

# How liberalism lost its concept of democracy

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## **abstract**

The aim of this paper is to show how classical liberalism differed from neoliberalism in terms of democracy and the frames, concepts and ideas used to describe and clarify the concept of democracy. In this context we look at the differences between two main proponents of the revival of liberalism in the second part of the 20th century, namely F.A. Hayek and K.R. Popper, with respect to their vision of acceptable democratic conduct. These differences catch and illustrate the loss of liberalism's clear concept of democracy through its transformation to neoliberalism.

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„The form of politics preferred by [...] neoliberalism is relative democracy; democracy but not too much.“  
(Unger 2001, 68)

## 1.) Introduction

Classical liberalism, as envisaged by its main historical proponents from Bacon, Locke, Hume, Kant, Rousseau, Mill or others, consists of two main streams of argument trying to align political and economic freedom (Gaus and Courtland 2010, Martin and Reidy 2011, Ulrich 2002): First, *political liberalism* stands for the division of power, the people’s right to speak up freely, to vote, to gather together for political reasons, to have privacy, to participate in the public sphere; in short it proposed an image of man as *citizen* in the modern sense of the word. Second, *economic liberalism* stands for free markets and free entrepreneurship and against tariffs and the economic intervention of the state; it perceived men as a *bourgeois* striving for unbounded economic leeway, implying laissez-faire politics.<sup>1</sup> It is thereby quite obvious that this janiform conception was (and is) not without its internal tensions (Dewey 1935). Both perspectives may be compatible, or even complementary, concerning some questions (free entrepreneurship is a point in case), whereas their application might be indecisive in other cases (e.g. the question of taxation). Ludwig von Mises (1959:596) as a prominent pioneer of neoliberalism criticizes the distinction between economic and political liberalism strongly, as for him this “misconceives the nature of liberalism”. For Mises the ambition to differentiate these two concepts is a product of socialist, collectivist or Marxist thinking.

*Neoliberalism* represents a modern approach of resolving this tension by a strong emphasis on economic liberalism, which attains a clear political priority in relation to political liberalism. In practice this implies that whenever there is a tension between economic liberalism and political liberalism in specific questions *neoliberalism*, viewed as an ideological set of statements, decides in favor of the former. Moreover, in this paper we argue that democracy – as a possible element of any ideological set of statements – is among these contested questions. Therefore, if one understands neoliberalism as the modern successor of classical liberalism, one will implicitly also

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<sup>1</sup> In the English-speaking area *economic liberalism* is often understood synonymously to *classical liberalism* (Gaus and Courtland 2010, Freeman 2002) We do not follow this terminology here for two reasons: First, the basic tension we describe is already present in the works of those, who are normally considered to be classical liberals (this is most pronounced in the case of John Locke). Second, such a definition seems imprecise and lopsided, because it puts free markets before free individuals, while many accounts on liberalism – be they ‘classical’ or new – emphasize the idea of basic individual rights as a central starting point of liberal thinking. Thereby it is important to notice that some of these rights are indeed economic rights (e.g. private property), while others were of a more general nature (e.g. freedom of thought or free speech). Thus, terminologically equating classical with economic liberalism implies a loss of intellectual depth and conceptual clarity.

accept the fact that liberalism lost its relatively clear conception of democracy and replaced it with a much more blurred and contested image of democratic conduct.<sup>2</sup>

This claim is exemplified by the work of two major international proponents of liberalism in the second half of the twentieth century, namely F.A. Hayek and K.R. Popper. In the following we utilize their writings on the subject of interest – democracy as a political and ideological concept – to illustrate our main claim. Following this line of argument our paper is structured as follows: First we provide a brief historical review on Popper, Hayek and their personal relationship (Section 2). Second we distillate some essential arguments on democracy of both authors – Popper and Hayek – in Section 3 and 4 respectively. Section 5 discusses the differences of these two approaches and offers some concluding thoughts.

## **2.) Popper and Hayek: a historical sketch**

There is a strong personal connection between Popper and Hayek, which is well outlined in Nordmann (2005). Beside some kind of professional friendship Popper relied on Hayek's intervention during the hasty times of World War II in order to get an appointment as a professional academic, which he finally found in New Zealand (Nordmann 2005, p. 132-151). Their relationship was not really balanced, but – due to differences in character, age, reputation and political background – Hayek can be understood as the dominant actor in their relationship<sup>3</sup>:

*“Hayek advanced from the right-wing, liberal Mises-School attacking Marxism, Socialism, Social Democracy and state intervention right from the beginning. [...] Popper criticized Austrian Socialism, first via Anti-Marxism and second – in relation to the concept of a ‘mixed economy’ – by discussing the restrictions of interventionism. [...] In the major discourse concerning welfare state, mixed economy and Socialism Popper could more easily access classical liberal or even right-wing social democratic positions. In the internal liberal discourse anyway Hayek's position was a decisive benchmark for Popper.” (Nordmann 2005, p. 12-13, Translation by the authors)*

During the early 1940s they both worked on what should become one of their major contributions, not only to political philosophy, but also to the general political discourse. Both books – Popper's *Open Society* (1945) and Hayek's „*Road to Serfdom*“ (1944) – had a clear tendency to promote a liberal and capitalist society, in order to prevent totalitarian regimes like

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<sup>2</sup> This is most evident in cases like Chile, where the economically liberal junta was preferred to a socialist, but democratically elected government by leading neoliberal economists like Hayek and Milton Friedman (Valdes 1995).

