

uncertain in their hold on the monopoly of social violence. In post-1918 Italy, for instance, conflict between economic rivals was only secondarily expressed through state institutions, and industrial conflict was routinely enacted outside the parliamentary arena. Moreover, many military units refused to disband after 1918, and the paramilitary *arditi* and *fasci di combattimento* openly contested the power of the state through the widespread use of concerted private violence and attacks on the institutions of left-leaning political parties. In Germany, likewise, in the first months of its existence the central democratic state was imperilled both by radical leftist forces of the council-communist movement, who sought to create a political order based in local and workers' councils, and semi-demobilized, ultra-reactionary military units (*Freikorps*) (which the government ultimately deployed to suppress the council communists). In many settings, further, the ongoing demand for high levels of material integration and distribution was imposed on states whose fiscal systems were based on antiquated models of limited or loosely unified statehood, and which were already afflicted by highly inflationary public economies. These states were often forced to entertain unmanageable levels of public spending and inflation, and their inclusionary requirements forced them to pursue increasingly desperate measures to stabilize public finances and revenue, which diminished their monopolistic hold on power still further.³⁷

As a result of these factors, many new post-1918 constitutional states almost immediately began to suffer a *crisis of inclusion*. That is to say, these states struggled to generate legitimating resources to address and resolve all the societal conflicts that they had internalized, and they were unable to stabilize their unitary functions in the face of highly volatile and multi-causal social conflicts. In the extended wake of the constitutional transition after 1918, therefore, many European states responded to their position at the epicentre of different realms of societal expectation and antagonism by entering a condition of rapid institutional fragmentation. Indeed, many states soon began to respond to their material/democratic and socio-conflictual inclusivity by selectively relieving themselves of the functions imputed to them under their new constitutions, they began to dismantle their constitutionally integrated structure, and, under pressure from potent societal interests, they

³⁷ On Italy see Forsyth (1993: 101). For a brilliant account of Germany's fiscal problems as caused in part by weak unification, see Hefeker (2001: 127). For classical background see Witt (1970).

substantially altered the terms under which diverse private actors were integrated into the functions of the state. In this latter respect, the semi-corporate constitutions constructed after 1918 played an important role in the restructuring of European states through the 1920s and beyond, and their provisions for the equilibrated inclusion of different social groups often, across a number of distinct patterns, led to unforeseen and highly deleterious results.

Italy

Some post-1918 states reacted to their problems of inclusion and legitimization by progressively limiting the integrative power of the parliamentary legislature and by filtering out many interests and prerogatives to which the democratic legislature gave expression. Such states normally resorted to a strategy that curtailed the constitutional integrity between the executive and parliament, which had in most cases been established during the war, and they reverted to a governmental regime marked by a partly suspended executive. The key example of this was the Italian state of the years 1918–22, a period which culminated in Mussolini's assumption of power.

In Italy, it transpired soon after 1918 that the democratic state had incorporated a number of societal constituencies, organized in both political parties and extra-parliamentary associations, which could scarcely be accommodated in the same representative system. Most notably, the democratic polity of post-1918 Italy was critically hamstrung by the fact that elements of the numerically largest party, the PSI, openly discredited the parliamentary system and focused many activities on extra-parliamentary agitation. Further, this polity was undermined by the fact that the two largest parties with some sympathy for parliamentary-democratic order – that is, the PSI and the Roman Catholic Italian People's Party (*Partito Popolare Italiano*) – refused to form joint coalition governments. These two factors made it very difficult for any party or group of parties to establish a majoritarian parliamentary mandate to underpin and sustain the executive. Rapidly, then, the inability of the elected parliament to generate majority support for government became a source of chronic instability in the Italian state, and governmental power was increasingly transacted by non-representative means. Post-1918 Italy, in fact, might be seen as a classic example of a polity that ascribed far-reaching constitutional functions to the organs of parliamentary-democratic government, yet whose

democratic institutions, including parties themselves, lacked the cohesive force required for the state to preserve integrity in a highly divided socio-political landscape.

