

# Corporatism, tradition and survival.

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## Contents

<b>THE CORPORATIST CHALLENGE TO DEMOCRATIC INSTITUTIONS. ....</b>	<b>2</b>
THE RESPONSE TO THE 'SOCIAL QUESTION'. ....	4
POLITICAL PARTIES AND THE "UNITY OF THE STATE" .....	5
VARIETIES IN CORPORATISM.....	6
CORPORATISM, PLURALISM AND THE DISPERSION OF KNOWLEDGE.....	7
CORPORATISM AND FASCISM.....	9
<b>THE POLITICAL MYTHS OF CORPORATISM. ....</b>	<b>11</b>
<b>THE MYTH OF UNITY.....</b>	<b>11</b>
THE HOSTILITY TO CONSTITUTIONAL LIMITATIONS AND LEGAL STRUCTURES. ....	11
<b>THE MYTH OF POPULISM. ....</b>	<b>14</b>
CORPORATISM IN THE MIRROR OF POPULISM.....	14
WHO ARE THE PEOPLE?.....	16
<b>THE CHARISMATIC FORMS OF POWER.....</b>	<b>17</b>
THE STATE, THE COMMON GOOD AND POLITICAL POWER.....	17
<b>THE MYTH OF POLITICS AS EPIC, .....</b>	<b>17</b>
EPICS, POPULISM, YOUTH AND ENERGY. ....	17
<b>THE MYTH OF PROGRESS AGAINST CAPITALIST INDIVIDUALISM.....</b>	<b>20</b>
THE EVOLUTION FROM THE REACTIONARY THOUGHT TO MODERN NEOCORPORATISM.....	20
<b>THE MYTH OF AUTARKY, FROM LIST TO KEYNES.....</b>	<b>24</b>
A DISTANT MIRROR: DICTATOR FRANCIA A HERO OF CARLYLE.....	24
LIST: THE NATIONAL SYSTEM OF ECONOMY. ....	24
KEYNES THROUGH PREBISCH: THE CLOSED ECONOMY. ....	26
<b>THE MYTH OF INDUSTRIALIZATION, THE CREATION OF A NATIONAL BOURGEOISIE AND THE IRON LAW OF OLIGARCHIES. ....</b>	<b>28</b>
PARETO'S THEORY OF THE CIRCULATION OF ELITES. ....	28
THE IRON LAW OF OLIGARCHY .....	30

<b>THE MYTH OF POLITICS AS THE DIALECTICS OF FRIEND-ENEMY. ....</b>	<b>32</b>
THE "ANTI" CHARACTER OF CORPORATISM. ....	33
THE OPPOSITION TO PARLIAMENTS AND POLITICAL PARTIES. ....	34
<b>THE EXHAUSTION AND REVIVAL OF THE CORPORATIST ORGANIZATION OF LABOR. ....</b>	<b>36</b>
TRADE UNIONS IN THE ITALIAN REPUBLICAN CONSTITUTION. ....	37
OBLIGATORY COLLECTIVE AGREEMENTS BETWEEN TRADE UNION AND BUSINESS ORGANIZATION. ....	37
CORPORATISM IN THE INTERNATIONAL LABOR ORGANIZATIONS. ....	38
<b>THE ECONOMICS OF REGULATION IN CORPORATISM. ....</b>	<b>41</b>

## **The corporatist challenge to democratic institutions.**

Modern democratic societies accept pluralism and constitutionalism as the legitimate political system. Pluralist political systems require the self-limitation of governments, introducing separation of powers and checks and balances into an otherwise monopolistic concentration of power. Self-limitation has an ancient tradition, going back to the metaphor of Ulysses in the Odyssey introduced by the XVII century philosopher Benedict Spinoza as the justification of a correct moral behavior when voluntary restriction and control prevents a greater evil; he proposed the use of this principle by authorities. Following this metaphor modern constitutions are often associated to Ulysses binding himself to the mast in order to resist the fatal call of the Sirens. But what is the equivalent of Ulysses' ropes that might enable a political community to bind itself to constitutional rules? The positive puzzle of constitutionalism lies in explaining the willingness and ability of powerful political actors to make sustainable commitments to abide by and uphold constitutional rules even when these rules stand in the way of their immediate interests. The puzzle generalizes to how intertemporal political commitments of any sort are possible. That is to say, how political communities can credibly and durably commit itself to repaying its debts, respect human rights or refraining from war. <sup>1</sup>

But pluralism and constitutionalism are not unique in the search of sources of legitimacy to political systems, and as ways to establish

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<sup>1</sup> Daryl J. Levinson. PARCHMENT AND POLITICS: THE POSITIVE PUZZLE OF CONSTITUTIONAL COMMITMENT. 124 Harv. L. Rev. 657

intertemporal political commitments to absolute power. Corporatism<sup>2</sup> is a traditional and recurrent form of governance that pretends to solve the same problems than pluralism and constitutionalism but with entire different answers. Corporatism connotes a system in which major societal groups, for example, clan, ethnic, religious, economic, or military structures, are integrated into the governmental system for the purpose of achieving coordinated national development. It remains a distinct political system.

In the *Odyssey*, Ulysses faced a problem of time inconsistency in his optimal plan. His optimal plan was to listen to the sirens and then continue his journey. But this was time inconsistent because, once he had embarked on the plan by listening to the sirens; he would not have been able to implement the later part of the plan, the rest of his journey. The time inconsistency arises because the sirens affect Ulysses' preferences. His perception of the best action changes in the middle of the plan and this leads him to deviate from the original version. Ulysses implemented his optimal plan by denying himself freedom at the later stage of the plan. Having instructed his men to tie him to the mast and to ignore any orders to do anything other than sail past the rocks, he told them to plug their ears and row. Thus, Ulysses established for himself a private constitution, a set of more or less binding rules that constrain his future choices. By exploiting elements of his natural and social environment, Ulysses was able to subvert certain inclinations of his future self, inclinations that he knew would be destructive of his overall interests but which would nevertheless prove irresistible when they arose.<sup>3</sup> The use of the metaphor of Ulysses and the sirens as an explanation of the need of self-limitation of power mentioned originally in Benedict Spinoza although is developed by Jon Elster.<sup>4</sup>

But Ulysses and the sirens is not a universally accepted metaphor, contrary to pluralism and constitutionalism Corporatism is not a doctrine for the limitation of power it is mainly a doctrine for the justification of unbounded power. It was born as a denial of individualism and constitutionalism, with serious restrictions to, among others, economic freedom.

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<sup>2</sup> In this paper we shall use the terms "corporatism" and "corporativism", as synonyms although in English the word "corporatism" may have other meanings that are not referred to here.

<sup>3</sup> Ludwig Van den Hauwe. Constitutional economics, in *The Elgar companion to law and economics*, p 224.

<sup>4</sup> Jon Elster, *Ulysses and the Sirens: Studies in Rationality and Irrationality*. Cambridge University Press 1984

## The response to the 'Social question'.

Since Corporatism pretends of ancient indeed medieval origins it is difficult to indicate its origins. Modern corporatism appeared as an alternative to socialism to give an answer to the social conflicts at the end of the XIX century. In 1891 Pope Leo XIII wrote the Encyclical letter *Rerum Novarum* as a solution of the 'social question', the possibility to establish 'class harmony' between the capitalistic entrepreneurs which challenged the ordered system of the state and the revolutionary labor organizations. These proposals used some traditional pre capitalistic images, medieval corporations that would give a different scope to trade unions that would accept the natural order, at the same time medieval disdain against greed and illegitimate usury. This corporatist solution preserved traditional power hierarchies but permitted the inclusion of the social question. It intended a third way beside capitalism that would adopt a humane form, and against the new forms of socialism.<sup>5</sup> Following this medieval metaphor, for it could not be a possible transplantation of the feudal orders to the late XIX century social problems; the new corporatism defined each person by his status in society. If in ancient times one was born and lived in a certain status and must accept this situation in life, the new corporatism was based in function or occupation. Persons were to be represented in the political decision making not by their convictions but on the basis of what they did. Political parties did not represent the whole of society, fractured opinion and tended to disunion and conflict, on the contrary corporatist representation tended to political unity and social harmony. The process started by giving legal status to trade unions, this 'legal personality' allowed them to participate in the political process and to be recognized by employers and business organizations. At the same time the state would order employers to give better salaries and working conditions. Strikes the main revolutionary weapon of trade unions, were forbidden. Employers were compensated with tariffs that would impede the competition with foreign imports and the limitation of the access to the market by new enterprises. As in the widely used medieval metaphor society would be hierarchical, if in the past the three orders were the clergy, the nobility and the third state,<sup>6</sup> in the new corporatist the three orders would be the State, the centralized business corporation and the general confederation of trade unions. Each hierarchy formed a pyramid that would peak in the centralized confederation and in the State. New

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<sup>5</sup> This late XIXth., century debate on the social question coincided with the debate of the future of socialism between the more aggressive forms proposed by Karl Kausty and the social democracy of Eduard Bernstein in 1899 and 1900.

<sup>6</sup> According to Georges Duby. *The Three Orders: Feudal Society Imagined*. University of Chicago Press. 1980, the three medieval orders were a product of imagination of contemporary authors but had no strict basis in reality.

business and new trade unions were excluded of the system and had to accept the existing order by being incorporated to the existing structure. The tripartite hierarchical organization tended to unity, the unity of the State that represented all human activities.