<sup>3</sup> A good example for their close relationship is that Hayek's *Studies in Philosophy, Politics and Economics* (1967) is dedicated to Karl Popper.

the Soviet Union or the Nazi-Germany. On these grounds they also contributed to the Mont Pelerin Society (founded in 1947), known as one of the first neoliberal think-tanks (Walpen 2004). But anyway it is a too simple story to interpret Popper only as a mere follower of Hayek in political terms. Instead Popper was more of a classical liberal, while Hayek clearly deemed with free markets to be a vastly superior mode of societal organization, thereby eventually implying the priority of laissez-faire policies (Hayek 1945a). In this context there was open disagreement between these two thinkers encouraging a series of direct and indirect debates, which occasionally even found their way into the membership meetings of the before-mentioned Mont Pelérin Society (see for instance the indirect comments in Popper 1987b on Hayek 1949).

### 3.) Popper on democracy

Popper's writings on political philosophy in general as well as liberalism and democracy in particular can be found in the *Open Society* (Popper 2009, 2010a), *Conjectures and Refutations* (Popper 2010b), *The Poverty of Historicism*<sup>4</sup> as well as a series of public and academic lectures and speeches delivered at various occasions. At least in the German-speaking area these speeches have often been published as edited books (as for example in Popper 1987a, 2002b, 2005) making his views accessible to a broad audience.<sup>5</sup> Throughout his texts Popper labels himself as a liberal, who is turned to a political liberalism in reaction to his own biographical experiences as a (still very young) sympathizer of communist ideals. Popper explicitly mentions his perception of the communist party as authoritarian, dogmatic and uncompromising institution as an important signpost for his further academic and political thinking<sup>6</sup> (as in Popper 1987c, Popper 1994). This experience led Popper to believe that western civilization embodies "albeit many deficits, the best form of societal organization we know" (Popper 1987d, 245, Translation by the authors).

However, Popper's analysis is not only based on his personal, biographical experiences but also on a firm and consistent analysis of what is meant and implied by liberalism as a foundation of political thought. Popper explicitly connects Freedom and Liberalism to the idea of the enlightenment, in a broad sense of intellectual empowerment (Popper 2002c). Simultaneously, he argues that there is no final or natural justification for either liberalism or democracy, since both are to be seen as convictions, with shaky theoretical foundations and only thin prospects for

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<sup>4</sup> *The Poverty of Historicism* was published first in 1944 in the form of three consecutive articles in *Economica* (Popper 1944a, 1944b, 1945) and later as a book (Popper 2002a).

<sup>5</sup> While some of these texts have been published in English and German (as for example his 1954-speech [Popper 1987b] on liberalism is published in Popper 1987a as well as in and Popper 2010b, 467-476), most of them are only accessible in German.

<sup>6</sup> "With seventeen years I was anti-Marxist. I grasped the dogmatic character of Marxism and its intellectual pretension". (Popper 1994:42)

empirical success.<sup>7</sup> Moreover, for Popper there exists no pure liberalism devoid of any habitual aspects and traditional idiosyncrasies; the idea of a “liberal utopia” (as expressed in Hayek 1949) strikes him as oxymoronic and inconsistent (Popper 2010b, 472-473) and leads him to emphasize, that “liberalism is an evolutionary rather than a revolutionary creed” (Popper 2010b, 473), something that is to be developed rather than planned or constructed. Justification can therefore only be pragmatic and partial and must be led by values, that is, normative premises. Since for Popper any set of premises may (and should) be questioned – here the ideal of free discussion is seen as a liberal archetype – or connected with even higher or more general premises, there is *always* ample room for (further) debate.

In his conception of liberalism Popper considers the state, especially its monopoly on force, as an ambivalent institution, a “necessary evil,” which represents a precondition of as well as a danger to individual freedom.

“It is easy to see why the state must be a constant danger. [...] For if the state is to fulfill its function, it must have more power at any single private citizen or public corporation; and although we might design institutions to minimize the danger that this powers will be misused, we can never eliminate this danger completely. On the contrary, it seems that most men will always have to pay for the protection of the state; [...]. The thing is not to pay too heavily for it.” (Popper 2010b, 471-472; see also: Popper 2009, 117-118)

In the course of this description (Popper 2010b, 471-473) Popper addresses the question of democracy and emphasizes the role of reforms, the importance of the modification of existing institutions and the necessity of attachment to certain beneficial cultural traditions or moral standards.

