



THE LONDON SCHOOL  
OF ECONOMICS AND  
POLITICAL SCIENCE ■

# **Material Constitutionalism and the Politics of Anti-Oligarchy**

Vincent Harting

The London School of Economics and Political Science

A thesis submitted to the Department of Government of the London School of Economics and Political Science, London, for the degree of Doctor of Philosophy in Political Science, May 2024.

## **Declaration**

I certify that the thesis I have presented for examination for the MPhil/PhD degree of the London School of Economics and Political Science is solely my own work other than where I have clearly indicated that it is the work of others (in which case the extent of any work carried out jointly by me and any other person is clearly identified in it).

The copyright of this thesis rests with the author. Quotation from it is permitted, provided that full acknowledgement is made. This thesis may not be reproduced without my prior written consent. I warrant that this authorisation does not, to the best of my belief, infringe the rights of any third party.

I declare that my thesis consists of 60,195 words.

## Abstract

This thesis argues that so-called material approaches to constitutionalism provide valuable resources for theorizing anti-oligarchic democratic innovations. In particular, it focuses on the justification and democratizing potential of constitutionalizing authoritative class-specific political institutions, that is, institutions of exclusive access to nonwealthy and/or working-class citizens. In order to achieve that aim, the thesis explores the meaning of the idea of material constitutionalism, distinguishes between conservative and progressive conceptions of it, and gives a sustained defence of the latter. It fleshes out the general economic causes of ordinary citizens' political disempowerment under contemporary capitalist states, establishes the importance of a popular understanding of democracy, and explains some of the benefits of employing class-specific political institutions to redress oligarchization. It also discusses particular interpretations of progressive material constitutionalism, namely, so-called plebeian and socialist alternatives, and defends the normative superiority of the latter. In a nutshell, the argument is that such is the case because socialist constitutionalism gets better the purpose of class-specific political institutions, which ought to aim at eroding the class barriers that trigger the need for them, instead of regulating class conflict and divisions. Socialist constitutionalism offers a distinctively transitional justification for class-specific political institutions. On this account, their legitimacy depends on their ability to expand, in time, meaningful democracy and more inclusionary arrangements – which requires the erosion of socio-economic class divisions. In turn, I argue that this viewpoint opens up the possibility of a partial reconciliation between liberal constitutionalism and progressive material constitutionalism – as the most serious objections coming from the former camp can be replied to through the resources of socialist constitutionalism.

# Table of Contents

<i>Acknowledgements</i>	7
<b>Introduction</b>	9
1. Progressive Material Constitutionalism: Main Contributions	11
2. Some Methodological Features, Definitions and Assumptions	13
3. Thesis Structure and Outline	17
<b>Chapter 1. The Idea of Material Constitutionalism</b>	19
Introduction	19
1.1. The Idea of Material Constitutionalism	22
1.2. A Normative Restatement	29
1.2.1. Conservative Material Constitutionalism	29
1.2.2. Progressive Material Constitutionalism	32
1.3. Against Conservative Material Constitutionalism	34
<b>Chapter 2. On Progressive Material Constitutionalism</b>	37
Introduction	37
2.1. Political Disempowerment: Constitutional Oligarchization and Class Relations	40
2.1.1. Constitutional Oligarchization	40
2.1.2. Class Relations	45
2.2. Political Empowerment: Popular Democracy and Class-Specific Political Institutions	51
2.2.1. The General Alternative	51
2.2.2. Class-Specific Political Institutions as Vehicles for Political Empowerment	56

<b>Chapter 3. Plebeian Constitutionalism:</b>	
<b>The Regulation Model for Anti-Oligarchization</b>	66
Introduction	66
3.1. Plebeian Constitutionalism: Regulating Class Conflict Through Constitutional Means	69
3.1.1. Plebeian Constitutionalism	69
3.1.2. Exemplifying Plebeian Constitutionalist Institutions	74
3.2. The Class Divisions Entrenchment Objection	77
3.3. Two Plebeian Constitutionalist Replies	79
3.3.1. The Relative Irrelevance Reply	79
3.3.2. The Second-Best Reply	82
<b>Chapter 4. Socialist Constitutionalism:</b>	
<b>The Transformative Model for Anti-Oligarchization</b>	85
Introduction	85
4.1. Socialist Constitutionalism: Eroding Class Conflict Through Constitutional Means	90
4.1.1. Socialist Constitutionalism	90
4.1.2. Socialist Constitutionalism and the Question of Democratic Legitimacy	95
4.1.3. Exemplifying Socialist Constitutionalist Institutions	102
4.2. Three Internal Objections	113
4.2.1. The Utopianism Objection	114
4.2.2. The Conservative Reaction Objection	116
4.2.3. The Class Co-optation Objection	119

<b>Chapter 5. Liberal and Progressive Material Constitutionalism: A Partial Reconciliation</b>	123
Introduction	123
5.1. Liberal Constitutionalist Objections	127
5.1.1. Political Equality	127
5.1.2. Impartial Deliberation and the General Interest	133
5.1.3. Democratic Control Against Tyranny	138
5.2. Conclusion	144
<b>6. Conclusion: Vindicating Progressive Material Constitutionalism</b>	145
6.1. Benefits and Consequences of the Argument	146
6.2. Limitations and Future Challenges	147
<b>References</b>	151

# Acknowledgements

It is popular wisdom that writing a doctoral thesis is a long and exhausting process – one that, similar to how, in his *Phenomenology of Spirit*, Hegel described the process of acquiring “real knowledge,” could be considered to be a *path of despair*. People also say that it can be sometimes lonely, sad, stressful, and many other things which no rational person would, or should, want. I think that they are right. Yet I believe, certainly as many others do, that it is also a fascinating, unique intellectual experience, especially when you are conducting it in excellent institutional environments. The Department of Government at the LSE is, without doubt, such an environment, and I have had the luck to be part of it. My first acknowledgement is thus to the LSE as an institution, not only for its material, economic support during these years, but for being what I feel has been my first true academic home.