### **Political parties and the “unity of the State”.**

Corporatist legal doctrine, in spite of its older roots, developed actively in the Weimar Republic in Germany as a reaction mainly by authors who cherished the imperial past, to the new significance and influence of the political parties within the state. The new political parties appeared to be a necessary consequence of the emancipation of all classes and social strata, the legitimacy of state rule was no longer conceivable merely as a natural rule from above; at the same time, after the crisis at the end of World War I there was no longer a unified bourgeoisie, and it thus seemed impossible for the political whole to be represented by people who felt beholden exclusively to the common good. The homogeneous “people” had become a heterogeneous “mass.” The parties appeared to be a necessity for active citizens to articulate themselves in the political system bringing a risk for state unity to be torn apart by the power of a plurality of interests leaning in many different directions. In the new constitutional order parties could be conceived as a prerequisite for state organization and the idea of the “party state” was born. One important protagonist in the discussion on the status of parties within the state structure was the constitutional legal scholar Gerhard Leibholz (1901-1982). For Leibholz, the only valid dimension of the term representation is one that is geared towards representing, or “mirroring” the people in parliament, in the sense that a randomly drawn sample in empirical research is said to represent the population it was drawn from. His party state doctrine hence aims at allowing the institutions representing the people to become in a certain sense identical with the people by way of the new political parties, so that it becomes an inescapable condition that only such decisions can be made that lie in the interest of the people.<sup>7</sup>

Against this theory stood Carl Schmitt, he developed the theory of the President as the custodian of the Constitution, and the theory of the ‘fundamental decision’ of the people as the base of the Constitution. With it legal doctrine that justified the corporatist attack to political parties

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<sup>7</sup> Emanuel Towfigh. OLD WEIMAR MEETS NEW POLITICAL ECONOMY: DEMOCRATIC REPRESENTATION IN THE PARTY STATE. 13 German L.J. 237

that broke the unity of the “people”, what in later times was derisively called the ‘partidocracy’.<sup>8</sup>

### **Varieties in corporatism.**

Wiarda classifies corporatism in historical or "natural" corporatism, ideological corporatism, manifest corporatism, and modern neo-corporatism. Historical or "natural" corporatism would occur in many pre modern societies that are founded on traditions emphasizing solidarity, group identity, and community. These include the ethnic, clan, and tribal basis of African politics, many of the Confucian based societies of East Asia, the group, clan, and caste based societies of South Asia, and those societies based in the tradition involving the Koran. In Western Europe, a corporatist system existed before the onslaught of the Renaissance, the Enlightenment, and the Industrial Revolution which included military orders, guilds, the Roman Catholic Church and its orders, and the aristocracy. With the emphasis on the individual and on individual rights brought about by the Enlightenment and the French Revolution, many came to regret the coming breakup of the old order. This led ideological reactionaries to create modern corporatism. In the papal encyclicals, *Quadragesimo Anno* and *Rerum Novarum*<sup>9</sup> a religious based system of corporatism was sketched. Secular forms of corporatism had an autocratic nature. Corporatism involved various regimes including Fascist Italy, Nazi Germany, Vichy France, Franco's Spain, Salazar's Portugal, Metaxas's Greece, Dolfuss's Austria, Vargas's Brazil, and Peron's Argentina in the earlier half of the twentieth century. Many of these regimes were authoritarian and involved severe human rights abuses leading many to perceive corporatism in a highly negative light. Later regimes that came to involve corporatism would reject the corporatist label despite their adherence to this ideology because of the negative connotations that became associated with the word due to the fascist regimes that operated under its principles. Modern neo-corporatism is distinct from these authoritarian regimes and tends to be more democratic in character and is particularly useful model for understanding various regimes in Latin America, as well as in Europe. In the United States is exhibiting a creeping form of corporatism with the

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<sup>8</sup> Partidocracy in Italian *Partitocrazia* means a political regime in which the real power has its centers in parties and not in any organs provided for in the Constitution. Professor Joseph Maranini, which he called *Governo parlamentare e partitocrazia* in his inaugural lecture at the University of Florence in 1949.

<sup>9</sup> These doctrines were reformed in latter pontifical documents, mainly ‘*Mater et Magistra*’ ENCYCLICAL OF POPE JOHN XXIII ON CHRISTIANITY AND SOCIAL PROGRESS MAY 15, 1961 and in ‘*Octogesima Adveniens.*’ A Call to Action Encyclical Letter of Pope Paul VI, issued on May 14, 1971.

welfare state had corporatist connotations. Many critics remain firmly opposed to corporatism, given the bad name and associations it has been given but also based on ideological reasons of their own. Marxists for example have long regarded corporatism as a right wing phenomenon and a tool of the capitalist class to appease the proletariat. Stalin once called Trotsky a “corporatist” in an effort to discredit him.<sup>10</sup>

### **Corporatism, pluralism and the dispersion of knowledge.**

Pluralism is the political system that more easily adapts to the dispersion of knowledge in society. As Friedrich v. Hayek indicates, information is in *‘dispersed bits of incomplete and frequently contradictory knowledge which all the separate individuals possess’*<sup>11</sup> it requires prudence and self-limitation from legislators and regulators. Therefore planning and rigid economic structures are inefficient since they prevent innovation and economic growth. Corporatism disregards the dispersion of knowledge, insists on harmony not competition and the search for establishing the “natural order”<sup>12</sup>. Corporatist policies in opposition to pluralism are not based in competition but on agreements between big industries or business organizations, centralized trade unions and the government. Since the agreement is seen as the representation of the organized society, no self-limitation of government is accepted or needed. Corporatism is a process in which a limited number of monopolistic organizations representing fundamental interests engage in bargaining with state agencies over public policy outputs. In exchange for favorable policies, the leaders of these organizations agree to undertake the implementation of policy through delivering the cooperation of their members. The possibility of the development of new companies that offer new products to the market is seriously curtailed.

Modernized versions of corporatism intended to separate it from any fascist connection was defined as the *‘institutional arrangement for linking the associational organized interests of civil society with the decisional structures of the state’*.<sup>13</sup> In this way persons living in society participate in policy decisions only if they are organized through associations. A

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<sup>10</sup> Howard J. Wiarda. Corporatism and Comparative Politics: The Other Great "Ism". M. E. Sharpe. 1997. Quoting Schmitter and Joseph La Colombara. P 15.

<sup>11</sup> Friedrich von Hayek, The use of knowledge in Society, American Economic Review 35 (1945) 519, quoted in Cass Sunstein. Infotopia. How many minds produce knowledge. Oxford University Press, 2006, 119.

<sup>12</sup> Natural order could be defined as the moral source from which natural law derives its authority. It incorporates the natural relations of beings to one another, in the absence of law, which natural law attempts to reinforce.

<sup>13</sup> Phillipe Schmitter, ‘Still the Century of Corporatism?’ (1974) 36 Review of Politics 85 at 86.

more comprehensive definition of corporatism would include certain characteristics as: the growth of central planning, the requirement of political stability by bringing both trade unions and business organizations into the decision making process and integrating them into the state; the delegation of the state power to trade unions and business organizations to regulate, license and police their own members, and the use by government of the corporate groups to help implement government social and economic programs.

Taking all this in consideration corporatism can be defined as a system of interest representation in which the constituent units are organized into a limited number of singular, compulsory, noncompetitive, hierarchically ordered and functionally differentiated categories, created, recognized or licensed by the state and granted a deliberate representational monopoly within their respective categories in exchange for observing certain controls on their selections of leaders and articulation of demands and supports.<sup>14</sup>

In a corporatist system, the state confers a representational monopoly on certain organizations and grants them a presence in policy-making arenas. In the corporatist political myth these organizations are preexistent of the state and not a government created. They are 'recognized'. For example in the making of labor law, corporatism may be understood as a system of functional participation, involving business organizations by sector and the equivalent trade unions alongside government representatives. The problem with this idyllic version is that it favors traditional business and labor representatives of already existent and structured activities, new innovative activities or enterprises are not included.

Corporatist policy-making is carried out through negotiations where the state is one part, or through negotiations between structures within political institutions designed to favor the realization of certain political ends. The state may further influence the outcome by taking an active part in the formation of both groups and their interests through its ability to license their existence, subsidies their activities and include or exclude them from the policy-making. Hence, monopolized interest organizations may then act as middlemen between the Government and the members of interest organizations.

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<sup>14</sup> Phillipe Schmitter, 'Still the Century of Corporatism?' (1974) 36 Review of Politics 85 at 93.



## Corporatism and fascism.

The exploration of corporatism is often distorted by its association with fascism, although the connection is correct it excludes some elements of corporatism and includes other inapplicable to its modern forms. At the same time the term 'fascism' is surrounded by a charged atmosphere due to the brutal characteristics of the Italian and German versions ended after World War II that sometimes prevents the understanding of corporatist institutions that subsist. In this way if we can reject as fascist many movements and political parties that incorporate fascist elements in their ideology, style and organization, we must include them in the wider and more technical concept of "corporatism". Some elements are common like populism, nationalism, anti-liberalism, anti-capitalism; the aim of national and social integration through corporative representation; a distinctive style and rhetoric, and the neglect for the constitutional and legal structures in a way that puts individual rights second to national interest; and the distorted version of the "common good". The appeal based on emotion, myth and action and the epic vision of political activity are characteristics present in corporatism.

Renzo De Felice sustains that *"If Mussolini hadn't intervened in the war fascism would have lasted for a long time"* <sup>15</sup>, as was the case of the Spanish and Portuguese dictatorships that lasted forty years and the new forms of corporatism that succeeded in South America.<sup>16</sup> Fascism in all its forms evolved into corporatism as an ideology applicable in democratic societies.

Renzo De Felice is the main historian of Mussolini and fascism, his biography extends to seven volumes.<sup>17</sup> He offers general description of the corporatist social and economic model, although De Felice thinks that fascism is exclusively a European experience limited to the period between the wars, we argue that corporatism is a universal phenomenon of which fascism was only a more spectacular case. If we consider fascism as an answer assumed by some European societies to the

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<sup>15</sup> Renzo De Felice, Michael Ledeen. Entrevista sobre el Fascismo. Editorial Sudamericana. Buenos Aires. 1979 p. 75. Original version Intervista sul fascismo, edited by Michael Ledeen, 1975.

<sup>16</sup> The Spanish version of fascism is 'falangism' after the "Falange Española" created by Jose Antonio Primo de Rivera. See Stanley Payne. Falange, A history of Spanish Fascism. There is an Spanish version published in 1985, before it was prohibited in Spain.

<sup>17</sup> Mussolini, 7 volumes, 1965-1997 (Turin, 1965-97) vol. 1, Mussolini il rivoluzionario, 1883-1920; vol. 2, Mussolini il fascista, pt. 1, La conquista del potere, 1921-1925, pt. 2, L'organizzazione dello Stato fascista, 1925-1929; vol. 3, Mussolini il duce, pt. 1, Gli anni del consenso, 1929-1936, pt. 2, Lo stato totalitario, 1936-1940; vol. 4, Mussolini l'alleato, 1940-1945, pt. 1, L'Italia in guerra, 1940-1943, bk. 1, Dalla guerra "breve" alla guerra lunga, bk. 2, Crisi e agonia del regime, pt. 2, La guerra civile, 1943-1945.

assessed dangers of communist revolution as such it has definitely ended with the exhaustion and later disappearance of the communist system. Corporatism to the contrary, although not always by that name, is nowadays embraced by populist democracies as a new form of leftist nationalist discourse.

Fascism is sometimes considered a parenthesis in world history, but that is not true of the social movements that follow corporatist ideas, as for example peronism could not be considered a parenthesis in Argentine history, although those who in its origin associated it with fascism considered so. So corporatism is here to stay as a political and social doctrine but also as a myth.

## **The political myths of corporatism.**

The political myth is similar to the idea of ideology as beliefs that hold societies together these beliefs may be inconsistent with reality between the verbal forms and consistent meaning. Corporatism includes several, juxtaposed political myths in the same sense that Sorel describes as a political myth. In this paper we would like to describe the strong mythical beliefs that construct corporatism.

The constituting myths of corporatism are

1. unity;
2. populism;
3. charismatic forms of political power;
4. politics as epic;
5. progress against capitalistic individualism;
6. autarky;
7. industrialization; national bourgeoisie and the iron law of oligarchies; and
8. the dialectics of friend-enemy.