More generally, Popper also invokes the idea that there is no final or definite justification for liberalism as an ideological viewpoint in analogy to his theory of knowledge. Since *Fallibilism* implies that there is no ultimate justification for knowledge, Popper also transgresses this idea to the realm of political philosophy. The common denominator in both fields is the concept of a determining instance: In philosophy of science there exists, or rather existed, an age-old struggle on what whether perception or thinking should determine our knowledge. According to Popper

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<sup>7</sup> „The old idea of a powerful philosopher-king who would put into practice some carefully thought out plans was a feudal fairy-tale, the democratic equivalent of which is the superstition that enough people of good will may be persuaded by rational argument to planned action. History shows that the social reality is quite different. The course of historical development is never dominated by theoretical constructions, however excellent [they are].“ (Popper 1944a, 100; see also: Becker 2001)

the analogous question in political philosophy is “Who shall rule?” (Popper 1987e). Since both formulations ask for a determining entity Popper deems both question to be misleading at best.

By combining this approach to political philosophy with his conception of liberalism, he finally arrives at the viewpoint of what we have called *political liberalism*. Instead of asking the simple question “Who shall rule?” he proposes to answer the more subtle question, how to design political institutions in order to ensure that the state may fulfill its role by utilizing only a minimal amount of oppression (Popper 1987d; Popper 2009, 130-133; Popper 2010a, 140-142, 178). This is Popper’s main normative premise. Strongly tied to this approach are the ideas of division of power, of free speech and open discourse, of public control over governmental institutions, of human dignity (including minority rights) and of ‘taming power.’<sup>8</sup> This leads Popper to the postulate that the people should be able to ‘dismiss’ their government by means of the institutional political setting, that is, without the use of force. This last aspect is to be seen as the foundational stone of his conception of democracy.

Consequently, Popper bases his conception of democracy on a fundamental differentiation between ‘democracy’ and ‘tyranny,’ where only the former exhibits the desired institutional properties.

“We need only distinguish between two forms of government[: Those which] possess institutions of this kind, and all others; i.e. democracies and tyrannies.” (Popper 2010a, 176)

This dichotomous view is based on just another, more basic, observation regarding the nature of social conflict.

“There are many kinds of disagreement in social life which must be decided one way or another. [...] How can a decision be reached? There are, in the main, only two possible ways: argument and violence.” (Popper 2010b, 478)

If conflicts are unavoidable and can only be resolved in these two ways, than it is indeed desirable to attach a monopoly of force to the state, and thereby provide citizens with the possibility to engage in a non-violent resolution of conflicts. Force is perceived as an inevitable element of social life, which cannot be eliminated but must be restrained as good as possible. Therefore the

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<sup>8</sup> These attitudes also foster scientific progress according to Popper (Popper 1945, 87)

acceptance of a state's monopoly on force clings – again – to its institutional setting: If it is not democratic or in danger of losing its democratic character the application of force by the individual might be legitimate or even morally obliging.

“I am not in all cases and under all circumstances against a violent revolution. I believe with some medieval and Renaissance Christian thinkers who taught the admissibility of tyrannicide that there may indeed, under a tyranny, be no other possibility, and that a violent revolution may be justified. But I also believe that any such revolution should have as its only aim the establishment of democracy [...]. There is only one further use of violence in political quarrels, which I should consider justified. I mean the resistance, once democracy has been attained, to any attack (whether from within or without the state) against the democratic constitution and the use of democratic methods.” (Popper 2010a, 166-167)

In sum, the best way to tame force is to attach it to a democratic institutional structure (a state), while the best way to tame power is to design institutions, which allows for political change. Thereby he perceives democracy as a playing field to introduce social reforms and to improve public institutions, which should only restrict those ambitions, which are in opposition to its democratic character.

„A consistent democratic constitution should exclude only one type of change in the legal system, namely a change which would endanger its democratic character. [Thus,] democracy provides an invaluable battle-ground for any reasonable reform, since it permits reform without violence“ (Popper 2010a, 176-177; see also: Popper 2009, 293)

From this it follows that the central demarcation criterion for differentiating the two main types of regimes – democracies and tyrannies – is the institutional possibility to dismiss a government without the utilization of violence as a mode for conflict resolution.

“Democracy can not be fully characterized as the rule of majority, although the institution of general elections is most important. [...] In a democracy, the power of the rulers must be limited; and the criterion of a democracy is this: In a democracy, the rulers – that is to say, the government – can be dismissed by the ruled without bloodshed. Thus if the men

in power do not safeguard those institutions, which secure to the minority the possibility of working for a peaceful change, then their rule is a tyranny.” (Popper 2010a, 176)<sup>9</sup>

It is important to note that the second criterion mentioned in the above quote – the possibility of a government’s dismissal – implies the importance of the basic individual liberties granted by political liberalism, since without formal equality of citizens (non-discrimination), free discussion, the right of assembly or the absence of censorship, essential institutions for organizing such a dismissal would be absent. The basic individual liberties of classical liberalism are, thus, implicitly contained in Popper’s conception of a democratic state.

