

Who's Afraid of the Imperative Mandate?

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The imperative mandate is generally awkward to Western democracies.

— European Commission for Democracy through Law¹

The imperative mandate is a political system, dating back to the Middle Ages, in which representatives enact policies in accordance with mandates and can be recalled by people's assemblies. The imperative mandate is expressed in a context in which power is not monopolized by the state, but distributed in a plurality of municipalities and assemblies with specific political authority. This system, based on the plurality of the authority of the assemblies, is incompatible with the modern state as it was theoretically celebrated by Thomas Hobbes and historically born through the process of concentration of power introduced by absolute monarchies and constitutionally perfected by the French Revolution.² Article 52 of the French Constitution of 1795 expressly introduced the ban on the mandate: "The members of the Legislative Body are not the representatives of the department which has selected them, but of the entire nation. No mandate can be given to them." In their 2009 *Report on the Imperative Mandate and Similar Practices*, the European Commission for Democracy through Law, better known as the Venice Commission, asserted the incompatibility of the imperative mandate with the "European tradition of the free mandate of parliamentarians."³ The Commission concluded that the prohibition of imperative mandates "must prevail as a cornerstone of European democratic constitutionalism."⁴

I consider the imperative mandate not as a model to be replicated, but as an institution that can point to an alternative political trajectory, one that is, indeed, "generally awkward to Western democracies." In fact, the imperative mandate is awkward only in reference to the dominant trajectory of political modernity, characterized by representative democracy and the state's monopoly on power. These are, by now, the unquestionable foundations of political modernity.

Yet the imperative mandate appears in numerous events throughout modernity that have challenged those principles. It emerges in the revolutionary assemblies of 1793 in France, in the Paris Commune, in the German councils, and in the Zapatistas' practice of *mandar obedeciendo* (rule by obeying). The imperative mandate is the name for a democratic institutional configuration alternative to the representative democracy of the nation-state. Unlike what has been repeated in the dogma of the dominant canon of Western political thought, the state's absence does not bring about chaos

and/or a war of all against all. Rather, when state power is scaled down, groups, assemblies, and new institutions flourish. The imperative mandate is one of these institutions. In order to understand how it can be renewed in a different configuration in the present, one must abandon an outline held dear by the history of ideas, according to which political concepts evolve historically in a linear way.

Reinhart Koselleck has taught us that, in the history of political concepts, words carry semantic stratifications that can trigger different political meanings in different conceptual constellations.⁵ Political words are semantically stratified and traverse history, bringing past layers of meaning into the present to create new configurations. There are particularly weighty political terms, such as democracy, freedom, and equality, which act as catalysts capable of producing change. The imperative mandate has re-emerged in many revolutionary phenomena throughout modern history, not in the form of medieval nostalgia, but as one of the dimensions included in the concept of democracy since its inception. Those who want to initiate political change look to that beginning. Liberal thought instead tends to hypostatize *one* concept of democracy, representative democracy, which today is in crisis and contested by social and political movements as well as populist ones. “Democracy has been kidnapped,” said the Spanish *indignados* outside parliament on September 25, 2012: “We are going to save it.”⁶ The questions that arise are, then: what does it mean to “save democracy,” and which democracy do we want to save?

It has recently been said that populism is the shadow of democracy.⁷ It may be useful to read about the concept of the “shadow” as defined and elaborated by Carl Gustav Jung, who made it one of the keywords of his analytical psychology. In the shadow, we find everything we do not like about ourselves, that which we do not want to recognize and so project onto others. Jung also maintained that the shadow has to be integrated into our personality, for the more it is hidden, the more evil it becomes. In political terms, one can say that the shadow is the “democratic excess” that challenges the constitutional framework of the state. Of course, this excess can become destructive—in fact, illiberal democracy is on the rise in international life.⁸ But the liberal alternative, that is, the caging of democracy within the legal procedures of liberal constitutionalism, is not a solution today. It is, rather, part of the problem, with a growing technocratic complexity to its legal mechanisms generating dissatisfaction. Right-wing populism exploits this dissatisfaction by channeling democratic excess to engender an authoritarian turn in the constitution.