## **The myth of unity.**

### **The hostility to constitutional limitations and legal structures.**

The idea of the autonomy of free will that is central to constitutional thought and to private law particularly in the law of contracts is denied in corporatism. In traditional authoritarian regimes it is the autonomy of the will of the leader or conductor that weakens legal structures, in more modern ways of corporatism it is the will of the centralized bureaucracy or of the governing structures that regulate economic activity that override constitutional limitations. There are two ways in which the constitutional rights; especially economic constitutional rights are limited, the idea the state represents the common good and should prevail over individual interests, and the use of emergency regulations.

Initially is the idea that the state represents the common good against the private good of individuals ruled by greed. Following this principle the more vilified conception of law in corporatism is that of legal security, as the symbol of all false values of liberalism, the premises of the

individual interest over the common interest which is the dogma of the satiated bourgeoisie. For example the strict compliance of contracts is considered a formalism that hides the abuse by the powerful over the weak. Courts therefore should revise contracts in order to establish a true equilibrium of benefits between the parties in accordance to the common good. In the organized community order is not based on the 'petrified formulae' of the bill of rights but in communal values structured by the state. These communal values constitute the "moral community" stated by Mussolini and the "organized community" by Peron.

At the same time the application of the doctrine of political and economic emergency allows the restrictions of constitutional rights for long periods of time.<sup>18</sup> The declaration of emergency by law or even by administrative decisions is generally given without precise foundations and is not and cannot be revised by legal courts. In this sense it's convenient to remember the phrase by Carl Schmitt '*sovereign is he who can declare the state of emergency.*'

Carl Schmitt in his book *Legality and Legitimacy*<sup>19</sup> establishes an opposition between legitimacy that characterizes the power as in direct contact with the realities of national life, and legality as a purely rationalistic notion that allows the government to keep the right to the exercise of power without any foundation or relation with the needs or aspirations of the national community. This conflict of the legitimacy of power against the legality of institutions is resolved in favor of power, specially the power of the President against Parliament or Judges. But this is not a pure defense of dictatorship specifically Cesarist or Bonapartist dictatorship, although Carl Schmitt wrote a book on dictatorship indicating there was a form of government with a long tradition.<sup>20</sup> Corporatism is not a pure justification of dictatorship, it shows a political and economic theory as its backing and in a way it is the main challenge to a capitalist society and to the rule of law or the *Rechtstaat*. Even if its origins were essentially authoritarian nowadays corporatism has taken new forms that are in some way compatible with

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<sup>18</sup> Hitler consolidation in power was performed by two relatively innocuous acts, the federal intervention of the State of Prussia and the Emergency powers act after the fire in the Reichstag.

<sup>19</sup> *Legality and Legitimacy*. Duke University Press. 2004. Original edition Duncker und Humblot 1932.

<sup>20</sup> *Die Diktatur: von den Anfängen des modernen Souveränitätsgedankens bis zum proletarischen Klassenkampf*. Duncker & Humblot, 1994. Written after the Russian Revolution and during the existence of the Weimar Constitution, Schmitt analyses the problem of the state of emergency and the power of the President of the Reich in declaring it. Dictatorship, Schmitt argues, is a necessary legal institution in constitutional law.

democratic theory although not in a pluralist society with an open economy and a constitutional organization.

Traditional constitutional definitions of Corporatism could be found in the Austrian constitution of 1934, its preamble says that the state is: *'based on the corporatist principle'*. Article 5 of the Portuguese Constitution of 1933 proclaims the Portuguese State: *'is a Unitarian and corporatist Republic based on the intervention of all the structural elements of the nation in the administration and in the making of laws.'* The idea of hierarchy is also present in the speeches of Gen Franco and Marshall Petain. They embrace a description of the destructive capacity of individualism and the virtues of a community founded on the natural groupings such as family, profession and motherland.

The description of society by different elites that fight for political power, is an enduring theme in corporatist thought both in the authoritarian versions as in new populist ones. For example, Marshall Petain in his message in October 11, 1940 described the new Form of government that was to be created: *'the new Regime will be a social hierarchy. It will not anymore be based on the false idea of natural equality between men, but the new true elites that will be reborn.'*

This association between extremely different governmental institutions, from traditional authoritarian regimes to modern populist versions is not an accidental coincidence they all include an open attack to pluralism and competition in the creation and search of wealth. They despise the innovation and creativity of the dynamic segments of society as an attack to the natural equilibrium. Innovation is not easily accepted unless it is inside the regulation of the state, although scientific research is promoted, especially by public not private funding, but the translation of the results of the research into new products by new enterprises is not admitted. Acknowledged companies can innovate but according the conditions established in the collective bargaining between the State, businesses through its natural representatives, that is organizations or corporations; and the workers through the trade unions.

## **The myth of populism.**

### **Corporatism in the mirror of populism.**

Populism could be defined as the relation between the people and its leader without constitutional constraints. In particular, Latin American populism started in the 1930s in an association of charismatic leaders, industrialization through imports substitution and a rebellion against the constitutional system. It is contemporary of the corporatist movements in Europe and they share several common points particularly in the field of economic regulation and the lack of confidence in market economics. If corporatism is less strong in modern-day Europe is on the country very active in letting American societies among other things through the mirror of populism. Populism is an anti-status quo discourse that simplifies the political space by symbolically dividing society between "the people" and the "other". The identity of both the 'people' and the 'other' is a political construction in a relation of antagonism and not any strict political term. Antagonism is a mode of identification in which the relation between a group described as "the people" is by the very process of naming that is of establishing who the enemies of the people are. And anti-status quo dimension is essential to populism giving its identity that requires the political defeat of the other which is deemed the oppressor which impedes the full presence. The other in a position to the people can be presented in political or economic terms as of combination of the oligarchy, the politicians and dominant group, imperialism and its Associates among others. Populism has its principal the notion of the supremacy of the will of the people, and the notion of the direct relationship between the people and the government. It requires the "constitution of popular identity" against both this published structure of power and the dominant ideas and values of society. Politics always consists of the creation of an "*us versus them.*" This antagonism is a mode of identification since the existence of an oppressor renders all the others to be the same.

Populist corporatism transforms representative democracies in delegative democracies, in such circumstances the political leader having been elected by the people considers that all political power was delegated to him or her by the people and rules without limits or respect to minorities. It also takes de form of "tutelary democracies" as a form of keeping control on increasingly pluralist societies.<sup>21</sup>

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<sup>21</sup> Howard Wiarda. Corporatism and Comparative politics. London 1997. P.21.

The dimension of the chain of unfulfilled demands implies the notion of politically mobilized actors advancing their demands against a political system that is unwilling to address them. The process that transforms these demands into an antagonistic relation with the established order that comes an aggregation of discontents that condenses in a new political identity. Populist practices operate within a social in which people have grievances, the sires, needs and wants that have not yet been constituted as political demands, people do not know how to name what they are lacking. The populist leader offer these benefits to them even some they had never dreamt about, this process is also called the "awakening". In spite that populism is always considered a bottom up process which includes the organization off the people to extract its demands from the established order, in reality there is always a paternalistic top-down nature in populism. The leader in this sense delivers what the audience already wants although it may not be clear to them what it is, it is the interpreter of the vague and imprecise wishes of the multitude. The metaphor of awakening suggests a dormant identity that is mobilized to constitute a new political identity and the introduction of issues that had not been previously part of the political agenda. In this way populism is not exclusively about a crisis of representation in which the people leave their whole identity and embrace a new one. But is also about the beginning of our representation of those who had been ignored and now are acknowledged as political actors. In all cases there is a constitution of a new political identity that becomes possible because of the breaking of the existing political order. These failures of representation appear in times of political and economic crisis as it is in these times that previously stable forms of representation become unsettled and there is a research for new forms of identification. It is as if crisis limits are rational responses and forms of irrationality appear in political discourse. In which cases these relations of representations become dislocated and the populist and corporatist ideal becomes our dominant mode of identification.

One is hyperinflation. The traditional case is the Republic of Weimar that brought Hitler to power. High inflation produced deep social dislocation and disrupts all individual relations that depend on monetary exchange, savings, the idea of the future, and even health and education. The economy and society loses his institutions starting by the currency, the tax system and following by the legal system. Of course hyperinflation needn't end in a corporatist regime as was the case in Argentina in 1990 1991, but in all cases destroys the institutional system and the respect of the Constitution. But in generality hyperinflation comes associated with populism and generally with corporatist solutions.

Another situation is the exhaustion of political traditions and the discrediting of political parties. Corruptions, malpractice, the control of public life by non-accountable and self-serving political elite makes that politicians become the "other" of the "people". This is what traditional Italian doctrine calls the "partitocrazia" a system in which political parties agree between themselves on policies for their own benefit, there is no real difference between majority and minority since all form part of the same political agreement. The Italian party system has often been described as a partitocrazia. The first element for defining partitocrazia is the presence of mass political parties, tightly controlled by their leadership. The partitocrazia is generally associated with the idea of 'sottogoverno', where parties are increasingly seen as contending not so much over the government of the polity, as over its sottogoverno where party leaders can influence day to day administrative and policy decisions without being a direct part of the government. This strong denunciation of political parties as no representing the interests or wishes of voters but the interests of their leaders was used in Venezuela and allowed the electoral victory of Hugo Chavez in 1998, similar political discourses were used to justify the taking of power in Italy in this was in 1922 and to lesser extent in Argentina in 2003.

### **Who are the people?**

Populism grows as a response to the political breakdown, but then it establishes a new political and economic system. Which mediates between the leaders and the led in a way different from the constitutional institutions. The "people" becomes a metaphysical concept, that incorporates this imaginary and group on form by the oppressed by the powerful and prevented by them from airing their grievances till they burst into history often in a brutal and uncontrolled way. This metaphysical concept of "people" should not be confused with real social upheavals and its participants, this expression is part of the political discourse which can have a relation of social phenomena but is not a description of them. It has a sense of internal homogeneity but also an outside that constitutes its reality: the other, this threatening group against which the "people's" identity is formed. The political battles form between "us and them", or in a more technical version date dialectics of friend – enemy. It is the "other" of the people that prevents the popular identity from achieving complete fullness. For that reason pluralism is impossible or inapplicable in corporatist and populist systems, because it it would mean the dissolution of the popular identity is and only lead to an atomistic society that would enable it all possible representation. The difference between the populist corporatism and the more bureaucratic forms is the presence of a leader. If the epitome of the bureaucratic corporatism is Salazar in Portugal, populist corporatism originated by



Vargas and Peron and existent in some countries in South America till this day. In Europe although less successful, populism is present in the right wing populism existent in Eastern Europe, France and Austria. Perhaps a clear example is Vladimir Putin in Russia. Populist corporatism succeeds when there is an important source of wealth generated from the exports of some commodity, it could be oil, gas, mining products, or even agricultural exports like soybeans.

