

Liberalism

Historical and Contemporary Variations

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Porthania IV (Suomen Laki Hall)

S. M. Amadae (University of Helsinki): *Violence in the Neoliberal Social Contract: From the early modern Machiavelli and modern Bentham to the neoliberals Schelling and Nozick*

This paper explores the role that violence plays in maintaining the neoliberal social contract in contrast with early modern and modern forms of governmentality. The state's monopoly over legitimate coercive force is typically associated with modern forms of sovereignty and the exercise of power. Yet few have adequately captured the means by which neoliberal forms of governmentality sanitize violence, rendering its application as equivalent to issuing promises. Violence in early modernity could be associated with the disruption of the status quo, and violence in modernity was made kinder and gentler in order to reform subjects. By contrast under neoliberal modes of legitimate power, coercive threats are foundational to the social order produced both at the micro-level of intimate relations to the macrolevel of nuclear threats to geopolitical order.

The paper examines three neoliberal tools of strategic and policy choice: coercive bargaining, willingness to pay, and the value of a statistical life. Forms of violence include issuing threats to obtain others' compliance, regardless of considerations of legitimacy; offering services, including pain killers, on a willingness (and ability) to pay basis; and evaluating nuclear targets using the concept of a value of a statistical life.

Using a broader framework that examines the role of rational choice (strategic action and rational expectations), this paper argues that neoliberal forms of political

economy can effectively be understood to be a marriage between Friedrich Hayek and Milton Friedman's ordoliberalism and the new rational choice policy tools developed in the 1960s and 1970s, and more recently in the 2000s further developed by behavioral economists. The paper concludes by offering some constructive points for countries in the Nordic regions by touching on a contemporary growing awareness that strategic rationality and rational expectations is an incomplete understanding of human relations and practices of governance.

Marko Ampuja (Tampere University): *Neoliberalism as Ideology Critique: Hayek, von Mises and Schumpeter on the Intellectual and Cultural Hostility to Capitalism*

By now it is safe to say that the global financial crisis that began in 2008 did not lead to a new political-economic paradigm that would replace neoliberalism. It undermined the capacity of neoliberal ideology to motivate populations but on balance, the crisis has been used as an opportunity to further consolidate neoliberal rule through policies of privatisation, austerity, erosion of social security and reforms designed to increase the supply of labour.

In this condition in which neoliberal policy initiatives and thought forms remain dominant, it is worthwhile to study their historical foundations. In keeping with the theme of this conference that focuses on different variations of liberalism in the context of interwar and post-WWII Europe, my presentation takes part in the ongoing scholarly debate on the rise of neoliberalism from the viewpoint of ideology theory. Serious studies concerning the intellectual genesis of neoliberalism that began to appear a decade ago have deepened our understanding of the topic. However, less attention has been paid to what can be defined as neoliberal "ideology critique", namely, the critique of culture, intellectuals and the supposed irrationalism of the masses by key thinkers associated with neoliberalism. Around the time when Keynesianism was on the rise, Friedrich Hayek, Ludwig von Mises and Joseph Schumpeter (although the latter's connection to "neoliberal thought collective" was strained) all criticised what they saw as a slide towards socialism and a hostility to pro-capitalist political and cultural values. Besides criticising socialism, all of them suspected that modern democracy and traditional forms of liberalism did not promote the acceptance of such values.

I argue that examining these writers' early critiques of anti-capitalism will help to make sense of the still-ongoing hegemony of neoliberalism. In its attempt to continue to remake the world in its image, neoliberalism operates in an ideologically parasitic way, as its political survival depends on its ability to find different allies in different

contexts. By drawing from various intellectual resources that reject socialism, neoliberalism has been capable of attaching itself to seemingly contradictory political projects, including authoritarian statism and nationalism, as well as to more globally oriented market liberalism that celebrates cultural openness, entrepreneurship and innovation as the hallmarks of healthy social order.

Werner Bonefeld (University of York): *Ordoliberalism and the Indispensability of the Political State*

The presentation expounds the meaning of Adam Smith's definition of political economy as the science of the statesman and legislator. In this definition political economy appears as a *Staatswissenschaft* – a science of the state. In his understanding, the free economy entails the state in the role as (market) 'police' (Smith, Lectures on Jurisprudence). The conception of the state as market police is central to the German ordoliberal tradition, which emerged in context of the Great Recession in the late 1920s/early 1930s. It conceived of the free economy as a political praxis of government. It identified the unlimited character of mass democracy of weakening the liberal utility of the state, leading free economy down 'the road to serfdom', as Hayek summarised it in populist fashion. The presentation concludes on the political character of European monetary union.