I must obviously extend my gratitude to several people without whom this thesis would have not been possible at all. First and foremost, I must thank my supervisor, Lea Ypi, for all her guidance during this process – dating back to my MSc studies here at the LSE, when she supervised my dissertation too. Lea has been such an excellent mentor, both in political theory, politics, and life more generally. She has rigorously corrected me when I have been wrong, pointed to directions to be right (or, at least, how to get closer to that!), while always being comradely and kind. She has helped me to better understand what Marxism means to me, affirm the optimism of the will, and the moral duty of hope. I cannot imagine a better supervisor and I will be forever grateful to her. I also want to thank my thesis advisor, Mike Wilkinson, for motivating a great deal of the research agenda I pursue in this work and helping me to perfect my knowledge of constitutional theory. John P. McCormick had the generosity of sponsoring me as a Visiting Student at the University of Chicago for a Term and significantly shaped my views about how to think about meaningful democracy. All of these gestures, actions, and sources of inspiration have irreplaceable value to me.

The content of this work would not be the same without the input of friends and colleagues from the LSE Political Theory Group, with whom I extensively discussed the views expressed in this thesis both at the Department, our regular doctoral seminar and, of course, the pub. While, in different ways, it draws on comments from everyone in the group, I would like to thank Max Afnan, Paul Apostolidis, Tom Bailey, Cristina Conesa Pla, Julia Costet, Katrin Flikschuh, Sarah

Goff, Signy Gutnick Allen, Jan Kandiyali, Paul Kelly, Henrik Kugelberg, Bruno Leipold, Nadia Ma, Emma Obermair, Temi Ogunye, Anne Phillips, Cain Shelley, Kai Spiekermann, and Felix Westeren, for especially helpful suggestions. Andreas Sorger, my political theory cohort buddy, deserves a special mention. I had the immense pleasure of sharing this journey with him, from the beginning to the end, and benefited from his sharp intelligence and kindness. I deeply thank him for that. From this same cohort, but in political science, I must also acknowledge Luis Bosshart and Antoine Zerbini, for their friendship and highly stimulating conversations, as well as for being two of the most serious thinkers I have met thus far.

Many of the intuitions presented here draw on the feedback from colleagues and audiences in several conferences and private conversations. Of course, it is impossible for me to remember all the names of the people who have commented on my ideas in these instances. But I would like to still thank, at least: Felipe Águila, Gordon Arlen, David Axelsen, Carlo Burelli, Dan Epstein, Lawrence Hamilton, Tomás Jaeger, Josefina Jaureguiberry, Dimitrios Kivotidis, Adrian Kreutz, José Tomás Labarca, Tatiana Llaguno, Bruno Lloret, Callum MacRae, Sabrina Marasa, Mike McCarthy, Saide Mobayed, James Muldoon, Tom O’Shea, Niklas Plätzer, Natasha Piano, Jennifer Pitts, Alex Pomeroy, Fernando Quintana, Paul Raekstad, Dušan Rebolj, Filippa Ronquist, Enzo Rossi, Gustavo Sánchez, Igor Shoikhedbrod, Lukas Schmid, Lukas Slothuus, Pablo Soffia, Francisca Valenzuela, Camila Vergara, and Nicolai von Eggers. I also want to thank the editors and two anonymous reviewers from the journal *Political Theory* and another two from the *Journal of Social Philosophy*, who agreed to publish and provided excellent feedback on both my papers ‘An Egalitarian Case for Class-Specific Political Institutions’ and ‘Lottocracy and Class-Specific Political Institutions: A Plebeian Constitutionalist Defense,’ respectively – papers which contain some of the most fundamental intuitions foregrounding the argument of *Material Constitutionalism and the Politics of Anti-Oligarchy*.

Finally, I want to thank my close family and friends, here in London, Chile, and other places, for bringing so much joy and meaning to my life. For cheering me up when I have been down and bearing with me when I have been a pain. They know who they are. And, of course, above everyone else, to my partner and love: Rosa.