Neoliberal policies have weakened the state, which endures by reactivating its primordial sovereign functions—security, borders, and fast decision-making. These authoritarian functions are intensified under the pressure of the ideology of some governments. The alternative does not lie within the constitutional mechanism, but can instead be found in the weakening of the state machine and in the people’s demand for democracy.

Populism is wedged in the gap that separates the demand for democratic participation from the state establishment. To use an image of Rousseau’s, through populist movements the population seeks to occupy the stage and not just be a mass of silent, atomized spectators. The danger is that authoritarian governments often provide the stage, through parades, mass gatherings, and an intensification of politics based on a pairing of identity and exclusion. But the demand for democracy can also be articulated in new institutional forms, ones that prefigure an alternative to the political trajectory undertaken by the modern state over the last five hundred years. Recent

Occupy movements frequently gave rise to this kind of prefigurative politics. However, what they, along with other new movements, were missing was a legacy that could connect political experiments in the present to a historical trajectory full of experiments and possibilities. That is why every new movement seems to have to start over again, when instead there are institutions that constitute innumerable bridges to other trajectories of modernity. The imperative mandate is one of these institutions.

What is the Imperative Mandate?

The imperative mandate does not coincide with the right of recall, which is the ability to recall elected representatives. The ability to recall elected representatives, which is actually forbidden in many modern constitutions, exists, usually through referendum, in countries such as Venezuela, Nigeria, Switzerland in six of its cantons, and in eighteen US states. Although considered at the Constitutional Convention in Philadelphia in 1787, the right to recall was rejected on the national level because, it was argued, members of Congress were no longer ambassadors of the states of the Confederation, but officers of a single national government. In other words, recognizing the right of recall for the members of Congress would mean recognizing that they were delegates appointed by separate, independent, sovereign states. Although recall statutes in Michigan and New Jersey make members of Congress subject to recall, in the US Constitution recall does not apply to members of the Senate or the House of Representatives.⁹

The issue concerns the nature of sovereignty in the modern state. In the medieval practice of the imperative mandate, each procurator represented only the municipality that granted him his mandate. In the case of medieval Spain, the system was based on the authority of municipalities and *concejos*, or councils, which controlled the representative's power of decision making, so that when "the procurator spoke, it was the voice of Zamora or Seville, Salamanca or Cordova."¹⁰ The procurator, following instructions, acted as a local agent and not as a representative of the nation as a whole.¹¹ The procurator also assumed the risk of being a spokesperson (*porte-parole*). For example, Rodrigo de Tordesillas, procurator of Segovia, "was arraigned by his community because he voted without power or authority for a subsidy asked by the Crown in the Cortes of Coruña in 1520. Adjudged guilty, he was dragged ignominiously through the streets by a rope around his neck, and later was hanged by the feet."¹² In Althusius, who was one of the last champions of the monarchomachist tradition in early modernity, the imperative mandate and the right of resistance were designed in relation to corporate bodies and orders. This context was characterized by an interplay of powers: the people, the supreme magistrate, and the *ephors*, who acted as intermediate political powers and could exercise the *jus gladii*, the "right of the sword" against the tyrannical abuse of the supreme magistrate.¹³ This means, historically, that the accumulation of political power in the hands of the state or the monarch had not yet neutralized the particular authority of orders and consociations.

The imperative mandate was banned as an obstacle to the concentration of power in the hands of the state. Before being explicitly forbidden in the post-revolutionary French constitution of 1791,¹⁴ the practice of the imperative mandate had already been opposed by the monarchy. In

June 1789, Louis XVI opposed the mandates of the representatives of the three orders gathered in the National Assembly: "His Majesty declares that in subsequent meetings of the *États généraux* he will not suffer *cabiers* or *mandats* to ever be regarded as imperative: they must be considered as mere instructions entrusted to the conscience and free opinion of the deputies who will make their decision."¹⁵ The *cabiers de doléances* were indeed instructions through which the *États*, thanks to their authority, bound their representatives. The king, freeing the members of the Assembly from mandates, made them "free" from all restrictions and all authority that was not that of the monarch himself.