The emphasis on allowing for a government’s dismissal also explains Popper’s preference for a majority voting system in contrast to the model of proportional representation (Popper 2002d). This can be understood as an argument for sharpening the central institutional tool for the ‘dismissal of government,’ because in the latter mode a deselected party might re-enter government via intransparent coalition-forming. Similarly, his critique of some aspects of direct democracy (Popper 2002e) can be understood as an attempt to emphasize the importance of a series of basic rights, most importantly including minority rights, which should not be subject of continuous reform.

Popper’s conception of democracy is thereby mainly motivated by a profound skepticism against any kind of ‘societal elites,’ which has its roots in his critique of Plato’s political views. The emphasis on the possibility of institutional dismissal is also an argument against the establishment of stable power coalitions, i.e. elitist arrangement. This skepticism is a main driving force in his political arguments, he speaks of a ‘myth of the elite’ (cf. Popper 2010b, 470).

“The platonic idea of the rule of the ‘wise’ or the ‘best’ is to be rejected from my point of view. The crucial question is, who decides about the presence or absence of ‘wisdom’? Have not the ‘wise’ and ‘best’ been crucified – by those, who were deemed to be wise and smart? [...] Perceived as a practical political question the problem of the elite is hopeless.

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<sup>9</sup> Popper’s conception of democracy is very clear, with one major exception: The cited passage contains – in its original version – the following ambiguous remark: „For the majority might rule in a tyrannical way. (The majority of those who are less than 6 ft. high may decide that the minority of those over 6 ft. shall pay all taxes.)“ Why is such a regime perceived as *tyrannical*? This is not perfectly clear, since a preference for decisions by majority voting, would imply a rejection of a tyrannical state of affairs (as implied by Popper himself). The example in brackets seems to suggest the reason is related to economic or distributional issues. However, such issues do not (prominently) appear in Popper’s conception; on the contrary he explicitly separates the political and the economic sphere in his discussion of Marxist thought (Popper 2009, Popper 2010a). The most reasonable answer compatible with Popper’s approach is that such a rule would be in conflict with some basic institutional principles of democratic systems – in this case with the formal non-discrimination of minorities based on physical properties or ethnic origins.



Elite and clique are practically indistinguishable.” (Popper 1987d, 252, Translation by the authors)

He conceives every conception of elitist groups as suspicious (Popper 1987b, 1987d, 1987f), since the definition elite is self-contained and circular, because, in the last resort, elites define who elites are. So again there is a parallel here to his more epistemological arguments. This aspect of circularity in combination with the fact the elites may acquire greater amounts of power than other people are constitutive of his skepticism, since power is a delicate concept, whose distribution should be subject to transparent institutional rules instead of informal agreements based on invalid reasoning. The Popperian imperative in this context is not to construct, not to acknowledge and not to privilege any kinds of societal elites, be in the realm of philosophy, science or politics. This general rejection of elites as a social phenomenon is an often overlooked, but supposedly important property of the Popperian conception of politics in general and democracy in particular.

There is a strong link in this to argument to Popper’s criticism of Plato and Marx, undertaken in the *Open Society*: Popper emphasizes, that there must not be a group of influential politicians, who believe that it is right to rule without opportunity for the people to intervene. Both – the platonic idea of an ideal state of philosophers and one interpretation of the Marxian analysis, namely that some kind of *cadre* has to install a dictatorship of proletarians in order to guarantee society’s progress – failed to fulfill Popper’s criteria for being part of an open society. Their strong reliance on elites renders these conceptions principally incompatible with the idea of an open society.

#### **4.) Hayek on democracy**

The aim of this section is to present Hayek’s conception of democracy and to illustrate the main differences to Popper’s approach. As a starting point it is quite enlightening that Hayek’s attitude towards democratic systems is a rather reserved one as he points out in the third volume of *Law, Legislation and Liberty* (1979:39):

„I must frankly admit, that if democracy is taken to mean government by the unrestrained will of the majority I am not democrat, and even regard such government as pernicious and in the long run unworkable.”

The fear that a democratic political system unavoidably guides to a “Road to Serfdom” is highly present in this quote, although its basic intention – to raise scepticism about the unrestrained rule of the majority – is principally compatible with Popper. However, both draw very different conclusions from this observation: While Popper emphasized the importance of basic liberties, minority rights and institutional safeguards to restrict the rule of the majority on essential questions, Hayek is led to distinguish two forms of democracy: a restricted and an unrestricted democracy where the latter is mainly characterized by a government which is legitimized by voting of a majority. This distinction is coupled with a forceful rejection of “unrestricted democracy”, that is majority voting in general.

