



# Kent Academic Repository

Azmanova, Albena (2013) *The Crisis of Europe: Democratic Deficit and Eroding Sovereignty – Not Guilty*. *Law and Critique*, 24 (1). pp. 23-38. ISSN 0957-8536.

## Downloaded from

<https://kar.kent.ac.uk/58800/> The University of Kent's Academic Repository KAR

## The version of record is available from

<https://doi.org/10.1007/s10978-012-9112-y>

## This document version

Author's Accepted Manuscript

## DOI for this version

## Licence for this version

UNSPECIFIED

## Additional information

## Versions of research works

### Versions of Record

If this version is the version of record, it is the same as the published version available on the publisher's web site. Cite as the published version.

### Author Accepted Manuscripts

If this document is identified as the Author Accepted Manuscript it is the version after peer review but before type setting, copy editing or publisher branding. Cite as Surname, Initial. (Year) 'Title of article'. To be published in **Title of Journal**, Volume and issue numbers [peer-reviewed accepted version]. Available at: DOI or URL (Accessed: date).

### Enquiries

If you have questions about this document contact [ResearchSupport@kent.ac.uk](mailto:ResearchSupport@kent.ac.uk). Please include the URL of the record in KAR. If you believe that your, or a third party's rights have been compromised through this document please see our [Take Down policy](https://www.kent.ac.uk/guides/kar-the-kent-academic-repository#policies) (available from <https://www.kent.ac.uk/guides/kar-the-kent-academic-repository#policies>).

---

Published in *Law and Critique* 24/1 (2013): pp. 23-38

DOI 10.1007/s10978-012-9112-y

Version accepted for publication

page numbers correspond to printed version to allow referencing

## THE CRISIS OF EUROPE: DEMOCRATIC DEFICIT AND ERODING SOVEREIGNTY – NOT GUILTY

**ALBENA AZMANOVA**

University of Kent  
Brussels School of International Studies  
Boulevard de la Plaine 5, 1050 Brussels, Belgium  
E-mail: A.Azmanova@kent.ac.uk

**ABSTRACT.** Taking inspiration from a distinction Kant drew between the way power is *organised*, and the manner in which it is *exercised*, this analysis directs attention to the consolidation of an autocratic style of politics in Europe. The co-existence between an autocratic style of rule and preserved democratic organisation of power, which prevents a legitimisation crisis, is explained in terms of an altered legitimacy relationship (or social contract) between public authority and citizens. This ultimately allows a discrepancy to emerge between public authority's increased capacity for policy action and reduced social responsibility for the consequences of that action.

**KEYWORDS.** democratic deficit, European integration, European Union, legitimisation crisis, political responsibility, social justice.

*The neophyte, baptized in smiles ...  
Old in illusions turned to acritudes.*  
Dylan Thomas (2003)

The European Union's fate has been, of late, rather more bewailed and bemoaned than celebrated. After the brief jubilation upon uniting the continent by embracing the ten new democracies of East and Central Europe in the eastern enlargement of 2004 and 2007, the EU has been painted as being in either crisis or decay. 'The neophyte, baptized in smiles', seems to have grown 'old in illusions turned to acritudes', to echo the poet. Europe's afflictions have been usually attributed either to the deficient democratic nature of the EU decisional bodies (the so called 'democratic deficit') or to eroding national sovereignty, as member-states are ceding their authority in matters ranging from customs duties, monetary and, most recently,

---

fiscal policy, to passenger flying rights and fishing. Most recent critiques have centered on the perennial tension between capitalism and democracy – a perspective from which Europe’s current predicament appears to be rooted in policies (at national and EU level) that have given the upper hand to the economic logic of market justice over the democratic logic of social justice.<sup>1</sup>

Instead, taking inspiration from a dichotomy that Immanuel Kant articulated between the way power is *organised* and the manner in which it is *exercised*, I will offer, in what follows, a diagnosis of EU’s state of political health that is alternative to the common democracy- and sovereignty-based acrimonies. I will begin my elaborating a distinction between *responsible* and *responsive* rule in order to position conceptually my subsequent discussion of the changing relationship between public authority and citizens and the implications this carries for contemporary European societies. This will allow me eventually to offer an explanation of why the economic logic of market justice is currently trumping the logic of social justice with relatively little public resistance.

## RESPONSIBLE VERSUS RESPONSIVE GOVERNANCE

In one of his rare political writings, *Perpetual Peace: A Philosophical Sketch* (1903 [1795]), Kant noted that progressive politics is neither a matter of morality, nor is it a matter of the form of sovereignty (say, a democracy, or a monarchy) and its territorial range (local, national, global) but, above all, it is a question of the manner in which power is exercised. Kant distinguished between a despotic and a republican (in the contemporary sense of ‘liberal’) style of rule and placed his faith in the latter, noting that democracy, as a form of sovereignty, is perfectly compatible with the despotic exercise of power.<sup>2</sup> Critiques of the European Union, whether they centre on democracy or on sovereignty, are located within the conceptual range of concerns with the organisation of power: democracy is a matter of institutionalised rule of the citizenry; sovereignty – a matter of the particular territorial set up in the exercise of governance functions. This focus on the structure of governance obscures the dimension of what Kant conceptualised as *forma regiminis* – the mode, or manner, in which power is exercised, irrespective of the way it is constituted. Focusing attention on the mode of rule (rather than on the structuration of government) would direct thinking about the state of the European Union not in terms of where sovereignty resides (with nation-states or with the trans-national EU central decisional bodies), nor on how much democratic input into decision-making it allows, but on the manner in which power is exercised.

Kant’s insight into the superior importance of the manner in which power is exercised allows us to draw, for the purposes of this analysis, a further distinction

---

<sup>1</sup> For a particularly judicious analysis of this type see Streeck (2011).