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Tuukka Brunila (University of Helsinki): *Limiting the political: Carl Schmitt's transformative critique of liberalism*

In his article from 1933 ('Authoritarian Liberalism?') Hermann Heller prophesises that, in the world to come after the Papen cabinet, "we will have occasion to engage with the practical and theoretical advocates of the 'authoritarian state.'" According to Heller, an authoritarian state is capable of liberalization or de-stating (*Entstaatlichung*) of the economy. He identifies Carl Schmitt as an example through a discussion of Schmitt's *Strong State: Sound Economy*, a presentation held in 1932. Against a plural state, that is, one that is incapable of limiting itself, Schmitt posits a qualitatively total state capable of making the distinction between the political and the economy.

This presentation tackles the question of how Carl Schmitt, in his critique of liberalism, conceptualized such an establishment of the limits of state power. In this context, I analyse how Schmitt discusses the limits of the political. In *Strong State: Sound Economy* Schmitt underlines that "the process of de-politicization, that is, the establishing of a state-free sphere, is namely a political process." Schmitt makes a similar point in his 1933 preface to *Political Theology*: "The decision, whether or not

something is unpolitical, is always a political decision.” Heller and others are right in pointing out that Schmitt is not against the limiting of the state as such. However, instead of approaching de-politicization in a similar manner through a distinction of plural vs. non-plural state, I argue that when Schmitt refers to de-politicization as a political process, he is also making a distinction between legitimate and illegitimate forms of de-politicization. The latter refers to unpolitical processes of de-politicization – a process that Schmitt vehemently criticized in his discussion of liberalism.

In contemporary discussion, scholars have studied the different ways in which neoliberals emphasized the role of the state in limiting the political. Scholars such as Wolfgang Streeck, Werner Bonefeld and William E. Scheuerman have emphasized the similarities and influences between Schmitt’s conception of the strong state and neoliberal theorists (e.g. Rüstow, Röpke and Hayek). Instead of discussing Schmitt’s influence, my presentation analyses Schmitt’s critique in relation to classical, 19th century liberalism. My discussion details how Schmitt’s critique can be seen as transformative in the sense that it establishes the political nature of legitimate de-politicization.

Jeremy Gould (University of Helsinki): *Tracking the return migration of Imperial liberalism from the postcolony to the metropole*

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Liberalism finds itself embattled on numerous fronts. The tendency among liberals seems to be to hunker down and invoke liberalism’s classical virtues in defiance of contemporary illiberal ideologies and practices. In these defensive gestures, liberalism and democracy have become co-joined to the extent that they are virtually synonymous. But liberalism - even in its 'classical' incarnation was (and is) not always and anywhere a friend of democracy.

A spate of recent historiographies (e.g., Mehta 1999, Hussain 2003, Pitts 2005), demonstrate compellingly that the genesis of liberalism was coeval with the consolidation of European Empire. 'Imperial' liberalism, it is argued, was the dominant ideology of government in much of the colonial world. The tacit premise of Imperial liberalism was that of an embattled racially exclusive state - a handful of white defenders of the Crown and civilization garrisoned against the brown multitude. While colonial government portrayed itself as just, fair and progressive, it allowed itself opaque and exceptional powers to repress all and any threats from indigenous populations with unbridled violence. Imperial liberalism, in other words, kept an illiberal ace up its sleeve to play in desperate times.

Modes of Imperial liberalism - I am thinking in particular of 20th century British Africa - informed the legal premises upon which late colonial and early Independence constitutions were crafted. In effect, the jurisprudence encoded in postcolonial constitutions was constituted around the same paradoxical hybrid of liberal and illiberal powers that characterized the colonial state. This, indeed, is the state of ostensibly liberal legality in much of the postcolonial world today: Rhetorically liberal forms of constitutionalism encompass political dispensations that allow for legally legitimate acts of autocratic government, violence and kleptocracy. Ironically, these postcolonial chickens appear to be returning home to roost in the Euro-American heartland, as undauntedly illiberal leaders on both sides of the Atlantic challenge the limits of constitutional restraint on their powers. This paper draws on the author's ethnography of constitution-making in one postcolonial African state, Zambia, to illustrate the genealogy and devolution of Imperial liberalism, and to speculate about the paradoxical character of embattled liberal constitutionalism in the historical heartlands of Empire today.

Pauli Heikkilä (University of Helsinki): *Between national liberation and international liberalism. Committee of Liberal Exiles*

My paper introduces the Committee of Liberal Exiles, the cooperative organization of liberal politicians from Central Eastern Europe during the Cold War. The CLE was founded in London in 1947 and although the activities faded since 1960s, it officially survived until the fall of communism. The rationale of cooperation was to increase the émigré voice among their Western colleagues, within the parent organization Liberal International/Liberal World Union, but also among their national groups in exile. However, the CLE had major problems vis-à-vis both audiences and the paper is constructed accordingly. The paper is based on the original sources of the Committee at the Archive of Liberalism in Gummersbach, Germany; the material consists of 25 folders of general correspondence and national delegations. The CLE was founded as a general reminder of failure of nation-states and in the wake of a new international era. The first chairman, and subsequently honorary chairman, was Spaniard Salvador Madariaga, but the Committee soon became exclusively an organization for Eastern Europeans. For example, in late 1960s, the Greek membership was denied, as they didn't flee communist but right-wing oppression. At the same time, the emigrants looked for support from the fiercely anti-communist groups, which was denied by the Western hosts. The Liberal International started to expand to the newly independent countries in the global south, and

