

How did Schmitt distinguish between liberalism and democracy?

Democracy and a parliamentarianism formed on liberal ideas developed at around the same time in Europe, that is towards the end of the 19th century. However, Carl Schmitt saw these two ideas not as complementary but directly in opposition to each other. The tension between parliamentary (liberal) and presidential (democratic) government in the Weimar constitution was built by Schmitt into a complete theory of the state, sympathetic to the democratic cause, at the expense of a liberalism which he believed was no longer viable.

Democracy was seen by Schmitt as contrasting liberalism in decision-making style by producing an immediate and concrete decision, and he believed that this decisiveness was increasingly necessary in German politics. Democracy is a system where the 'voice of the people' is the supreme right, not 'freedom' - it is what people have in common, rather than their right to be different, which is given political representation.

Liberalism on the other hand is a system of belief, derived from an individualistic political romanticism, in which there are certain inviolable freedoms which the individual can lay claim to: freedom of property, expression and association for example, as well as direct representation in politics. Open discussion forces those in authority to declare their positions and debate alternatives, while the freedom of the press and of opinion ensure that the public are well-informed about what is being done, and why. The 'general will', which in theory emerges from these debates, is seen as the ultimate claim to legitimacy. Smend said that liberalism could be defined as 'the rationalistic belief in the productive power of a political dialectic as the form of the automatic achievement of political truth'. This theory however depends on a belief that all political conflict can be reduced to a matter of opinion - no allowance is made for the sheer pursuit of power and therefore the theoretical world constructed by Smend would not exist in reality. The existence of a 'general will', according to Rousseau, can anyway only be achieved where 'the people are so homogeneous that there is unanimity' - in other words, the 'general will' is not just the sum of all individual wills - it is a course of action agreed upon by everybody, following all-inclusive discussion. Schmitt uses a similar argument when talking about 'the people', suggesting that such a concept is nonsensical in modern mass democracy, as voting is a private affair.

Schmitt identified liberalism with plurality, compromise and indecision. People would enter the *Reichstag* to represent their different interests in an atmosphere of general discussion. Liberalism, and its practical application in the *Reichstag*, was seen by Schmitt as representing the interests of a weak bourgeoisie: 'Christ or Barrabas, the liberal answers with a motion to adjourn the meeting or set up an investigative committee'. This is the crux of why Schmitt held liberalism in such contempt - 'the political' was defined by him as a separate sphere, one in which definite decisions needed to be made. Parliamentary politics rested on compromise, producing temporary, occasional and never decisive solutions to problems. Schmitt claimed that though the principles of open discussion leading to a satisfactory final result may have worked at one time, this was no longer any true reflection of the reality of politics. A parliamentary system was only seen as 'true' so long as public discussion was taken seriously and implemented. He claimed that 'the development of modern mass democracy has made public discussion an empty formality' and that politics was shaped far more by external events than by discussion in the *Reichstag*. Schumpeter was later to describe this as a change from politicians who addressed the floor to those who addressed the nation. A parliament was seen as not a debating chamber but a puppet of the people and, indirectly, of the press, whose role was increasingly recognised as one of opinion formation rather than just reflection of the views of the general public. Schmitt saw that the real decision-making was done not in the *Reichstag* but in 'small and exclusive committees' who 'make their decisions behind closed doors' with the result that 'what representatives of the big capitalist interest groups agree to ... is more important for the fate of millions of people, perhaps, than any political decision'. Therefore a liberal, parliamentary system had lost track of its original mission, and had become simply an 'antechamber' for concealed interests. At the same time, because of the immense resources and organisational skills of political parties, the masses were 'won over through a propaganda apparatus whose maximum effect relies on an appeal to immediate interests and passions'.

The massive increase in state power meant that government was able to be a presence in more and more aspects of people's lives. This is democracy at its most penetrating - where 'purely social matters become affairs of state - as must necessarily occur in a democratically organised unit' and where 'everything is at least potentially political'. Democracy in Schmitt's view needed to 'do away with all the typical distinctions and depoliticisations characteristic of the liberal 19th century', and

was moving rapidly from a 'neutral state' towards a 'total state'. A liberal state could not develop into an all-pervasive state in the same way, as 'what this liberalism still admits of state, government and politics is confined to securing the conditions for liberty and eliminating infringements on freedom'. Put simply, liberalism has no motive for developing an all-pervasive state as it takes pride in diversity.