## **The charismatic forms of power.**

### **The State, the common good and political power.**

The State represents the common good so individual interests are always submitted to the interest of the state, even in legal process where the state has privileges over ordinary citizens. Law is despised, the principles of the spontaneity of the new law combined with the principle of the total autonomy of the will of the leader weakens constitutional structures, specially ideas like separation of powers and checks and balances. The great jurist of corporatism to this day is Carl Schmitt, mainly by his defense of the concentration of presidential power vis-à-vis Parliamentary or congressional limitations.<sup>22</sup> At the same time the President is the custodian of the Constitution and not the legal courts, therefore any control of the presidential will should be made ex post by political limitations and not ex-ante by strictures establish in a constitutional document that could be interpreted by the courts of justice.<sup>23</sup> Corporatist governments or institutions apply Schmitt doctrines as the justification of the augmentation of the regulatory powers of the president. There is a necessary relation between the enhancement presidential power and corporatist economy, this relation evolved from the original authoritarianism to populism.

## **The myth of politics as epic,**

### **Epics, populism, youth and energy.**

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<sup>22</sup> For a contemporary application of Schmitt's ideas on presidential power and the Constitution see *The Executive Unbound: After the Madisonian Republic*. Eric A. Posner, Adrian Vermeule. Oxford University Press. 2011. P. 4 and 113 onwards.

<sup>23</sup> The classical defense of the power of the President as a custodian of the Constitution against judicial Review in the American tradition is Carl Schmitt *Der Hutter der Verfassung*, published in Germany in 1931 and widely translated. The title referring to the President means de Defender of the Constitution.

Corporatism reveres an ideal both of traditionalism and revolution. In the mid '30s it was a medieval ideal of a structured society through the 'natural' institutions of family, guild and paternalistic government, in newer times it praises indigenism and nationalism in Latin American countries, and in all cases a dogma both anti-capitalistic, anti-individualistic and describing of greed as a cause of evil in society. In spite of its traditionalism it intends to show that something new is created, the idea of government actively running the economy through regulation and not by socialist property. Corporatist structures look for the inclusion of the young. In all corporatist movements youth organizations are found. The Opera nazionale Balilla in Italy,<sup>24</sup> Salazar in Portugal<sup>25</sup> and Vargas in the Brazil of the "Estado Novo"<sup>26</sup> had youth organizations that included even schoolchildren in spite that many of policies applied were traditionalist and even reactionary. Peron spoke of the "new Argentina", his party had three branches the political, the trade unions and women, and the 'peronist' youth existed in the organizations like the "Union of Secondary Students" (U.E.S) and the "General University Confederation" (C.G.U.) which had much lesser importance.<sup>27</sup> The 'Juventud Peronista' had particular relevance later particularly from the late '60s to this day.<sup>28</sup> The epic element is shown in the use of battle

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<sup>24</sup> Opera Nazionale Balilla was the student and paramilitary organ National Fascist Party (PNF) of Italy. Mussolini's youths were called Balilla after Giovan Battista Perasso, "Balilla" young Genoese who had begun the uprising against the occupying Austrians in 1746. Balilla was a revolutionary image very seductive to the fascist dictatorship. "Fascist education is moral, physical, social and military. It is designed to create complete harmonious man, the fascist we want," indicated Mussolini. But to form the "character" was essential to raise the emotions of youth, no critical sense. To Mussolini, "childhood and adolescence (...) cannot be fed only of concepts, theories, abstract teachings. The truths that we teach should go first to his fantasies, his heart, and then his mind. "

<sup>25</sup> The *Estado Novo* ("New State"), or the Second Republic, was the corporatist authoritarian regime installed in Portugal in 1933. It was established following the army-led coup d'état of 28 May 1926 against the democratic but unstable First Republic. The *Estado Novo*, greatly inspired by conservative and authoritarian ideologies, was developed by António de Oliveira Salazar, ruler of Portugal from 1932 to 1968. The motto of the regime was "Deus, Pátria e Família"

<sup>26</sup> *Estado Novo* (New State) is the name of the political regime founded by Getúlio Vargas on November 10, 1937, which lasted until October 29, 1945. The 1937 Constitution had the nickname "Polish" designation used to show that the Brazilian Constitution of 1937 was largely influenced by the authoritarian constitution of Poland.

<sup>27</sup> Union de Estudiantes Secundarios and the Confederacion General Universitaria.

<sup>28</sup> Richard Gillespie. *Soldiers of Peron, Argentina's montoneros*. Oxford University Press, 1982. See especially chapters 1 and 2 on the evolution of the youth from the original catholic nationalism to the left, from the '50s. onward. The name "Montoneros" came from informal militias used by provincial strongmen and governors in the XIX century.

metaphors by Mussolini established “The battle of wheat, the battle of the lira, L’ Oro alla Patria”.<sup>29</sup>

There is also a cult of energy, the idea that the public intervention in the market activates and regenerates a drowsed economic system. Some ideas taken by corporatists have an improbable and non-fascist origin for example the “animal spirits” and “euthanasia of the rentier” that come from Keynes’ General Theory.

The regeneration of the national values is also an argument used by corporatism; defining the idea of law in the real nation, in the “fundamental decision” of the people and not in the ‘caricature’ of the assemblies. The need of an elite which knows the public interest and the national spirit, associated with the ‘national bourgeoisie’, excluding intermediate organisms or legal fictions that could interpose between the leader and the people or the nation. Although cases of bureaucratic corporatism exist they were not common in the origins of corporatism, the main example is Salazar in Portugal, the very unusual case of an economist being dictator. Once the system is established a strong bureaucracy is created and used to apply corporatist regulations in order to prevent the developing of an open economy. At the same time the official party acts as the political structure that would apply the leader’s ideas in society. In some cases the official parties use directly the names of the leaders, “Peronismo” in Argentina, “Getulismo” in Brazil.<sup>30</sup>

Corporatist ideology changes the elementary concepts of an open democratic society, the citizen is changed into a ‘worker’ or ‘producer’, and the word of reference to people of similar ideas is ‘companion’ in Spanish ‘compañero’. Society is transformed into a hierarchical group following the unchanging laws of economic life; there is no freedom of work or freedom of association in trade unions. The state is confused with a political party, the party takes the colors of the national flag as is the case pale blue and white with a rising sun of Peron in Argentina, Vargas in Brazil uses the green as a party color, in Mexico the PRI takes both the name of the Mexican revolution and uses the national colors as the party’s.

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<sup>29</sup> Oro alla Patria was a manifestation of national character, organized by the fascist regime, which took place in Italy December 18, 1935, during which the Italians were called to donate to donate their wedding rings in order to support the costs of war and cope with the difficulties of sanctions. Iron wedding rings were used instead.

<sup>30</sup> Robert M. Levine. *Father of the Poor?: Vargas and his Era*. Cambridge University Press. 1998. P. 81.

## **The myth of progress against capitalist individualism.**

### **The evolution from the reactionary thought to modern neocorporatism.**

Corporatism is the distant heir of a long tradition of political thought which originated as an attack to the American and French revolutions, and based in the impossibility of rationalizing political power. These enemies of the revolutions, that considered impossible to submit governments to an abstract logic since the equilibrium of societies and its prosperity could only be found in the respect of traditions and in the safeguards of their historical originality, were called *Reactionaries*. The elegant pages of Joseph de Maistre<sup>31</sup> and in the dogmatic ones of the Viscount de Bonald<sup>32</sup> and Juan Donoso Cortes<sup>33</sup>, would influence nationalist thought through the XX Century both in Europe through Gaetano Mosca<sup>34</sup>, Charles Maurras<sup>35</sup> and a number of nationalist writers particularly active from the '30s to the '60s in Latin America.<sup>36</sup> James

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<sup>31</sup> See The Works of Joseph de Maistre. New York 1965. Particularly the Study on Sovereignty p. 93 and The Saint Petersburg Diaries. P. 183. E.M. Cioran. Joseph de Maistre. An Essay on reactionary thought. In Anathemas and Admirations. Quartet Books 1992, p. 22.

<sup>32</sup> Louis Gabriel Ambroise, Vicomte de Bonald. Theorie du pouvoir politique et religieux 3 vols., 1796.

<sup>33</sup> Juan Donoso Cortés, marqués de Valdegamas. Lecciones de derecho politico (1837). In his Political Theology (1922), Carl Schmitt devotes large portions of his final chapter ("On the Counterrevolutionary Philosophy of the State") to Donoso Cortés, praising him for recognizing the importance of the decision and of the concept of sovereignty. He also influenced Georges Sorel.

<sup>34</sup> His book Elementi di scienza politica published in 1896, was translated as The Ruling Class, he is credited as the developer of the theory of elites. He influenced american authors as Seymour Martin Lipset, C. Wright Mills.

<sup>35</sup> See Charles Maurras. Romantisme et Revolution. Realités. In Oeuvres Capitales. Essais Politiques. Flammarion. Paris 1973.

<sup>36</sup> For the traditional nationalist thought see Marysa Navarro Gerassi. Argentine Nationalism of the Right: The History of an Ideological Development. Columbia University Press. 1964. In the Spanish version Los Nacionalistas. Buenos Aires 1968, indicates the year 1964 as the date of the association between nationalists and Marxist militants. See also David Rock. Authoritarian Argentina: the Nationalist Movement. Its History and its Impact. University of California Press. 1993.

Burnham<sup>37</sup>, an American writer very active in the in the middle of XX th. Century had also readers in Latin America.

The answer to the 'social question' made by Fascism was the theory of the corporations and its movement was corporatism, 'corporativismo'. The XXth century was hailed as the century of corporatism and was offered as a third path between capitalism and socialism and in such a way it was very attractive to trade unionists and labor leaders on the one side but also to both businessmen and the Catholic Church which were opposed to socialism. The corporations indicated a rejection of class warfare and the reunion of all 'productive activities' in a sole organization. Both the fear by trade unionists of Communist assailment of their organizations and also the evolution of Christian thinkers worried by social questions and willing to build a new Christian social order, accepted the new corporations. This was particularly fertile in Latin American nations and in Spain with the development theory of national syndicalism 'nacionalsindicalismo'. Corporatism social order required one trade union by activity and all these trade unions into one hierarchical central organization. As a mirror one centralized business association by activity was established and one 'economic confederation' which centralizes all business activities in the country. This structure is associated with of the intervention of the state in the economy following the economic regulation during World War I but popular also in nations that did not participate in the struggle. This paternal view of the state started probably was Bismarck, which established the National system of economy proposed originally by List.

Although it had a romantic mediaeval presentation with reference to mediaeval corporations in reality it was a completely modern institution structured to organize a trade union movement against socialism, industrialize the nation through a closed economy, and justify authoritarianism. The great moment of the social policy of corporatism is the *Carta del Lavoro* of 1927, which was a model of the legislation on the workers' labor contracts to governments is different as Franco in Spain, Petain in France, Getulio Vargas in Brazil and Peron in Argentina. The model is still applicable in South America. Mussolini defined his 'Carta' as an 'original provision to the evolution of humanity'. Strikes and lock out are symmetrically prohibited as is the case in the Argentine Constitution of 1949, where the right to strike was not included in the long description of workers' rights.