# Introduction

Questions of social class are back in the game of democratic theory. Against the backdrop of the multi-level crisis of contemporary liberal constitutional democracies, including the rise of authoritarian executives and courts, rigged elections, and the permanence of existential threats such as the climate catastrophe and nuclear war (just to name a few), there are good reasons to be sceptical about the ability of these political systems to live up to the standards of being “... one of the great achievements of civilization” (Grimm, 2016, 335). Following Martin Loughlin, instead of liberal constitutional democracies, a more apt term might be to refer to these as *defective democracies*, that is, “...regimes that retain the formal constitutional trappings while flouting the norms and values on which constitutional democracies are based” (2019, 437; also, Crouch, 2004).<sup>1</sup> Yet, amongst the several problems faced by liberal democratic institutions, one prominent diagnosis is to highlight their widespread tendency to degenerate into *oligarchic plutocracies*. Economic inequalities are only intensifying within states and across the globe (e.g., Alvaredo et al. 2013; Piketty, 2014; Vergara, 2022a), leading to higher concentrations of wealth in fewer hands who, in turn, progressively acquire increasing forms of political privilege within the constitutional state to enact their interests at the expense of ordinary citizens. Awareness of the subordination of democratic politics to the imperatives of capital accumulation is increasingly recognized by people across the political spectrum, moving beyond the traditional association of this view to that of the radical left alone (Ronzoni, 2018). As Tarun Khaitan helpfully put it some years ago, “... [l]iberal-democratic constitutional discourse has failed the poor” (2019a, 537), and so has the ability of the institutional structures associated with it to realize their egalitarian aspirations. There are good reasons to believe that addressing the problem of oligarchy requires, at the very least, alternative discourses and institutional proposals directly tackling questions of economic and class relations *as a matter of constitutional design*. Egalitarian democrats must elaborate theoretical and practical resources for an effective politics of anti-oligarchy.

---

<sup>1</sup> By liberal constitutional democracies, I mean jurisdictional systems combining independent courts and the protection of fundamental individual rights (speech, movement, association, etc.), the principle of separation of powers, and the use of nearly universal, class-neutral competitive elections as the main democratic method for legitimizing political authority and designating representatives. Of course, liberal democracies’ institutional structures differ in many ways and realize such principles more or less perfectly (Barber, 2018, 237). But I take it to be true that, at least, they aim to realize these characteristics. See Bagg (2018, 891), Cohen and Fung (2004, 23), Manin (1997), and Urbinati (2006), for useful definitions of liberal constitutional democracies.

*Material Constitutionalism and the Politics of Anti-Oligarchy* aims to contribute to this research agenda. It begins by examining the recent revival of so-called material approaches to constitutionalism, that is, approaches defined by a central attention to the effects of economic relations over constitutional orders, the ways in which different social classes are integrated within and/or dominate these orders, and the material relations that these reproduce in turn. More particularly, I argue that what I call progressive varieties of such an approach provide attractive resources for theorizing *non-reformist reforms* conducive to egalitarian social change. These perspectives are broadly characterized by a principled commitment to fighting oligarchization and the realization of substantively democratic political systems. More specifically, I focus on their ability to justify, and inform the design of, a particular kind of anti-oligarchic *democratic innovation*, i.e. class-specific political institutions.<sup>2</sup> Class-specific political institutions are authoritative platforms formally excluding wealthy elites from political decision-making, not only, but mainly, to politically empower nonwealthy and/or working-class citizens within and through the state. In the progressive material constitutionalist narrative, then, the idea is that enacting this kind of “... aspirational constitutional project of state-driven change” (Hailbronner, 2017, 537) would purport meaningful anti-oligarchic features required to realize the unfulfilled, egalitarian promises of liberal democratic constitutionalism. It would also productively inform the alternative discourses and political practices needed to that effect. In this Introduction, I will lay out the main contributions of the account that I shall develop throughout the thesis (section 1). Then, I will proceed to explain its main methodological features, definitions and several assumptions on which it rests (section 2). Section 3 fleshes out the general argumentative structure that I shall use to organize each chapter as well as a brief description of these.

---

<sup>2</sup> As originally coined by André Gorz (1968), the term ‘non-reformist reforms’ suggests the attractiveness of a “... struggle for reforms in the institutions of the state that have three simultaneous effects: they solve some pressing problem in the system as it exists; they enlarge, rather than close down, the space for future transformations; and they enhance the capacity of popular social forces to fill that space” (Wright, 2019, 42; also, Akbar, 2020). Relatedly, ‘democratic innovations’ are “...institutions that aim to increase and deepen citizen participation in political decision making” (Smith & Owen, 2011, 204; also, Smith, 2009). In the case of class-specific political institutions, these are aimed at solving oligarchization and the impacts of class divisions over constitutional orders; enlarging the space for democratization; and enhancing the capacity of nonwealthy citizens to fill that space. As a kind of democratic innovation, they are also aimed at maximizing the participation of these groups in political decisions.

## 1. Progressive Material Constitutionalism: Main Contributions

*Material Constitutionalism and the Politics of Anti-Oligarchy* contributes to three main bodies of literature in contemporary political and legal theory. The first is related to the meaning and importance of the idea of material constitutionalism as an alternative perspective to mainstream liberal constitutional studies (Wilkinson & Goldoni, 2023a). Accounts of this sort tend to associate the benefits of this account in explanatory and critical terms (e.g., Goldoni & Wilkinson, 2018), and/or claim that it represents an intrinsically egalitarian perspective (e.g., Vergara, 2022). Yet I argue that, for several reasons, this dichotomy is inaccurate, and that further efforts should be made to specify its core characteristics. Thus, I suggest that a more convincing understanding of material constitutionalism should conceptualize it, alongside the explanatory and critical defining conditions usually associated with it, as a necessarily normative yet only contingently egalitarian approach to the understanding of constitutional ordering. The thesis, therefore, offers new arguments and taxonomical resources to clarify its content and theoretical purchase.