consequently pay less attention to Eastern Europe. For the 1970s and 1980s, the folders include considerably personal, rather than organizational, communication. The CLE represents problems within political emigration. While the restoration of national sovereignty took preference, the essentially international liberalism was considered a vacillation and a disturbance in the united émigré front. Although the liberals were a small lot, the previous national prejudices lived well; there's was considerable cooperation only among the Baltic groups. On the contrary, the CLE had both a Croat national group and a Yugoslav committee. Typical financial difficulties resulted in postponed membership fees and cancelled plans. Furthermore, many of them continued to the US, where they founded Liberal Union of Central Eastern Europe, which divided the liberals in exile.

Olimpia Malatesta (University of Bologna): *Ordoliberalism as a philosophy of crisis: On the “end of capitalism” and the legacy of 19th-century social sciences*

Ordoliberalism is known for having provided the intellectual framework both for the FRG and for the legal-economic structure of the EU. But in order to understand this theory it is necessary to examine the intellectual context in which it began to unfold by analysing its reaction towards the legacy of German social sciences.

The ordoliberal contributions of the twenties and the thirties show that the genesis of ordoliberalism was a reaction to the German discussion of that time on the crisis of liberal capitalism led by sociologists and economists such as Harms, Salin and Sombart. In fact, several early contributions of Eucken, Röpke and Müller-Armack constitute a rejoinder to Sombart's theory of the inevitable evanescence of liberal capitalism and its transformation into a planned economy. In this sense, Eucken's “*Ordnungstheorie*” and Böhm's notion of the “economic constitution” represented an attempt to save capitalism from its declining fate: whereas the first one sought to reaffirm the indelible continuance of economic orders (therefore of capitalism) against Sombart's theory of the succession of different economic periods, the second aimed at restoring the capacity of the Political to regulate the economy and to liberate it from democratic interferences that may have led to a planned economy.

Furthermore, the early ordoliberal production shows that its authors took their effort as a new “*Ordnungsversuch*” (Böhm/Eucken 1937) aimed not only at solving the crisis of the Weimar republic, but moreover at neutralising some emancipatory effects of modernity itself. Accordingly, the crisis of Weimar was interpreted as a “failure of the bourgeois epoch” (Böhm 1937), as the consequence of the incapacity of 19th-century German social sciences to discipline a society which, starting from the French Revolution, became structurally conflictual, having lost its hierarchy and

organicity. By analysing the ordoliberal critique of the legacy of social sciences (in particular of Schmoller and Savigny) and its discourse on revolution, defined as the “genealogy of evil” (Röpke 1947), it will be possible to examine the ambiguous relation that ordoliberalism maintained with liberalism: if on one hand it praised its economic effects, on the other it disdained its political outcomes (especially when they threatened the capitalistic order), manifesting an unsuspected nostalgia for hierarchy and tradition; a feature that brings ordoliberalism interestingly close to some principles of German conservative revolution.

Hélène Mayrand (University of Sherbrooke): *International Environmental Law as a Neo-Liberal Project*

This presentation provides a historical narrative of the development of international environmental law, showing the influence of classical liberalism and neo-liberalism. I argue that, instead of changing the liberal conception of nature that is embedded in international law, international environmental law embraces a neo-liberal conception of governance that exacerbates environmental problems. To make my argument, I focus on the key principles of classical liberalism and neo-liberalism and how they translate into legal instruments aimed at protecting the environment. I discuss three main historical periods: prior to WWII; from WWII to the 1970s; and the 1970s and onwards.

Before WWII, international law’s role was primarily to ensure the minimal coexistence of states. International environmental law as a distinct so-named specialization was non-existent as yet, but there were still some agreements addressing environmental concerns, especially fisheries agreements. From a classical liberal standpoint, the environment was understood as natural resources subject to appropriation and commodification by sovereign states. Emerging “environmental” problems were to be managed through Western rationality based on science and technology.

Following WWII, international law was influenced by Keynesian ideas and turned to substantive goals, including poverty eradication and human rights protection. This liberal-welfarist turn led to the adoption of international agreements to address some environmental problems, and this was particularly the case for marine pollution.

While there was a shift at the time in how states perceived the environment, as in need of protection not only for commercial purposes, but also for the well-being of populations and oceans, the influence of the ideology of classical liberalism was still dominant.

It was only after the 1972 Stockholm Conference that international environmental law arose as a distinct branch of international law. There was a shift in ideas that occurred in the 1970s and much hope was put in the development of international environmental law to correct the harm done to nature. This presentation analyzes this shift in ideas and how the ideology of neo-liberalism framed the building of international environmental law. It shows how new rules and concepts, such as the polluter-pays principle, sustainable development and the precautionary principle were developed in international instruments to promote an approach centred on the market to address environmental problems. Such approach moves away from binding law and state-centred decision-making to favour self regulation and relying on experts, often utilizing a management perspective borrowed from economic sciences.