This integrative weakness of Italian democratic institutions had three primary consequences. In the first instance, it created a situation in which smaller parties and more informal groups quickly began to play a crucial role in forming governments, which meant that the executive lost broad public support and minority interests were able effectively to compete for political control. Second, it meant that the groups possessing access to the executive could easily assume a semi-autonomous position in relation to political parties in the legislature, and when parliamentary parties did not produce workable majorities or coalitions, a loose alliance of elites almost of necessity arrogated non-mandated powers of governmental direction. Third, it also meant that, as the executive tended to split away from parliament, power stored in the executive was neither subject to full parliamentary control nor bound by normal principles of accountability, and singular political protagonists could assume powerful functions in the state without full parliamentary authority: privileged societal actors could easily use personal contacts to obtain a share in state power (Catalano 1974: 43). For all these reasons, the democratic state of post-1918 Italy soon began to experience a chronic disintegration in the relation between legislature and executive, and entry to the executive became increasingly reliant on personal associations and semi-clientelistic networks. In fact, barely two years after the end of the war the state began retrogressively to dissolve into its more personalistic pre-1914 structure, and prominent actors in the state began selectively to curtail the process of mass inclusion that had been conducted during and after the war.

This process of state disintegration was reflected, initially, in the fact that by 1920 supreme governmental authority was once again placed in the hands of Giolitti, whose parliamentary mandate, as a liberal, was very limited, and who assumed power, as a minority coalition broker, mainly because of the unwillingness of other parties to form coalitions. Giolitti, in fact, soon reverted to a time-honoured policy of personalistic *trasformismo* as a device for stabilizing government against its unpredictable constituents, and he began to steer the executive away from its obligations to the elected legislature. Indeed, by 1921 Giolitti attempted to shore up liberal support by including Mussolini's fascists on the same electoral list as the liberal parties, and he was willing to co-opt fascists as elements in a liberal/nationalist bloc against the parliamentary left. By

1922, the options for forming integrative coalitions between pro-democratic parties had (it appeared) been exhausted, and the representatives of the old liberal elites in parliament around Giolitti began to toy with alternatives to parliamentary democracy. In particular, a number of prominent liberals favoured a system that limited the sensitivity of the executive to the pluralistic interests of parliament, and promised to preserve political order against social groups and political parties (the PSI and the communists) who threatened the liberal elite monopoly of power. Finally, the office of prime minister in a cross-party, highly conservative coalition was handed to Mussolini. In fact, the dissolution of the constitutional state caused by Mussolini's assumption of power in 1922 was approved by Giolitti and by many other, still more morally pliable, old-style liberals and conservatives, notably by Antonio Salandra, who was happy to describe himself as an 'honorary fascist' (Lyttelton 1973: 113). The termination of Italian democracy, thus, was promoted in part by the old liberal and conservative elites, who, sensing that no acceptable coalition of anti-fascist forces could materialize, sought, in the spirit of *trasformismo*, to *normalize* fascism within a liberal governmental regime,³⁸ and so to reconstruct the state as governed by a semi-accountable executive, crossing the party lines between fascists, conservatives and conservative liberals.

The second stage in the disintegration of the democratic state in Italy occurred after the fascist leadership had been handed power in late 1922. After this point, the fascist party (Partito Nazionale Fascista, PNF), acting in conjunction with some sectors of the late-liberal elites, at once responded to and profited from the integrative weakness of the state by introducing a raft of legislation, with effective constitutional force, that, first, reinforced the quasi-autonomous status of the executive and, second, assigned far-reaching political functions to persons obtaining influence outside the political arena. On the first point, the main legislative packages introduced by Mussolini after 1922 were designed to raise executive power and to dismantle parliament as an independent source of legislative authority, and to suppress both pluralistic sites and procedures of organized political representation. Notably in 1925, Alfredo Rocco supported these policies by arguing, illustratively, that in modern societies the government (executive) has the authority to exercise powers of legislation usually ascribed to parliament, and he claimed that, in all modern states, many laws need to be introduced

³⁸ See the account of widespread liberal 'philo-fascism' in Vivarelli (1981: 157–8).

simply as 'laws by decree [*decreti-leggi*]' (2005: 218, 222). He concluded that the classic division of powers could not be applied to modern states, and he defined the parliamentary legislature as an increasingly internalized component of the executive: he described the modern legislature as a mere 'chamber for registering laws'.³⁹ Shortly after assuming power, thus, Mussolini instituted a fascist Grand Council, which absorbed into the PNF legislative offices formerly occupied by elected members of parliament. The transformation of the state to include the Grand Council, which became an integrated component of the state's constitutional structure in 1928, gave legal form to the domestic hegemony of the fascist party. The most notable law of the early fascist regime, however, was the Acerbo Law of 1923, which authorized the most successful party in national elections to take an overall majority of parliamentary seats, and, after the sham elections of 1924, it enabled Mussolini to introduce legislation without opposition. At the end of 1925, accordingly, Mussolini became head of government, holding power over all ministries. By 1926, legislation was introduced that allowed fascist prefects to dissolve associations perceived to be contrary to the national order: Italy became a one-party dictatorial state, whose executive was monopolized by a small coterie of high-ranking party members. This legislation was flanked by new laws regarding judicial process: in 1926, notably, the Laws of Public Security assigned far-reaching judicial powers to state police to suppress activity hostile to the state and to take all necessary precautions to uphold public order. In each of these instances, Mussolini's early decrees were designed to strip away the representative constitution and the inclusionary apparatus of the state, and to reduce the state to a free-standing, highly personalistic executive. On the second point, however, after 1922 the new governing forces also began to co-opt sources of power outside parliament (i.e. local elites, local party bases, security forces and semi-public corporations) in order to enforce order throughout society, and they increasingly allocated functions of the state to essentially private actors. It is widely documented, in fact, that Mussolini's regime was supported by an extensive semi-private bureaucratic order, and that the early fascist period was marked by a rapid growth of public corporations and associations (*enti pubblici*), which