The second, most important contribution of this work is to provide the first systematic reconstruction and normative defence of progressive material constitutionalism in contemporary debates in normative political theory, especially democratic theory – with a particular focus on the proposal of constitutionalizing empowered (i.e., authoritative) class-specific political institutions. This does not aim to reinvent any wheel, of course. As I shall explain later on, the approach that I label progressive material constitutionalism has long and deep roots in the history of political thought (e.g., Machiavelli 2003 [1531]; Adler, 2019 [1919]). This view about constitutional ordering and justification has also been recently revived and originally defended by so-called ‘plebeian constitutionalists’ (e.g., McCormick, 2011) and, in a less explicit way, by ‘socialist republicans’ (e.g. Muldoon, 2018; O’Shea, 2019), which are the most prominent conceptions of such an approach in contemporary debates. But current discussions on these issues, especially regarding the morality and design of class-specific political institutions, are still rather scattered, brief, and unsystematic. *Material Constitutionalism and the Politics of Oligarchy* expands on these debates and helps to correct these faults through three core argumentative clusters. First, it builds a framework explaining the main tenets of progressive material constitutionalism – such as the main problems from which it starts, i.e., oligarchization and class relations, and the popular democratic conception that informs it. Secondly, it offers various normative arguments in favour of constitutionalizing class-specific political institutions, as well as empirical reasons as to why we should expect the positive effects that many authors usually attribute to them. It also compares

different interpretations of the role and justifiability of this kind of non-reformist reform and speculates on how to mitigate several risks that it might pose in terms of impeding processes of egalitarian social transformation. Third, it establishes an explicit dialogue with liberal egalitarian and neorepublican strands in contemporary political philosophy. The purpose of such a move is not only to improve the appeal of my account in the eyes of many fellow egalitarians but that the former can learn from the intuitions of the latter. Thus, I hope that all these theoretical efforts will offer a more comprehensive and better account of the virtues of progressive material constitutionalism in general, and class-specific political institutions in particular.

The third main contribution of *Material Constitutionalism and the Politics of Anti-Oligarchy* is to give insights into the more general project of how to theorize democratic innovations for the purpose of egalitarian social transformation. On the one hand, it aims to be of interest to champions of constitutionalizing alternative institutions to those of standard, elections-based systems of democratic representation, and which are aimed at increasing citizens' control over political decisions – such as, just to name one, authoritative political institutions like senates where citizens are randomly selected and frequently rotated (e.g. Abizadeh, 2020; Gastil & Wright, 2018; Landemore, 2020). Yet my arguments *infuse such debates with class analysis and critique*, explore the consequences and benefits of such a move to fight oligarchization, and aim to speak to many of the concerns that these theorists have as a result. On the other hand, this work contributes to a sub-set of recent arguments in normative transitional theory focused on class-based political means for egalitarian social change (Guinan & O'Neil, 2018), such as accounts of the role of strike action (Gourevitch, 2018), trade unions (O'Neill & White, 2018), class-oriented activist-led political education (Shelley, 2021) and/or democratic municipalism (Shelley, 2022b), yet *infusing them with constitutional considerations*. Acknowledging that there is no panacea for realizing such an ambitious political project and that a combination of these strategies (and plausibly others, such as political parties of principle [Ypi & White, 2018]) is reasonably required, the intention is to show that constitutionalizing class-specific political institutions would be a valuable addition to our 'egalitarian toolbox' (Anderson, 2008) for practices of radical social reform – particularly, as I shall argue at various stages of my account, due its authoritative and stable character. Put differently, the intuition is that constitutionalizing ambitious democratic innovations directly aimed at fighting oligarchization would significantly enhance the likelihood of materializing a type of egalitarian democracy that deserves its name. With these elements in mind, let me now elaborate on the main methodological features, as well as clarify several basic definitions and assumptions, of my account.

## 2. Some Methodological Features, Definitions, and Assumptions

This thesis is primarily a work in normative political philosophy. Its central aim is to show that constitutionalizing class-specific political institutions is an attractive means for democratization against oligarchization. The aim is also to show that they are capable of materializing several principles that, for many *egalitarian democrats*, are fundamental requirements of social justice and political legitimacy. Some central values that I associate with this view are the opposition to political domination, and the idea that citizens should have effective access to platforms to resist it; that the fair value of political liberties must be effective; that systems of representation should include opportunities for citizens to exercise control over representatives and promote meaningful forms of democratic agency, including the capacity to engage in deliberation and participate in the institutional setup of the state. Against egalitarian democrats of a more liberal bent, I also argue that class-specific political institutions are attractive and normatively justifiable despite their admittedly exclusionary character. Yet, in this context, it is important to clarify and anticipate, that here I will not provide a systematic theory of democracy, economic justice, and so on. Rather, methodologically speaking, my account participates in so-called ‘nonideal’ and ‘engaged’ approaches in political philosophy, which “... start thinking from the injustices we encounter in our non-ideal, unjust world” (Anderson, 2009, 130) and/or problems that are in “... need of attention” (Wolff, 2018, 17; also, 2015), instead of working out sophisticated theories through which we *then* assess the relevant set of political phenomena. Thus, following Wolff’s (2018, 22) general procedure for theory-building, albeit not in a comprehensive fashion nor in the exact order he suggests, I will proceed by identifying a problem (i.e., constitutional oligarchization and class relations), discussing relevant values which are widely shared amongst egalitarian democrats (such as the ones that class-specific political institutions could help to maximize), consider a sample of relevant empirical literature to substantiate my claims, and then discuss the merits of class-specific political institutions as a policy proposal that, in time, could ameliorate such a problem.<sup>3</sup>

