

INTRODUCTION

The overthrow of the Eastern Bloc and the soviet regimes at the end of the twentieth century was celebrated by theorists of the ‘end of history’¹ as a victory of the Western model of the liberal democratic state against dictatorship and totalitarianism. This interpretation is still dominant today as the portrayal of Mao and Stalin as dictators -even more so than Hitler- is widely accepted by the Western cultural environment, mainstream media, and common sense understanding. However, even after the ‘end of history’, military interventions around the world have been carried out against dictatorial regimes (such as Muamar Gaddafi’s in Libya, Saddam Hussein’s in Iraq, or Bashar al-Assad’s in Syria) in the name of democracy and human rights, whereas other potential enemies of the global order and the United States’ hegemonic role in it (such as Vladimir Putin in Russia, and Kim Jong-un in North Korea) have also been portrayed as dictators.

Furthermore, the liberal democratic West has undergone an equally frightening process over the last decade, following the global financial crisis of 2008, namely the rise of far-right-wing parties which mask authoritarian, racist and fascist ideologies under populist propaganda. These parties are the political offspring of parties which have been historically associated with dictatorial regimes in Europe and have reignited the debate on the relationship between authoritarianism and democracy. How tolerant can liberal democracy be towards authoritarian parties? How can democracy defend itself against parties that may preach its overthrow? These questions have troubled political theorists and the public over the few centuries of existence of bourgeois states and are directly related to the concept of dictatorship. After all, dictatorship was originally an institution of the Roman Republic designed to protect it against existential threats.

¹ See Francis Fukuyama, *The End of History and the Last Man*, (London: Penguin, 2012).

What is more, these movements and parties have arisen in the context of a tendency of the Western liberal democratic state itself to assume a more authoritarian form, in a process which began a few decades ago, described by Nicos Poulantzas as authoritarian statism.² This process involves the insulation of decision-making processes from the popular strata and the conferral of crucial competences to unaccountable institutions which decide on issues with far-reaching consequences for social and economic relations. These processes have been criticised as assaults on the democratic nature of the nation state. However, is ‘dictatorship’ an accurate term to use for the critique of such processes? What is the relationship between dictatorship and authoritarianism? What is the meaning of the old, almost forgotten now, term of the dictatorship of the bourgeoisie and can it be of any help in analysing the current predicament?

Recently, the prorogation of the British Parliament by the Queen on the advice of the Prime Minister was attacked by various politicians, the media, and a great number of the British people as a dictatorship and a suspension of democracy. The phrase *#thisisacoup* flooded social media -and not for the first time in recent past. In the interest of scientific accuracy, one has to ask nonetheless: Is the British Parliament democratic? Does it operate based on the democratic principle? Can it be considered a stronghold of democratic rule? Of course the democratic principle operates in the British political system and is reflected in the British constitutional arrangement, for instance in the development of constitutional conventions such as the one according to which the Queen appoints as Prime Minister the leader of the party that wins the majority in the House of Commons following a general election. Nevertheless, the British Parliament is a bicameral parliament which essentially consists of three bodies, i.e. the Crown, the Lords and the Commons. Sovereignty of parliament as the cornerstone of the British constitution means that Parliament is vested with absolute power

² Nicos Poulantzas, *State, Power, Socialism*, (London: Verso, 2014).

and unconditional authority. This fact led one Donoso Cortes in his famous ‘Speech on Dictatorship’ in 1848 to declare the British Parliament as the exemplary dictatorial institution.³ What is then more dictatorial, the power of the British Parliament or the instrumental use of established practices -such as prorogation- by an executive that presents itself as the exponent of the people’s will?

As the Brexit drama plays out, different individuals and different social groups, pretending to express either the will of the people or the will of parliament, have made claims of democratic legitimacy accusing the other party of dictatorial practices. Concepts such as democracy and dictatorship are used as trenches for intra-class warfare, while the popular strata will suffer the worst side of the consequences of any solution to this drama. On this basis, this book aspires to be a modest contribution to the scientific analysis of juridico-political terms, which I believe is an essential prerequisite for meaningful juridico-political debate. Otherwise fundamental concepts must remain empty signifiers which are instrumentalised by political opportunism. Of course, I do not claim political or ideological purity. On the contrary, I believe that science is political, to the extent that scientific results tending to accurate analyses of objective reality (i.e. of natural and social processes) support or thwart the struggle of particular classes.