“An unrestricted authority, which is not – due to tradition or law – forbidden to implement selective and discriminatory sanctions, like tariffs, taxes or subsidies, can’t prevent such behaviour. (...) It is not democracy if a majority agrees how to distribute the prey stolen from a minority, or at least not a concept of democracy, which can be morally legitimized. (...) I want emphasize that it is not democracy as such, but the case of unrestricted democracy, which doesn’t seem to be superior to any other kind of unrestricted, political force.” (Hayek 1977, p. 14-15, Translation by the authors)

This principal rejection of a rule of the majority is not only due to his strong emphasis on economic rights, especially private property, and his disapproving attitude towards any means of redistribution (Hayek 1960, Hayek 1973, Hayek 1979, Hayek 1988). Another central point in Hayek’s argument is the emphasis on the evolution of traditions – rules that somehow evolved over the time to organize the coexistence of individuals in groups – in an evolutionary selection process. For Hayek this process serves to develop a system of “rules of conduct”, which in the first place “makes social life possible” (Hayek 1973:44). Thereby, it is not clear how this evolution of rules takes place and, even more crucial, how these rules eventually get embedded in a given society. Hayek refers to this blind spot of his conception of a social order with the formulation of a process of *spontaneous order* (Hayek 1973:35pp, Hayek 1960:217), which is too complex to decipher ex post and far too complicated to be subject to planned decisions. It’s results, however, are to be seen as superior guidelines for organizing social affairs.<sup>10</sup>

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<sup>10</sup> In the postscript of Hayek’s Constitution of Liberty he clarifies that he favors no party except perhaps “the party of life, the party that favors free growth and *spontaneous evolution*”. (Hayek cited in: Miller 2010:13, emphasis added by the authors). In the first volume of *Law, Legislation and Liberty* (1973) as well as in *Studies in Philosophy, Politics and Economics* (1967) Hayek more clearly distinguishes between the grown order that forms itself (*spontaneous order*) and the order made by individuals (*organization*). Referring to Michel Polanyi – also a founding member of the Mont Pelerin Society – he also describes this distinction “as that between a monocentric and a polycentric order” (Hayek 1967:73).

“In a social order the particular circumstances to which each individual will react will be those known to him. But the individual responses to particular circumstances will result in an overall order only if the individuals obey such rules as will produce an order. Such an order will always constitute an adaption to the multitude of circumstances which are not known to all the members of that society taken together but which are not know as a whole to any one person.” (Hayek 1973:44)

In a process of *spontaneous order* – following the idea of unintended consequences of intended action – independent individual actions lead to a well-functioning social order. The concept of *spontaneous order* in this context serves to bridge the gap between the normative postulate of a liberal social order and the central reference point for Hayek’s liberal utopia, namely individual liberty. Liberalism itself for Hayek (1967:162) “thus derives from the discovery of a self-generating or spontaneous order in social affairs”. Following Hayek, it is therefore essential for a liberal society, that the *rules of conduct* are interpreted in a way that does not interfere with free decision making processes of the individuals. This apparent ambivalence between individual freedom and superior evolutionary rules leads Hayek to the already mentioned conception of an evolution of traditions feeding on the manifoldness of individual actions.

The central argument for Hayek’s “society of a free people” – the term he uses to describe his ideal political order (Hayek 1979) – is that it is the only possibility to ensure individual freedom. As already indicated Hayek’s conception of individual liberty has a strong focus on economic freedom rights (Hayek 1960, Hayek 1973, Hayek 1979, Hayek 1988) because he envisages the process of *spontaneous order* in the market system as an archetype for the efficient coordination of individual desires. Yet in the condensed version of *The Road to Serfdom* in 1945, which was popularized via the Reader’s Digest Hayek stresses the superiority of economic freedom over all other kinds of freedom:

“The economic freedom which is the prerequisite of any other freedom cannot be the freedom from economic care which the socialists promise us and which can be obtained only by relieving the individual at the same time of the necessity and of the power of choice: it must be the freedom of economic activity which, with the right of choice, inevitably also carries the risk and the responsibility of that right.” (Hayek 1945b:35)

The restrictions of democratic conduct Hayek refers to apply primarily to the sphere of economic freedom, giving his position a pronounced neoliberal stance. The central argument for Hayek's effort to establish a liberal society is, thus, the claim for individual *economic* freedom. In this context Hayek's main system of reference is the free market system or as he calls it *catallaxy*, because the coordination process on the market for Hayek is the best example for the superiority of an evolutionary process of *spontaneous order*. Hayek explicitly speaks of a "moral of the market" which means the "moral of property, of honesty and or adherence to a contract" (Habermann 2008:69, translation by the authors). Hayek, moreover, clarifies that "the morals of the market do lead us to benefit others, not by our intending to do so, but by making us act in a manner which, nonetheless, will have just that effect" (Hayek 1988:81). At the same time Hayek stresses that "individuals cannot be expected to have moral obligations to society as a whole" (Barry 1979:9), because such an assumption would contravene the process of *spontaneous order*. The belief in the superiority of the market system is based on Hayek's understanding of evolutionary process of *spontaneous order* and serves as one of the strongest links between leading neoliberal thinkers. Milton Friedman for instance, like Hayek and Popper member of the Mont Pèlerin society, also refers to the market system as a guiding principle of societal organization, although Friedman's monetarist economic approach is remarkably different from Hayek's.<sup>11</sup>