---

<sup>3</sup> Because of the explicitly temporal and transitional role that I attribute to class-specific political institutions, my account also draws on methodological insights from theorists working on the ethics of transition, that is, accounts that focus on “... the forms of political action that might play a desirable role, under present political conditions, in making the realization of [desired] radical social changes a more realistic future prospect” (Shelley, 2022a, 16). See Zheng (2020) for an overview of different approaches and challenges in the literature on the ethics of transition.

These methodological commitments have several implications. Firstly, I simply assume that egalitarian democratic values are meaningful and direct my arguments to people already committed to them in the hope of tempering their scepticism towards my institutional proposals. On a similar note, while I *will* suggest that a well-ordered society requires, for example, radically democratic political and economic relations, I shall not offer extensive arguments about the exact principles that should regulate them, nor make strong claims about which particular institutional models could satisfy such requirements. The nonideal character of *Material Constitutionalism and the Politics of Anti-Oligarchy* also explains why it is *primarily* but not fully a work in normative political theory. The work also aims to inform questions of speculative institutional design and, more modestly, help systematize some categories that are relevant to the jurisprudence of material constitutionalism, clarify aspects of empirical literature regarding the phenomenon of constitutional oligarchization, and explain how to approach questions of class relations in the context of state theory. Still, the central focus is on political-theoretical, normative questions regarding how to structure the state and its laws, especially in a way that is non-oligarchic. In other words, it is fundamentally aimed at theorizing how it could advance a more egalitarian, alternative kind of constitutional order.<sup>4</sup>

Now, before laying out the structure of the thesis, I want to establish a couple of definitions and assumptions related to what I have said thus far, and which are at the core of my agenda in this work. As I have already suggested, the central aim of *Material Constitutionalism and the Politics of Anti-Oligarchy* is to show that (1) ‘*progressive*’ material constitutionalism provides good conceptual

---

<sup>4</sup> That said, I find it important to note that, from what I have just stipulated, it does *not* follow that my theory aims to avoid, nor that it does avoid, abstractions and idealizations altogether. Neither do I think that “more ideal” approaches in normative political philosophy are *necessarily* inadequate. The methodological position that I take in the context of this work is informed by the role it plays in a real-existing problem under circumstances of injustice (i.e., constitutional oligarchization), and not a claim about the intrinsic superiority of nonideal theory over ideal theory. If I were to criticise idealization, I would focus on theories that rest on *bad* idealizations, namely, when relevant theories ignore “... the existence of certain forms of injustice [or relevant empirical hypotheses] that need to be theorized rather than simply ignored in the theorizing” (Robeyns, 2008, 258). I have no principled problem with, for example, the task of thinking about what justice requires working with false assumptions about society, such as full compliance with relevant principles and favourable circumstances – as John Rawls (1999 [1971]) famously assumed in developing his theory of justice as fairness. The reason is that, in my view, these are not bad idealizations for the purposes of his account. In other words, I am a champion of methodological pluralism in normative political philosophy. See Valentini (2012) and Thompson (2020) for very good surveys of the debate on the merits and defects, as well as the compatibility, between ideal and nonideal theory.

and normative resources to theorize (2) ‘*empowered*’ class-specific political institutions, *at the level of the state*. These institutions are defined by being accessible only to nonwealthy and/or working class, (3) ‘*ordinary citizens*.’ I also claim that they can hold, construed in a certain way, (4) normative ‘*legitimacy*.’ These statements incorporate several technical terms, some of which I will define more specifically in later chapters – such as my understanding of ‘constitutionalism,’ ‘political empowerment,’ ‘oligarchization,’ and the theory (or theories) of class that informs my account. Still, here it may be useful to offer some preliminary remarks.

First, regarding (1), and following Biale and Fumagalli’s (2023) recent discussion of what a ‘*progressive*’ approach to normative political theory must mean, I will understand such a term along the lines of the proposal of advancing a theory of social change, which is fundamentally committed to realizing principles of egalitarian social justice and widespread democratic empowerment amongst ordinary citizens in a gradual way – i.e., by relying substantively upon the capacity of reforms, especially of a non-reformist kind. Second, (2) I follow Lafont (2020, 107) in stipulating that political institutions are ‘*empowered*’ if and only if they hold highly authoritative constitutional powers – such as law-making or binding vetoing of political decisions made by other authoritative bodies. Non-empowered political institutions, on the contrary, hold mere *advisory* or *consultative* powers.<sup>5</sup> Later on, I will offer more reasons as to why I focus on empowered institutions only. But the crucial insight is that, without binding powers, it is unlikely that such proposals could have a significant impact in curbing or eliminating oligarchization – since, if they were to be merely advisory, it is ultimately unclear why we should expect agents holding power in already oligarchized institutional systems to “hear” them at all (Mulvad & Popp-Madsen, 2021, 81). This decision to theorize authoritative powers also explains why I focus on constitutional ordering, particularly at the level of the *state*, as it is a fundamental political unity where public authority is exercised in modern societies, and thus a crucial shaper of social relations in general (Christiano, 2003). As I shall flesh out by the end of the thesis, this option for a somewhat “statist” analysis, in the sense of focusing on particular political units and not on how they might interact – particularly in the context of globalized capitalist relations of production – carries important