<sup>2</sup> Kant (1795, Section II, Art. 1) builds a typology of states around two axes: (1) the form of sovereignty (*forma imperii*) – autocracy, aristocracy, democracy; and (2) the mode of rule (*forma regiminis*) – republican or despotic. Being the opposite of ‘despotic’, the term ‘republican’ here denotes a liberal (in our common usage of the term) style of rule. Thus, the correlation of *forma imperii* to *forma regiminis* yields two types of democracy: a despotic and a republican (liberal) one.

---

between *responsible* versus *responsive* rule. ‘Responsible rule’ denotes a style of governance in which public authority assumes responsibility for the consequences that its policies have on society. Responsible rule can take the shape of a variety of constitutions (from monarchy to a republic), with the marked exception of theocracy, where responsibility is outsourced to a divinity. Responsive rule, in contrast, denotes a style of governance in which public authority formulates policy as a response to popular preferences, but does not assume responsibility for the consequences of policy thus enacted. Democracy (be it direct or representative) is the epitome of responsive rule.

In the political history of Western Europe, the concept of responsible rule predates considerably that of democracy and the rule of law. Historically, a relationship of mutual dependence between public authority and subjects was established within the absolute monarchies of sixteenth and seventeenth century Europe as, in the course of mobilisation for war, ruling elites developed an interest in promoting the welfare of the populations they taxed in order to finance wars (Tilly 1975). Early modern statehood in Europe thus developed as a protection game (Stinchcombe 1997, p. 387) – a game in which the political ethos of social responsibility became inscribed into the instrumental logic of state building. Thus, the practice of responsible governance predated that of responsive governance; the latter came only with the very gradual establishment of democracy in the course of eighteenth and nineteenth centuries. A mediating type of governance is that of ‘accountable rule’, typical of the seventeenth and eighteenth century constitutional governments (monarchies and republics), where the political ethos of responsibility is stabilised by institutional mechanisms of accountability (such as checks and balances, and the rule of law).<sup>3</sup> While the devices of rule of law and democracy consolidated responsible rule by forcing it to take the shape of accountable and responsive government, they are in themselves not generative of responsible rule.

Drawing on the above-elaborated distinction between responsible and responsive governance, in the remainder of this paper I will argue that the malaise that is ailing Europe today is neither a matter of an alleged democratic deficit, nor of inappropriate division of sovereignty among levels of governance, but a matter of a pathological style of rule – the pathology of a discrepancy between the growing *powers* of public authorities and the decrease in their *responsibility*, which eventually makes it possible that the rituals of responsive (democratic) rule be mobilised to give legitimacy to socially irresponsible, autocratic governance.

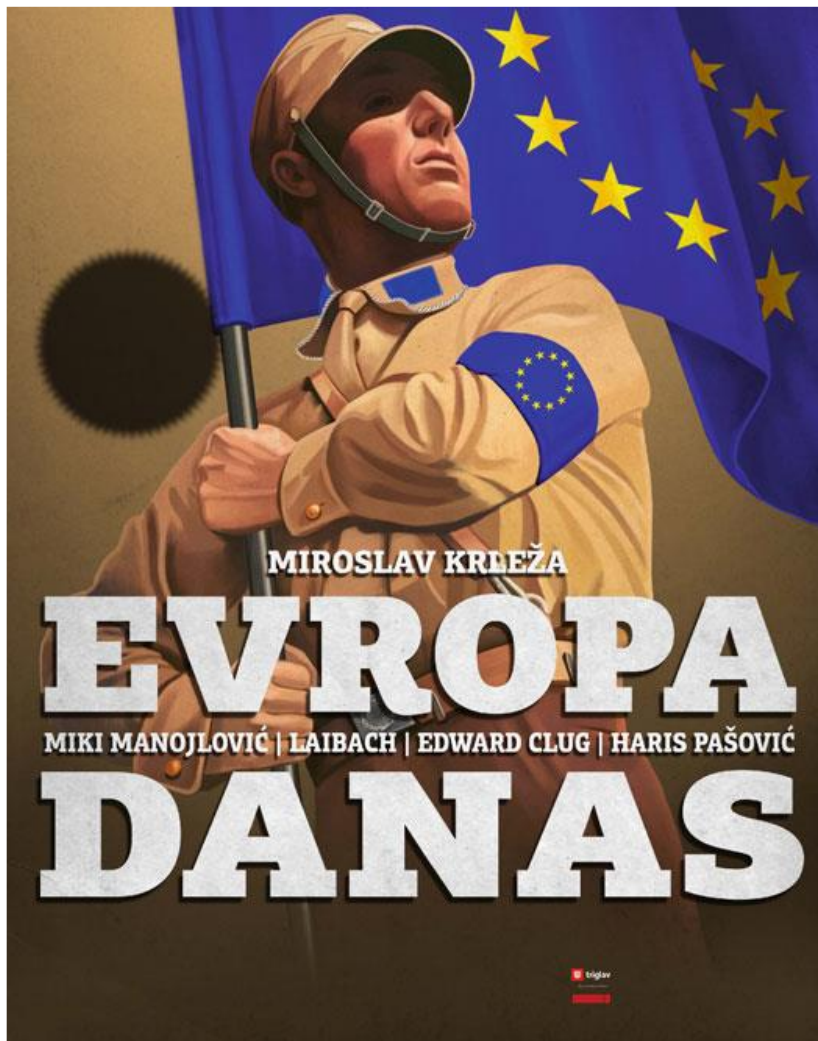
## EUROPE TODAY

The phenomenon of an emergent autocratic style in the exercise of power, whose sources of authority remain nominally democratic, is recently captured in the controversial poster advertising the play ‘Europe Today’ – a Serbian-Bosnian-

---

<sup>3</sup> Thus, Montesquieu (1748) advocated the rule of law and the division between executive, legislative and judicial powers for their capacity to hold central authority accountable for its actions, thus ensuring that power is used responsibly. He considered the British constitutional monarchy as the perfect embodiment of such rule.

