constitutional safeguards. 3) The main differences between Schmitt and Hayek, despite some similarities, stem from their different conceptions of legitimate authority. For Schmitt, strong state and rule of law are opposites; for Hayek, they must go together. For the neoliberals, a strong state that supports individual liberties can be preferable to a democratic government that is beholden to illiterate populism or selfish factional interests. But most of them saw democracy as an important (if imperfect) safeguard against authoritarianism. Hayek, who made some ethical errors with regard to Pinochet, was also enough of a Humean to believe that the ultimate arbiter of justice must be, in the end, popular opinion. Popular opinion, in this sense, is the real “authoritarian force” that makes or breaks the neoliberal constitutional order - as it must ANY contested historical order.