---

<sup>5</sup> Of course, the distinction between ‘empowered’ institutions and their opposite is a matter of degree. For example, Mulvad and Popp-Madsen (2021, 81) have recently proposed a four-stage categorization specified in terms of how much authority they hold, ranging from *legislative*, *co-legislative*, and *agenda-setting*, to *consultative* institutions. But I think that the distinction between authoritative and non-authoritative institutions is sufficiently clear, and I will focus on defending institutional innovations of the former kind.

limitations. However, I believe that it has important benefits, which I hope to show as the argument develops. Yet it is important to have made this clarification.

The last two dimensions that I want to briefly discuss are intimately related to the rest, as they refer to the agents to be empowered through class-specific political institutions and their normative grounding. Taking up on (3), by ‘ordinary citizens’ I refer to “... anyone who is subject to the laws of a country, regardless of their specific status (e.g. undocumented immigrants)” (Lafont, 2020, 5, n. 15), under the proviso that they are non-elite citizens (politically or economically speaking). Thus, in my account, I bracket the important problem of how citizenship affects access to these institutions. I do not mean to suggest that I find such a problem insignificant and, again, in the conclusion of the thesis I will explain that taking this decision has some limitations. My decision to abstract from this aspect haunting current oligarchic systems is just to focus on other problems and reduce complexity. A fuller account would have to include this kind of considerations. Finally, referring to (4), I follow Landemore’s definition of normative legitimacy as “... the property by which an entity (person or organization) is morally entitled to rule (in the case of a state) or to issue binding commands (in the case of political bodies more generally)” (2020, 87). In other words, I understand the concept as referring to the issue of how to normatively justify the enforcement of rules and commands by state-like institutions. While there is a big debate on what is the best conception of normative legitimacy in contemporary political philosophy,<sup>6</sup> I do not aim to provide a full explanation of my preferred alternative. As with other concepts and values, I will proceed to explain why class-specific political institutions can maximize, and be compatible with, several egalitarian democratic features that legitimate political orders must satisfy – e.g., that these should give citizens a real chance to shape the laws of the state, not naturalize socio-economic relations to which we have reason to object, promote conditions where meaningful public deliberation is possible, not be rigged to the interests of powerful minorities, and the like.

As a final clarification, my thesis does not claim that constitutionalizing class-specific political institutions is easy or feasible in the short run, identify particular places in which it might become so or identify which particular agents would likely enact this strategy of social reform in general or in particular. Nor do I conclude that class-specific political institutions would *necessarily* deliver

---

<sup>6</sup> See Peter (2023) for a comprehensive survey of it.



their promises. This is not only because radical institutional reform always involves uncertainties but also because there has been barely any experimentation with authoritative class-specific political institutions in contemporary politics – and so the consequences are hard to predict (Harris 2019; Mulvad and Popp-Madsen 2021). Instead, I will try to show that this alternative is open for egalitarian democrats to try out. I will also make the case that there are good reasons to believe that, while not guaranteed, we should expect several positive effects from constitutionalizing class-specific political institutions in the process of realizing a non-oligarchic future.

### **3. Thesis Structure and Outline**

All being said, the thesis is divided into five chapters. Chapter 1 starts by exploring the meaning and appeal of the idea of material constitutionalism, generally conceived. I reconstruct the main arguments of champions of this view and suggest several defining conditions for it. Yet, as already indicated, I argue that the contemporary literature has not sufficiently accounted for the necessity of addressing normative considerations when elaborating it, while at the same time acknowledging that such considerations are only contingently democratic and egalitarian. I proceed to distinguish between ‘conservative’ and ‘progressive’ conceptions of this approach and offer reasons as to why we should reject the former. Consequently, having shown the potential theoretical purchase of the latter, chapter 2 elaborates on its content. In particular, I flesh out the general causes of ordinary citizens’ political disempowerment under contemporary capitalist states – which are grasped by the notions of constitutional oligarchization and class relations. I then proceed to establish the broad normative core and institutional recommendations of progressive approaches, which are characteristically egalitarian and popular democratic – what I shall call the *General Alternative*. It then explains the main reasons why employing class-specific political institutions would be beneficial for the sake of fighting oligarchization and politically empowering nonwealthy citizens. This sets the framework for the discussion to follow.

Chapters 3 and 4 discuss the two most prominent conceptions of progressive material constitutionalism in contemporary literature: ‘plebeian’ and ‘socialist’ constitutionalism. While recognizing several benefits of the plebeian interpretation, especially its focus on oligarchization as a central matter for democratic theorizing, I argue that it suffers from conservative biases. I claim that its commitment to the thesis that there is a socio-ontological divide and conflict

between the ‘few’ and the ‘many,’ which is supposed to not be able to be overcome and rather only regulated, is empirically unjustified and has undesirable implications. More precisely, I argue that it suffers from the risk of *entrenching* historically-specific and normatively objectionable class divisions. In contrast, then, my argument is that class-specific political institutions should not be theorized as permanent features of a well-ordered constitutional state. These ought to be oriented to eroding the class barriers that trigger the need for them, and then disappear. Such an argument makes space for the idea of ‘socialist constitutionalism,’ which offers a distinctively transitional justification for class-specific political institutions. Accordingly, I suggest that the legitimacy of these institutions depends on their ability to expand, in time, meaningful democracy and more inclusionary institutional arrangements – which requires eroding class divisions. I also provide arguments regarding the consequences of this account for the institutional design and effective implementation of class-specific political institutions.