Timo Miettinen (University of Helsinki): *Ordoliberalism and the Rethinking of Liberal Rationality*

Ordoliberalism is best known as the earliest version of European neoliberalism and the official economic ideology of post-WWII Germany. Following the German experience of the interwar period, ordoliberal theory is known for its emphasis on the role of the state and a strong legal framework for free market economy. In the research literature on the European economic model, ordoliberalism is also seen as the key ideology behind the rule-based economic constitution of the European Union. Although the current euro crisis is not over, it can be argued that ordoliberalism is more relevant than ever. Executive institutions such as the European Commission and the European Central Bank are stronger than before, and mechanisms such as the 2012 Fiscal compact have strengthened the implementation of rule-based economic coordination. All in all, ordoliberal policies are radically transforming ideas of national sovereignty, democratic accountability, and the division of powers. Despite the dominance of ordoliberal ideas in today's Europe, the concept itself lacks analytic clarity.

This presentation takes a novel approach to the concept of economic constitution and European neoliberalism by reinterpreting the historical and conceptual foundations of the ordoliberal movement. It challenges conventional interpretations that frame the ordoliberal tradition as a reaction to historical events, political ideologies, or competing economic theories. Instead of a political or economic doctrine, the project examines ordoliberalism as a philosophically motivated theory that emerged as a response to the crisis of science, the dispersion of individual sciences and the loss of their common foundation.

According to the main hypothesis, the key contribution of ordoliberalism was its reframing of the liberal doctrine in terms of science and ideological neutrality. Instead of serving moral visions, economics was to construct a normative ideal of its own based on a priori principles such as open market, free competition and a viable price mechanism. This transition, I argue, led to a radical reversal of economics and moral philosophy: Economics itself became scientific basis for moral-philosophical ideas such as freedom and responsibility.

Merijn Oudenampsen (University of Amsterdam): *The responsible society: neoliberalism and Dutch Christian Democracy*

‘Responsibilisation’ is an important theme in Foucault’s analysis of neoliberalism. With that term, Foucault referred to an indirect form of governing, which appealed to the self-governing abilities of citizens. The strategy of responsibilisation revolves around the transformation of social risks previously borne by the state - such as illness, unemployment and poverty - into a problem of self-care. While there is now an extensive literature on responsibilisation and welfare state retrenchment, so far little attention has been paid to the historical role of Christian Democracy in developing this strategy.

The early roots of neoliberal ideas on responsibility – where Foucault partly based his analysis on – lie in German ordoliberal thought, which was developed through a long engagement with German Christian Democracy. As a result of this engagement, ordoliberals sought to combine economic liberalism with Catholic and Protestant social teaching. A central reference is the work of the ordoliberal thinker Wilhelm Röpke. In his book *Civitas Humana*, Röpke (1944) embraced subsidiarity as an organizational principle and argued that while centralization of state power resulted in anomy and ‘a vanishing sense of responsibility’, decentralization could restore not only market competition, but also personal responsibility and community life. The work of Röpke also resonated in the Netherlands. And, as this paper will show, Dutch Christian Democracy developed a similar political discourse. Subsidiarity, decentralization and responsibility became central themes in the Dutch market-oriented reforms of the 1980s, led by the Christian Democrat Prime Minister Ruud Lubbers. In a series of reports of the Christian Democrat Party, the reforms were defined as an attempt to create a ‘responsible society’ (CDA 1983; 1984; 1989). According to the reports, the expansion of the welfare state had led to individualization and a lack of responsibility. Drastically curtailing government services could renew community life and foment a renewed sense of responsibility. Dutch Christian Democrats explicitly claimed to have provided the ideological

foundation of the reforms through a reworking of Christian social thought. This market oriented reinterpretation of Christian social doctrine was no coincidence, it formed part of a decades-long ideological exchange between Christian democrats and neoliberals.

Peter Povilonis (Humboldt University of Berlin): *An Old Story: (Neo-) liberalism's Connection to Totalitarianism*

In *Undoing the Demos* (2015), Wendy Brown claims that neoliberalism is a distinct representation of liberalism that is fundamentally different from other forms of liberalism, as its “economization of everything” is morphing all understanding of societal existence into fiscal terms. From statecraft and jurisprudence to even quotidian activity, neoliberal reason is slowly bringing an economic transformation of the hitherto democratic way of living. In classical liberalism, she argues, there was still an understanding of maintaining separation between politics and economics—a division which is no longer preserved under neoliberalism. The democratic principles of justice, equality, and constitutionalism are seen as meaningless if they do not bolster economic growth. The superior governmental ideals have become that of micro-management and deal negotiations: that which a good business has.