This book is written with a deep conviction that a clear understanding of the concept of dictatorship is crucial in order to make sense of several processes in the legal and political sphere taking place currently throughout the world. For this reason, it undertakes the interesting and challenging task of documenting the evolution of this concept in conjunction with several related concepts (such as state of exception, Caesarism, Bonapartism, and totalitarianism) in different historical situations. The work of different theorists from different

³ Donoso Cortes, ‘Speech on Dictatorship’, in *Selected Works of Juan Donoso Cortes*, (London: Greenwood Press, 2000), 45-60.

eras and different standpoints - such as Donoso Cortes, Carl Schmitt, Giorgio Agamben, Claude Nicolet, Melvin Richter, Antonio Gramsci, Nicos Poulantzas, and Hal Draper - is discussed. All these thinkers have come up with different concepts and methods to conceptualise 'dictatorship' and examine its historical, theoretical, social and economic origins.

This work follows the dialectical method of analysis, focusing on the contradictions which are reproduced by a specific form. The main purpose is to highlight the contradictions of the formal theories of dictatorship. Dialectical materialism refers to a mode of conceiving reality in its many-sided and contradictory movement. Therefore, a dialectical analysis of the dictatorial form takes into account the intricate relations between legal, political and socio-economic processes, as opposed to the isolated and fragmented way of examination of legal phenomena by positivist theory. Additionally, social, political and juridical processes are seen as historical processes. Capitalism, law and the state are not eternal structures. They are, rather, historical phenomena. So, the examination of dictatorship has to take into account the historical movement: how the dictatorial form has developed historically with regards to socio-economic development. Last but not least, the historical movement of juridico-political and socio-economic processes examined develops on the basis of antagonistic contradictions and struggle of the opposites. The dialectical analysis will combine legal and theoretical material, which will be assessed in their historical context, in order to explain the specific function of dictatorship in the consolidation, reproduction and supersession of the contradictory relations of capitalism.

The change in the meaning of dictatorship from ancient Rome to early modernity is well documented. The concept of dictatorship had vanished from political analyses and legal treatises for several centuries after the last phase of the Roman Republic and the dictatorships of Sulla and Caesar. There is a very good reason for this disappearance. This had to do with

the modes of exercise of public power in feudal society which rested predominantly on divine authority, rather than popular legitimation. The concept of dictatorship re-emerges in early modernity and gains increasing significance after the French Revolution and the establishment and consolidation of bourgeois rule. From an institution essential to the Republic in ancient Rome to a type of regime that is entirely antithetical to democracy in the 20th century, there are certain similarities that are captured by the concept of dictatorship. This study will locate these similarities and discuss the reasons for this change in meaning. In doing so, it will situate the reader in the existing literature on this concept and the juridico-political analyses of the historical situations described by it. In codifying these theories, this book will advance the author's own approach on the concept, putting emphasis on a re-evaluation of the Marxist concept of class dictatorship and its relevance in analysing contemporary juridico-political phenomena.

On this basis the book deals with interrelated questions such as:

- How has the concept of dictatorship been used historically?
- Which types of dictatorship have been conceptualised and what other terms have been used to describe this phenomenon?
- What is dictatorship's relationship to the law according to different theorists?
- Does the concept of dictatorship have analytical value in the contemporary world?

This book will assess the historical meaning of the term in relation to the levels of capitalist development. The view that there is an extra-historical meaning of the term is rejected. Instead this study seeks to examine how this concept has been used to describe different forms of exercise of public power. At the same time, it avoids an absolute relativisation of the concept and seeks to outline the lines of continuity of its use, linking it to the different forms

of exercise of public power as determined by the different phases in the consolidation of bourgeois rule.

Taking into account the different types of dictatorship that have been proposed by different theorists (Caesaristic, totalitarian, military, commissarial, sovereign, etc.), there are two main ways this concept has been used: *one* is to describe the institution which is found in almost every constitutional structure and is known as state of siege, state of exception or state of emergency; the *other* is to describe a type of authoritarian regime which is mostly based on force rather than consent, on executive decision-making rather than parliamentary processes and on centralisation of power rather than liberal separation of powers. The common element between these two forms is an element of temporariness and transitionality. Both dictatorial forms (states of emergency and dictatorial regimes) result from crises (political, socio-economic, or most commonly a combination of both) which necessitate a change in the form of exercise of public power.

However, a central problem arises as there is a tendency, first, of one type of dictatorship to give way to the other. To take the Nazi dictatorship as an example, the state of emergency declared in February 1933 gave way to the establishment of a dictatorial regime tout court with the Enabling Act of March 1933. Second, the element of temporariness is consequently relativised, as the establishment of dictatorial regimes themselves, despite their initially commissarial character, leads to -in fact it satisfies a demand for- new normality and permanence. On this basis, I will approach dictatorship as a *modus operandi* of state power and as a form of exercise of class rule, in order to address the central issue of continuity between normal and dictatorial state forms. This approach will enable the move beyond the contradictions of temporality between the two main types of dictatorship.

