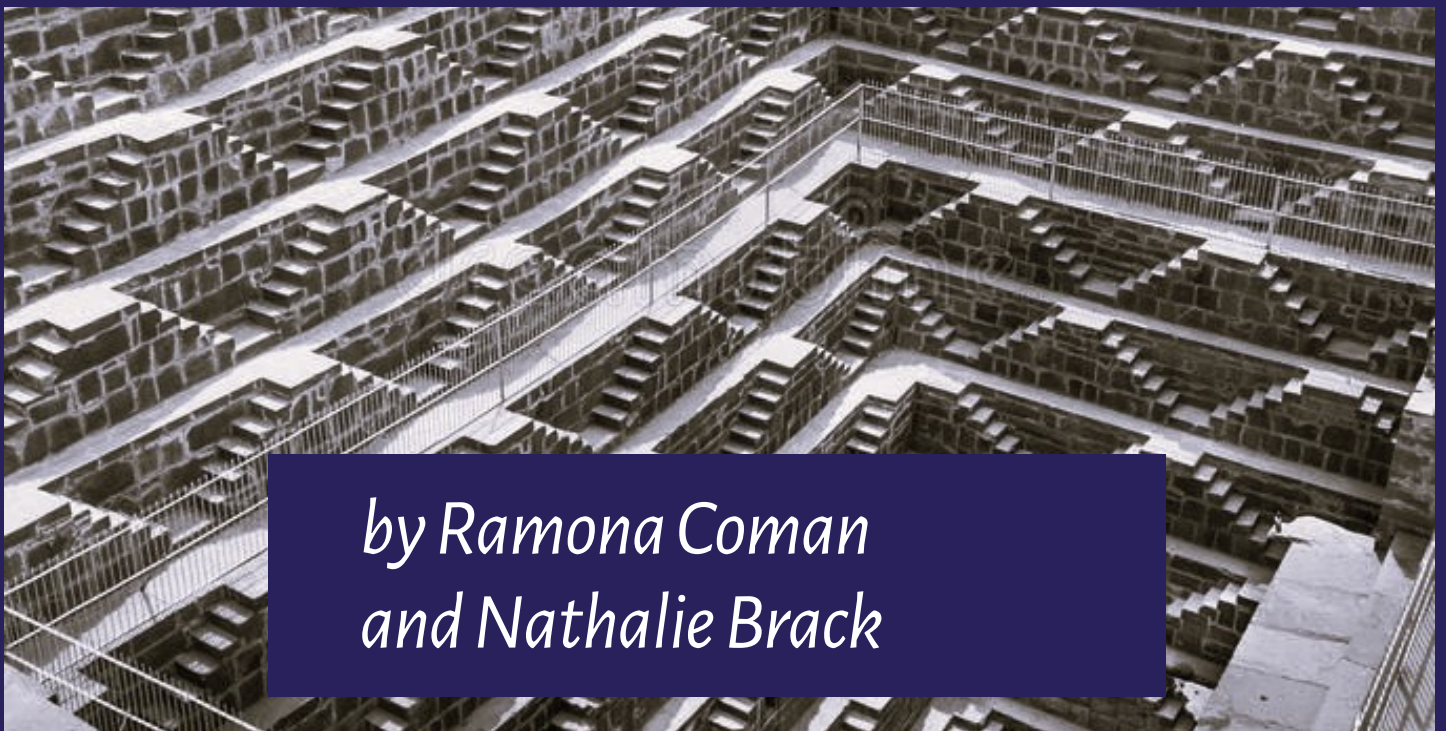




THEORETICAL REFLEXIONS UNDERSTANDING DISSENSUS OVER LIBERAL DEMOCRACY IN THE AGE OF CRISES

THEORETICAL THINK PIECE



Understanding Dissensus Over Liberal Democracy in the Age of Crises: Theoretical Reflexions

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1. Introduction

The two first decades of the 21st century have witnessed democratic stagnation and setback, as both old and new democracies grapple with a range of internal and external challenges (Carothers and Donahue, 2019; Cassani and Tomini, 2020; Eckes, 2019, van Beek 2019). In different contexts, political actors are attempting to separate democracy from liberalism (Plattner, 2021). Not only rights, pluralism and multiculturalism are contested (Lacroix and Pranchère, 2019) but so is the rule of law – a longstanding normative ideal that has shaped political regimes and supranational polities to prevent arbitrary power and to guarantee individual rights (Tamanaha, 2004; 2009). Whether there was a consensus over liberal democracy, a value taken for granted or merely an illusion (Barthels et al. 2023), it seems to have been shattered. The foundational rules of the polity, its core principles and values are now a source of conflicts, and the EU is no exception.