In her 2017 speech in Berlin, Brown explains how the 2016 U.S. presidential election results should come as no surprise. The Trump populist revolt, that turned into an anti-democratic authoritarianism, was all but ratified by the reigning neoliberal rationality. Neoliberalism’s late-capitalist formation of society and the invasion of its reason in the political sphere was not denounced by Trump’s campaign; rather, these principles were embraced, and Trump even presented himself as the answer to a neoliberal society.

These ideas are not alien to the early Frankfurt school. Already in the 1930’s, Marcuse wrote an essay displaying the underlying similarities between totalitarianism and its supposed political opposite, liberalism. In this juxtaposition, Marcuse outlines how totalitarianism, although ostensibly claiming to be fighting liberalism, actually adopts the very same foundations classical liberalism has already established.

Although from a different era, Brown’s argument seems to be a similar rehashing of Marcuse’s thoughts; yet, Brown claims neoliberal reason is a modern phenomenon, one distinctly different from other forms of liberalism. Nevertheless, Brown’s underlying critique has a very similar blueprint as Marcuse’s from 1934, and in some ways, Marcuse’s argument and depiction of liberalism—describing its foundations in naturalism and universalism—help to more accurately describe certain aspects of the recent rise of populism than Brown’s strict conception of neoliberalism. Therefore,

my essay juxtaposes Marcuse's and Brown's accounts of (neo-)liberalism, illustrating how neoliberalism still retains more doctrine from classical liberalism than Brown originally supposes. Not only will this provide us with a fuller understanding of neoliberalism, this allows us to better understand its relationship to recent populism.

Pavlos Roufos (Kassel University): *The political economy of Ordoliberalism: Weimar, 1929 and Nazism as determinants of the ordoliberal framework*

With considerable force since the crisis of 2007-8, Ordoliberalism has moved away from obscurity into mainstream discourse. In many ways, however, this exposition has not clarified the concept but added to its ambiguity. The fact that left/progressives (Sheppard and Leitner; Wagenknecht; Young), self-proclaimed ordoliberals (Feld; Kolev; Varnberg) and austerity-promoting politicians (Schäuble; Merkel; Tusk) assign an equally positive value to Ordoliberalism only exacerbates this ambiguity. A number of questions emerge: is Ordoliberalism the most elaborate expression of authoritarian liberalism promoting the necessity of a strong state to defend the market economy (Bonefeld; Hien), or was it transformed, in the post-war social market economy, into a non-authoritarian liberal system where a constitutional and moral order offers protection against the negative effects of markets (Commun)? Can Ordoliberalism be conceived as a mitigation against contemporary 'neoliberalism' (Young) or does it represent its veritable historical background (Slobodian), reminding us that both neo- and classical liberalism are concerned with fine-tuning the *scope* of state involvement in the market economy, rather than organising its disappearance? The question of Ordoliberalism becomes even more important in the context of the EMU and of the crisis-management mechanism put in place after 2010: is it the case, as Blyth argues, that both the European Monetary Union and its response to the crisis reflect a clear Ordoliberal design? Or could it be, as others argue ((Feld, Köhler & Nientiedt), that the Ordoliberal influence has been over-estimated, an approach that opens up the space for demanding more (rather than less) Ordoliberalism in economic policy-making (Siems & Schnyder)?

For understanding the character of the conduct of Ordoliberalism in its historical and contemporary context, a clarification of the concept is pertinent. In this presentation, I will thus suggest the conceptualization of an 'ordoliberal framework' as the analytical tool through which the fundamental values of the Ordoliberal project can be established. Examining the historical and theoretical challenges *in response to which* Ordoliberalism emerged, I suggest that the utilization of an 'ordoliberal framework' allows researchers of Ordoliberalism to define what is, on the one hand, invariant and non-negotiable in the Ordoliberal project and what, on the other hand, pertains to

contingent positions that have been adjusted, fine-tuned or even abandoned over time. To ground this conceptual distinction, I proceed through an examination of the crucial historical periods of the Weimar Republic, the 1929 crash and the Great Depression and the emergence of the Nazi regime, fleshing out how the Ordoliberal response to them fundamentally shaped and determined its orientation. My assertion is that the conclusions that Ordoliberals drew from their engagement with these historical ruptures produced a core Ordoliberal *political economy*, whose framework can be utilized to counter its contemporary ambiguity and clarify its relevance.

Ben Schupmann (Duke Kunshan University): *Liberalism and Constrained Democracy*

This paper defends “constrained democracy” as a form of liberal constitutionalism. Constrained democracy is the adoption of mechanisms in the constitution that constrain the ability of democratically elected parties to amend liberalism out of the constitution legally. I argue that – particularly in an age of political extremism, “populism,” and “illiberal democracy” – constrained democracy is essential for the legitimacy and survival of liberal democratic states.