³⁹ Rocco's writings reflected a more general confluence of syndicalism and nationalism in the early years of the Italian fascist movement. Rocco planned corporate laws as devices for preserving the 'achievements' of the 'labouring masses' by ensuring that these were integrated 'in full in the life of the nation and the state' (2005: 308).

were linked to the fascist party and were recruited (in order to reduce levels of state bureaucracy) to administer spheres of intersection between the state and the economy (Mellis 1988: 262–3). Indeed, while limiting the politically formalized connection between the executive and parliament, the PNF also acted to tighten its hold on power by securing support from powerful economic associations, which began to take on responsibilities for economic management and social pacification originally accorded to the democratic state after 1918.⁴⁰ By 1926, this process also led to the abolition of organizational structures that contradicted the social and economic interests of powerful elites (i.e. trade unions and left-oriented political parties), and the PNF increasingly utilized its executive power to consolidate the private dominance of select socio-economic groups that gave it support (Lyttelton 1973: 329, 348).

On this basis, the Italian fascist state emerged from the inclusionary crisis of post-1918 democracy as a hybrid state.⁴¹ At one level, the state that developed under Mussolini, after the material suspension of the parliamentary constitution in the years 1922–5, preserved the elemental structure of a classical state executive, and it retained many administrative units and ministerial offices that characterized the European state of the liberal era. Indeed, it is widely asserted that Mussolini preserved and consolidated his regime by obstructing a complete fusion of the party and the state, and by strategically upholding the residual edifice of the state: this enabled him to impose discipline on the turbulent elements of his own party and to consolidate his own hold on power.⁴² In its executive apparatus, therefore, Mussolini's state was consolidated around the bare pillars of the late-liberal Italian state: the monarchy, the army and the governmental ministries, which were partly and irregularly fused with the leadership elite of the PNF. At a different level, however, Mussolini's regime was formed as a state in which many functions of governance and regulation were removed from public office and partly reverted to private actors, semi-public corporations and

⁴⁰ The vital link between the PNF and the association of big business (Confindustria), formed at approximately the same time as the first emergence of the *fasci di combattimento*, is often noted (Adler 1995: 155). More specifically, private companies also provided extensive support for the regime (see Sapelli 1975: 115). Mellis argues that 'entire branches of production' were removed from the control of the economic ministry and placed under the supervision of private corporations (1996: 367).

⁴¹ See Aquarone for analysis of a regime which was controlled neither just by a party nor just by a state (1965: 164).

⁴² For an example of this view see Lyttelton (1973: 269–307).

personal/clientelistic elites. In fact, Mussolini's state supported its functions of regulation and social control by allowing administrative power to be surrendered to diffuse private or semi-private groups in order to compensate for its inclusionary insufficiencies, and the party state was sustained by a balanced aggregate of commissioners, industrial technocrats, local prefects and administrators, and federal secretaries, who expansively dilated the societal presence of the state by devolving power to prominent semi-private and regional organizations (Palla 2001: 8). The corporate-constitutional shift in post-1918 Italy ultimately established a state in which private actors, in semi-patrimonial style, obtained access to public offices, and whose executive structure was sustained by a loose mass of private bargains between associations inside and outside the state.⁴³ Mussolini's state, in short, was designed as a model of governance marked at once by the consolidation of a powerful independent party executive, making extensive use of prerogative legislation, and by the redistribution of public offices among powerful private actors. In this system, the executive relied on power-sharing arrangements with sympathetic societal groups, and it used prerogative instruments to stabilize these arrangements. As a result, political power was substantially re-particularized, and the state as a whole began to resume features of semi-dualistic constitutionalism. Indeed, vitally, the termination of constitutional democracy in the Italian state after 1922 necessarily meant that it resorted to more erratic patterns of inclusion and it began to lose its positive integrity, consistency and abstraction as a state.