Croatian-Slovenian-Romanian production directed by the Bosnian theatre director Haris Pasovic, performed around Europe in the spring of 2011.



A poster advertising the play 'Europe Today' of the East-West Theatre Company (Sarajevo), written by Miroslav Krleža, directed by Haris Pašović. Source: Slovenian National Theatre: <http://www.sng-mb.si/en/all-other-events/miroslav-krleza-europe-today/>. Copyright permission granted by East-West Theatre Company.

The poster depicts an SA-style trooper, whose armband and the flag he carries feature the 12 stars of the EU, instead of the swastika and the German eagle. One might dismiss such a portrayal of Europe as democratically constituted dictatorship by attributing it to the famed maverick posture of the *Neue Slowenische Kunst* art movement, or generally to the deliberate flippancy of East European intellectuals.<sup>4</sup> However, it can also be read as conveying a phenomenon that needs to be taken

<sup>4</sup> The *Neue Slowenische Kunst* art movement is a political art collective established in 1984 in Slovenia, then still part of communist Yugoslavia. Its signature visual device consists in re-appropriating totalitarian kitsch in order to provoke a clash among meanings brought to their logical extremes. Its most prominent exponent, the band Laibach, is an avant-garde music group known for their deconstruction of well-known pieces of music with the aim to subvert their original message.

seriously – the formation, in recent years, of a political rule in Europe that is autocratic in style, coexisting with the institutional structures of democratic governance. The emergency appointments by EU authorities of two heads of European governments (Lucas Papandreou in Greece and Mario Monti in Italy) in November 2011, and tasking the newly appointed leaders to enforce (rather than negotiate) policies of austerity in their countries, does add some credence to Kant's thesis of cohabitation between a democratic organisation of power and autocratic manner of its exercise.<sup>5</sup>

This peculiar mode of rule, I will argue in what follows, has taken shape in the course of merging dynamics at hand in the 'old' and the 'new' (post-communist) Europe over the past twenty years - two mutually enhancing trajectories of transformation blending into a common political fate. Before tracing these two trajectories, in the next section I will complete the framework of conceptualisation by introducing the notion of a *legitimacy relationship* between public authority and citizens – a relationship that, by configuring the social contract, mediates the interaction between the logic of economic justice and that of social justice, and thereby determines the degree to which the operative logic of capitalism is susceptible to public scrutiny.

### **The missing crisis of capitalism and the new social contract**

My empirical entry point into a diagnosis of Europe's current malaise is the alleged crisis of capitalism or, rather, the *missing* crisis of capitalism. In the midst of the recent global financial meltdown, we have heard much emphatic talk about the crisis of capitalism. However, what narratives about this crisis tell us is no more than that the financialisation of the economy has created a crisis *for* capitalism - some difficulties in the creation of profit (such as deficient credit) which have by now been overcome. Moreover, these difficulties, and the social misery they have inflicted, have not triggered a crisis of the system's legitimacy. 'We are not against the system but the system is against us',<sup>6</sup> announced a slogan of the *indignados* – the peaceful demonstrators who occupied public spaces across Spain in the early summer of 2011.<sup>7</sup> Yet this cry of protest is ambiguous – it is more an appeal to tame the system, make it more inclusive, rather than to subvert or overthrow it.

Like the protests of the Spanish *indignados*, the citizens' outrage in Greece against the conditions that the EU and the IMF imposed for the financial bailout of the government, the *Occupy Wall Street* movements, and the looting that ravaged English cities – all in the summer and autumn of 2011 – have signalled a growing popular discontent with the outcomes of the socio-political system – mainly with the

---

<sup>5</sup> Note that these appointments do not alter the constitutional set-up of power in Italy and Greece – the institutional structure of public authority retains the features of parliamentary democracies founded on the principle of popular sovereignty.

<sup>6</sup> As quoted in Minder (2011).

<sup>7</sup> *Los Indignados* (The Indignants) is a social movement of mostly young people, who staged protests in Spain close to the local and regional elections held on 22 May 2011. At the focus of their demands is a solution to endemic youth unemployment, while their creed centres on a rejection of the current political and economic system, including the institution of representative democracy; they appeal for grassroots participatory democracy.

---

dramatically uneven allocation of wealth and increasing social exclusion. However, while these movements express, in their distinct ways, public frustration with the socio-economic system of neoliberal capitalism, they rarely put into question its validity or evoke an alternative. These calls are at their best appeals for ‘fixing’ the system and making it more inclusive and, at their worst, exasperated cries of frustration and fear. If democratic elections are any indicator of prevailing preferences, the most recent round of national elections in Europe have confirmed that capitalism has considerable popular support. In the midst of the rampant economic crisis, the vote in Europe has gone to the right; support to left parties has been at a historic low, while support to xenophobic populism is rising.<sup>8</sup>

Most importantly, what is absent is a broad societal, cross-ideological coalition of forces mobilising to protect society from the market, similar to the counter-movement against free markets that Carl Polanyi, in his *The Great Transformation*, observed to be taking shape in the early twentieth century. At the time, a consensus between the left and the right emerged on the need to constrain markets, a consensus which propelled the post-war welfare states. Instead, we now have governments, irrespectively of their ideological allegiance, running to the rescue of financial capital and big business, and implementing austerity programmes to reassure capital markets, while society bears this with relative equanimity, despite the increasing price it is paying in terms of cuts to social insurance, to basic services for the most disadvantaged, general impoverishment and growing precarity. Social frustration is, instead, directed mainly into xenophobia. How can this be explained?