While there have been many studies on the crises of democracy, this article aims to make a contribution by concentrating on the nature of the dissensus over liberal democracy, its actors and implications for policy and polity in the EU. Despite being a pre-condition for democracy, dissensus has often been used in political science, political theory, or EU studies as a metaphor or as a term with various meanings, rather than as an established concept. The meaning of the word is quite straightforward. However, dissensus has rarely been studied *per se*, as a concept and as a phenomenon. This is precisely the ambition of this article and the research agenda presented in this special issue¹: to shed light on the nature of the dissensus over liberal democracy.

The current stage of European integration has reached a point where liberal democracy is not only politicized but also a polarizing issue. This phenomenon is not specific to the EU. On the one hand, in Europe and beyond, populist radical right parties rise against the core pillars of liberal democracy, fuelling discontent and polarisation. On the other hand, there is a mainstreaming of the critique towards liberal democracy, with a more diverse group of actors claiming that democracy needs to be reinvented. As Weinman and Vormann (2021) underlined, there is a crisis of conviction at the center. Claims against liberal democracy not only come from more diverse ideological corners and political parties, but they are also supported by a wider range of social actors than ever before. While the contestation of liberal democracy or the expression of forms of opposition in different arenas has always existed, what is new is that this phenomenon is no longer confined to the margins of the political spectrum: it has moved

to the core. More than that, it is not only the proliferation of actors putting liberal democracy at the center of their claims which requires further investigation but also that the institutions that are supposed to channel social, political and legal conflicts over core principles of liberal democracy seem to be failing, being also divided by conflicts.

In our attempt to define dissensus, we draw on the insights from Sartori, Mair and Collier et al on concept formation. Sartori introduced the ladder of abstraction to refer to the number of properties that define a concept (Sartori, 1970: 1052). When the concept is defined by a limited number of properties, it can include a large number of cases. In contrast, “the more concrete the concept, the narrower the range of cases” (Mair, 2008: 178). Following these insights, we proceed in three steps to define dissensus. First, we identify the main components of the concept (Goertz and Mahoney, 2012), that is the actors (a), the nature of the conflict (b) and the goals (c). In a second step, we propose a typology of dissensus (Collier et al. 2010, 2012). Finally, we resort to “negative identification” (Sartori, 1970), namely determining what the concept of dissensus *is not* by contrasting it with other concepts which share a common core, yet being different.

The paper is organized as follows: Section 2 discusses dissensus as a normative concept, drawing on reflections from political theory. In section 3, we propose a definition of dissensus as an empirical concept and examine its different dimensions. Section 4 proceeds with negative identification and shows how dissensus relates to other key notions in political science, namely opposition and contestation. The conclusion summarizes the arguments and highlights avenues for future research.

2. Understanding dissensus: insights from political theory

In EU studies, the expression “constraining dissensus” has been used metaphorically in reference to the “end of the permissive consensus” (Hooghe and Marks 2009), and to denote the rising opposition to European integration as its scope and visibility in national arenas increased in the post-Maastricht era. The most advanced discussions of the concept of dissensus in relation with liberal democracy find their origins in political theory, where scholars have coined it as a normative/theoretical concept.

Dissensus as the essence or a pre-condition for democracy

Dissensus and democracy are intimately related. Dissensus is the quintessence of democracy. Or as Rancière argues, “the essence of politics is dissensus” (2010: 37). Democracy is not just an old idea; it is also an enduring ideal that has evolved over several thousand years (Dahl, 1989: 2), since the Athenian democracy (Parekh, 1992: 160) until the French Revolution, that Berman (2019: 284) regards as the starting point of liberal democracy’s consolidation process as a struggle in Europe. Yet, it is only in the second half of the 20th century that liberal democracy in its modern understanding has gained almost universal force (Dahl, 1989: 213) as a unique mix of individual rights and popular rule which has long been a dominant type of government in North America and Western Europe (Mounk, 2018: 14).

Democracy has always been and remains a contested concept, which has been defined in many ways (Collier et al., 2006; Dahl, 1989: 2). Not only different definitions exist since the seminal works of Przeworski, Dahl or Sartori, but so do different ideological conceptions rooted in

conservative, social-democratic, liberal, neoliberal, radical ideas (Mouffe, 2016). Their confrontation is the essence of democracy (Mouffe, 2016: 100). Mouffe reminds us that modern democracy derives its specificity from the articulation of two different traditions: on the one hand the *liberal tradition* – based on the rule of law, the respect for human rights and individual liberties and, on the other hand, the *democratic tradition* based on equality and popular sovereignty (2016: 14). If democracy, historically speaking, is about “who rules” which requires the people to be sovereign, the adjective “liberal” encapsulates less the idea of how rulers are chosen and more the limits to their power (Plattner, 2021: 44). As Lacroix and Pranchère point out (2019), there is no democracy without rights. In the same vein, the rule of law outside a democracy is simply the most effective instrument of authoritarianism and worse, as underlined by Weiler (2021).