Recently, political extremists have obtained large enough democratic electoral mandates in legislatures to legally make substantive changes to the law and constitution. These changes include the abrogation of liberal constitutional fundamentals, namely changes to basic rights and the separation of powers. The changes sought by extremists reveal two related problems. First, there is a latent tension between the commitments to liberalism and to democracy. Second, when the constitutional relationship between liberalism and democracy is underdetermined, extremists are able to *revolutionize* their constitutions *legally*. Legal revolution is a chimera. On the one hand, extremists formally pursue and enact their goals in accordance with the positive laws that govern valid democratic legal and constitutional change. On the other hand, their goals are substantively revolutionary because they aim to abandon the liberal democratic essence of the constitution. In light of the problem of legal revolution, constrained democracy aims to secure basic liberal democratic constitutional commitments against legal change. To make the case for constrained democracy, I analyze first the nature of the latent tension between liberalism and democracy. I argue that liberal constitutionalism is constitutive of legitimate democracy. That is, political liberalism is a precondition of genuine democracy. As such, it must be guaranteed constitutionally – even against democratic legal change. In other words, I discuss the conditions under which it is legitimate to limit the democratic will of the people.

Second, having argued that there are conditions when the legally expressed will of the people may be constrained, I outline and analyze the legitimacy of four particular mechanisms that can do so, modelled after articles already in the current German *Grundgesetz*. They are 1. Unambiguous commitment in the preamble/constitution to liberalism; 2. Limits on negative majorities; 3. Guarantee of constitution (i.e. an eternity clause); 4. Party bans. I conclude that constrained democracy is an important constitutional guarantee of liberal democracy and that the four mechanisms I identify are the essential framework for enacting constrained democracy.

Quinn Slobodian (Wellesley College): *Distressed Neoliberalism: Two Ways of Looking at Politics since the Crisis*

The twin crises of 2008 and 2016 presented a challenge to scholars of neoliberalism. Had the financial crisis shattered the status quo of the long 1990s? Were Trump and Brexit a backlash or a frontlash against the dynamics of neoliberal globalism? My talk suggests two ways of answering these questions. The first focuses on the intellectual networks of neoliberalism connected to the Mont Pelerin Society. Here we see a neoliberalism distressed by the failures of the constitutional fixes of Maastricht and Geneva. Far-right neoliberals from Prague to London have rediscovered the necessity of shared culture and even race, turning against supranational integration and immigration and opting for varieties of secession. The second way of looking at politics is not through ideology but the recent practice of corporate capitalism. Here we see that Trump's economic policy is shaped by his advisors who come from the world of distressed investment, buying bankrupt and ailing companies to flip them for short-term gain. Another way of understanding the present is a move ever further from fairy tales about the "magic of the market" and toward an ever more frank admission that the state and laws are intended, above all, for the enrichment of the few against the many. Whether this new paradigm should be called neoliberalism is open to question.

Geetanjali Srikantan (Tilburg University): *Liberalism as Moral Instruction: Examining the Rejection of Colonial Law in Post-Colonial Judicial Interventions on Religion, Gender and Sexuality in India*

Colonial liberalism has been foundational to the development of the modern Indian legal system. As Eric Stokes (1959) has shown- utilitarianism as a philosophy was crucial to the making of the Indian Penal Code and the conceptualisation of property rights. How has this legacy of liberalism affected post -colonial Indian law today? It has been argued (Baxi 1982) that the structure of the Indian legal system retains its

colonial character due to the centralised nature of law-making and the autocratic exercise of power. It has however been argued by others that the colonial state did not always manage to retain its interests through law due to legislative participation by the nationalist movement (Burra 2016; De 2016). Therefore, colonial law cannot always be said to be inherited.

This paper takes a different route by inquiring how the interpretation of modern traditions of liberal constitutionalism deal with not just the inheritance of liberalism but its global legality. How does liberalism as a philosophy operate in the legal thinking of Indian courts in the context of demands for religious equality, gender justice and sexual identity voiced in a non-Western context? This paper focuses on a ground breaking moment within Indian legal discourse that occurred within the month of September 2018 wherein three landmark judgments of the Indian Supreme Court were pronounced. Two judgments struck down the anti-sodomy and criminalisation of adultery sections of the Indian Penal Code drafted in the colonial period and a third overturned a centuries-old bar on women of reproductive age worshipping in a prominent temple.

The paper investigates how liberalism acts as a form of moral instruction moving away from the colonial liberal conception of liberalism as discipline. Such moral instruction does not operate on the basis of a common good but as normative descriptions of an ideal Indian society. The paper shows how descriptions arrived in the first two judgments are transferred to the third. The transferability of these descriptions show how liberalism aids a Protestant conception of religion with its emphasis on the individual worshipper. The paper examines these consequences for liberalism's relationship with nationalism and religion and its inability to go beyond colonial conceptions of these categories.