Influenced by prominent thinkers of the Scottish Enlightenment as David Hume, Adam Ferguson or Adam Smith (Petsoulas 2001) Hayek stresses that from an evolutionary perspective legal institutions as well as morals and other instruments that constitute systems of social order lie prior to reason and the conscious design of institutions (Hayek 1960:124). Hayek emphasizes the role of these eighteenth-century British thinkers in developing a body of social theory that,

"showed how, in the relations among men, complex and orderly and, in a very definite sense, purposive institutions might grow up which owed little to design, which were not invented but arose from the separate actions of many men who did not know what they were doing." (Hayek 1960:115)

As a consequence all attempts to form institutions or legislate rules in case of laws – and therefore in the end any kind of political decision making – contravene the concept of *spontaneous*

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<sup>11</sup> Nevertheless there was a close relationship between Friedman and Hayek because Friedman admired Hayek as the grand philosopher of neoliberalism. This is laid out in the dedication of Hayek's *Fatal Conceit. The Errors of Socialism*. "I think the Adam Smith role was played in this cycle [i.e. the late twentieth century collapse of socialism in which the idea of free-markets succeeded first, and then special events catalyzed a complete change of socio-political policy in countries around the world] by Friedrich Hayek's *The Road to Serfdom*." (Hayek 1988:2) Hayek and Friedman together also played an important role in the neoliberal turn in Chile under the regime of Pinochet, as noted above.

*order*. Hayek presupposes that liberalism is the most superior form developed by spontaneous order, serves, despite its self-contradictory character, as the missing link between his evolutionary thinking and Hayek's strong opposition to any kind of planning. The latter rests in his conviction that the claim for individual liberty is the only possibility to avoid that political leaders misuse their power in a democratic system to oppress the people and install an authoritarian state as pointed out most clearly in his famous and influential book *Road to Serfdom* (Hayek 1944).

For Hayek the conviction that political decisions to a certain extent indirectly reflect the will of the majority, which is at least one central building principle of a democratic system, seemed so dangerous, because it opens the door for collectivist rationales. First, people could – under the influence of propaganda – decide to abolish their individual freedom themselves. Second, Hayek is convinced that such a society will be stagnant, since “the majority view will always be the reactionary, stationary view and that the merit of competition is precisely that it gives a minority the chance to prevail” (Hayek 1948:21). Third, a democratic system is always in danger of degenerating to a “tyranny of the majority”. These three critiques to a large extent also reflect the traditional liberal resentments against collectivist decision making processes. The fear of a “tyranny of the majority” or leveling down processes and therefore the restriction of the free development of the individual is also present in the thinking of John Stuart Mill (1969) or Isaiah Berlin (1969).

Hayek's rejection of democratic processes and especially democratic governments is, however, quite fundamental. From a historical perspective he states that the unrestricted democratic systems in the second half of the 20<sup>th</sup> century have nothing in common with the old ancient ideal of *isonomy*, meaning “equal laws for all and responsibility for the magistrates”<sup>12</sup> (Hayek 1960:239). Referring to Plato Hayek declares that the concept of *isonomy* was rather seen as a contrast to democracy and after some time „democratic governments soon came to disregard the very equality before the law from which it had derived its justification” (Hayek 1960:241). Based on this observation Hayek develops a conception of democracy, where *government* and *legislation* are completely separated and all government-activities are restricted by the *rule of law*<sup>13</sup>, which according to Hayek represents the legislative equivalent to the concept of *isonomy*. Similarly to the state of equal laws for all in the concept of *isonomy* the *rule of law* should ensure that the individual

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<sup>12</sup> It is important to note that the concept of *isonomy* itself was quite elitist, because “equal laws for all” was restricted to a very small group of male, free, propertied, Athenian citizens. Women, slaves, poor and foreign people were excluded from this right of equality.

<sup>13</sup> Hayek bases his understanding of an evolutionary process of *spontaneous order* on the growth of legal institutions in the US, Great Britain and Germany. Rationalistic approaches to the law as represented by Rousseau's *Social Contract* for him “run counter to a free society”. (Miller 2010:19)

freedom of individuals remains untouched by arbitrary decisions of the government or the sovereign. While in his earlier writings (Hayek 1944, Hayek 1948, Hayek 1960) Hayek stresses the idea of the *rule of law* as guiding principle of democracy “in the true sense”, in the third volume of *Law, Legislation and Liberty* (Hayek 1979) he then suggests to use the neologism “*demarchy*” instead of democracy, because this term would also describe the “old ideal by a name that is not tainted by long abuse” (Hayek 1973:41). Since positive legislation by a government is man-made and consciously planned it has to be constrained to minimum or even abolished. The rule of law for Hayek therefore is a means to ensure that a government’s legislative power is minimized so that the self-regulated evolution of rules and morals may shape the path of social change.