Dissensus as a normative concept

Dissensus has been at the centre of philosophical reflections since the late 1990s, discussed in political theory by Chantal Mouffe (1996; 2016), Jacques Rancière (2010) and John A. Dryzek (2000) among others. The theoretical debates around the notion of dissensus have flourished in the 1990s, when consensus has become “the gold standard of political justification” and “an ideal to secure political legitimacy” (Dryzek and Niemeyer 2006; Dryzek 2000). Scholars like Manin (1987) or Elster (1987) have all in different ways focused on the virtues of consensus in democracy, understood as “deliberation” (Manin, 1987), an “aggregative model of democracy” (Elster 1998) or as an “outcome” of the democratic process (Cohen 1989: 122 – quoted by Dryzek and Niemeyer, 2006). Most of the seminal books of the advocates of consensus had been published in the late 1990s by Jurgen Habermas (1996) in his book *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy* by who put forward a model of deliberative democracy to reach consensus and by John Rawls (1993) in *A Theory of Justice* and his focus on the “overlapping consensus”. Rawls argued that the idea of an “overlapping consensus enables us to understand how a constitutional regime characterized by pluralism might, despite its deep divisions, achieve stability and social unity because of the public recognition of a reasonable political conception of justice” important for securing the stability of a constitutional regime (1987: 2).

In response, in the 2000s several scholars proposed a more critical approach to this debate arguing that Habermas’ deliberative understanding of democracy and Rawls’s understanding of the overlapping consensus as a way to overcome conflicts in democracy creates “the illusion of pluralism”. What was seen with a critical eye is that in these conceptualisations power relations are erased (Mouffe, 2016). Against this backdrop, the books by Dryzek (2000), Rancière (2010) and Mouffe (2016) take a critical stance vis-à-vis consensus, arguing in favor of a “more robust pluralism” (Drysek and Niemeyer, 2006: 634), instead of a harmonious agreement where all conflicts and differences are solved. Rancière argues that the “essence of consensus lies in the annulment of dissensus” (Rancière 2010: 42). In other words, “consensus is the end of politics”, “a return to a normal state of things”, that is “the non-existence of Politics”. For Chantal Mouffe, consensus is also problematic as “the real threat to democracy is “to negate the ineradicable character of antagonism and aim at a universal rational consensus” (1996: 248). Put differently, these authors challenge the idea of consensus as a core

principle for democratic politics, underlying the positive role of dissensus in democratic politics. Conflicts are inherent to democracy and Mouffe distinguishes between antagonist conflicts (conflicts between enemies) and agonist conflicts (conflicts between adversaries). The essence of democratic politics in Mouffe's view is to transform antagonism into agonism (2016: 100). Agonistic conflicts do not imply eliminating passion or conflict, but mobilising such passions towards democracy (Mouffe, 2016: 101).

However, Mouffe allows that "pluralist democracy requires a certain amount of consensus" (1999: 756). In a context in which liberal democracy is at crossroads, according to Mouffe, liberal democratic institutions should not be taken for granted, as "there is always a need to strengthen and defend them", but to do so "it is necessary to understand their specific dynamics and to recognise the tension created by their different operating logics" (2016: 15). Dissensus over liberal democracy is explained by Mouffe as the prevailing tendency to view democracy in such a way that it is almost exclusively identified with the rule of law and the defence of human rights, without regard to popular sovereignty (2016). For Drysek and Niemeyer "liberal democracy looks neutral but supports the powerful", while "the experience and perspectives of marginalized and oppressed groups are likely to be very different from dominant groups" (2006: 636). Beyond the role of dissensus in democracy, we still lack a proper definition for empirical research and this is the aim of the next section.

3. Dissensus as an empirical concept

How to build a concept is not only an ambitious endeavour but also a complex and gradual process, an interactive one between theory and empirics. Concepts often carry different interpretations which are rarely consensual precisely because "progress of cultural sciences occurs through conflicts over terms and definitions" (Gerring referring to Max Weber, 1999: 359).