While we have been busy debating the crisis of capitalism, capitalist democracy (as a system of social relations and political rules) has metamorphosed itself into a new form, which the most recent economic meltdown consolidated, but did not cause. This new form is marked by a particular social contract (or legitimacy relationship) between public authority and citizens, which enables a particular style of rule, which I will attempt now to elucidate. Before I proceed, let me clarify the concept of a legitimacy relationship between public authority and citizens, which will be a focal point in the subsequent analysis of Europe’s political health.

The legitimacy relationship between public authority and citizens is constituted by what Claus Offe has called ‘the legitimate and legitimacy-conferring functions of the state’, functions concerning ‘the state’s capacity to manage and distribute societal resources in ways that contribute to the achievement of prevailing notions of justice’ (Offe 1985, p. 5). These are functions (such as defence of territorial integrity, wealth redistribution, safeguarding order) that citizens expect from public authority and therefore condition their obedience on the effective exercise of such functions. Importantly, these functions may vary in time and across space; their evolution

---

<sup>8</sup> Centre-right parties (parties for which economic liberalism is a key ideological tenet), which could be expected to be discredited by the economic crisis that neoliberal economic policy triggered, were elected to power in Spain, Finland and Denmark in 2011; in the UK, Sweden and the Netherlands in 2010; in Luxembourg and Germany in 2009 - to limit examples to the ‘old’ European Democracies. Incumbent centre-left parties, despite avowed ideological sentiment, have been implementing austerity measures of a neoliberal nature for the sake of appeasing global financial markets. Although the tide appears to be turning with the French presidential elections in March 2012, the consensus between the centre-Left and the centre-Right on the inevitability of further neo-liberal structural reform remains intact – whether these reforms are to spur growth or to impose budgetary discipline.

---

throughout the history of the modern state has altered the social contract among citizens, and between them and the central governing authority. The legitimacy relationship, in turn, determines the thematic scope of the agenda of public debate: most importantly, it determines which social practices are *politicised* and thus become an object of contestation, and which ones remain outside the notice of politics and, thus, beyond the remit of critique and contestation.

What were the parameters of the social contract in European societies in the second half of the twentieth century? Let us recall that, after the Second World War, European societies on both sides of the Iron Curtain operated within a political logic that attributed to the state, rather than the market, the primary responsibility for the material welfare of citizens, dressing that responsibility in the terms of citizens' social rights. In drawing this deliberately sweeping generalisation, I do not imply that differences among countries did not matter;<sup>9</sup> yet, I aim to emphasise that the very legitimacy relationship between public authority and citizens in the framework of the post-war welfare state was built around social rights, and the corresponding responsibility of the state to secure them. Such rights (from employment guaranteed by public policy, limitation to working hours, unemployment and health insurance, etc.), and the positive duty of the state to provide them, discerned the range of the social responsibility of the state, which was institutionalised in a variety of national modalities of welfare state in Western capitalist democracies. It had been the social responsibility of public authority under bureaucratic socialism that had generated much of the legitimacy of the otherwise oppressive regimes in Eastern Europe.

Although social transformations in the new and the mature democracies of Europe have followed very different trajectories over the past twenty years, these trajectories have come to converge into a new legitimacy relationship between public authority and citizens - a new social contract. The turning point for Eastern Europe was the collapse of communism in 1989-1990; the turning point for Western Europe was the coming into force of the Single European Act in 1987 and the putting into place of the single market (the free movement of goods, services, capital and people) in 1993. The accession of ten of the post-communist societies in 2004 and 2007 merged the two processes. Let me now trace these two distinct logics of transformation and their mutual enforcement.

## EASTERN EUROPE AFTER THE FALL OF COMMUNISM

The story of Eastern Europe is the fate of nurturing capitalism within a non-liberal framework of politics (what Kant would characterise as a despotic *forma regiminis*).

Here the features of the model emerge in three consecutive stages. In the first stage, the collapse of the communist regimes in the late 1980s was marked by the disappearance of the left ideological perspective. Dissident mobilisation in the decades preceding 1989 did not have a strong economic component and free-market rhetoric was marginal. (The 1989 revolutions in Eastern Europe began as a broad

---

<sup>9</sup> These differences are documented in the 'varieties of capitalism' and 'types of welfare state' literature, which issued, respectively, from the pioneering works of Peter Hall and David Soskise (2001), and Gøsta Esping-Andersen (1990).



rejection of the modernist projects of human conquest over society and nature, which were seen to be embodied as much by the communist states as by the capitalist democracies.) At this early stage the strong presence of central public authority in the administration of society lost legitimacy, as this presence was experienced as being oppressive. With this, however, the social responsabilisation of the state – that is, the responsibility of the state for securing social rights, also vanished.

The second stage, that of democratic transition immediately following the revolutions, was marked by elite-based political mobilisation and personalistic form of policy-making. Political elites, rather than parties, were actors of political mobilisation and candidate-centred forms of politics predominated, ultimately re-asserting the autocratic style of policy-making that had been characteristic of the old regime.<sup>10</sup> Moreover, as the dissidents' agenda of abstract human emancipation disappeared (together with the dissidents), economic liberalisation rapidly took centre-stage, embraced equally by the communist-successor parties as it was by the plethora of new political formations. Václav Havel's admonitions against both the communist and capitalist forms of technological modernity (within his allegedly utopian 'politics of authenticity') were superseded by Václav Klaus' derision of the 'paternalistic' welfare state in Western Europe and his eulogies of unregulated free-market capitalism.<sup>11</sup>

The third stage – that of democratic consolidation in the course of preparation for EU membership – consolidated the two features that had emerged previously: that of the autocratic style of policy-making and the hegemony of free-market ideology. On the one hand, the social and political reforms were driven by the blueprint of EU-membership conditionality and carried out by the political elites that were the key interlocutors to the Brussels administration. On the other hand, the socio-economic substance of the new social contract was dominated by the idea of free and open markets. In the course of EU accession, the development of competitive market economy was imposed as a condition for EU membership, alongside that of democracy and the rule of law. Significantly, the stress was placed not simply on free-market economy, but on *competitive* economy, as the aspirant countries were required to develop 'capacity to withstand competitive pressures' (stipulated in the so-called 'Copenhagen criteria' for EU accession).<sup>12</sup> It is important to note that economic liberalisation and the demise of the cradle-to-grave welfare state were embraced not on the basis of ideological preference but, rather, as constitutive (and ergo - unquestionable) elements of the social transition.