As Tocqueville observed, the concentration of power in the hands of the Assembly gave birth to a power that was "more extensive, more minute, and more absolute" than the power that previous kings had ever exercised.¹⁶ To reach this "more absolute" power it was necessary to take a further "democratic" step: voting by head count, through which the intermediate bodies were broken down into a multiplicity of individual atoms. Sièyes was the spokesman for this motion: "For the deputy there is, and can be, no binding mandate, indeed no positive expression of will, but the national will."¹⁷ The crowning achievement of this trajectory was the replacement of the will and authority of groups and special assemblies with the will of the nation and the sovereignty of the unified people. This would be the dominant trajectory of political modernity in the West.

For another possibility, we should not look to the federalism of Condorcet and the Girondins. Their emphasis on the indivisibility of sovereignty, which would lie not in some "partial union of citizens" but in the "whole nation," was no less than that of the Jacobins.¹⁸ Despite the differences between Jacobins and Girondins, they shared the idea that the unity of the nation had to be safeguarded, and that sovereignty was indivisible and thus belonged to the whole people and not to primary assemblies. Indeed, Condorcet's conception of federalism did not undermine the unity of the nation-state.¹⁹ Rather, it gave greater voice to the countryside, where the Jacobins were less strong. The conflict between the Jacobins and the Girondins was in this sense mainly tactical.

The alternative to the dogma of unity and indivisibility of national sovereignty lay elsewhere: in the assemblies of the *sans-culottes* and their use of the imperative mandate. In 1792, Varlet presented to the *Convention nationale* a pamphlet on the imperative mandate in which he advocated sovereignty for the primary assemblies and sections where the people assembled, discussed, controlled, and tabulated orders to the mandatories. He challenged the grammar of representation: "Deputies, you will no longer be our representatives, you will be our mandatories, our organ."²⁰ He continued by saying, "In drafting our mandate, we did not worry about whether this procedure was followed by all the sections of free France. It was enough for us to know that we had the right to do it."²¹ The assemblies acted as sovereign entities, and in so doing put into practice a different kind of sovereignty, one made up of a plurality of powers. It is this very plurality of powers that worries liberal thinkers today, precisely because rather than neutralizing conflict, it accepts conflict as a dimension of politics. From the liberal point of view, plurality exists only in the private sphere and can flourish only to the extent that it remains deprived of any political authority. This plurality exists under the umbrella of unified national power, an umbrella that can be restricted by the state and that also ignores entire populations, turning difference into exclusion, and eventually hostility. Cultural *pluralism* is thus powerless against the call for national *unity*, in the name of which polemical

oppositions are created. In Europe, right-wing hostility against Muslims finds fertile ground in left-wing rhetoric that accuses of intolerance those who do not accept the “civility” of secularism. In the name of the values of the secular state, the left opens the way to the right, and increases the polemical intensity of the contrasting values at stake.

Democracy and People’s Power

Durkheim once explained that if, on the one hand, the imperative mandate expresses the widespread feelings of the collective, on the other, “nothing can be more contrary, in some respects, to the very notion of democracy.”²² He should have specified: *modern representative* democracy. Indeed, in representative democracy the imperative mandate “contradicts the idea of political unity as well as the fundamental presupposition of democracy.”²³ In modernity, the imperative mandate is usually rejected on the basis of two arguments, one technical, the other logical. In the first argument, the decision-making time of the imperative mandate is considered too long, while the state is seen as tending to accelerate decision-making, even at the cost of a loss of democracy. According to the second argument, in the era of the nation-state it is the nation as a whole that must be represented, and no other sovereign realities.

If a parliament is the deliberative assembly of one whole nation, the representation of the unity of the nation is not compatible with the imperative mandate, which is instead the expression of local sovereign assemblies and districts. Indeed, in almost all European constitutions, the imperative mandate is explicitly forbidden, for the deputies do not represent their party or particular interests but the nation as a whole, which is “superior of [*sic*] and different from local constituencies.”²⁴ If each representative represents the whole nation, it is evident that, strictly speaking, she or he cannot be revoked by a part of it.