As Mair (2008: 190) put it, not only every concept must have a core or minimal definition, but it has to be also shared by others. In our attempt to define dissensus as an empirical concept, we seek to go beyond its implicit meaning as quintessence of democracy. In the current context of global crisis of democracy in which its core pillars are under strain, we define dissensus as a phenomenon characterised by : *the expression of social, political and legal conflicts (1) driven by political, social, legal actors, including state and non-state actors in different institutional and non-institutional arenas (parliamentary, constitutional, public sphere, technocratic and expert arenas...)* (2) *who seek to maintain, to replace or to restructure liberal democracy* (3). Three components are at the core of this definition: the actors (a), the nature of the conflict (b) and the goals (c) discussed below.

a). The actors of dissensus come from different ideological corners

Over the past decades, political parties, especially populist ones, have mobilized around the notion of liberal democracy and its core pillars (see the introduction of this special issue). Indeed, populist actors are gaining ground asserting that democracy can also be illiberal or anti-liberal and some even secured electoral victories through their stance against liberal democracy. Their success and claims have led to tensions across the political spectrum and in several institutional arenas. But the critique of liberal democracy goes beyond populist parties.

Dissensus is fuelled by a diversity of actors, not only political but also social and legal in a context in which conflicts over core values, principles and norms have proliferated, reshaping politics in the sense of the emergence of new actors. While in the 1990s a wide range of civil society organisations emerged to promote liberal democracy, in recent years new ones have arisen against it (Bluhm and Varga, 2019) with the support of populist radical right governments, like in Poland and Hungary (Dabrowska, 2019; Bárd, 2020), seeking to “reinforce the party’s political narratives” (Bill, 2022: 120). Church and religious organisations play a major role in this process (Bluhm and Varga, 2019: 7; Gherghina and Miscoiu, 2022). The role of intellectuals is also pivotal, as they are also actively engaged in think tanks, foundations, and even academic institutions which act as counter-hegemonic actors in Gramscian terms, targeting liberal democracy, its core values and institutions (Buzogany and Varga 2021; Behr 2021; Bohle et al 2023; see article xxx in this issue). What is more, the critique of liberal democracy does not come only from new conservative and populist radical right actors. In recent years, a wide range of protests erupted in different EU member states, directed against neoliberal policies. The protests sparked by the EU’s trade agreements such as the TTIP with the USA or CETA with Canada (Oleart, 2021; Crespy and Rone, 2019) are a compelling example, not to mention the disobedience movements in reaction to emergency politics or “There is no Alternative” in the context of the Eurozone crisis (Borriello, 2017) or more recently in climate protests (see also article xxx in this issue). Ultimately, the critique of liberal democracy has also found some forms of expression in the legal sphere, among legal actors, courts, judges, lawyers, academic professions, and experts. Courts are an embodiment of liberal democracy (Sadurski, 2022: 521). They have been under attack in recent years (Bugarcic and Ginsburg, 2017; Pech and Scheppele, 2017; Scheppele 2018) with consequences for their independence (Vauchez 2021).

b). The nature of the conflict. Policy and polity at stake

The decade of crises has given rise to various conflicts both between the EU and domestic actors and within nation states between political, social and legal domestic actors. Dissensus over liberal democracy, its norms and values, institutions and policies takes different forms translating either into conflicts between rights and liberties, on the one hand or between equality and popular sovereignty, on the other, as well as between political and economic liberalism and between political and legal constitutionalism. Some of these conflicts are purely institutional and inherent to any democratic regime. They are often solved through the channels of liberal democracy. Others have been more challenging and difficult to solve. Some conflicts have focused on the nature of the polity (liberal democracy) and its institutions (political, legal, economic), while others have arisen concerning the nature of policies and the values of liberal democracy that they embody.

Dissensus over norms and values of liberal has implications for policies (Coman and Volintiru, 2022). As an illustration, the Eurozone crisis has given rise to conflicts opposing political and economic liberalism, both in tension. The crisis of liberalism is not only related to challenges coming from domestic right-wing populists or external authoritarian or illiberal regimes. It is, at the same time, political liberalism’s own crisis (Weinman and Vormann, 2021: 21-22) that some scholars conceptualized as an instance of “undemocratic liberalism” (White 2019). That

is, liberal democracy in its current form is contradicting its own principles. Weinman and Vormann (2021) argue that markets alone failed to bring social peace and stability, and neoliberalism has led to this contradiction. In their words, “economic liberalism has failed but political liberalism is being held responsible (Weinman and Vormann, 2021: 21). Other policies have been under strain over the past decade, in particular in the field of migration, trade (globalisation), climate change, gender issues or other foreign policy areas to give some examples, all challenged by dissensus over norms and values.