The EU-membership requirements related to liberal constitutionalism - rule of law, independent judiciary, civil and political freedoms – were a powerful

---

<sup>10</sup> I had observed this tendency to be emerging already at the time of my involvement with the student strikes at Sofia University in 1989-1990; see Azmanova (1992).

<sup>11</sup> English translations of some of Havel and Klaus's programmatic texts are available in O'Sullivan, (2004).

<sup>12</sup> The 'Copenhagen criteria' (the rules defining a country's eligibility for membership in the EU) as adopted at the 1993 European Council stipulate: 'Membership requires that candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights, respect for and protection of minorities, the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union. Membership presupposes the candidate's ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union' (European Council 1993, point 7/A/iii).

---

corrective to the autocratic style of politics in post-communist societies. However, this corrective was fragile and temporary. For instance, Monica Macovei, the Romanian Minister of Justice from December 2004 to April 2007, who pushed through the reform of the judicial system, was dismissed only a few months after Romania joined the EU. Some of the laws she had introduced were changed or suspended. In a similar vein, the authoritarian turn in Hungary and Bulgaria, together with political corruption, has been well reported in the international press and in EU policy reports. Overall, the weakness of constitutional government, the autocratic style of policy-making by ruling elites, and lack of responsibility for the social agenda (from the perspective of social justice that marks left politics), have become characteristic features, be it in varying degrees, of the post-communist societies of Eastern and Central Europe.

#### WESTERN EUROPE AFTER THE SINGLE MARKET

I now turn to the fate of the mature democracies in the ‘old’ Western Europe. The starting point in reconfiguring the legitimacy relationship between public authority and citizens was the redefinition of state-market relations during the ‘golden decades’ of neoliberal capitalism - the 1980s and 1990s. The policy agenda at that time was no longer centred on redistribution and macroeconomic policy that had been the cornerstones of the Keynesian economic philosophy underlying the European welfare state. Instead, public policy increasingly began to be centred on (1) internal market integration via lifting barriers to competition within the EU; and (2) improving EU competitiveness in the global economy.

The shift of policy priority in favour of free markets can be traced back to the establishment of the so-called ‘single market’ in the early 1990s.<sup>13</sup> Under its impact, *economic integration* within the EU began to be interpreted in the terms of *free market* – allegedly to ensure the free movement of goods, capital, people and services. With this move, the protection of the disembedded market became the core function of the EU decision-making bodies, and social policy became subordinated to it.

The immediate impact here of 1989 was to bring globalisation to the doorstep of Europe. The geo-political opening after the end of the Cold War thus made global competitiveness a highly salient factor in policy-making. This shift is explicit in the EU policy agenda since the turn of the century, as the stress on global competitiveness has become more acute in the transition from the Lisbon Strategy of 2000 (which pledged to make the EU ‘the most competitive and dynamic knowledge-based economy in the world’ by 2010) to its revised version adopted in 2006, and the current Agenda 2020.<sup>14</sup> The objective of global competitiveness has generated a trans-ideological policy consensus, embraced by capital and labour, and

---

<sup>13</sup> The Single European Act, signed by EU leaders in 1986, aimed to integrate member-states economies into a ‘single market’ by 1992, thus engendering a space of free movement of goods, services, capital and persons (known as ‘the four freedoms’). The treaty came into effect in 1987, and the single market was effectively established in 1993.

<sup>14</sup> The Lisbon Strategy (also known as the Lisbon Agenda) was a 10-year action plan for economic development adopted by EU-member states’ leaders at the European Council in Lisbon in March 2000. It was updated and re-launched in 2006. Upon its expiration, the European Council in June 2010 adopted a new European competition and development strategy for the period until 2020, known as ‘Europe 2020’.

---

enforced by public authority both at the level of European Union institutions and at the level of member-states. As part of strategies for international competitiveness, governments at state- and EU- level, and across the ideological spectrum, have been undertaking action to enhance market efficiency, mostly by active liberalisation and deregulation of the economy. Tellingly, trade-union activity has changed its nature, as liberalisation and deregulation policies, accepted under the threat of losing jobs, have become a central object of concertation, giving rise to what Wolfgang Streeck (1984) and Martin Rhodes (2001) have described, respectively, as ‘supply-side corporatism’ or ‘competitive corporatism’. Within this new consensus standard distributional issues related to social justice become secondary, as employee rights are made subordinate to the dictates of competitiveness in the global economy and the risk is shifted from the employer to the employee.

#### THE STATE: MORE POWERFUL, LESS RESPONSIBLE, INVARIABLY LEGITIMATE

In the course of these dynamics, the role of political authority in Europe has altered. Public authority (at all levels of governance) has undertaken ever more policy action to intensify wealth-production, but less and less action to manage the social costs of growth-generating public policy. This is particularly evident with regard to social policy in the European Union.