Finally, chapter 5 establishes a partial reconciliation between liberal constitutionalism and my account. I address the claims that all acceptable conceptions of democratic constitutionalism must involve an unconditional commitment to the values of political equality, impartial deliberation, and anti-majority tyranny, which class-specific political institutions supposedly violate. However, I argue that, once we consider the lasting inability of formally class-neutral liberal democratic institutions to materialize these values, coupled with the admittedly nonideal character of class-specific political institutions and their potential to realize such values in time, the degree to which such clashes are serious is reduced. Thus, my argument is that liberals of an egalitarian bent should be more sympathetic to this non-reformist reform. The Conclusion ends by taking stock of the general argument and discussing several of its benefits and positive consequences, as well as its limitations and potential routes for future research.

# Chapter 1

## *The Idea of Material Constitutionalism*

### **Introduction**

The main purpose of this initial chapter is to set out the central features of the general approach that I will defend and critically analyze throughout this thesis, that is, *material constitutionalism*. I aim to reconstruct its core features and explain how a particular family of conceptions of this perspective, what I shall call *progressive* conceptions, is especially attractive for theorizing empowered, anti-oligarchic institutions.<sup>7</sup> To that end, I will establish the content of material constitutionalist approaches by exploring core differences between the mainstream liberal framework underpinning most contemporary accounts and recent debates regarding the concept of the ‘material constitution’ (e.g., Goldoni & Wilkinson, 2018; 2023). While such debates usually attribute to this concept characteristically *explanatory* and *critical* functions, one of my contributions in this chapter is to argue that a theory of material constitutionalism benefits from these debates while offering crucial *normative* insights for designing and assessing the desirability of political orders. Further, against some interpretations of the meaning of material constitutionalism (e.g., Vergara, 2022a), I elaborate a framework that does not necessarily associate it with a radically democratic and egalitarian vision. Material constitutionalism represents a diverse body of theories, many of which are characteristically *conservative* – e.g., theories that are, in principle, indifferent to the perpetuation of oppressive socio-political relations and/or that stress the fundamental value of constitutional stability over securing democratic values. It is thus compatible with several normative perspectives. But I also suggest that conservative approaches, whilst illuminating in some respects, are nevertheless unsatisfactory – both in virtue of external reasons related to the appeal of egalitarian democratic principles and for internal reasons concerning their theorization of constitutional stability in relation to capitalist social relations. After explaining these elements, we will be better equipped to understand the theoretical purchase of material constitutionalism and flesh out the main virtues of the progressive alternative, which is the task of chapter 2.

---

<sup>7</sup> Just as a reminder, I define that a political institution is ‘*empowered*’ if and only if it holds significant authoritative constitutional powers – such as law-making, vetoing political decisions with a final say (or at least with a substantively strong weight against a competing check), and the like.

Let me start with some preliminary clarifications. Firstly, as will become clear in what follows, my discussion on ‘constitutionalism’ is neither confined nor focused exclusively on, the mainstream liberal interpretation of its meaning in terms of a counter-majoritarian doctrine of legal limits by courts over parliamentary decisions – typically enforced via judicial review, and including well-known complex jurisprudential questions on legal interpretation, adjudication, etc.<sup>8</sup> As noted in the Introduction above, one of the main theoretical insights of this thesis is that we must avoid the legal formalism and class-neutrality characteristic of contemporary democratic theory and endorse a materialist perspective instead, one that can better help us to rethink constitutional orders in an effectively anti-oligarchic and non-plutocratic way. I will therefore focus on the elaboration of such an alternative and its implications for the justification of political institutions redressing the political disempowerment of the economically disadvantaged. In other words, starting from the intuition that a society’s constitution is not only a fundamental indicator of the “... balance, pattern and direction of power within [it]” (Walker, 2023, 210) but also one whose “... importance [...] may justify making sacrifices of other important values for its sake” (Waldron, 2016, 24-25), I shall employ a *broader* understanding of constitutionalism as a variety of theories about the fundamental “... power map” (Tushnet, 2020, 102) that juridical orders, as well as government and its governing institutions, must follow to be normatively legitimate. Clarifying this aspect is necessary because constitutionalism is often thought to be an essentially contested concept (Barber, 2018, 7; Loughlin, 2019, 446), namely, one “... the proper use of which inevitably involves endless disputes about [its] proper use on the part of the users” (Gallie, 1956 169). It is hence important to fix the terms of my account both for the sake of clarity and to better determine what readers should expect from it – i.e., *not* a sustained reflection on the aforementioned, important jurisprudential questions associated with the *liberal* doctrine of constitutionalism only. Addressing these will be a matter for another occasion.