Austria and Portugal

This pattern of democratic collapse through partial suspension of the liberal executive was not exclusive to Italy at this time. A similar phenomenon, albeit arising in a different socio-political setting, was observable in some constitutions of the newly formed states of central Europe. The 1921 constitution of Poland, for example, was in many ways close to earlier liberal models, and it borrowed a powerful bicameral legislative system from the Third Republic in France. However, it also included substantial provisions

⁴³ An important article on this argues that the PNF acted in government as a 'body among bodies', using state power to broker semi-public, semi-private bargains which served the solidification of its own power and the private interests of other associations (Bersani 2002: 186).

for material rights, and it placed the labour process under direct jurisdiction of the state (Art. 102): that is, it guaranteed state protection for those suffering from unemployment, illness or accident. This constitution was supplanted through Pilsudski's coup d'état in 1926. Pilsudski initially projected a model of 'guided democracy', and he advocated executive-led republican rule to supersede the democratic order of 1921. But, in 1935, he secured the adoption of a presidential constitution, which placed both parliament and cabinet under his authority (although he did not live to see it in operation), and accorded to the president substantially augmented powers of emergency legislation.

More significant parallels to Italy can be found in the process of democratic fragmentation in inter-war Austria. However, despite certain parallels to Italy, Austria represented a substantially distinct pattern of democratic crisis, and the state that emerged after the collapse of Austrian democracy represented a different model of constitutional order. In Austria, the democratic constitution of 1920 was initially revised through a far-reaching amendment of 1929. This revision was designed to placate the growing factions of the extreme right, and, although approved by the Social Democrats, it entailed a substantial transfer of power from the parliamentary legislature to the president, and it placed the legitimacy of the presidential executive on a direct plebiscitary foundation. Subsequently, in early 1933, the Austrian parliament was dissolved, the Constitutional Court was suspended, and the federal government began to conduct business by authority of provisions for exceptional governance that had been introduced before 1918. After 1933, in fact, the legal basis of government was secured through reference to prerogatives for military-economic regulation (*Kriegswirtschaftliches Ermächtigungsgesetz*), which had been implemented in 1917, and which had engendered a system of semi-dictatorial economic management during the First World War. This legislation had not been formally rescinded after 1920, and it was integrated in the constitutional order of the First Republic to legitimize prerogative legal measures in cases where the regular constitution was suspended (Hasiba 1981). Ultimately, in 1934, the prerogative laws supporting the Austrian executive were utilized to introduce a new, highly reactionary constitution, implemented by Dollfuß. This constitution, although purporting to guarantee liberal principles of uniform parity before the law and equal entitlement to basic rights (Art. 16), instituted a model of group-managed federal rule (Art. 2), based on the principle of government by sectoral estates, which substantially weakened political rights. In the 1934 Constitution, legislative competence was in part removed from the elected parliament and divided

between diverse corporate organs and professional chambers, which were accorded power to pre-form acts of legislation and to nominate members of the legislature (Bundestag) (Arts. 44, 50). Moreover, this constitution foresaw the creation of a federal economic council (Art. 48), in which representatives of different professions were sent to deliberate and determine economic policy and legislation, and whose members then obtained access to the primary legislature. This constitution was designed to dilute the strict and direct political integrity between the elected legislature and the state executive, and it marked a partial return to earlier dualistic or quasi-privatistic constitutions. Indeed, this constitution created a legal order in which private groups, loosely patterned on corporate estates, obtained direct, varied access to the resources of governmental power. It allocated power to private elites, whose qualifications for governance were determined, not by law, but by party-political conviction, and who were specifically empowered to use prerogative measures for the conduct of government (Merkl 1935: 64, 131).

Closely related to this process of constitutional reconstruction in Austria after 1933 was the suspension of constitutional rule at the end of the First Republic of Portugal. In Portugal the liberal-parliamentary constitution of 1911 was abrogated in 1926 when the military seized control of the state. By 1930, Salazar had become the leading figure in Portuguese government: he was appointed first (in 1926 and again in 1928) as minister of finance, and after 1932 he assumed the office of prime minister, thus becoming effective head of government. Salazar initially used military support to promote a governmental system that abolished opposition parties and transformed parliament into a chamber of appointees, and he used this system to introduce austere fiscal policies to reduce high public debt. Salazar then transformed the state from the military junta established in 1926 to a corporatist constitutional order: the *Novo Estado*. This was legally instituted in 1933, when he established both a new written constitution and a Code of National Labour, in order to regulate industrial relations and conditions of production. In particular, the 1933 Constitution made provision for a powerful ministerial executive, governed by Salazar himself, which was entitled to pass decree-laws with statutory force (Art. 108(3)) and to oversee the administration of the state. This constitution also provided for a weak legislature (which did not meet until 1935) and for a judiciary that was integrated into the organic structure of the state. The legislature, notably, was split into two bodies: one of these comprised a National Assembly of elected delegates and appointees, and the other was a Corporative

