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Viewpoint

‘Individual sovereignty’ in pandemic times – A contradiction in terms?

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Over the past months, appeals to ‘individual sovereignty’ have brought together a wide range of political actors across Europe, united in their rejection of face masks, ‘social distancing’, and other forms of state-imposed regulation of behavior and mobility. Opposition to state efforts to govern the spread of the pandemic has created, indeed, the most unlikely of coalitions—from anarchists and natural health proponents to anti-vaxxers and libertarians of all stripes (from the radical-ecological to the right-nativist)—all mobilizing around a purported defense of ‘personal freedoms’ and ‘individual rights’ against the sovereign power of states.1

In this short piece, we take to task the notion of ‘individual sovereignty’ which has been invoked by these movements to contest the pandemic powers of the state. Our aim is to point out some fundamental contradictions that underpin such claims-making, from a legal and political-geographic point of view. As Simpson notes in his commentary, the impacts of both the pandemic and of the extension of state powers in attempting to contain it have been profoundly unequal across space and across different bodies, deemed more or less worthy of protection and care. While cognizant of the inherent inequalities (if not directly violence) of state pandemic-politics, we wish to draw attention here also to the potential perils that the contestation of state powers may bring when it throws into question the very bases of democratic collectivity. By highlighting how the claims of today’s protest movements ably meld neoliberal appeals to ‘individual responsibility’ with a mystified and depoliticized notion of ‘sovereignty’ evacuated of its collective content, we add to Mitropoulos’s argument that the absence of collective action under pandemic circumstances conditions life chances on private wealth.

1 Re-claiming ‘fundamental rights’

In articulating their claims to ‘individual sovereignty’, many of the European protesters against COVID-19 measures have appealed to the language of ‘fundamental rights’. In both the German and Dutch contexts, for instance, protesters have invoked constitutional protections in their calls for “the restoration of fundamental rights” (Baumgartner et alia, 2020; NRC, 2020). Likewise, the leaders of the protest in Rome in early June, which brought together the Italian far-right and the gilet arancioni,2 presented themselves as “the guarantors of democracy” (Merlo, 2020).

In the political imaginary of these protesters, ‘fundamental rights’ connote universal moral claims. They are understood as something that pertains to individuals, and that is actionable by individuals. As such, they are envisioned as capable of transcending and restricting, if needed, the political power of the state. Yet fundamental rights, as they are codified by law, are always also an expression of national (or at times supra-national claims to) sovereignty. They are partial, based on a political choice, and subject to politically introduced limits (Ignatieli, 2001). Understood as a formal recognition of certain political values (and not others), codified in a particular way, and backed by the threat of enforcement, fundamental rights are both a confinement and an expression of public powers. This double role of fundamental rights is what defines their essential role in ensuring that the inherent tension between individual autonomy and collective self-rule, i.e. sovereignty, does not result in the destruction of one or the other. Jürgen Habermas eloquently expresses for pandemic times what this tension is aimed to ensure: “If democratic citizens only obey the general laws that they have given to themselves, and all together, they cannot agree to policies that, contrary to their equality, jeopardize the lives of some for the sake of everyone else’s interests” (Habermas in Habermas & Günther, 2020).

2 ‘We are the people’

Along with the language of fundamental rights, the protests across various European cities have also appealed to another powerful notion, that of ‘popular sovereignty’. Protests in Stuttgart and Berlin have invoked the slogan ‘Wir sind das Volk’ (‘We are the People’) (Höhn, 2020) while in the Italian context, the gilet arancioni gathered around the
chant of ‘Quando tutto crolla, l’ultima frontiera della democrazia è il popolo!’ (When everything collapses, the last frontier of democracy is the people!) (Berizzi, 2020). ‘The people’ which today’s protesters invoke are the ‘real people’, the ‘silent majority’, contesting an illegitimate state that is simply a proxy for corporate (read: Big Pharma) interests and other sinister ‘elite’ and ‘foreign’ agendas. The ‘Virus Madness’ group leading the protests in the Netherlands (now called ‘Virus Truth’) is indicative, having focused its campaign on ‘giving voice to the will of the people’, through court appeals as well as direct actions protests. 3

We can certainly identify here a continuity with the sort of sovereignist-populist language that we have become accustomed to in the past years: a political imaginary, as Cas Mudde (2004: 54) has argued, upon a vision of society ‘separated into two homogeneous and antagonistic groups: the pure people versus the corrupt elite’, and which argues that politics should be an expression of the ‘volonté générale’ of the people”. In this sense, as Nadia Urbiniti (2019a) points out, populist rhetoric ‘violates the synecdoche of modern representative democracy (that is, the claim of a ‘part’ to represent ‘the whole’)’ by claiming to embody ‘one part only, the “authentic” or ‘good’ part, which by this very reason is legitimate to rule for its own good’ (Urbiniti, 2019a, p. 80).

The invocations of today’s protesters thus recall pre-COVID populist rhetoric. As Jan-Werner Müller (2020) has remarked, the “claim to monopoly of properly representing the people” has remained “the political business model of populists” in pandemic times. All the while, we would argue, the focus has undergone a transformation: from appeals to an imagined national ‘people’ to an emphasized also on personal or individual ‘sovereignty’, that now becomes the site of basic rights to be defended against the ‘sanitary dictatorship’ 4 of state institutions presented as “fundamentally illegitimate” (Müller, 2020). We would like to focus on unpacking this notion of ‘individual sovereignty’ in the remainder of this commentary in order to point out its inherent contradictions, while also cautioning how it may risk giving populist rhetoric another perilous tool with which to contest the modern constitutional democratic state.

3. ‘Individual’ sovereignty

Within modern constitutional democratic states, individual autonomy is expressed and protected through fundamental rights, which have a double-edged relationship with sovereignty. On the one hand, fundamental rights are, in their specific codified form, an expression of a sovereign choice; on the other hand, they protect individual liberty and autonomy (or self-rule) and limit the exercise of sovereignty. Individual autonomy is thus necessary to create the conditions of the very collective self-rule or ‘collective autonomy’ that is the essence of sovereignty (Habermas, 1996). Indeed, the collective autonomy of any polity is dependent on individual autonomy, in the sense that collective will-forming requires that individual participants actually possess the liberty to make decisions and to determine their actions (Habermas, 1996). The enjoyment and also enforcement of fundamental rights is dependent on individual autonomy, in the sense that collective will-forming requires that individual participants actually possess the liberty to make decisions and to determine their actions (Habermas, 1996).

References


3 As outlined in this essay by one of the movement’s activists, under the title: ‘All together for our own freedom’ https://viruswaarheid.nl/informeren/a llemaal-samen-voor-eeneigen-vrijheid/.

4 As Italian protesters have termed the state’s pandemic emergency powers.

5 In this respect is Habermas’ procedural account of democratic legitimacy, which presumes that a collective will can only be formed in a legally structured political community (Habermas, 1996, p. 448), in which courts guarantee equal subjective liberties, equal membership rights, and legal protection of these rights.
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