EU integration has reduced the policy-making powers of member-states in welfare provision, while EU institutions over the past decade have increasingly started to taken action in this field.<sup>15</sup> This shifting balance between member-states and the EU in itself is not alarming; it is not even interesting. The important question is not where policy-making authority is allocated, but what the nature is of social policy resulting from the re-allocation of responsibility between states and EU’s central policy-making bodies. In this regard, three elements are noteworthy.

First, in the course of shifting responsibility from state to EU level, there is less and less public authority in charge of welfare provision. This is the case because the retrenchment of the state is not matched by an equal increase of policy action at EU level. In other words, what the states are losing in terms of capacity to secure social rights is not matched by an equal increase in the responsibility of the EU to safeguard these rights.

Second, since the adoption of the Single European Act, economic integration within the EU has been invariably interpreted in the terms of free-market capitalism (while in principle open markets are not synonymous with free markets).<sup>16</sup> The logic of EU integration, dominated by economic freedoms, endows the *raison d’État* of the European Union with the substance of *raison d’économie*, thus

---

<sup>15</sup> For a detailed outline of this process see Leibfried (2010).

<sup>16</sup> The former concerns export policy, the latter – the state of domestic product- and labour- markets. Thus, one can imagine an integrated market to emerge among EU member-states as a shared economic space with strong public sector and protected labour markets.

marginalizing social reason.<sup>17</sup> This has resulted in a radically liberal form of welfare provision: one marked by subordination of social policy to free-market policy priorities, a race to the bottom in social protection.

Third, the accession of the post-communist states to the EU has increased competitive pressures on the labour-markets in the old members of the EU. EU enlargement to the East has put downward pressure on employment standards (both in terms of level of social protection and wage rates), creating a race to the bottom in social protection codified in recent legislation as well as in rulings of the European Court of Justice. An example at hand is the Directive on Services in the Internal Market adopted in 2006.<sup>18</sup> It opened the possibility for companies and jobs to relocate to the low-cost and less regulated economies of Eastern Europe, thus creating the threat of social dumping – the use of foreign labor to undercut wages (the ‘Polish plumber’ threat).<sup>19</sup> The European Court of Justice has treated this matter in the *Viking* and the *Laval* cases, which resulted in legalising the minimum standards of labour protection, effectively transforming the principle of *equal pay for equal work* into *minimum pay for equal work*.<sup>20</sup> Thus, the general public in the old member-states has started to see the inflow of labour from the new member-states as a threat of social dumping.

Overall, as a result of the transformative dynamics reviewed above, the range and nature of the responsibility of public authority has changed, which has affected the style of governance. At both state and EU level, public authority is undertaking ever more action to enhance market efficiency (for the sake of global competitiveness), with dramatic increase in social risk, but this same public authority has ceased to assume responsibility for the generated risk. Rather than a retrenchment of the state, we have the new phenomenon of increase in the *power* of governing bodies (and their capacity to inflict social harm), while their *responsibility* for the social consequences of policy action decreases. This discrepancy between power and responsibility is damaging for societies, as the exercise of power becomes ever more autocratic, even if all rituals of democratic politics are meticulously performed.

Arguably, the discrepancy between power and responsibility should be eroding the authority of states, as Richard Sennett (2006, p. 164) has argued. This, in turn, could be expected to trigger a legitimization crisis of the system, and massive revolts. Yet, no such crisis has so far ensued, apart from the wave of largely peaceful popular protests in the course of 2011-2012 whose main theme is resistance to the politics of austerity, rather than change of the political economy of Europe away from neoliberal capitalism.

The lack of legitimization crisis is due to substantive changes of the social contract (the legitimacy relationship) between public authority and citizens in Europe. Over

---

<sup>17</sup> I owe the analogy between *raison d'État* and *raison d'économie* to my student Cécile Maitre-Ferri.

<sup>18</sup> Directive 2006/123/EC was adopted by the European Parliament and Council on 12 December 2006.

<sup>19</sup> The image of the Polish plumber as a symbol of cheap labour coming in from Eastern Europe appeared in the press during the EU Constitutional Referendum in 2005.

<sup>20</sup> *Official Journal of the European Union*, 23.2.2008, p. 10. In the *Viking* (EU06050291) and the *Laval* (SE07060291) cases, the European Court of Justice was asked to clarify the relationship between the rules on free movement, as protected in the European Community Treaty, and the fundamental rights of workers to take collective action, including strike action.

---

the past twenty years, this relationship has been altered to exclude distributional issues from the range of political responsibility. Justifying neo-liberal economic policy with the allegedly inevitable nature of globalisation, public authority has effectively managed to redefine its relationship with citizens: market-regulative functions linked to the provision of social rights (such as wealth redistribution and guaranteed employment) have been withdrawn from this relationship. The matrix of state-society relations over this period began to be shaped by a particular regulative policy: one that consists in transferring responsibility from public authority to individuals. Giandomenico Majone (1990) has observed that the neo-liberal state (which he names ‘regulatory state’) uses legal authority and regulation over other tools of stabilisation and redistribution. The changed instruments of public policy also entail change in the nature of that policy: as classical redistributive tools that had previously offset the negative consequences of market dynamics are no longer available, individuals are increasingly charged with responsibility for issues ranging from maintaining a healthy lifestyle, to protection of the environment, remaining employable, finding jobs and securing pensions. Thus, individual self-reliance has become one of the core elements of the social contract in the early twenty-first century.