Chamber, consisting of appointed representatives of agriculture, commerce, industry, the army and the church. The Corporative Chamber was required to give its opinions on all draft bills prior to their submission to the National Assembly (Art. 103).

Both the post-1934 Austrian state and the *Novo Estado* created by Salazar, in sum, developed as state forms that in part reflected the pattern of anti-democratic retrenchment pioneered by Mussolini in Italy. Both reflected a reactionary backlash against parliamentary pluralism, and both at once liberated the executive from elected legislative control and, in instituting corporate chambers, both used coercive techniques to regulate production in the economy and stabilized the power of select socio-economic groups within the apparatus of the state. These states, however, differed from Mussolini's regime in that they did not approach the condition of partial executive autonomy that marked Mussolini's state. Although both states concentrated their economic policies on fiscal austerity, in both instances the state executive remained, at least nominally, more integrally locked into processes of material consultation and corporate economic interpenetration. As in Italy, however, both states reacted to the extreme economic conflicts of the 1920s and early 1930s by strategically diminishing their democratic foundations and, in consequence, by privatistically parcelling state power for powerful groups and re-particularizing many core functions of the democratic apparatus.

Germany

A further analogous, yet also substantially divergent, process of state fragmentation, shaped by similar (although not identical) underlying causes, characterized Germany during the collapse of the Weimar Republic. During the Weimar Republic, Germany also witnessed a process, gathering pace in the currency inflation of 1922–3 and culminating in the three years of presidential government from 1930 until 1933, in which the integral relation between legislative and executive institutions was deeply unsettled, and in which the executive intermittently assumed semi-independent status. In both these periods, actors within the German state executive responded to intense economic pressures and conflicts and lack of parliamentary cohesion by making extended use of emergency powers (codified in Arts. 25 and 48 of the 1919 Constitution) to circumvent normal parliamentary procedures in order to introduce decrees on pressing issues of public security, spending and government finance. In 1923, first, precedents were established for

the use of exceptional powers to bypass parliament in order to pass budgetary legislation. At the height of the hyperinflation, notably, President Friedrich Ebert (a Social Democrat) prorogued parliament and used emergency laws to implement fiscal packages to stabilize the currency, and many of the most vital decisions in this critical period of German democracy were made without parliamentary debate: crucial decisions regarding economic stabilization became law through executive fiat. This process necessarily led to a reinforcement of the executive in relation to parliament, it both factually and symbolically eroded the legitimacy of parliament, and – importantly – it offered financial experts and strategists direct personal access to the executive (Feldman 1997: 754–802). Between 1930 and 1933, the economic crisis caused by the Wall Street crash of 1929 provoked a similar response: the normal functions of parliament were again, this time more enduringly, suspended, and the day-to-day responsibilities of government were progressively assumed by appointed members of presidential cabinets, authorized to implement policy under Article 48 by the arch-reactionary President Hindenburg. After the Wall Street crash and the withdrawal of US capital from the German public economy in 1929, most major acts of legislation were introduced, as executive prerogatives, by presidential decree. Most legislation at this time was designed to pursue a radically deflationary austerity course, and emergency laws were used to cut public spending, reduce welfare and insurance provisions, and ultimately also to unstitch the collective wage agreements established through the corporate bargains of 1918.⁴⁴ The model of government by presidential cabinets under Article 48, in fact, was specifically devised to replace the parliamentary coalition of 1928–30 led by the Social Democratic Party (SPD) with a simultaneously authoritarian and business-friendly executive.

In both crisis periods of the first German democracy, therefore, the parliamentary constitution of 1919 was dramatically weakened, ministerial offices were either partly or largely disconnected from the Reichstag, and a free-standing executive, supported by a conservative civil service, assumed many functions constitutionally accorded to the legislature. Owing to the semi-independence of the executive after 1930, in particular, cabinet positions were often allocated through personal associations and informal arrangements, and core functions of state were rapidly transformed into personally brokered commissions. Notably,

⁴⁴ Explaining these policies, see Scheuner (1967: 253); Krohn (1978: 119); Patch (1998: 182).