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<sup>37</sup> James Burnham started being a Trotskyite and ended as probably the first neo conservative. His books widely translated and read in Latin America are: *The Managerial Revolution: What is Happening in the World*. New York: John Day Co., 1941. *The Machiavellians: Defenders of Freedom* New York: John Day Co., 1943, where he analyses the work of Gaetano Mosca, Sorel, Michels and Pareto.

Surprisingly enough these nationalistic tones would have a leftist interpretation from the late '60s onward in South America, through an hybrid discourse that would unite nationalism and populism, using Marxist categories and indigenistic movements. Although applied to different circumstances the corporatist myths survive. It exalts nationalism, the nobility of family, the dignity of work or the circumstances that contained individual but eliminate individualism, inspiring a sentimental solidarity that unite all the members of the community. This 'moralising effect' of corporatism has sometimes brought the sympathy and influence of the Catholic Church especially in the Catholic nations of Latin America. Some sectors of Catholic nationalists evolved into a leftist version from the 1950's onwards. Extreme examples of this could be found in the works of Ernesto Cardenal about Cuba<sup>38</sup>, and in the theology of liberation in the case of Leonardo Boff<sup>39</sup>. Apart from these extreme cases, more moderate versions that include the attack on individualism, the need of social equality, and the virtues of poverty could be widely found in political and religious thought in South America.<sup>40</sup>

In the corporatist organization to be a citizen is not the main form of representation of an individual, but it his or her activity in the social cells such as family and professional activity. It is at the interior of these cells then the individual takes its true significance, it is there he finds his role in society and consequently his rights. Therefore the organization of state should be based in those structures and establish a hierarchical organization. So a small company should enter the chamber of its trade, and then be part of a federation of similar business organizations and finally a confederation of all business activities. Professions should be organized in colleges or orders, and then federations of each profession. Each worker should be a member of a single trade union that includes all of those who work in the same activity, then Federation that groups the trade unions by branch of industry and finally a general confederation of Labor. In what was to be Peron's main discourse in political theory, his speech on the 'organized community' in the International Congress of philosophy in 1949 rejected individualism and

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<sup>38</sup> Ernesto Cardenal. In Cuba. New Directions Publishing, 1974, also Fidel Castro: cristianismo y revolución (1974). Cardenal a priest from Nicaragua he wrote this book in defense of the Cuban revolution. Pope John Paul II publicly chastised him in 1983.

<sup>39</sup> Boff is a Brazilian Franciscan Priest and professor of Theology. See Leonardo Boff . Introducing liberation theology. Maryknoll, N.Y. : Orbis Books. 1987.

<sup>40</sup> For example the cover of the respected Catholic review *Criterio* stated in the Christmas number of 1976 'to learn to be poor' meant as a virtue.

proposed the creation of a new hierarchy.<sup>41</sup> He attacked individualism: *The ultimate meaning of ethics is correction of egoism. The platonic idea that man and the community to which he belongs are in irresistibly mutual integration seems to us fundamental.*” And he proposed a third way between individualistic capitalism and Marxist collectivism.<sup>42</sup> On top of this hierarchy is the conductor, the leader.<sup>43</sup> In corporatism the individual wants revenge over that mediocrity of his condition and it is a medium to punish those who succeed in open competition. Conflict between workers and business continue but the national businessman is accepted as a national alternative to foreign companies and products. The corporatist theory of an ‘organized community’ is in obvious opposition to the spontaneous order. It is the case in Latin America where the cases of Vargas in Brazil and Peron in Argentina established the corporatist economic structure with consequences that survive to the present.

Individualism is condemned as a form of moral degradation and as an agent of political instability, personal freedoms only accepted as part of collective rights. Every person must acknowledge his place in society and not envisage personal progress over the rest of his or her equals. In Peron’s words: *7. No Peronist should feel more than what he is, nor less than what he should be. When a Peronist begins to feel more than what he is, starts becoming an oligarch.*<sup>44</sup> Dedication till death to the leader, the loyalty, is a virtue since he or she has the sagacity, the selflessness and the patriotism that legitimated the exercise of power. For example, the main political festivity in argentine Peronism is the ‘day of the loyalty’.<sup>45</sup>

Corporatism inspires patriotism, national pride, the respect of national traditions and the reject to foreign ideology. It created a dialectic theory of national historic, for respect of leaders that fought against foreign intervention, as opposed to politicians who accepted and negotiated with foreign powers. The need of economic independence, throws against the domination of capital and foreign enterprises but also against the spiritual colonization of the intellectual elite. Imposes a dialectic struggle

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<sup>41</sup> La comunidad organizada. Conferencia magistral del Excmo. Señor Presidente de la Nación, general Juan D. Perón, al cierre del Primer Congreso Nacional de Filosofía. Mendoza, 9 de abril de 1949. Instituto nacional “Juan Domingo Perón” De estudios e Investigaciones Históricas, sociales y Políticas Buenos Aires. 2006

<sup>42</sup> *El sentido último de la ética consiste en la corrección del egoísmo*

<sup>43</sup> Although corporatism can flourish without a formal leader, it could be a bureaucratic system that can survive the original creator. The possibility is rare but the case of Portugal with Oliveira Salazar is an example.

<sup>44</sup> The seventh of the Twenty Peronist Truths says: *7. Ningún Peronista debe sentirse mas de lo que es, ni menos de lo que debe ser. Cuando un Peronista comienza a sentirse mas de lo que es, empieza a convertirse en oligarca.*

<sup>45</sup> Día de la Lealtad, October 17<sup>th</sup>. , after the a popular movement in 1945.

of “imperialism versus nation”, where certain social classes represent the ‘nation’ opposing imperialism and their local allies.<sup>46</sup>

## **The myth of autarky, from List to Keynes.**

### **A distant mirror: Dictator Francia a hero of Carlyle.**

The oldest reference of South American corporatism is a Paraguayan dictator José Gaspar Rodríguez de Francia, whose life was written by Carlyle, and published in the 4<sup>th</sup> volume of his *Critical and Miscellaneous Essays* published in 1840.<sup>47</sup> Apart from being brutal tyrant who ruled his country with an iron fist for 30 years he closed its frontiers to all external influence including all type of imports. He was a strict applicant of autarky and his influence lasted till the War of Paraguay or War of the Triple Alliance which lasted from 1865 to 1872 long after his death in 1840. Carlyle considered him one of his models of hero in the same standing as Cromwell. Luis María Drago a Foreign Minister and creator of the Drago doctrine translated Carlyle’s essay into Spanish, it was published in Buenos Aires in 1905.<sup>48</sup> In Argentine nationalist authors Paraguay was considered as a distant originator of the theory of substitution of imports and successfully created some military industrial organization.<sup>49</sup>

### **List: The national System of Economy.**

In “The National System of Political Economy”, Friedrich List addresses the differences between the political economy of a nation and a “cosmopolitical economy” of the earth. List rejects the earth-wide approach as impractical. While agreeing that in a confederation of all nations, the principle of international free trade would be justified, List points out that such a confederation does not yet exist. Given contemporary conditions in the world, he fears that free trade in manufactured products would lead to “a universal subjection of the less

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<sup>46</sup> John William Cooke. *Apuntes para la militancia*, Buenos Aires, Schapire Editor, 1972, p. 27. Also Richard Gillespie, J.W. Cooke. *El peronismo alternativo*, Buenos Aires. Cántaro, 1989, p 32.

<sup>47</sup> Carlyle *Critical and Miscellaneous Essays*. Collected and republished by Thomas Carlyle. Vol IV 1857. Dr. Francia p. 249.

<sup>48</sup> Tomás Carlyle. *El doctor Francia*, traducción del inglés por Luis María Drago, Buenos Aires 1905.

<sup>49</sup> For example Jose Maria Rosa who wrote eight volumes of Argentine History finalized in 1980 and is an intellectual transition from the traditional Catholic nationalism to populist corporatism.



advanced nations to the supremacy of the predominant manufacturing, commercial, and naval power” (i.e., Great Britain). Thus, List condones the use of protection to develop the national economy until all nations reach the same stage of industrial development. Then, a union of nations would be positioned to promote “true freedom of trade,” he theorizes.

List's denunciation of the British politicians and economists of his day (the latter being intellectual forebears of the neoclassical school) is worth quoting at greater length:

*“It is a very common clever device that when anyone has attained the summit of greatness, he kicks away the ladder by which he has climbed up, in order to deprive others of the means of climbing up after him. In this lies the secret of the cosmopolitical doctrine of Adam Smith, and of the cosmopolitical tendencies of his great contemporary William Pitt, and of all his successors in the British Government administrations. Any nation, which by means of protective duties and restrictions on navigation has raised her manufacturing power and her navigation to such a degree of development that no other nation can sustain free competition with her, can do nothing wiser than to throw away these ladders of her greatness, to preach to other nations the benefits of free trade, and to declare in penitent tones that she has hitherto wandered in the paths of error, and has now for the first time succeeded in discovering the truth.”<sup>50</sup>*

As Friedrich List argued, “the principle sell manufactured goods, buy raw materials has been the substitute for a theory [of growth] in England for centuries” (1841, Preface). List was a direct influence on the “Dependency Theory” sustained originally by Raul Prebisch and developed by Fernando Henrique Cardoso and Enzo Faletto.<sup>51</sup> “Dependency theorists” argue that different “situations of dependency” exist and that the exact nature of dependency depends on the nature of alliances between governmental elites and foreign capitalists and other prominent economic and political groups in the society. Although it has wider scope it emanates from the economic theories by Friedrich List. At its core, this theory submits that the world capitalist economy is a resultant of the domination by a few countries (“The Center”) over most

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<sup>50</sup> FRIEDRICH LIST, “The National System of Political Economy” 295-296 (Sampson Lloyd, London, Longmans, Green, and Company 1841. See also HA-JOON CHANG, KICKING AWAY THE LADDER: DEVELOPMENT STRATEGY IN HISTORICAL PERSPECTIVE pages 19-51, 59-66. 2002, also see W.O. Henderson, Friedrich List, Economist and Visionary, 1789-1846. 1983.