Johan Strang (University of Helsinki): *Democracy with or without liberalism? The Scandinavian post-war settlement*

The Scandinavian countries are often portrayed as exceptions when it comes to conceptualisations of liberalism and democracy in post-war Europe. Whereas the rise and fall of fascism on the European continent provoked a thorough moral reconsideration, a deep concern for the inherent dangers of popular sovereignty and the establishment of what Jan-Werner Müller has labelled a “constrained democracy” designed to protect democracy from itself and limit state authority over the individual, the Scandinavian discussions remained confined to the ideas of the pre-war period, emphasising relativism over moralism, politics over law and majority will over individual rights. There is undoubtedly much that is plausible about this received

view, but conspicuously enough, it is seldom substantiated by examining the post-war period itself.

The recent narratives of post-war Europe (Conway, Müller, Moyn, Duranti) raise a number of interesting questions about Scandinavian thought. First and most notably, the Scandinavian countries did not experience a “Christian Democratic moment” or a “centre-right political hegemony”, but instead a fortification of the social democratic dominance since the 1930s. Secondly, if European (particularly German and Austrian) post-war democracy was marked by the constitutional ethos characteristic of the new “constrained”, “disciplined” or even “militant” democracies, many Scandinavian intellectuals remained convinced of the liberating role of the state: most notably, perhaps, the dominating legal-theoretical school during the post-war period, Scandinavian Legal Realism, interpreted law as an instrument in the hands of elected politicians and remained thoroughly sceptical of constitutional as well as human rights. Thirdly, if European post-war democracy often was framed as a return to Christian values and conservatism, the “ideas of 1945” have in Scandinavia become associated with secularism, relativism and progressive positivism.

In exploring the Scandinavian post-war intellectual debates on democracy, liberalism and human rights, the key argument of the paper is to propose the notion of a Scandinavian post-war democratic settlement that embraced some elements of liberalism rejected on the European continent, and in rejecting some elements of liberalism that were embraced elsewhere.

Richard Sturn & Nenad Pantelic (University of Graz): *Varieties of Liberalism between Resilience and Crisis*

Today, ideologies of economic nationalism associated with populist forms of trade protectionism (advertised as social policy) and illiberal democracy seem to carry the day in many places. However, the situation is more ambiguous than in the 1930s, when prominent liberal thinkers also diagnosed a crisis of liberalism: ingredients of economic liberalism are now taken on board by non-liberal, illiberal, and anti-liberal political forces, whereas right-wing totalitarianism of the 1930s ostentatiously borrowed from the arsenal of interventionism and command economy (Göring’s 4-year plan).

The ensuing ambiguity regarding the fate of liberalism (including prospects of various liberalisms à la carte) may nonetheless foreshadow a major and possibly fatal crisis of liberalism. It correlates with specific problems and reactions triggered by three kinds of disruptive changes endogenously related to economic dynamism: globalization, digitalization, and coping with climate change. While it is possible to

accommodate all three change processes in complacent narratives of laissez-faire liberalism/libertarianism already under scrutiny in the 1930s, each of them triggers changes in the rules of the game unavoidably bringing about major challenges. The theoretical core of this paper provides some guidance with regard to the above-sketched challenges. It does so by suggesting a framework for identifying different systemic levels/kinds of market “failure” and policy “failure”, integrating the theoretical apparatuses developed by political economics and public economics. This framework stresses the development of the public and private sectors as coevolutionary process and is useful for focusing the challenges posed by the interdependencies and interfaces of economic and political orders. This allows for putting the way in which various types of liberalism addressed those interdependencies into a more general perspective.

This framework is then used to analyze and locate political answers, which various types of liberalism developed in view of politico-economic challenges related to issues of power and anti-trust policy. This was and still is a key dividing issue between different varieties of liberalism. We are referring to controversial historical discussions between different currents (exemplified by the Colloque Walter Lippmann and its aftermath) as well as to the recent salience of the topic illustrated by the discussion about the role of antitrust in the USA and beyond. This includes the question of how issues of power are to be addressed in the digital economy, which (as is widely acknowledged) cannot be effectively dealt with by traditional antitrust policy.

Ville Suuronen (University of Helsinki): “National Socialism is the spawn of the hell that is called liberalism”: Hannah Arendt’s Critique of the Liberal Tradition

Hannah Arendt was never a liberal thinker. In fact, in her very broad oeuvre, there is not a single instance in which she would have defined herself as a liberal. On the contrary, Arendt always explicitly denied being a part of the liberal tradition and she was always radically critical toward liberalism as an anti-political ideology. These facts might seem surprising in the light of the voluminous commentary literature that has often been content in portraying Arendt superficially as just another Cold War era liberal or as an original liberal-conservative thinker. Against those who problematically portray Arendt in these terms, this presentation aims to demonstrate in detail in which sense Arendt’s thinking is both explicitly and implicitly critical against the liberal tradition.