This approach leads in its most pronounced form to a complete re-conception of the political realm, where governments are devoid of any regulatory powers but only responsible for a country’s administration and all legislative powers are concentrated in a certain “council of wise and honorable men” (Hayek 1977). Although this council is supposed to be constituted by some kind of elective procedure – specifically, Hayek suggest that once a life at the age 45 people vote among the “best” of their cohorts and endues the successful candidate with a life-long mandate in this council – the conception itself is apparently Platonic in character. In turn, this *senate of the wise*, is supposed to guarantee In his *New Studies in Philosophy, Politics, Economics and the History of Ideas* Hayek explicitly describes the envisaged senate of the wise in the following way:

“The law-making assembly would thus be composed of men and women between their fortieth and fifty-fifth year (...), elected by their contemporaries after they had an opportunity to prove themselves in ordinary life and required to leave their business concerns for a honorific position for the rest of their lives. I imagine that such a system of election by the contemporaries, who are always the best judges for a man’s ability, as a sort of prize awarded to ‘the most successful members of the class’, would come nearer the producing the ideal of political theorists, a senate of the wise, than any system yet tried. It would certainly for the first time make possible a real separation of powers, a government under the law and an effective rule of law.” (Hayek 1978:103)

The procedure of only one election of individuals per generation should secure that the influence of parties is reduced to a minimum<sup>14</sup>. Hayek delineates a system in which the specific elite decides the most important questions. Thereby the composition of this elite group can only be changed

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<sup>14</sup> In *Economic Freedom* Hayek (1991:395) explicitly excludes “those who had occupied positions in the governmental assembly or other political or party organisations” from a nomination for the *senate of the wise*.

only very slowly and its meritocratic nomination procedure seems quite exclusionary. This apparent similarity between the Hayekian conception of democracy and Plato's ideal state ruled by philosophers is a hallmark regarding the cleavage concerning democracy within the neoliberal movement.

## 5.) Discussion

The common vantage point of Hayek and Popper is a skeptic attitude towards the state with its ability to monopolize force and power. This ability renders the state into a potential instrument of repression, thereby restricting individual freedom. Collectivism as an ideology, where the state in general and the maxims of its leaders in particular occupy a major role in the formation of society, is seen as the most pronounced form of abusing governmental authority. However, despite this common origin of their arguments, which is strongly related to their biographical context, a closer look exposes a series of significant differences in their conceptualization of normatively acceptable democratic conduct.

In summarizing these differences three key elements can be differentiated. First, Popper and Hayek differ in their opinion with regard to the legitimacy attributed to certain societal orders, Second, they employ rather antagonistic conceptions when analyzing the role of elites in society. Third, one finds significantly different approaches to the question how to organize democratic conduct.

With regard to the first point, Hayek attributes the utmost importance to accepting the natural superiority of what he regards as naturally grown, spontaneously evolving orders (*nomos*) in contrast to „man-made“ rules and laws (*thesis*). Therefore positive Legislation should always be subordinated to the rule of law, where the latter signifies outcomes of processes in systems of higher order (like evolution or the market). This is especially evident in Hayek's definition of „coercion“, which is directly tied to this dichotomy, since evolutionary or market-based outcomes are, according to Hayek's definition, never the source of coercion (Petsoulas 2001:28f.). Following Hayek it makes only sense to speak of coercion in the context of man-made rules thereby rendering coercion as implemented by *thesis* as an antipode to individual liberty, which is constituted by spontaneously evolving orders (*nomos*). This highly idiosyncratic concept of individual liberty is even contested among today's closest followers of Hayek, i.e. those researchers associated with the Austrian school of economics (see Buillon 1997: 57 for an explicit example). Obviously it is fairly incompatible to Karl Popper's approach, who emphasizes

that the quality of arguments or institutions is to be decided empirically and not by any recourse on the origins of a specific concept (Popper 2009).

Based on his conceptions of individual liberty and coercion Hayek advances the argument, that liberalism is naturally superior state of affairs, since it most strongly relies on *nomos* while generally rejecting institutional settings based on *thesis* (QUELLE). In contrast to this Popper emphasized that any normative argument on the question, which modes of societal organization should prevail has to be based on normative considerations – considerations on important values, on human rights, on living a good life and so forth – and thus may be contested and challenged. For Popper, Hayek’s tendency to scientifically underwrite the superiority of liberalism is intransparent (since it does not clearly state the underlying moral preferences) or even highly unethical (since it takes science as means for ideology; see: Popper 1987b, Popper 1987d, Popper 2009).