<sup>51</sup> Fernando Henrique Cardoso, Enzo Faletto. Dependencia y desarrollo en América Latina: ensayo de interpretación sociológica. Siglo XXI Ed. Buenos Aires. 1969. English translation. Dependency and Development in Latin América. Univestity of California Press. 1979. It must be said that when President of Brazil Fernando Henrique Cardoso, acted in a much different manner that what his book promoted.

of Africa, Asia and Latin America (“The Periphery”). They contend that the “Center” has dominated the “Periphery” by employing various tactics and strategies including the formulation of an international division of labor (starting from the 16th century) in which countries of the “Periphery” were “condemned to agriculture.” Thus, according to this line of reasoning, the “Periphery” was prevented from attaining industrialization and remained in the capacity of supplier of primary products. *‘The result of general free trade would not be a universal republic, but, on the contrary, a universal subjection of the less advanced nations to the supremacy of the predominant manufacturing, commercial, and naval power . . . .’ Globalism is thus the product of unilateral parochialism.*”<sup>52</sup>

### **Keynes through Prebisch: the closed economy.**

The great theorist of economic autarky in Latin America is Raul Prebisch, although his own intellectual work had a paramount influence in the continent for many years, he also played an important role as the introductory of Keynes. The influence of Keynes in Latin America was due to his book Introduction to Keynes. Prebisch did appreciate the importance of Keynes’ theoretical framework but he was not convinced that it was adequate for what he called ‘the periphery’. In 1947 he published his “Introducción a Keynes”<sup>53</sup>, the small book was an instant and lasting success because it was the first introduction of Keynes in Spanish. This introductory work led local economists and politicians to read the General Theory<sup>54</sup> and many were particularly attracted to the last chapter of Keynes’ General Theory, *Final notes about the Social Philosophy* which is easy to read and has a clear normative instruction on economic policy. This chapter 24 had a vast influence in Prebisch and was at the origin of his theory of ‘peripheral capitalism’, especially in both the substitution of imports<sup>55</sup> and in the ‘euthanasia of the rentier’.<sup>56</sup>It would be unfair to call Prebisch authoritarian since he was a victim

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<sup>52</sup> Eisuke Suzuki, The Fallacy of Globalism and the Protection of National Economies, 26 Yale J. Int’l L. 319, 321-22 (2001)

<sup>53</sup> Raul Prebisch. *Introducción a Keynes*. Fondo de Cultura Económica. Mexico. 1948. See also Edgar J. Dosman, *The life and Times of Raul Prebisch*. McGill-Queen’s University Press. 2008.

<sup>54</sup> *Teoría General de la Ocupación, el Interés y el Dinero*, Fondo de Cultura Económica, Mexico y Buenos Aires, 1943.

<sup>55</sup> Probably the most quoted phrase written by Keynes is *But let goods be homespun whenever it is reasonably and conveniently possible, and, above all, let finance be primarily national.* in John Maynard Keynes, "National Self-Sufficiency," *The Yale Review*, Vol. 22, no. 4 (June 1933), pp. 755-769.

<sup>56</sup> Paul Krugman In his Introduction by to *The General Theory of Employment, Interest, and Money*, by John Maynard Keynes says: *Book VI, at the opposite end of The General Theory, really is a kind of dessert course. Keynes, the hard work of creating macroeconomics as we know it behind him, kicks up his heels and has a little fun. In particular, the final two chapters of The General Theory, though full of interesting ideas, have an impish quality. Keynes tells us that the famous victory of free trade over*

of political persecution and expelled from his country by Peron in 1948.<sup>57</sup> Nevertheless his doctrine on the substitution of imports and the declining terms of trade in the international system were central in the justification of autarky in Latin America.

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*protectionism may have been won on false pretenses – that the mercantilists had a point. He tells us that the “euthanasia of the rentier” [376] may be imminent, because thrift no longer serves a social function. One cannot really blame third world politicians of being of being mercantilists if protectionism is sustained by both a historic economist like Keynes and a Nobel laureate like Krugman.*

<sup>57</sup> Edgar Dosman. *The life and times of Raul Prebisch*. McGill-Queen’s. Montreal. 2008. P. 228.

## **The myth of industrialization, the creation of a national bourgeoisie and the iron law of oligarchies.**

In the new versions of corporatism and particularly in developing nations the idea of elites is established especially in the building of a national bourgeoisie that will allow the growth of an industrialized and independent economy. The rents obtained by industrial business and the subsequent inequalities are accepted as a condition to create the national bourgeoisie that will develop enterprises opposed to foreign rivals. The national bourgeoisie was defined within dependent countries is the sector or the bourgeoisie that owns the industrial means of production whose interests are antagonistic to foreign capital. In a nutshell, corporatist economic theory requires the existence of a true National Industry with a strong domestic market and a government in control of the economy.<sup>58</sup>

### **Pareto's Theory of the circulation of elites.**

In a book widely read in Latin America, American writer James Burnham associates the thought of Gaetano Mosca, Georges Sorel, Robert Michels and Vilfredo Pareto, as all being disciples of Machiavelli. Pareto describes the theory of elites and that political changed is basically our circulation of elites; Michels described the iron law of oligarchies, finally Sorel explained the role of myths in providing a unifying force for political action, particularly referring to a general strike. The political struggle invariably results in a minority coming to power monopolizing as much as possible political, economic and military power excluding and oppressing the rest. The rule of elites in human societies is inevitable and therefore an oligarchy is the only possible distribution of power through the iron law. Although one elite may lose its supremacy sooner or later another minority takes its place through what Pareto calls the circulation of elites, thus establishing an unending rise and fall of ruling minorities.

In his *'Traite de Sociologie Generale'* Pareto describes the circulation of elites, whereby new elites *"rise up from the lower strata of society, mount up to the higher strata, flourish there, and then fall into decadence,"* as

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<sup>58</sup> Sergio de la Peña. *Burguesía nacional y reproducción capitalista*. Revista Mexicana de Sociología. Vol. 38, No. 1 (Jan. - Mar., 1976), pp. 167-170

*“one of the motive forces of history”* to which due weight must be given “if we are to understand great social movements.” From a leftist indeed Marxist perspective, T. B. Bottomore emphasizes Pareto's and Mosca's concept of the elite:

*In every society there is, and must be, a minority which rules over the rest of society; this minority--the “political class” or “governing elite”, [is] composed of those who, occupy the posts of political command and, more vaguely, those who can directly influence political decisions....*

These conceptions strongly influenced the traditional corporatist thought because they described and justified the failure of parliamentarism and democracy. Nevertheless the ‘iron law’ is also associated to the new forms of populist corporatism. Because it describes modern democracy as a form of disguised oligarchy not fundamentally different from earlier kinds of elitism and therefore a justification of a political system created to oppress the ‘people’ and therefore could be replaced by a different and populist elite.

In this view elites are an inherent part of social and political organization, elites do not hold power simply through force and intimidation but through doctrines that rationalize or justify their control into logical, moral or even theological terms. Their purpose is not to express or explain reality in a way that can be proved or disproved but to offer rationality for the existence and power of the dominant elite. Elites must always invent their own validating myth. Institutions inconsistent with the perceived interest of an elite are abolished or changed while those that are consistent with its perceived interest are created or promoted. Politics is seen in terms of struggle for power, and the struggle for power is central to the nature of new elites or to the consolidating of existing ones when they are challenged. This struggle creates a form of political determinism, it is the will of the people or the wheels of history that impose the rule of the existing elite.<sup>59</sup>

Pareto developed a psychology of elites that is at the root of the theory of the circulation of elites. But he distinguished between derivations or ideologies that we can call myths and residues that are constant as universal psychological instincts or impulses. Among the six classes of residues of the most important were the class I, the instinct for combinations and class II association with other systems.

Class I residues include behavioral patterns such as philosophical development and financial manipulation. This type of class are elites that exhibit intellectuals and administrators and would try to preserve they'll try to preserve their own power through discourse and administrative

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<sup>59</sup> The term “wheels of history” (*ruedas de la historia*) was used by Fidel Castro to define the triumph of the revolution.

behavior. Class II residues tend to sustain and perpetrate existent combinations and are sociologically conservative. They would use groups like the family, church or nation to consolidate their power. These differences indicate also a variation between the conservative elites of class II represent the more traditional forms of corporatism against the more intellectual and discourse driven versions nearer populist corporatism. In the second group could include leadership oriented corporatism and the name of Mussolini comes easily to the mind, but also the bureaucratic way of corporatism which could also mean a very strong leadership and brutal repression, and the name of Salazar could be considered a good example. In the first group where the leads are more driven to discourse the corporatist populist regimes could be included. First is the case of Vargas in Brazil and Peron in Argentina, but even more connected to a more sophisticated political discourse are the new forms of populist corporatism both in South America and Europe in more recent times.

The main criticism to the theory of elites in Pareto is that elites prevent innovation and dynamism in the economy. Since we cannot imagine what new commercial products would appear and therefore cannot plan their appearance, the existence of elites is necessarily conservative and a source of economic stagnation. The maintenance of present day elites is contrary to the spontaneous order, since the mere existence of elites supposes that innovations can only occur in their midst and that is of course a strong limitation to economic dynamism. The existence of the new elites that would appear out of the spontaneous order would be limited and fought by the existing elites. And this is a problem both to the conservative theory of elites in Mosca and Pareto, as to the more recent theory of populist elites.

James Burnham proposed the managerial class as the rising elite. This new leading group would include the production executives and organizers of the new industrial processes, the officials trained in the manipulation of the great labor organizations, and administrators, bureau chiefs and commissars developed in the executive branch of the unlimited modern state machines.<sup>60</sup> This managerial elite composed by the leaders of great organizations leaves little place for innovation and dynamism.

## **The iron law of oligarchy**

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<sup>60</sup> James Burnham. *The Machiavellians*. P. 232.

Giving a further twist to Pareto's idea of the circulation of elites Robert Michels in his 1911 book, *Political Parties* indicates that rule by an elite, or oligarchy is inevitable within any organization as part of the "tactical and technical necessities" of organization, this inevitability expresses an "iron law". Michels particularly addressed the application of this law to representative democracy, and stated: "*It is organization which gives birth to the dominion of the elected over the electors, of the mandataries over the mandators, of the delegates over the delegators. Who says organization, says oligarchy.*" Michels indicated that the avowed objective of representative democracy of eliminating rule by elites was impossible, that in reality representative democracy is a disguise of legitimacy to the rule of a particular elite, but the rule by oligarchic elites is unavoidable.

Therefore there is an inherent tendency of all complex organizations, including radical or socialist political parties and labor unions, to develop a ruling group of leaders with their own personal interests rather than what is publicly announced. These leaders desire leadership and its status and rewards more than any commitment to goals. Inevitably, their influence was conservative, seeking to preserve and enhance the organization and not to endanger it by any radical action. Michels based his argument on the observation of the behavior of the leaders of the German Social Democratic Party in the times of Imperial Germany. The professional full-time leadership required in the management of the most important opposition party with vast representation throughout the German Empire, with many working class members, required a ruling oligarchy even in a popular party. In theory the leaders of the organization were subject to control by the mass membership, through delegate conferences and membership voting, but, in reality, the leaders were in the dominant position. They possessed the experience and expertise in running the organization, they came to control the means of communication within the organization and they monopolized the public status of representing the organization. It became difficult for the mass membership to provide any effective counterweight to this professional, entrenched, leadership. Michels also argued that these inherent organizational tendencies were strengthened by a mass psychology of leadership dependency, he felt that people had a basic psychological need to be led.