The explicit prohibition of the imperative mandate is a consequence of the constitutional structure of the modern nation-state. The imperative mandate is forbidden because it is logically incompatible with the representation of a nation that, in its totality, is the real bearer of sovereignty. This is the core of Carl Schmitt’s political theology of the modern state: the representative trick that transforms the plurality of peoples into the collective singular: *people, peuple, Volk*. In the case of the imperative mandate, the “deputy’s dependence on the instructions and directions of the voters would, indeed, eliminate the representative character of the popular assembly,” with the additional necessary consequence of the “introduction of a special procedure of continuous voting in every electoral district . . . but not by the people as unity.”²⁵ Democratic theorists who oppose the imperative mandate are actually on the same side as the jurist Schmitt, according to whom the imperative mandate “contradicts the idea of political unity as well as the fundamental presupposition of democracy.”²⁶ Schmitt’s idea of “the people as unity” follows from his understanding of political theology, which tracks the transfer of religious concepts into the political concepts of the modern theory of the state, so that “the omnipotent God became the omnipotent lawgiver.”²⁷ Moreover, the idea of popular sovereignty, which is specifically related to the conception of the democratic state, points to an element of transcendence that Schmitt, following Hobbes, shows to be the heart of the modern conception of the state. Indeed, the unity of the people as a single sovereign subject must

be created by the unity of the representative. As Hobbes writes: a “multitude of men are made one person when they are by one man, or one person, represented ... For it is the unity of the representer, not the unity of the represented, that maketh the person one.”²⁸ In other words, Schmitt observes, the people as unity does not exist until it is made visible by representation: “To represent means to make an invisible being visible (*sichtbar machen*) and present through a publicly present one.”²⁹ The people, as a political subject, is the absent being that becomes present and visible through the representative who acts in the name of the people and transforms the multitude into a unity. The president is not a mere figurehead, but the one who, in the singularity of her or his person, makes visible the unity of the people in the name of whom she or he speaks and acts. It is in this logic of representation, of making visible what is invisible, that the true nature of political theology resides.

The imperative mandate is incompatible with this political logic. If in fact sovereignty resides in the people, who exercise it through their representatives, then the will of the people can only emerge from the deliberations of deputies pursuant to legislative procedures defined by the constitution. In order for state law to be issued in the name of a sovereign people, and therefore oblige every individual to obey, it is necessary to replace the imperative mandate with a free mandate, so that each deputy represents the entire nation and the majority decision expresses the will of the nation.

The imperative mandate was practiced in historical and political contexts in which sovereign power was limited by plural authorities, and it has reappeared every time the unity of the state and its monopoly on power have broken down. At these moments, the state's power has been *limited by a plurality of powers, assemblies, districts, associations, councils and soviets* whose power is distributed both horizontally and vertically. This is the power of many units against unity. The imperative mandate has been revived every time the political practice of democratic excess went beyond the legal form and the constitutional framework of democracy. To the objection that these insurrections are necessarily short-lived, and therefore that the imperative mandate can only appear in the context of mass mobilization and political participation, I say that this alternative political legacy emerges when the dominant temporality of the nation-state is interrupted. But the nation-state, as a centralizing political machine for the accumulation of power, is militarily much more effective than the plurality of powers. Hence their repeated defeat, or their adaptation to the dominant temporality, proceeding then to the concentration of power, synchronizing with the trajectory of the modern nation-state. The institutions that emerge in that rupture are fugitive,³⁰ not because they are incapable of lasting, but rather because they have clashed with organized state violence.

People's Sovereignty, Populism, or Plurality of Powers?

What is really at stake in the dispute between imperative and free mandates is not so much the freedom of the deputy, but rather the unity of the political subject that claims sovereignty: the people-nation. Populist movements certainly do not want to go so far as to question the national unity of the modern state. But this is precisely what is at stake in calling for an imperative mandate: the call for democracy, in the context of the crisis of representative democracy, exceeds the boundaries of the nation-state, reactivating what I call “democratic excess.” This excess, evident in moments of

insurgency, is not something to be afraid of.