Dissensus over the norms and values of liberal democracy may also have implications for the polity. In recent years not only the rule of law but also rights have been contested giving rise to conflicts in the political, social and legal spheres both at the national and EU level. This line of conflict goes beyond contesting the rule of law (Pech and Scheppele 2017; Sadurski 2019; Kelemen 2020) and reforms limiting the power of judges and the role of Constitutional courts. The conflict targets constitutional issues, either national or European. Hence, in some contexts the relationship between political and legal constitutionalism or between popular and legal sovereignty, has become tense (Czarnota, 2022) giving rise to both political and academic debates about which one should prevail. They both define the nature of the polity. The EU is even more prone to such conflicts as the question of who has the last word has remained open, as an expression of constitutional pluralism, understood as the co-existence of multiple autonomous and overarching constitutional sites, each claiming ultimate authority and yet each respecting and accommodating the others (Scholtes, 2022: 401).

Political regimes have institutionalised arenas where forms of dissent are expressed (to use Dahl’s expression). As Ionescu and de Madariaga (1968:9) put it, “parliamentary opposition is the most advanced and institutionalised form of political conflict”. Courts are also arenas in which conflicts between different kinds of actors are displayed and solved. Social conflicts are also solved through different means. Given that dissensus is about conflicts, how contrasting views and goals translate into outcomes matters greatly as does the extent to which institutionalized means of conflict resolution are part of the conflict (as discussed in Section 4).

c) The goals of the actors

Dissensus also means the expression of contrasting views and presupposes a certain visibility of different claims and goals. In other words, it requires politicization, understood as transporting an issue or an institution into the sphere of politics, making previously unpolitical matters political (De Wilde and Zürn 2012: 139; Zürn 2019: 977-978). For dissensus to happen, liberal democracy needs to be frequently discussed and contested by a wide range of political actors in public debates, leading to the formation of diverging preferences and goals. Politicization, as an actors’ strategy, is therefore seen here as a key condition for dissensus. The goals of the actors can be diverse as they can target liberal democracy as a polity or its policies. Recent debates have revealed that at one extreme of the spectrum we see actors seeking to *maintain liberal democracy* as it is. Others seek to *replace* it by other forms of political organisation, some called “illiberal” (although this implies a contradiction in terms as democracy without rights does not exist) or alternative forms non clearly defined yet. Other actors have politicized liberal democracy and acknowledging its failures as it is, seek to

restructure it, reform it with a focus on specific policies or even some aspects related to the polity.

4. A descriptive typology of dissensus

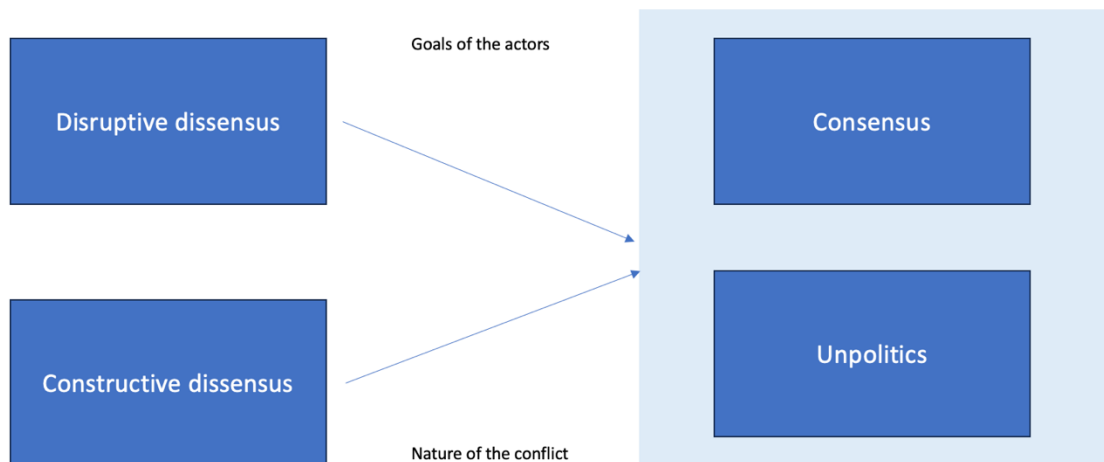
Typologies are created through the combinations of two or more dimensions when the categories of a classification acquire a two or multidimensional characteristics (Mair, 2008: 183). They help in “forming and refining concepts, drawing out underlying dimensions, creating categories for classification and measurement, and sorting cases” (Collier et al., 2012: 217). Typologies can be descriptive or explanatory (Collier, Laporte and Seawright 2010: 153). In descriptive typologies, the cells of the rows and columns correspond to specific dimensions of the concept; explanatory typologies can be translated into hypothesized outcomes. In our attempt to elaborate a descriptive typology of dissensus, we bring together two of the dimensions discussed in the previous section: the goals of the actors and the nature of the conflict (see Figure 1).