This phenomenon is evidenced in analyses establishing that globalisation weakens the connection between the national economy and citizens’ political choice; economic openness reduces voter tendencies to hold incumbent policy makers responsible for economic performance and, by default, for the social consequences of economic policies.<sup>21</sup> Such absolution of the state from its social responsibility is asserted even via measures explicitly intended to enhance social protection. Thus, the Charter on Shared Social Responsibilities that the Council of Europe is now poised to adopt justifies the novel concept of sharing responsibilities among various social actors with the fact that states are, allegedly, ‘less able to fulfil their role of ensuring access to social protection’.<sup>22</sup> There is no legitimacy crisis of the system, no mass-scale revolts amidst the rampant economic crisis in advanced liberal democracies, because the very legitimacy relationship has been altered to exclude issues of social safety from the range of public authority’s responsibility. The grievances against austerity that are now being expressed in street protests and in voting booths are the grievances of distressed consumers; not of citizens demanding structural changes to the political economy of democratic capitalism. Not even leftist parties are proposing nationalisation of the essential economic and financial infrastructure so as to ensure that public authorities secure resources for social policy – resources other than borrowing and taxation, which are either untenable or insufficient means for providing the needed funds.

The transfer of social responsibility to individuals entails that issues of social justice withdraw from the legitimacy relationship, leave the agenda of public debate, and thus stand beyond the scope of political contestation. Public authority

---

<sup>21</sup> As evidenced, for instance, in the comprehensive analysis of elections in 75 countries in Hellwig and Samuels (2007).

<sup>22</sup> Council of Europe. Draft recommendation of the Committee of the Ministers to member states on the Council of Europe’s Charter on Shared Social Responsibilities, DGII/DCS (2011) 09, p. 3.

---

is free to cause social harm for which it does not assume responsibility, as the same general public which suffers these effects has absolved it from responsibility. Democratic, responsive power has thus granted legitimacy to irresponsible form of rule. The state, ever more powerful, ever less responsible, remains invariably legitimate.<sup>23</sup>

#### THE SOCIAL FALLOUT: FEAR OF FREEDOM

One of the consequences of the altered social contract between public authority and citizens is that the accrued personal freedom degenerates into mass anxiety. While some have celebrated the growing individual responsabilisation that I discussed above as a form of emancipation, as ‘turning collective requirements into individual opportunities for choice’ (Beck 2007, p.684), it is unlikely that individual responsibility for wellbeing, in the context of the economic uncertainty that is characteristic of globalisation, would nurture autonomy. For all the evidence, it is feeding anxiety, thus engendering social pathologies rather than emancipation. Autonomy that imposes an overwhelming burden of responsibility on individuals for their well being quickly decays into what Erich Fromm called ‘fear of freedom’. It is exactly because public authority is perceived as incapable of managing the nebulous threats coming from a globally integrated world that this fear of freedom is being channelled into hatred of strangers, rather than into demands for more social protection.

This has resulted in the upsurge of a novel type of xenophobia, now fuelling mass support to populist parties in Europe - what I have described elsewhere as ‘economic xenophobia’.<sup>24</sup> In contrast to the old version, in which hostility to foreigners was cast in terms of protection of cultural and political sovereignty (national chauvinism), the foundation of xenophobia is now more explicitly economic. It is related to perceived threats to socio-economic wellbeing (especially job loss) brought about by the open border policies in the context of globalisation. As fear of job outsourcing in the context of globalisation is becoming shared across the working and middle classes, economic xenophobia has come to taint the discourse equally of the centre-Left and the centre-Right.<sup>25</sup>

Significantly, the basis of this economic xenophobia is not impoverishment, and neither is it the growing gap between rich and poor, as is commonly claimed. The basis is economic insecurity: perceptions of threat to livelihood. Note, for instance, that anti-immigration populist parties started to mobilise successfully in the affluent

---

<sup>23</sup> For a more detailed account of the way the legitimacy relationship between public authority and citizens has been reconfigured in Western democracies since the 19th century see Azmanova (2013).

<sup>24</sup> I introduce the notion *economic xenophobia* in Azmanova (2011).

<sup>25</sup> Recent surveys corroborate this new, economic rather than cultural, foundation of xenophobia, as a significant percentage of Europeans declare that the current level of immigration is spoiling the quality of life by combining the (perceived) threat of jobs loss with pressures on the social security system and the state education and health systems (according to a Harris poll published in the *Financial Times*, 6 September, 2010).

---

nineties, in conditions of good economic growth and low unemployment, but feeding on the sense of uncertainty that intensified globalisation was creating. Despite the extraordinary prosperity Europeans enjoyed in the late nineties, the sense of anxiety and insecurity on an everyday level was steadily growing, fuelling anxiety based on perceptions of physical insecurity, political disorder, cultural estrangement, and employment insecurity (the ingredients of a new order-and-security public agenda). Another indication of the fact that it is economic insecurity, rather than impoverishment or inequality, that is driving what I have described as ‘economic xenophobia’, is that anti-immigrant parties are thriving in relatively rich and egalitarian countries such as Switzerland, France, the Netherlands, Sweden and Finland.<sup>26</sup>

This is ushering in a novel political era in European politics. This era is shaped by social anxiety, whose source is the perceived fragility of the model of wellbeing and the incapacity of individuals, without the proper help of public authority to assume the responsibilities forced upon them. As economic liberalism and globalisation have come to be accepted in most advanced industrial democracies as being without an alternative, citizens have began addressing public authority with demands for compensation for the insecurity caused by globalisation. Such demands for compensation range from curbing immigration, protection from ‘pandemics’, increased safety in public spaces, blocking EU enlargement or, most brutally, hostility to strangers.

### **Conclusion: responsibility – back to the state**

The social question in the global 21<sup>st</sup> century emerges as the generalisation of what the French have aptly called *précarité*: the ‘incertitude’ of survival, which haunts large groups of the population irrespective of educational level or social class; problems which are neither rooted in the quality of democracy (as popular self-government) nor in the organisation of sovereignty (located in nation-states or surpassing them). It is not the invisible hand of the market that is generating the anxieties haunting our societies. Behind the alleged inevitability of increased market freedoms and decreased social protection stands a particular formula of policy-making and style of the use of power that has been adopted by public authorities at both the level of EU central institutions and member-states, irrespective of governments’ nominal ideological affiliation. It consists in the growing powers of public authorities to initiate policy with dramatic social consequences, but to forsake responsibility for these consequences.