The 2009 European Commission's report did not come out of the blue. The Commission was formed because of the restoration of the imperative mandate by parties and movements seeking to limit the so-called "floor crossing" practice, whereby representatives would shift factions or political parties once elected. This practice was perceived as a betrayal of the will of the voters and, in reaction to this trend, in 2004 the Ukrainian Rada amended Article 81 of their constitution and introduced a paragraph allowing for the termination of the deputy's powers in the case of "floor crossing."³¹ In Germany, the Grüne and the Pirate Party both sought to send representatives bound by an imperative mandate to Parliament. In Spain, one of the points on Podemos concerns the daily control of political representatives and the right to recall.³² In Italy, the Five Star Movement perceives elected representatives as spokespersons who would lose their mandate in cases of "floor crossing." Formally, the Five Star Movement's proposal contradicts Article 67 of the Italian Constitution, which explicitly states that every representative shall carry out her or his duties without an imperative mandate. The Five Star Movement has instead made it mandatory for its members of parliament to sign a contract that obliges them to pay 250,000 Euros if they violate the Movement's code of conduct. It has been said that this practice increases the party's control over the elected members and that liberals should ban the Five Star Movement for its unconstitutional recourse to the imperative mandate.³³ Analogies have also been drawn between the *sans-culottes* of the French Revolution and the Five Star Movement, with analysts pointing out how in both cases the conflict is between direct democracy and representative democracy.³⁴ Posing the question of the alternative between representative democracy and direct democracy means having already opted for the former, claiming as justification that it is the only political form appropriate for a large state. This objection, repeated as common *doxa*, really sees things upside down. The nation is not a fact that pre-exists the state; rather, it is the product of the state, which defines it by creating boundaries and delineating the identity criteria of a political grouping. In other words, it is the state that gives dimension to the nation, not vice versa.

At stake is the notion of democracy, the meaning of which is more complex than may appear in an evolutionary and unilinear historical account. The imperative mandate reemerges as a catalyst capable of activating politics when democracy risks suffocating inside a constitutional shell that is increasingly full of procedures—procedures which, paradoxically, are often multiplied to compensate for the deficit of democracy. Although liberal thinkers accuse populism of being opposed to "the representative nature of modern democracies,"³⁵ or of being a "directly undemocratic understanding of representative democracy,"³⁶ populist leaders claim that they want to return power to the people. Populists' claim to the imperative mandate can be understood as a symptom of a lack of confidence in both the representatives and the establishment, a sign of the dissatisfaction of a huge part of the population with a kind of democracy in which those in power are increasingly distant from the governed and which has essentially become a complicated mechanism of procedures.

The democratic trajectory of the imperative mandate is different from that of democratic constitutionalism because it does not share the latter's obsession with unity. Instead of concentrating power in the hands of the state, the imperative mandate divides power into a plurality of powers. In this way, the trajectory of the *cabiers de doléances* is reconfigured in democratic terms. It is not

the *estates*, but the *demos* that exercises sovereignty as a plurality of assemblies and councils. In this plurality, the democratic excess, which modern constitutionalism seeks to tame, can express itself. This excess holds open the form of politics and does not neutralize conflict. This democratic excess and the instability that can always arise from it give rise to a kind of political anxiety—an anxiety that liberals try to suppress in their constitutional machine, and that so-called populists turn into aggression and new forms of exclusion.

Tertium semper datur

Our concepts no longer seem to grasp our political present. In the crisis of the nation-state and in the growing dissatisfaction with representative democracy, which has become a vacuous framework of procedures, alternative possibilities are nevertheless opened up. Left liberals, in their defense of procedural democracy, are not able to address the democratic excess that, incapable of finding channels of real political participation, manifests itself as dissatisfaction with the establishment. This dissatisfaction can take different directions. It can, as previously mentioned, reactivate the original violence of the nation-state, and to do this, controversial categories are needed: a figure to be excluded, an enemy. Or, dissatisfaction can go in a different direction and reactivate a different tradition of democracy—for example, the tradition of the imperative mandate, which the European Commission for Democracy has banned as anti-democratic.