On this basis we distinguish between:

- **Constructive dissensus** occurs when contrasting views are expressed *challenging norms and values of liberal democracy with implications for policies and polity*. The aim of the actors is either to maintain liberal democracy and its policies or to restructure it. The conflict is then managed through the existing rules of the game and institutions and is solved through a shared understanding or general agreement between actors.
- **Disruptive dissensus** occurs when contrasting views are expressed *challenging norms and values of liberal democracy with implications for policies and polity*. The conflict opposes actors seeking to maintain, restructure or replace liberal democracy, its norms, values and policies. This type of dissensus tends to lead to conflict whose mechanism of resolutions are also contested.

As illustrated in Figure 1 constructive dissensus or disruptive dissensus can lead to a form of consensus/compromise outcome. But it can also lead to *unpolitics* or destructive dissensus. Unpolitics (Taggart 2018) is a “destructive approach” to decision-making (see Zaun and Ripoll Servent, 2023). It implies “unsettlement” rather than engaging with the “changing set of norms about ideas, rules and justice that shape the nature of political competition” (Robinson 2023). It is transgressive and obstructive as actors challenge the rules of the game either at the level of policies politics or polity, oppose compromises and contest the mechanisms of conflict resolution. As no compromise is possible, it leads to conflicts whose mechanism of resolutions are dismantled and replaced by new ones. Whether dissensus leads to consensus or unpolitics depends on the nature of the conflict and the goals of the actors.

Figure 1: Typology of dissensus



5. Negative identification: opposition and contestation versus dissensus

Why dissensus? This question is unavoidable. As shown in previous sections, democracy requires a diversity of opinions (Dahl, 2006: 78) and modern democratic societies are characterized by a remarkable diversity of opinions about how social life ought to be organised (Latham-Gambi 2020). They therefore rest upon both contestation and opposition. Their expression has been institutionalised in different ways in national and supranational political regimes. These two notions express different forms of dissent, either to policy or polity or to both. Despite their common core, they are at the heart of different strands of scholarly work, opposition being associated with political parties and parliamentary/political opposition; contestation being used to refer to social actors, often used in IR or to explain contentious politics. The dividing line between these two concepts has become more porous in recent years. Despite their centrality in different sub-fields of political science, they still lack a proper definition as Blondel (1997), Helms (2021) and Wiener (2014) emphasised. How are they different from dissensus? We will first briefly explain the two concepts before discussing the insights as well as limitations of these concepts to study conflicts over liberal democracy.

Opposition

The right to criticize and publicly contest the measures and policies adopted by the government are one of the fundamental pillars of democratic regimes (Helms, 2008; 2021), one which has been underlined by Dahl (1966; 1971) as the first axis constituting polyarchies. Yet, since Dahl, the concept of opposition has rarely been rigorously defined, its conceptual boundaries being still elusive and contested (Helms, 2021: 570). In a minimalist fashion, opposition can be defined as an action: disagreeing with and challenging the government or, in the words of Dahl (1966:18), “there is opposition when B is opposed to the conduct of government A”. Many typologies have been provided, drawing on the distinction introduced by Kirchheimer (1957) and then developed by Dahl between opposition to policy and to polity. On one side, we find a “normal” or “classical (Kirchheimer 1957) or “non structural” opposition, defined by Schapiro (1967: 183) as “an organized political group, or groups, and to replace it by one of its own choosing”. On the other side, we find more “deviant forms” (Weinblum and Brack 2011).

Kirchheimer (1957: 130-136) talks about “opposition of principle when a party which is not in government, is not only against government’s policies but the political system as a whole, while Sartori (1966: 151) discusses anti-system opposition when it challenges the legitimacy of the political system and there is no consent at the community or regime level. As far as the means are concerned, scholars usually distinguish between “loyal”, semi-loyal and disloyal opposition, to denote whether the actors act constructively, obstructively/irresponsibly or with violence (Linz, 1974; Gel’man, 2005; Sartori, 1966).