*“society cannot exist without a ... dominant... or... political class, and that the ruling class, while its elements are subject to frequent partial renewal, nevertheless constitutes the only factor of sufficiently durable efficacy in the history of human development. [T]he government, or, ... the state, cannot be anything other than the organization of a minority. It is the aim of this minority to impose upon the rest of society a “legal order” which is the outcome of the exigencies of dominion and of the exploitation of the mass ... Even*

*when the discontent of the masses culminates in a successful attempt to deprive the bourgeoisie of power, this is ... effected only in appearance; always and necessarily there springs from the masses a new organized minority which raises itself to the rank of a governing class...*"<sup>61</sup>

## **The myth of politics as the dialectics of friend-enemy.**

There is a paradox in the corporatist theory of the state, first it proposes the idea that the state is magnified to the point that it represents the common good and therefore should not be subject to constitutional limitations. At the same time the state itself is limited by the political process, without any institutions outside the mere exercise of power by the government, only the struggle between friends and enemies. The power of the state is not limited but it is also without the justification of the constitutional institutions. This reduction of the state to distinction between those who govern and those who obey is outside the limits of constitutional government. Carl Schmitt established that the theory of government is the difference between command and obedience, a few who command and many who obey. Politics is understood as the 'science of command', and '*command and obedience are the essence of politics, we can't protest against the inevitable*'.<sup>62</sup> "*Only one person or one will is given the power to command.*" It is impossible for a law or a principle to command, and also for a number or persons, especially for a great number of persons. "*Without obedience the order is pure desire, to obey is to receive an order and execute it*".<sup>63</sup>

In this corporatist political theory political debate is the opposition between friend and enemy. This dialectical relation between friend and enemy is the 'essence of politics' in corporatist political theory.<sup>64</sup>

For Carl Schmitt the act of distinguishing between friends and enemies was the essence of the political.<sup>65</sup> He recognized that collectivities have

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<sup>61</sup> Robert Michels. *Political Parties: A Sociological Study of the Oligarchical Tendencies of Modern Democracy*. Hearst's International Library Company, 1915. pp. 353-354.

<sup>62</sup> Julien Freund. *L'Essence du politique*. Paris. Sirey. 1981. P 104.

<sup>63</sup> Julien Freund. *L'Essence du politique*. Id. P. 155.

<sup>64</sup> Julien Freund. *L'Essence du politique*. Paris. Sirey. 1981. Chap. III, Le Commandement et l'obéissance, p. 101. Chap. VIII, La dialectique de l'ami et de l'ennemi: la lutte. P. 538.

<sup>65</sup> C. Schmitt, *The Concept of the Political* (trans. G. Schwab, 1996).



external friends ('allies') and enemies. The ally is important because he can provide not merely material support but also recognition and legitimacy. The enemy is the 'other', which a collectivity 'potentially' fights. The word 'potentially' indicates that for Schmitt the political does not reside in armed struggle itself - let alone in glorifying war - but 'in the mode of behavior which is determined by this possibility', by the ever-looming possibility of armed conflict.

While we delimit the political in a way indebted to Schmitt, we also deviate from his understanding of politics in an important respect. For Schmitt, the friend-enemy distinction constitutes the essence of the political - it signifies what politics is. Our reading of the political is less essentialist: there is more to politics than friend-enemy distinctions, for example the organization of the polity or the art of bringing a political community together. The nature of the friend/enemy distinction Jürgen Habermas considers it an instrumental tool for politics rather than a theory, a strategic position that resonates all too well with Schmitt's Nazi sympathies and opportunistic political adventures.

Carl Schmitt argued that the fundamental distinction on which political life rests is that of friend and enemy. The enemy is "the other, the stranger; and it is sufficient for his nature that he is, in a specially intense way, existentially something different and alien, so that in the extreme case, conflicts with him are possible." As for the friend side of the equation, the "us" in a democratic polity, Schmitt argued that homogeneity was crucial and necessitated--"if the need arises--elimination or eradication of heterogeneity."

### **The "anti" character of corporatism.**

The ideology of corporatism is an anti movement. It defines itself that the things against which it stands. Anti-individualistic, anti greed, anti-bourgeois, antidemocratic authoritarianism in combined with strong populist appeal. If traditionally fascism was viewed as strictly anti communist, the latter versions are not generally anti- Marxist, on the contrary it uses Marxist discourse to justify some policies, is not anti-proletarian and has a certain ambivalence vis-à-vis religion. The new forms of corporatism are not the consequence of a war, be it a defeat in the international one or a civil conflict. The epic of corporatism includes the struggle for industrialization, national development, and the need to defeat individual greed in order to build a more equal society. The anti-positions of corporatism on their own are not sufficient to define the phenomenon, they are certainly decisive in its capacity to attract a following but they probably would not be sufficient to its evolution if they had not been combined with other characteristics.

If fascism was anti-rationalist and anti-intellectual, the new forms of corporatism can have an intellectual justification through the new forms of the justification of emotion, epics, struggle against the common enemy. It continues the idea of the foundation of a new a right age but with some differences, if in traditional forms of corporatism the state was to go back to some form of medieval times with honor, chivalry, respect of religion in military courage; this new age is more associated with the struggle of the productive classes including workers and "national businessmen" against and to eliminate the parasites of society. It is a fight between the real economy against the speculative economy.

### **The opposition to parliaments and political parties.**

Traditionally corporatism came in opposition to parliamentarism and political parties against the oligarchy and professional politicians who controlled those institutions. The idea that political parties did not represent the "people" but were controlled by corrupt local chieftains which manipulated elections which produced it that is heavily dependent on the government that had made possible their election. The first corporatist writers like Pareto or Gaetano Mosca came from societies that had very underdeveloped political systems. It came to Latin America were the influence of political leaders, including local political leaders on Parliament or Congress remains to this day even after great social changes. For that reason the criticism of Carl Schmitt to parliamentary and is still read and followed in South America. Corporatism is an ideology of concertation and agreement between powerful political, business and social sectors and stands against competition, both economic competition and political competition in a constitutional system. The terms used in corporatism are "struggle" between the "people" and the "rest". Inside the field of the "people" there is this agreement, organization, following of a leader, outside this field is the "enemy", imperialism and its "neoliberal" followers. There are of course psychological characteristics before the appeal of corporatism special in particular social groups like students, workers, intellectuals, which tend to rationalize the lack of appeal of capitalism in these societies. In many cases it is more a matter of style, of rhetoric, of action, than of ideas. An example is the defense of autarky, a defense by sectors that are damaged by it. A type of defense which is in a way metaphysic, associated with independence, industrialization, growth, social equality; in spite that he will benefit a fairly small group of industrial rent seekers.

Corporatism offers a new style in politics, new symbols, new rhetoric, new forms of action, new patterns of social relations, many of them taking from Marxist intellectuals that are left with our political leadership after the demise of the Soviet Union and other socialist countries. This

new mixture of nationalism, populism, epic and youth is a fertile amalgam that tends to the new forms of corporatism. It has a strong romantic complement, an appeal to emotions and sentiments, to the love of adventure and heroism, the belief in action rather than words, elements not alien to the romantic nationalist movement of the XIXth. century in Europe and of the middle XXth. century in Latin America, together with anarchism, that has attracted students and the Bohemian intelligentsia. It excludes personal development, considered individualistic and the creation of wealth, considered greed.

There is a misunderstanding surrounding the perception of corporatism whether it is right wing or left wing movement that sometimes creates sympathetic views in academic and political circles in developed societies that ignore the deleterious consequences. Corporatism is an economic policy more active in less developing societies, although its influence is felt throughout. It proposes an economy of economic controls which is associated with left-wing governments. At the same time the denial of parliamentarism, freedom of expression, political pluralism and the promotion of rent seeking is a characteristic of right wing thought. Although the matter would seem irrelevant and in some point of pure intellectual fantasy, a leftist image is very useful to attract popular sectors in certain societies. That attraction would be impossible if corporatism was correctly perceived as a conservative movement that favors and gives privileges to businessmen. Corporatism economic policy is associated with national aspirations thwarted by the failures in industrialization and periodic economic and financial crises. The modernization of the economy, which is the avowed objective of corporatism, is an intensely nationalistic one in which goals as self-sufficiency and industrialization receive the highest economic priority. For corporatism the model worker is an industrial worker and the favorite businessmen is that who creates factory intensive in the use of manpower. And it favors the existence of protected oligopolies that would create employment within the formalities of the legal labor contract. One of the characteristics of corporatism is this idea of the stability of employment and that the separation of a worker from an enterprise should be compensated by the owner. This was the principal of the Italian *Carta de Lavoro* and continues as the ideal form of labor contract to this day.

## **The Exhaustion and revival of the Corporatist organization of labor.**

If the most evident labor institutions of corporatism were instituted in Italy during the Fascist period it is interesting to analyze its failure and unexpected survival. The adventure of Italian corporatism had been going on for approximately seventeen years and a few months before its exhaustion. The end arrived on August 9, 1943, only fourteen days after the fall of Mussolini. The speed of this action suggested that the still formally fascist ruling class was most anxious to get rid of that fruitless contraption. Moreover, the old, pre-fascist organizations had already reappeared, organizing some very important strikes that took place in many factories of the industrialized north of Italy in March of that year.

At the same time, however, the new government left the fascist unions' and employers' associations in place, until November 23, 1944 when they were dissolved. The leadership of commissioners from the pre-fascist experience was imposed, including socialist and communist unionists. In the following weeks employers' association *Confindustria*<sup>66</sup> and the unions signed an agreement aimed at restoring the *Commissioni Interne*, the historical plant level workers' representation elected by all the employees of the factory.

The abrogation of the corporatist legislation implied a formal restoration of freedom of association but many aspects of this freedom were still to be dealt with. The five years between the formal end of State controlled corporatism in 1943 and the entrance into force of the republican Constitution in 1948 are characterized by the substantial hegemony of the reconstructed unitary CGIL: the result of an agreement, signed in Rome on the eve of its liberation by the allied forces in June 1944, by the unionist leaders of the political forces engaged in the struggle for democracy including the Socialist, Communist, and Christian Democratic parties, the so-called *Patto di Roma*.<sup>67</sup> Freedom of association formally existed, even if not granted by a positive norm but only as a result of the abrogation of the previous legislation, though it was difficult

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<sup>66</sup> Confindustria is the Italian employers' federation, founded in 1910.

<sup>67</sup> The Pact of Rome signed in Rome June 3, 1944 by Giuseppe Di Vittorio for the PCI, Achille Grandi for DC and Bruno Buozzi for the Socialists, was the agreement between the trade union leaders of the major parties that was formally the Italian unitary workers union CGIL. It gave relief the unity of all Italian workers regardless of political opinions and religious beliefs and was a significant victory for the policy of cooperation between the anti-fascist parties.

to exercise it in a country divided in two during the final twenty months of the war and in a very harsh social and economic situation during the following years.