This pathological style of rule (the discrepancy between growing power and reduced responsibility, a form of political ‘abocclusion’, to invoke the medical pathology) has engendered two secondary disorders, or policy follies. The first one is the economic policy of productivity-focused, jobless growth. This formula of

---

<sup>26</sup> Thus, analysts have noted that the populist upsurge, which propelled to victory the xenophobic True Finns Party in the 17 April 2011 national elections, had been brewing for years in Finland as decline in traditional Finnish industries such as forestry and paper brought economic insecurity.

supply-side economics, which prioritises the rapid increase in productivity for the sake of competitiveness in the global economy, emerged already in the 1980s and has been preserved throughout the recent jobless economic recovery. This formula of economic policy generates insecurity even as it effectively generates growth. The second disorder is the politics of individual responsabilisation that is turning citizens' declared right to the pursuit of happiness, dressed as social entrepreneurship (we are all supposed to be the authors of our lives) into fear of freedom. Therefore, one of the struggles to be launched against the politics of fear that is haunting our societies would be to demand the social and economic responsabilisation of public authority vis-à-vis citizens. Strategies of passive or active resistance, subversion, or even radical obstruction (in the spirit of the recent rise in anarchist activity in Europe), as much as they might be welcome as a needed wake-up call for political authority, are not enough. The thing to do is to force public authorities (at state and EU-level) to resume their social responsibility. Even if that would mean bringing key economic and social infrastructure into public hands in order to provide resources for social policy, this, for good or for bad, would hardly entail the end of capitalism. It would only put an end to the socialisation of economic risk and the privatisation of economic opportunity that are now tearing the social fabric of European democracies.

## References

- Azmanova, Albena. 2013. The 'crisis of capitalism' and the state: More powerful, less responsible, invariably legitimate. In *The semantics of state-building*, ed. Nicholas Onuf and Friedrich Kratochwil. New York: Routledge (forthcoming).
- Azmanova, Albena. 2011. Against the politics of fear: On deliberation, inclusion, and the political economy of trust. *Philosophy and Social Criticism* 37/4: 401-412.
- Azmanova, Albena. 1992. Dictatorships of freedom. *Praxis International* 12/2: 145-157.
- Beck, Ulrich. 2007. Beyond class and nation: Reframing social inequalities in a globalizing world. *The British Journal of Sociology* 58/4:679–705.
- Esping-Andersen, Gøsta.1990. *The three worlds of welfare capitalism*. Princeton: Princeton University Press.
- European Council. 1993. Presidency Conclusions, Copenhagen European Council. available at [http://www.europarl.europa.eu/enlargement/ec/pdf/cop\\_en.pdf](http://www.europarl.europa.eu/enlargement/ec/pdf/cop_en.pdf) (accessed 12 Jan. 2012)
- Hall, Peter, and David Soskise, eds. 2001. *Varieties of capitalism: The institutional foundations of comparative advantage*. Oxford: Oxford University Press.
- Hellwig, Timothy and David Samuels. 2007. Voting in open economies: The electoral consequences of globalisation. *Comparative Political Studies* 40/3: 283-306.
- Kant, Immanuel. 1903 [1795]. *Perpetual peace: A philosophical sketch* (trans. Mary Campbell Smith). London: Swan Sonnenschein & Co.
- Leibfried, Stephan (2010). Social policy: Left to judges and the markets?. In *Policy-making in the European Union*, ed. Helen Wallace, Mark A. Pollack, Alasdair Young, 253-281. Oxford: Oxford University Press.
- Majone, Giandomenico. 1990. *Deregulation or re-regulation? Regulatory reform in Europe and the United States*. London: Francis Pinter.
- Minder, Raphael. 2011. Despite ban, protests continue before Spanish vote. *The New York Times*, May 11.



- 
- Montesqueu, Baron de (Charles de Secondat). 1748. *De l'esprit des lois*. Genève, Chez Barrillot & Fils.
- O'Sullivan, Noël. 2004. *European political thought since 1945*. Basingstoke: Palgrave Macmillan.
- Offe, Claus. 1985. *Disorganised capitalism*. Cambridge, Mass: MIT Press.
- Rhodes, Martin. 2001. The political economy of social pacts: Competitive corporatism and European welfare reform. In *The new politics of the welfare state*, ed. P. Pierson, 165-194. Oxford: Oxford University Press.
- Sennett, Richard. 2006. *The culture of the new capitalism*. Yale: Yale University Press.
- Stinchcombe, Arthur L. 1997. Tilly on the past as a sequence of futures. In Charles Tilly and Arthur L. Stinchcombe, *Roads from past to future*, 387-410. Maryland: Rowman and Littlefield Publishers.
- Streeck, Wolfgang. 2011. The crises of democratic capitalism. *New Left Review* 71: 5-29.
- Streeck, Wolfgang. 1984. Neo-corporatist industrial relations and the economic crisis in West Germany. In *Order and conflict in contemporary capitalism*, ed. J.H. Goldthorpe, 291-314. Oxford: Clarendon Press.
- Tilly, Charles. 1975. Reflections on the history of European state-making. In *The formation of national states in Western Europe*, ed. Charles Tilly and Gabriel Ardant, 3-83. Princeton: Princeton University Press.
- Thomas, Dylan. 2003. The neophyte, baptized in smiles. In *The Poems of Dylan Thomas*, ed. Daniel Jones, 19. New York: New Directions.