Despite the centrality of this concept in the understanding of democracy, the literature on opposition in national democratic regimes has remained underdeveloped, with a burgeoning scholarship focusing on manifestations of opposition in authoritarian and hybrid regimes (see Helms, 2021, 2023). The literature on opposition in democracy tends to focus on political opposition, understood as a certain group of actors, namely the parliamentary opposition. A distinction is made between political opposition as institutionalized forms of contestation, and opposition, as non-institutionalized forms of disagreement with power holders (Ionescu, 1967; Barnard, 1972). Therefore, the classical literature on democratic regimes has tended to concentrate on the electoral and parliamentary opposition and more particularly, the minority parties in parliament as institutionalized actors. And when it comes to political opposition to (aspects of) liberal democracy, the focus has been on anti-system and disloyal parties, usually on the fringes of the political spectrum. Following recent calls “to extend the concept from party politics within and beyond the parliamentary arena to manifestations of protest and dissent” (Helms, 2021: 571), a burgeoning literature has developed to include social actors and movements, especially those contesting the nature of the political regimes (and by the same token liberal democracy and its core pillars). It has highlighted the role of antidemocratic actors, from political parties to churches and social movements, in providing support for authoritarian politics or even autocratization tendencies (Graff et al., 2019; Seman and Garcia Bossio, 2021; McKenna, 2020). In contrast, opposition to policies has been studied in relation to EU integration, Europeanization and globalisation. Yet, even in this case, despite of the “growing opposition to Europe”, captured through the concept of Euroscepticism, it remained unclear, as Peter Mair underlined, “what this opposition involves, and from where it comes” (2007: 3). In the EU polity, there is little opposition in the sense of the institutional government-opposition dynamic, well established in some political regimes (Mair 2007:4). The EU lacks the traditional “majority/opposition axis”. As a result, classical opposition, directed towards policies, tends to turn into principled opposition, directed towards the polity, i.e. in Euroscepticism (Mair, 2007: 5-6).² The political regime of the EU has been designed to accommodate the participation of a variety of actors in a fragmented and non-hierarchical system (Brack and Costa, 2018; Magnette, 2003). Increased participation however has not led to policies expressing the preferences of Europeans, giving rise not only to Euroscepticism but

² Although there are multiple definitions, Euroscepticism can be considered as opposition specifically oriented towards European integration and/or the EU (Taggart and Szczerbiak 2001). It is a principled or qualified opposition to the EU as polity and closely resembles anti-system opposition (Brack 2018). Because of its specific geographical focus and its resemblance with anti-system opposition, the concept and its relation to dissensus is not discussed separately. Furthermore, dissensus goes beyond the debates on Euroscepticism, with the latter [revolving around a clash between the national and supranational level while the former is a conflict on liberal democracy, at various levels.](#)

also to what Vivien Schmidt (2006) defined as “policies without politics” or “politics without policies” and various forms of dissent.

Contestation

While opposition has been traditionally used to study parliamentary action (although more recently extend also to non-parliamentary actors), contestation has been coined in the mid-1960s in relation with social movements and since then often used in international relations as well (Pulzer in Kolinsky, 1987: 13; Börzel and Zürn, 2021: 282). Like opposition, contestation is a key element of democratic politics. It refers to actions, strategies or processes through which individuals, actors or states challenge the status quo (be it the existing power structure, the institutions, norms) and promote an alternative. On the one hand, when applied to social movements and mobilization, the literature seeks to understand the forms of contestation, ranging from protest to civic disobedience and violence, to examine the actors’ strategies and repertoire of actions, the networks of actors as well as the relation between institutional structure, nature of the contestation and the effectiveness of the forms of contestation. On the other hand, in IR contestation implies “disapproval of norms” (Wiener, 2014: 1). Like opposition, this understanding of contestation is oriented towards governmental action (at the national level) and Euroscepticism towards the EU (at the supranational one). Contestation like opposition is an “interactive practice” that involves “at least two participating agents” (Wiener, 2014: 1). Yet, if opposition can be expressed to policies or politics, contestation, is generally directed towards norms which echoes to some extent the essence of opposition to polity (norms) and policy (practices). Like opposition, contestation “depends on the respective environment where contestation takes place” (Wiener, 2014: 1). Both are shaped by the institutional settings or political opportunity structures in which they manifest (see Dahl, 1966) in response to power structures. The focus of the scholarship is therefore to understand the endogenous and exogenous causes of the rise and varieties of contestation, attention being devoted to institutions and, more recently, actors’ preferences and institutional power (Börzel and Zürn, 2023).

The question is then: can we shed light on conflicts over liberal democracy with these two well established concepts: opposition and contestation? Not entirely, we argue. Studying the conflicts over liberal democracy that mark not only the EU but also domestic politics in the member states through the lenses of opposition or contestation is certainly feasible but it would lead to three main shortcomings. First, it would restrict the phenomenon to specific actors. Dissensus over liberal democracy is the phenomenon to be studied while opposition and contestation are strategies used by the actors either to target democratic institutions, the norms and values or the policies of liberal democracy. Put differently, while the concepts of opposition and contestation (as strategies) can be used to understand different forms of dissent to democracy or democratic norms, we argue that the concept of dissensus allows to consider the phenomenon independently of the actor’s position in the political game or on the political spectrum. Second, it would not include parties which are no longer at the periphery of the political system but in government, contesting liberal democracy while in power. The notion of dissensus allows us to study all these actors, and not only fringe actors opposing governmental action, its policies, or the nature of the polity. Furthermore, dissensus allows to