### **Trade Unions in the Italian Republican Constitution.**

Article 39 of the Italian Constitution devotes its first paragraph to the freedom of organization of unions. The Italian phrase, "*L'organizzazione sindacale è libera*," means more than the freedom of establishment alone. From an individual point of view it means both the positive right to membership and the negative correlate to refuse to join and consequently the right not to be discriminated on the ground of membership or non-membership. From a collective point of view the *libertà di organizzazione* encompasses, beyond the establishment, the capacity to aggregate the group of workers whose interests that particular union intends to advance, the so-called *categoria sindacale*. The Argentine Constitution reformed in 1957 repeats and widens the Italian version, "*A free and democratic trade union organization, with the only requisite of the inscription in a special register.*" But trade unions continue to be one by activity, centralized and corporatist to this day, since only one union per activity can obtain the legal representation of the workforce in each activity.

### **Obligatory Collective agreements between trade union and Business organization.**

Collective negotiation extends beyond the single factory. If a group of employers of a certain area bargain a level of salaries with their employees, how could workers of another factory, even of the same area and the same productive branch, secure the same wage? And also within the same factory: is a collective agreement signed today binding for individual contracts concluded tomorrow? The Italian literature is accustomed to call "subjective" the effect in the scope of the agreement, and to call "objective" the effect to the relationship between the collective agreement and the individual employment contract.

The dual issues of the *erga omnes* effect<sup>68</sup> and the problem of the so-called "inderogability" had been settled by the corporatist system through the denial of trade union freedom. Thus, the Constitution had to reconcile freedom of association with the described effects of collective

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<sup>68</sup> A Latin term literally meaning "against all", it indicates that the contracts are obligatory even to those that did not agree to them or signed them.

agreements. It guaranteed the *erga omnes* effect while leaving the resolution of the ensuing questions to the legislature.

These last rules can also be considered a buttress for freedom of association. It might have been the case that a plurality of registered unions would have resulted. But, because only one collective agreement can bind all those it purports to govern or affect, which of the many registered unions would have been authorized to bargain and sign it?

Like many others questions, corporatist labor relations leaves this problem in a great way unresolved. These are institutions developed for authoritarian regimes and cannot easily be translated into the competitive and democratic.

### **Corporatism in the international labor organizations.**

The International Labor Organization has established in the international scene a corporatist structure, ensuring that employer and worker representatives share in standard-setting alongside government representatives. This corporatist arrangement, probably understandable when the ILO was created in 1919, continued in the formulation of European Community social policy that has a predominantly bipartite process of social dialogue between management and labor. Despite significant differences in approach, both organizations give priority to the participation by trade unions and employer representatives within designated bargaining structures ostensibly designed to achieve some balance in their relative influence.<sup>69</sup>

In national and transnational systems representatives of business and trade unions have privileged participation in the creation of labor law. Labor law more than any other policy areas is where corporatist practices are more visible and still active.<sup>70</sup>

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<sup>69</sup> G. Falkner, *EU Social Policy in the 1990s: Towards a Corporatist Policy Community* (London: Routledge, 1998); C. Lavdas, 'Interest Groups in Disjointed Corporatism: Social Dialogue in Greece and European "Competitive Corporatism"' (2005) 28(2) *West European Politics* 297; M. Ottaway, 'Corporatism Goes Global: International Organisations, Nongovernmental Organisation Networks and Transnational Business' (2001) 7 *Global Governance* 265; S. Smismans, *Law, Legitimacy, and European Governance: Functional Participation in Social Regulation* (Oxford: OUP, 2004), chapters 3, 4 and 5; and A.S. Yee, 'Cross-National Concepts in Supranational Governance: State-Society Relations and EU Policy Making' (2004) 17 *Governance* 487.

<sup>70</sup> 'What is Alive and What is Dead in the Theory of Corporatism' (2003) 41 *British Journal of Industrial Relations* 683; and H. Compston, 'Beyond Corporatism: A Configurational Theory of Policy Concertation' (2003) 42 *European Journal of Political Research* 787.

Corporatism has developed in democratic societies following a contemporary legitimating discourse around the concepts of 'civil society' and 'civil dialogue'. This rhetoric is prevalent now not only in the ILO but also within European Union institutions. The participation of groups, the new 'corporations', may arise through forms of partnership and delegated power, such that those who claim a legitimate interest in the outcomes of a particular policy can shape its content. In this way the better-organized groups can impose their will against the least organized ones.

Corporatism also refers to policy creation through concertation. Within a corporatist structure, interest groups cooperate with each other and with public authorities in the articulation of interests, allocation of values and implementation of policy. The structural framework determines the magnitude to which benefits can be expected to derive from the process. It is often argued that unless the number of participants remains limited, bargaining becomes unmanageable, and that unless there is a hierarchical structure, binding commitments cannot be made. As part of the corporatist deal, business organizations and trade unions persuade, or more probably coerce, their members to conform to the agreed policies and permit to the agreed policies operate effectively. Hierarchical structures especially within trade union movements are critically important. Strong vertical integration ensures that union leaders are able to use wage restraint and industrial peace as bargaining tools, almost regardless of the individual views of their members. Corporatist pacts might provide a benefit for the state by serving to 'reduce uncertainty among competing elites' and by broadcasting 'an image of orderly cooperation to the citizenry at large'. There may also be potential for corporatist structures to lend credibility to the norms adopted. In other words, the ways in which particular interest groups are included in decision-making might afford not only performance, but also regime and polity legitimacy to the state.

Pluralism, unlike corporatism, envisages participation by a multitude of voluntary, competitive, non-hierarchically ordered and self-determined interest groups that do not exercise any monopoly of representation or special state endorsement.

It is possible to distinguish corporatism from deliberative democratic theory in at least three respects. Primarily, deliberative democracy indicates that policy-making should be responsive to groupings of all interests that spontaneously emerge within civil society, and like pluralism, calls into question the privileged representation of management and labor under corporatist structures. Moreover freedom of speech that guarantees the fundamental basic rights and the free exchange of views. Rather than reach a bargain, as they would within a standard corporatist framework, participants in the deliberative process

are expected to debate beyond their own vested interests and prejudices. Finally, a deliberative framework of analysis would seem to cast doubt on the notion prevalent in corporatist theory that one should aim to provide a balance in bargaining power between management and labor. Within such a framework, it is arguable that bargaining power is irrelevant.<sup>71</sup>

Although International and regional organizations, cannot exercise the same bureaucratic influence within transnational corporatism, as states do in relation to corporatism at the domestic level, some features of corporatism prevail.

Three key characters of corporatism are applicable to transnational governance.

- (a) Bureaucratic and hierarchical control;
- (b) Privileged access of management and labor to decision-making;  
and
- (c) The importance of bargaining power to policy outcomes.

Corporatist structures depend on some degree of bureaucratic control. Within any corporatist structure, someone must select the participants and establish mechanisms within which they are provided with voice. The view taken of what amounts to balanced participation and the steps taken to achieve such balance will also be significant, as will the demarcation of subjects deemed appropriate for discussion. Any corporatist process also requires some degree of hierarchical control coordination within participant organizations, as regards the consultation of members, representation of members' views and communication to members of decisions reached. Without this organizational capacity, the process could not deliver policy outcomes. In these ways, bureaucratic and hierarchical controls play a role in transnational corporatism, even though it is limited.

The privileged participation of business organizations and trade unions in the making of labor law is most commonly justified in terms of performance. It is traditionally argued that Employer and worker representatives possess knowledge, expertise and experience that government officials lack. However, at a transnational level, the consultation that leads to any position being taken by employer or worker sides is on such a large scale that specific concerns are unlikely to be directly represented. The process offers no more than a general overview of commonly held views and accepted practices, practices that

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<sup>71</sup> Habermas (1997) *Between facts and Norms*. Mit Press. P. 36



are going to be written into international law therefore with little possibility to be changed if new conditions, produced as a result of innovation, appear. The privileged access of business organizations and trade unions is also defended as an answer to the fear that without specific representation of workers' interests in the making of labor law, business might predominate. As an example of what happens when this sort of representation does not exist the activities of international financial institutions are generally mentioned.<sup>72</sup> The idea of a consensus in society to assemble all social forces behind a decisive purpose is widely mentioned in defense of both European and Latin American corporatism. A non-corporatist or pluralist vision raises two objections to this justification of a corporatist international structure: First, the illegitimacy for a state or international organization to identify those who should be allowed access to policy-making to the exclusion of others. Second, whether it is appropriate that business organizations and centralized trade unions should be afforded priority at the expense of other interested but much less organized groups, among them notably consumers and new innovative enterprises. The international tripartite structure in the creation of labor law is an obstacle to economic dynamism and innovation since a traditional business structure is crystalized in international regulations and limitations are imposed to new business forms and the creation of new products.

In the European Union the legislative process under the social dialogue has three distinct stages; a consultation stage, a negotiation stage and an implementation stage. Where business organizations and trade unions are privileged above other groups, at the same time the organizations requires a formal balance and equality of bargaining power.<sup>73</sup>

## **The economics of regulation in corporatism**

Economic theory of regulation is primary an issue of pluralism. By pluralism, when interest group have certain common traits:

- (i) The political arena is open for a multiplicity of conflicting interests that compete to deliver favorable policies;

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<sup>72</sup> J. Morgan-Foster, 'The Relationship of IMF Structural Adjustment Programs to Economic, Social and Cultural Rights: The Argentine Case Revisited' (2003) 24 Michigan Journal of International Law 577, 643-6.

<sup>73</sup> Tonia Novitz Assessing legitimate structures for the making of transnational labour law: the durability of corporatism. I.L.J. 2006, 35(4), 367-394 at 387.

- (ii) Interest groups have no political status and the membership is voluntary;
- (iii) The political process is characterized by external lobbying making the division between the public and the private realm distinct.

The neo-corporatist schools criticize pluralist explanations because the role for the state is too passive and neglect the influence that government exerts on the development of interest groups in society. This opposes the adversary political system of the United States and the more structured consensual political context of some European countries and even more so in Latin America. The strong elements of corporatism in these societies prevent the existence of pluralism and the development of economic dynamism. In corporatism selected private interest groups are given political status and take part in public policy-making, in law making and in the implementation of the law. Corporatist Governments chooses the economic winners in society.

In a corporatist state politicians and government officials offer regulatory benefits if interest organizations comply with the policies pursued. In this respect, ideologies play a significant function in determining political objectives, as is the establishment of the Welfare State or the industrialization of the national economy through the substitution of imports. Government officials pay for the interest groups' willingness to co-operate in fulfilling such political ends. The logic of collective action is then made dependent on interest organizations' ability to oppose and obstruct the implementation of these policies. Therefore the means usually important in the United States, such as campaign contributions, employment of party workers, have a lesser role. Additional provocative characteristic is that the power of collective action is generally invalidated by state actions in a corporatist system. Only interest groups invited, subsidized or created to take part in corporatist negotiations may have direct access to political influence. Corporatism techniques can then be used to alter organizations' bargaining power and strengthen particular interests such as disperse consumer interests. Moreover, corporatist institutions may result in cooption of organization representatives into the sphere of interests of government officials, entailing that the top of the hierarchy is detached from the groups they are supposed to represent. Corporatist structures of political bargaining reverse the capture process, making business or labor representatives into servants of state interests, in divergence with the interests they are supposed to legitimately represent.