I am not proposing the imperative mandate as a panacea. I am saying that when the temporality of the nation-state is interrupted, institutions emerge that often reactivate “pre-modern” institutions in new ways. They do so not out of nostalgia or a mere love of the “pre-,” but simply because these institutions are *non-modern*. In an era as neurotically in love with the “post-,” as ours, sometimes alternatives are much closer than they seem. Despite the abiding account of modernity as mainly in search of what is “post-,” the alternatives may instead lie in futures that have remained encapsulated in other historical trajectories. If the former vision of history is linear and only allows one to imagine alternatives in some new historical stage, the latter vision frees itself from this linearity and can see possibilities in the tension between temporal layers.

Rethinking the imperative mandate today means rethinking a legacy that escapes the modern political dualism based on the opposition between represented and representative, and reactivates, at least, a tripartite political structure in which the governed check their representatives, who in turn are not the holders of sovereignty but who act according to mandates and exercise a power that is limited by the powers of the governed. This is not a constitutional division of power, which in the context of modern constitutionalism remains “one power”: the power of the sovereign people gathered in the nation. Instead, it is a *plurality of powers* that questions the state’s monopoly on power. This is the real political challenge of democracy, and it can be met only if we do not identify the *demos* with the nation.

I am not proposing a return to the Middle Ages, but the reactivation of a medieval tradition in a democratic way. If we abandon the unilinear conception of history, we can see that Western political modernity is not the necessary outcome of the dissolution of the Middle Ages. There were other ways to configure the enormous corpus of legal, political, and economic materials of the Middle Ages. Some of these alternative traditions reemerged repeatedly in the course of history

and tried to reorient the course of political modernity. In light of these traditions and their repeated returns, the imperative mandate is not obsolete; rather it expresses a new possible configuration of our political institutions. Indeed, what is obsolete today is representative state democracy. “Surprisingly,” writes Sheldon Wolin, “despite the attenuation of democracy at the level of national politics, there still exists a highly flourishing archaic political culture that is democratic, participatory, localist, and, overall, more egalitarian than elitist in ideology.”³⁷ These archaic institutions represent a “democratic counterthrust to statism.”³⁸ In my terms, they contain possible futures, which are still encapsulated in what-has-been. The imperative mandate, this medieval institution that re-emerged in the French Revolution, in the Paris Commune, and in the council experience, was always reactivated in new forms, showing us other possible trajectories of modernity. In today’s crisis of representative democracy, the imperative mandate can give alternative shape to the democratic excess, which is caught up in populist movements and is opposed by liberals.

However, *tertium semper datur*. Democracy is not a matter of constitutional forms and procedures but a matter of that excess, of the possibility of dis-ordering the existing order and reinventing new institutional frameworks, even if this may generate instability. This is an instability that does not loom over individuals as an inescapable fate, as in the case of emergency laws or an economic crisis that makes us lose our jobs and homes. Rather, it is an instability that derives from politics and its unavoidable implication: the possibility of conflict. This means that we must learn to live with some degree of instability. In other words, we must learn to be truly democratic. That requires a new formulation of the critical question of modernity. Kant’s renowned answer to the question, “What is Enlightenment?” establishes modernity as the way out of the condition of self-incurred immaturity, which is the condition of individuals when, like children, they consider it more comfortable to walk with the help of the “walker” of the state.³⁹ Today’s exit from the condition of immaturity requires that we face the anxieties of democracy without seeking to have them managed by the nation-state.⁴⁰ It requires that we allow for a plurality of powers and their possible disagreements rather than a unity upheld by the nation-state. This would mean allowing for a certain degree of instability rather than stability, of conflict rather than its neutralization by the state. Such a task requires a kind of democratic maturity that can only be pursued if people learn how to live together without the permanent presence of the state, which has become unbearably pervasive. It is the everyday practice of self-government that gives rise to this process of self-education.

Today it is clear that the price to pay for stability, security, and unity is too high. An authoritarian turn that involves an increasing number of states is visible to everyone. Constitutional mechanisms and the rule of law can be systematically suspended in the name of national emergencies and public safety. The alternative can no longer be found in liberal constitutionalism, which is in crisis today. Instead we must seek a different way of practicing politics, one that takes the question of crowd democracy seriously. This is the democratic excess that is expressed in the various forms assumed by the plurality of powers. The imperative mandate is, then, happily “awkward to Western democracies.” It is not a danger to ward off, but rather a chance to go beyond the nation-state and its monopoly on power.