First, we examine how Arendt understood the relationship between liberalism and totalitarianism. For Arendt, liberalism was not the opposite of totalitarianism (as it

indeed was for many Cold War ideologists in the West), but rather the crucial element that partially enabled the development totalitarian governments. According to Arendt, the aim of totalitarianism was to make human beings completely superfluous as human beings: to deprive them not simply of their political freedoms as all tyrannies had done throughout human history, but to transform human nature itself by aiming to destroy all human spontaneity as such. Historically speaking, Arendt always thought that the groundwork for totalitarian domination was laid by the rise of liberalism. By reducing politics into nothing more than to the protection of individual rights and to the pursuit of private happiness in economic terms, it was precisely liberalism that already took the crucial steps toward an understanding of “politics” that saw in action nothing more than a means to something supposedly more valuable.

Second, we analyze how and why Arendt distinguished between the liberal tradition and her own vision of a “new republicanism” that becomes especially important in her later works. Remaining critical of all isms, we show how Arendt’s new republicanism freely incorporated republican, liberal, communist, critically Zionist and even anarchistic ideas into an original mixture that cannot be comfortably reduced to any major tradition of thought. Simultaneously, it is nevertheless this “new republicanism” that forms Arendt’s counter-image to the non-politics of totalitarianism and to the anti-politics of liberalism.

Benjamin Thomas (University Of Nottingham): *Refraction as a model for neo-liberalisation*

Scholarship has demonstrated that the “new” neo-liberalisms originated intellectually as attempts to reconstitute and refine liberalism in light of the failures of *laissez faire*. However, these new ideological forms first came to political power in parties associated not with liberalism but with centre-right conservatisms: the Conservatives in the UK, the Republicans in the USA and the CDU-CSU in West Germany. As such, it behoves analysis to consider how the “new” liberalisms were able to take root as conservative political projects.

This perspective challenges an attempt to read neo-liberalism in practice as the next stage in a developing liberalism and instead seeks to contextualise the transition of centre-right ideologies towards neo-liberal forms within the ideological discourses and constellations of conservatism. Understanding how neo-liberal ideological entrepreneurs transitioned from being insurgent outsiders to defining archetypes of their party’s *Weltanschauung* enables a situated understanding of the normalisation of ideological innovations and ideological change. Particularly for conservative

ideologies it is important to question how conservatism was able to claim ideological continuity while undergoing seismic change.

To address this question, this presentation combines the ideological analysis of ideological morphology with the historically situated approaches of political thought, intellectual history and conceptual history to understand the role of parties as media for ideological contestation and change. Examining two cases of neo-liberalisation, the rise of ordoliberalism over Christian socialism in post-war West Germany and Thatcherism over “Middle Way Conservatism” in the UK Conservative party, it emphasises the extent to which ideational change constructed a neo-liberal frame, re-interpreting and re-presenting traditional “conservative” norms. To make sense of this development, I suggest a new model for ideological change, a “refraction model”. This model centres analysis on change of central conceptions rather than core concepts.

Examining these early cases of the dissemination of neo-liberal ideas into party political ideologies permits connections to the wider growth of neo-liberal ideas in the twentieth century through to its purported hegemony in the 1990s. Understanding the conceptual linkages and transformations by which the political form first arose contributes to a discourse on the morphology and variations of “new” liberalisms 1930s-present.

Kangle Zhang (University of Helsinki): *Merton Miller and the Rise of Financial Liberalization*

This paper examines the link between the rise of financial liberalization and a specific stream of financial economics at Chicago. The paper focuses on Merton Miller, the key figure in financial economics and financial regulations at Chicago. Miller was heavily influenced by Ronald Coase and the Chicago school of Economics. This paper examines the connection between the works of Miller and three historical stages. These three stages are: [i] the rise of financial liberalization in the 1970s; [ii] the continuing boom of the financial market till the 1980s; [iii] the sequences of the collapse of the financial market till the end of the century. By exploring the link between Miller and the rise of financial liberalization, this paper locates a stream of economic thinking that contributes to financial liberalization, and introduces the broader field of financial economics that is heterogeneous and filled with contestations. That’s to say, a particular stream of financial economics is linked to the rise of financial liberalization. Such a revelation calls for further engagements with distinct (financial) economics ideas, for such thought collections are needed to challenge the cult of expertise in world governance today.

This paper contributes to the existing literature on liberalism written by Philip Mirowski, Rob Van Horn, and more recently Quinn Slobodian. These literatures have accounted, amongst others, the connection between Hayek and the rise of the modern Chicago school of economics, the rise of Coase's law and economics, and more remotely Posner's economic analysis of law. The Chicago School of Economics and the Law and Economics approach (in particular Milton Friedman) contributed greatly to the liberal political discourse (liberal as understood in the sense of the policies of Reagan administration). The link between the Chicago financial economists and the later institutionalized practice of financial liberalization is, however, under-explored in these literatures. The unstable ground of economics that Richard Posner finds himself standing on in his post-2008-global-financial-crisis reflections further necessitates an exploration of the connection between the Chicago school and financial liberalization.