Thus, dictatorship signifies a mode of class rule whereby the bourgeois state adjusts its form (temporarily or permanently, depending on whether the dictatorial institutions have the right to enact legislation, as well as on their source of legitimacy) in order to reproduce itself (as well as the regime of power, property and productive relations). The equivocation between the two main types (state of emergency and dictatorial regime) is due to the far-reaching nature of changes that a crisis may necessitate for social relations to be reproduced. Thus, analysing the contradictions and equivocation between the different types of dictatorship presupposes an examination of the conditions that necessitate dictatorial solutions. This is where Marxist analyses of dictatorship are relevant.

Dictatorship becomes essential in situations of crisis when there is a need for the state to step forward and take an active role in the consolidation or reproduction of the capitalist productive relations, through increase of its relative autonomy.⁴ The particular characteristics of the dictatorial form are determined by the level of development of capitalism. But in all different phases of capitalism a dictatorial form has resulted from a process of devaluation of existing representative political institutions and the need for replacement by other institutions (existing or newly created). For instance, both in the 1850s and the 1930s the vulgar depreciation of parliament led to the increasing use of plebiscites. To this end a discussion of Gramsci's analysis of Caesarism and hegemony and Poulantzas's analysis of fascism will provide the book with a theoretical framework to examine the relationship between the different types of dictatorship and the law.

⁴ Relative autonomy is a central concept for the Marxist analysis of state and law. It is necessary for the state to act as a factor of cohesion and consolidation of class power (intra-class aspect), as well as for the effective exercise of class rule (class aspect). As E.P. Thompson puts it with regards to the latter, the essential precondition for the effectiveness of law, in its function as ideology, is that it shall display an independence from gross manipulation and shall seem to be just; if the law is evidently partial and unjust, then it will mask nothing, legitimise nothing, contribute nothing to any class's hegemony; see E. P. Thompson, *Whigs and Hunters*, (London: Breviary Stuff Publications, 2013) 263. Along the same lines with regards to the former, according to Poulantzas, capitalist law appears as 'the necessary form of a State that has to maintain relative autonomy of the fractions of a power-bloc in order to organize their unity under the hegemony of a given class or fraction'; see Nicos Poulantzas, *State, Power, Socialism*, 91.

Understanding dictatorship as a mode of exercise of class rule is crucial for grasping the unity between norm and exception in jurisprudential terms. For instance, the Nazi state form cannot be grasped merely as the dictatorial antithesis to the normal form of the Weimar Republic. On the contrary, if the Weimar form was the old normality, the Nazi form was a new normality insofar as it guaranteed the uninterrupted continuity of bourgeois rule and capitalist production. In conditions which threaten the reproduction of capitalist social relations, a dictatorship restores the normality of the through the crushing of the class-conscious workers' movement. As Donoso Cortes put it as early as in 1848, 'when the letter of the law is enough to save a society, then the letter of the law is best, but when it is not enough, then dictatorship is best'.⁵

The concept of *salus populi* underlies both liberal democratic states and dictatorial regimes, both normal and exceptional state forms. *Salus populi suprema lex* is a maxim which translates into 'the safety or welfare of the people should be the highest law'. This Roman maxim is the origin of all relevant public law concepts used to justify a restriction, limitation or suspension of rights on the basis of general interest or national security. *Salus populi* is society's salvation from its enemies. *Salus populi* or the common good is the main formal justification of the dictatorial form. But its operation is central in conditions of normality too, as the concept of *salus populi* appears and shapes the courts' jurisprudence, especially during crises. This point is of great importance in order to grasp the contemporary significance of the concept of dictatorship. This is what the last chapter of the book will explore: dictatorship as part of a system of gradations of authoritarianism, the specific form of which is determined by the level of capitalist development and the development of class struggle in specific countries. Insofar as the reproduction of capitalist social relations can be accomplished

⁵ Cortes, *Speech on Dictatorship*, 45-60.

predominantly on the basis of ideological, consensual means, resort to a dictatorial regime tout court is not necessary.

With regards to the scope of the historical cases analysed in the book, they focus almost exclusively on European history. This is done strictly for reasons of brevity -as the book is meant to be a contribution to the theory of dictatorship rather than an exhaustive analysis of its historical instantiations- and clarity of the argument. The book is structured with a view to examining the reasons for the re-emergence of the concept in early modernity and its use and function in different periods of crisis of capitalist society. Therefore, the main historical conjunctions dealt with are: ancient Rome and the origins of the concept; revolutionary France in 1789 and counterrevolutionary France in 1848 and the use of the concept during the establishment and consolidation of bourgeois rule; Nazi Germany and the reproduction of bourgeois rule in a situation of acute crisis; as well as the use of the concept in Marxist theories for the supersession of capitalism, with a focus on the Paris Commune of 1871 and the October Revolution of 1917. Nevertheless, one of the aims of the book is to show that the methodological approach and general theoretical conclusions can be used to analyse dictatorial regimes and institutions throughout the world.