bridge the gap between opposition to policies and opposition to the polity: as noted by scholars recently, some actors do not always explicitly claim their opposition to liberal democracy but once in power, they nevertheless erode it either through reforms of the polity or to gradual changes in policies leading to fundamental changes for liberal democracy³. Finally, using the concepts of opposition or contestation would lead to research focused mostly on the actors in national or in international politics without taking into account other actors and their interactions. As noted by Druckman (2023), a wide range of actors – political elites, legal staff, societal organisations – matter to understand the current challenges facing democracy. While contestation and opposition are unidirectional, dissensus seeks to capture the plurality of claims and their interactions in different arenas. It also allows to take into account the linkages between arenas and interactions between actors. Dissensus is precisely about conflicts between several camps in potentially different arenas which goes beyond classical forms of opposition.

Conclusion and new avenues for research

Democracy in general and liberal democracy in particular are at a turning point on a global level. The EU is no exception and constitutes a fertile ground to study dissensus as a phenomenon. European integration has reached a point where liberal democracy is not only politicized but has also become a polarizing issue. The decade of crises has brought the combination of the rise of authoritarian populist actors, who have been vocal challengers of core pillars of liberal democracy on the one hand and the rise of undemocratic liberalism on the other hand, leading to the erosion of democratic institutions, norms and values.

We argued in this article that dissensus over liberal democracy is no longer restricted to the fringes of society. Liberal democracy has always had been contested by anti-system parties. What is distinctive is that the stances and claims against liberal democracy are no longer located at the extremes of the political spectrum but have become mainstream. Not only populist radical right parties in many countries are large enough to play a governing role or to put pressure on governing parties, there are also forms of contestation that have flourished targeting the core principles of the political game, which have long been taken for granted. On the other hand, in addition to the attacks on liberal democracy coming from populists, we are also witnessing a crisis of conviction in the centre, with a wider range of actors which contend that liberal democracy has become an “empty shell” and needs to be reinvented (Berman, 2019). Two last elements are crucial. The current conflict around liberal democracy possesses an inherent conductivity, effectively transferring dissent between the social, legal, and political arenas and making it more complex and challenging. It is especially the case as the institutions that are supposed to channel social, political and legal conflicts seem also to be failing in liberal democracy nowadays. As a result, different conceptions of democracy and its core pillars are disputed within the EU, at the domestic and supranational levels, with implications for domestic and supranational polities and a wide range of national and European policies.

³ Can Liberal Democracy Defend Itself from Internal Challengers?, Liberty and Responsibility Podcast, March 2023, https://1062fm.co.il/en/episode/towards-militant-democracy-2-0-can-liberal-democracy/?utm_content=bufferff95e&utm_medium=social&utm_source=twitter.com&utm_campaign=buffer

The aim of this article was to conceptualize this new phenomenon that we call dissensus. To do so, we proceeded in three steps. First, we discussed the literature on dissensus in political theory as it is in this field that the concept has been debated the most, mostly as a normative concept. Second, we proposed a bottom-up definition of dissensus, i.e. the expression of social, political and legal conflicts driven by political, social, legal actors, including state and non-state actors in different institutional and non-institutional arenas (parliamentary, constitutional, public sphere, technocratic and expert arenas...) seeking to maintain, to replace or to restructure liberal democracy. We also discussed the three main components of the concept and proposed a typology. Finally, we defined the boundaries of the concept of dissensus vis-à-vis traditional forms of dissent such as contestation and opposition.

This paper is also a call to launch a new research agenda that aims to enrich the already well-established literature explaining how and why (liberal) democracy is in decline or even dying (Levitsky and Ziblatt 2019). Amid this preoccupying social and political context, our objective is to go one step further and see how the confrontation of different visions on democracy and alternative models can lead to its refoundation, its maintenance as it is or its replacement.

Within the EU context, the paper underscores the importance of understanding the nature of dissensus in both the EU and its member states. It draws attention to the ambiguous roles of different actors, who may act as either champions or challengers of liberal democratic norms. Additionally, it advocates for an assessment of the impact of increased dissensus on EU policy instruments and its ability to act in its internal and external policies. Indeed, how policy instruments and legal mechanisms at the EU level have evolved in response to dissensus surrounding liberal democracy and its constitutive dimensions remains an open question. Finally and more broadly, it is only by examining empirically the nature of dissensus, the role of a wide range of actors, the conditions under which dissensus becomes destructive and the impact of dissensus on policies and polities that we will be able to assess the resilience of liberal democracy.

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