Thoma claimed that German parliamentarianism, unlike the English or French varieties, was not founded on liberal principles but on the Weimar constitution and its authors alone. Schmitt refused to accept the rationale that because there was no better alternative to parliamentary democracy, there was no point in discussing its principles. He claimed that Weber, along with the other authors of the Weimar Constitution, were simply developing the arguments of 'classical' liberalism - that a parliament was needed to check the power of the President, so as to avoid populist demagoguery or caesarism. Weber was concerned that politicians would appeal to the irrational side of voters, and opposed direct election for many public offices. Schmitt saw the reverse side of this coin: the parliament, consisting of four or five minority parties elected through proportional representation, needed a presidential check to ensure that a 'parliamentary crisis' did not turn into a crisis of the entire state.

However Schmitt always rejected the charge that his work was a prelude to dictatorship: he claimed that the Weimar democracy might have survived had it acted upon his instructions. For example, Hindenburg was advised by Schmitt in 1932 to ban and otherwise oppose those political parties which wished to undermine the constitution, such as Nazism (for which Schmitt ironically became a philosophical spokesman). Schmitt believed it was just for a president to use emergency powers to act for 'the security and defence of the constitution as a whole'. Hindenburg, being over-concerned with the constitutional legitimacy of such actions, failed to do so.

Thoma also suggested that democracy could be seen as implying no substantial beliefs or politics itself - it is simply a system of forms and procedures such as secret ballots and majority rule. He contrasted Weimar's liberal, indirect, representative democracy with a much more radical version based on egalitarianism, plebiscites and referenda. Smend also liked to see democracy as a series of processes - a general attachment to liberty was commonplace, but otherwise the primary factors in a democracy were elections, ministerial responsibility, budgetary decisions and procedural regulation. The opinions held by the participants are secondary. Arguing with such concepts, Schmitt asked whether or not parliamentary democracy could

unite the political classes of Germany as it had done among the 19th century English bourgeoisie, and concluded that it could not. The democratic principle depends on 'the assertion that the law and the will of the people are identical'. This implies that the rulers are the ruled, the governors are the governed, and the state is the voters - this identity of interests simply did not exist in the more heterogeneous Germany. Schmitt's view on homogeneity of a society is clearly summed up in this quote: 'Every actual democracy rests on the principle that not only are equals equal but unequals will not be treated equally. Democracy requires, therefore, first homogeneity and second - if the need arises - elimination or eradication of heterogeneity'. It is not difficult to see how this concept was developed into the worst extremes of Nazism. Democracy, based on homogeneity, was seen by Schmitt as coming into conflict with a parliamentary system which existed to cope with heterogeneity.

Schmitt's concept of democracy is slightly unusual in that he claims 'a democracy can exclude one part of those governed without ceasing to be a democracy' and gives as his example the British Empire, claiming that universal suffrage - giving everyone an equal political voice - is a liberal, not democratic idea. However the assumption that the British Empire was a democracy can be challenged - while it may well have been the case that Britain itself was a democracy, the vast majority of the British Empire experienced nothing even remotely like democratic rule.

A line was also drawn between legality and legitimacy, these being seen as characteristic of liberal and democratic systems respectively. Legality can be defined as what is right according to some absolute definition of the best choice in any circumstance - a choice reached by lengthy constructive discussion between representatives of every point of view. The essences of parliament are openness and discussion, which liberals recognise as the tools with which to cement 'the victory of right over might', to use Locke's famous phrase. Legitimacy however is what is generally accepted as right at a certain point in time - there is no 'eternal conversation' to resolve differences and the democratic debate is less a discussion, more a 'negotiation', where each side has a clearly defined position and will advance that position at the expense of a common effort to determine the best course of action. Just as in a business meeting where 'negotiation' is the aim, Schmitt claimed that openness would be 'inappropriate' - unlike in the ideal world where openness goes hand in hand with useful discussion. Schmitt said that it seemed satirical to quote Bentham now: 'In Parliament ideas meet, and contact between ideas gives off sparks and leads to evidence'.

Legal theorists including Meyer developed something closely related to these concepts, called 'the normative power of the factual' - the suggestion that a right was granted by an actuality. Anschütz defined this by saying 'the capacity to use state power is not defined through rightful inheritance but through its actual possession'. Legitimacy is not seen by these theorists as a characteristic of state power. Schmitt rejected this, as the view did not reveal the initial sources of the law and the state.

Possibly Schmitt's greatest theoretical distinction between democracy and liberalism is that, while a democratic politics could exist, a liberal politics could not. Only a 'liberal critique of politics' made intellectual sense to Schmitt, as generally 'liberal thought evades or ignores state and politics'. However, Schmitt was attempting to undertake a critique of liberalism while inhabiting a profoundly liberal world - Leo Strauss believed that in order to develop a more complete understanding of liberalism and democracy, Schmitt would have needed a horizon beyond liberalism from which to analyse the politics of his age.

Bibliography:

- ◇ Schmitt: The Concept of the Political
- ◇ Schmitt: The Crisis of Parliamentary Democracy