About the Author

Massimiliano Tomba has published several texts on the political philosophy of Kant, Hegel, the post-Hegelians, Marx, and Benjamin, among them: *Krise und Kritik bei Bruno Bauer. Kategorien des Politischen im nachhegelschen Denken* (Peter Lang, 2005); *La vera politica. Kant e Benjamin: la possibilità della giustizia* (Edizioni Quodlibet, 2006); *Marx's Temporalities* (Brill, 2013); and *Attraverso la piccola porta. Quattro studi su Walter Benjamin* (Mimesis International, 2017). He is currently working on a book titled *Insurgent Universality*. Tomba is Professor of History of Consciousness at the University of California, Santa Cruz.

Notes

- 1 European Commission for Democracy through Law, *Report*, art. 11.
- 2 Müller, *Das imperative*, 29-32.
- 3 Ibid., art. 37.
- 4 Ibid., art. 39.
- 5 Koselleck, *Zeitschichten*.
- 6 AFP, "Manifestación en Madrid."
- 7 "Populism is something like a permanent shadow of modern representative democracy, and a constant peril." Müller, *What Is Populism?*, 11.
- 8 Zakaria, "The Rise."
- 9 Zimmerman, *Recall*.
- 10 Holden, "The Imperative Mandate," 897.
- 11 Müller, *Das imperative*, 161-204; Triepel, *Delegation und Mandat*.
- 12 Holden, "The Imperative Mandate," 900.
- 13 Althusius, *Politica*, XVIII, § 66; Hueglin, *Early Modern Concept*, 149.
- 14 Müller, *Das imperative*, 32-50.
- 15 "Sa Majesté déclare que dans les tenues suivantes des États généraux elle ne souffrira pas que les cahiers ou mandats puissent être jamais considérés comme impératifs: ils ne doivent être que des simples instructions confiées à la conscience et à la libre opinion des députés dont on aura fait choix." In Buchez and Roux, eds., *Histoire parlementaire*, 14.
- 16 Tocqueville, *The Ancient Régime*, 61; 183.
- 17 Quoted in Baker, *Inventing*, 249.
- 18 Condorcet, "Projet," 276-7, articles 25-28.
- 19 Hintze, *Staatseinheit*, 417-8.
- 20 Varlet, "Proposal," 154.
- 21 Ibid.
- 22 Durkheim, *Professional*, 91-92.
- 23 Schmitt, *Constitutional Theory*, 289.
- 24 Venice Commission, Report, article. 5.
- 25 Schmitt, *Constitutional Theory*, 289.
- 26 Ibid.
- 27 Schmitt, *Political Theology*, 36.
- 28 Hobbes, *Leviathan*, chapter XVI.
- 29 Schmitt, *Constitutional Theory*, 243; Leibholz, *Strukturprobleme*, 90.
- 30 Wolin, *Fugitive Democracy*.
- 31 Ukr. Const., art. 81, para. 6: "Where a National Deputy of Ukraine, as having been elected from a political party (an electoral bloc of political parties), fails to join the parliamentary faction representing the same political party (the same electoral bloc of political parties) or withdraws from such a faction, the highest steering body of the respective political party (electoral bloc of political parties) shall decide to terminate early his or her powers on the basis of a law, with the termination taking effect on the date of such a decision."
- 32 Rodriguez, "Spanish State."

- 33 Sartori, “La libertà degli eletti” and “Una violazione macroscopica.” See also Bordignon and Ceccarini, “Five Star Movement.”
- 34 Vetter, “Furori rivoluzionari.”
- 35 Krastev, “Populist Moment.”
- 36 Müller, “People.”
- 37 Wolin, *Presence* 81.
- 38 Ibid.
- 39 Kant, “What is Enlightenment?” 18.
- 40 Katznelson, “Anxieties of Democracy.”

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