It is this dual believe in the natural superiority of liberalism one the one and the principal inaptness of any kind of human planning and, thus, government interventions, on the other hand that mark the divide to a more Popperian, that is more classical and less neoliberal, approach to democracy.

Another main difference between these two thinkers resides in their divergent attitudes towards social elites. In this context Hayek seems to believe that social elites are themselves to be seen as a result of a foregone evolutionary process. At least such an attitude is tacitly present in his writing when emphasizing that one should choose only the best and wisest people for executing governmental authority (Hayek 1978, Hayek 1991). Hayek explicitly refers to those people as having “had an opportunity to prove themselves in ordinary life” and, thereby, have assigned their seat in the *senate of the wise* by their “contemporaries, who are always the best judges for a man’s ability, as a sort of prize awarded to ‘the most successful members of the class’” (Hayek 1978: 103). There are two premises in this argument, which are incompatible with Popper’s political. First, there is the presumption that one should aim to find the most well-equipped people to administrate a nation, and, thereby, strongly resembles the question ‘who shall rule’, which Popper characterized as completely misleading. Second, due to the idiosyncratic ‘evolutionary’ logic applied by Hayek, that there is a high probability to find these most well-equipped people among already existing social, and in Hayek’s conception especially economic elites (“the most successful members of the class”) thereby implicitly suggesting to take success in “ordinary life” as a suitable proxy for worthiness. This presumption is in stark contrast to



Popper's general rejection of conventional authorities (in moral, science and politics) and his strong denial of any kind of superiority of social elites.

A third and final characteristic difference between Popper's and Hayek's views on democracy is related to the specific institutional design they suggest. In Popper's account this issue is rather clear-cut stating the ability to get rid of a given government without physical violence as a prime condition, which allows for a distinction of utmost importance, namely that between democracy and tyranny. It is quite consequent of Popper to suggest this kind of *minimal institutional restrictions*, since the conceptualization of ideal political systems bears the potential of totalitarianism. Hayek on the other hand aims to develop such an ideal system (i.e. the title of one of his central books "the constitution of liberty"). Ironically, the resulting conception is completely at odds with the Popperian standpoint in a twofold way. First, by envisaging his *senate of the wise*, Hayek resembles Platonic attitudes, like the idea of finding and choosing a collection of the "most able", old men in relatively stable constellation. Popper, however, strongly rejected such attitudes in his *Open Society* (2009), and, moreover, explicitly referred to Plato as an archetype for totalitarian thinking disguised in Utopian terms (see also: Hayek 1949). Given Hayek's publications on this issue, stemming from three decades later, Popper could well have extended his criticism to Hayek in later editions. Second, Hayek explicitly composes a central authority, whose composition changes only very slowly. This conception falls short compared to the options offered by existing democratic settings in terms of the Popperian criterion (or at least), that is, the possibility to expunge a given government.

The conservative nature resembled by an institution like the Hayekian *senate of the wise* points to another departure between Popper and Hayek. The latter interprets *conservation* as something positive since he depicts it primarily as the conservation of successful evolutionary rules. Two such examples are given the family and the institution of private property. With explicit regards to the latter he aims to strongly restrict government authority by delegitimizing the idea of "discriminatory" (Hayek 1977, 14) taxes or other dues in general and the concepts of progressive taxation and redistribution in particular. Thus, Hayek favors a "restricted" government, which, essentially, takes the incontestability of private property as its ultimate directive, leaving only a minimal scope for public funding – e.g. through lump-sum taxation. This marks another stark difference between these two thinkers, since Popper, who was also favoring economic liberalism, found no grounds for generally opposing progressive taxation or redistributive efforts.

The central feature of Hayek's "restricted" government is basically to curtail "the rule the people", i.e. the influence of majority voting. This attitude leads him to "prefer a liberal dictator to democratic government lacking in liberalism" (Hayek cited in: Fabrant, McPhail and Berger 2012:521) and signifies his clear prioritization of *economic* over *political liberalism*. His ideal of a government "under the law" (Hayek 1960, Hayek 1973) narrows the sphere for elected governments to questions of practical application of the more abstract and superior sphere of the *nomos*.

## 6.) Conclusion

In this paper we exposed an unbridgeable difference regarding the concept of democracy between two main proponents of liberalism in the second part of the 20th century. The differences between Popper and Hayek illustrate the loss of a clear conception of democracy within the (neo)liberal political spectrum. In this context Popper can be understood as an archetype for trying to bridge conflicting ideas of political and economic liberalism within an integrated view of acceptable democratic conduct, while Hayek favored a clear prioritization of economic liberalism over political liberalism. In this light the many tensions embedded in the ambivalent relationship of neoliberalism and democracy – a relationship fluctuating between promoting dictatorships, if they propose a liberal economic regime, and arguing for more direct democracy and oscillating between the insistence on privatization of state industries and the reduction of state power and the defense of private property, private action and, thus, the power of corporations and influential individuals and groups – can be understood and clarified.

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