Secondly, I will not cover several aspects of the debate on how to interpret the meaning of the concept of ‘material constitution’ – another highly contested term (Colón-Ríos, 2020, 224; Walker, 2023, 213). For example, I will leave aside questions on metaphysics and ontology, such as the inquiry on the *exact* way in which the legal system and social relations interplay and/or mutually constitute each other (e.g., Goldoni, 2022b). It is outside the scope of this work to provide a reconstruction of the history of the concept or to discuss all the theories in which it features. One

---

<sup>8</sup> See Alexander (1998) for a token example of this approach, and Sultany (2012) for an excellent overview of these important debates.

important example is Hans Kelsen's and Carl Schmitt's theories which, although of obvious importance in the history of constitutional theorizing, used the term in a sense that did not strictly refer to the centrality of social and economic relations to the problem of constitutional ordering (Rubinelli, 2023, 96).<sup>9</sup> This is because, in the end, the point is to offer a plausible reconstruction of material constitutionalism and see how it can help to conceptualize and normatively assess political orders – importantly, one that methodologically operates at a high level of abstraction, and which is, above all, interested in the contribution of this perspective on political theory rather than jurisprudence and legal theory. Therefore, while my account can (and does) learn a great deal from the history of political thought, constitutional theory, and empirical research, my contribution is of a different kind. As I attempt to integrate my defence of material constitutionalism with more concrete issues over the course of different chapters, it is important to remember that my main focus is normative and political-theoretical. I believe that a division of labour between this type of political theory, and legal theory as well as more concrete social analyses, is possible and desirable. My hope is to contribute to it from my position and show why exploring these other debates from this particular angle is still valuable.

The chapter proceeds as follows. Section 1.1 summarizes the standard critique that material constitutionalists have levelled against their liberal counterparts and proceeds to flesh out its main characteristics. I argue that material constitutionalism should not be conflated with a purely explanatory project of constitutional inquiry and that its theoretical purchase is better appreciated when associated with the elaboration of normative claims about political orders. Yet I also argue that such a commitment is compatible with opposing normative views. Consequently, in section 1.2, I separate material constitutionalism into two broad camps and exemplify them by reference to representative authors. I shall associate the first, *conservative* approach mainly with the work of Costantino Mortati, who stressed the centrality of societal formation for constitutional ordering while claiming that the central normative purpose of the latter was securing its *stability* (sub-section 1.2.1). Then, I briefly introduce the *progressive* alternative, which I associate mainly with contributions from left-leaning Machiavellians and certain strands in Marxist political thought and reflect on its inherently democratic and egalitarian aspirations (sub-section 1.2.2). This is the

---

<sup>9</sup> See Colón-Rios (2020) for an analysis on the history of political thought regarding different accounts of the relationship between the material constitution, constituent power, and legal limits on constitutional reform, and Vinx (2021) for a focused discussion on Kelsen. See also Goldoni & Wilkinson (2023a) for an alternative illuminating account of this kind.

conception that I will defend at length in further chapters of the thesis. However, before I do so, section 1.3 provides a brief critique of conservative material constitutionalism, suggesting that it is insufficiently attentive to the importance of defending democratic principles and the impact of capitalist economic relations on constitutional stability. The chapter concludes that we should further explore the potential and content of progressive material constitutionalist conceptions.

## 1.1. The Idea of Material Constitutionalism

Almost all scholars focused on the concept of the material constitution start from a critique of liberal understandings of constitutionalism. As is well-known, such approaches focus on formal, legal *limits* to exercises of state authority in the context of an often election-based system of representation. Its core features are the separation of powers and the *negative* emphasis on the protection of free and equal individuals' rights from abuses of arbitrary political rule.<sup>10</sup> Material constitutionalists offer a variety of reasons explaining why this perspective is ill-equipped to account for fundamental aspects of constitutional orders. On a more normative level, contemporary proponents of materialist constitutionalism typically stress, for example, that liberal constitutionalism tends to neglect the *enabling* function of constitutions to provide platforms for organizing valuable forms of collective power, and not only limiting such a power. Thus, a usual charge against this view is that it unduly prioritizes legally-limited government instead of unarbitrary democratic self-rule.<sup>11</sup> Further, in virtue of their insufficient attention to the

---

<sup>10</sup> Of course, the legal/negativistic interpretation under consideration is a diverse family of theories giving relative importance to different values – such as liberal egalitarians stressing the centrality of securing political equality and individual rights (e.g., Christiano, 2008; Dworkin, 2002; Kolodny, 2014; Rawls, 1993; 1999), or authors echoing Madisonian concerns with majority tyranny (e.g., Elster, 1993a; Pettit, 2012). These theories are also internally complex and mutually divergent, and to avoid caricaturing them chapter 5 will discuss different ways in which my preferred conception of material constitutionalism (i.e., the socialist interpretation) could reply to objections drawing on these views. Here my focus is on trying to get the best picture of the alternative perspective, broadly conceived. See Waluchow (2018) for a very good review of the contemporary philosophical debate within liberal constitutionalism. See also Grimm (2016, esp. ch. 4, 89-124) for a historical reconstruction of its theory and practice.

<sup>11</sup> This line of criticism has also been explored by theorists that do not advocate a material perspective (or at least not explicitly), such as so-called positive constitutionalists (e.g., Barber 2018; Holmes, 1993), transformative constitutionalists (e.g., Klare, 1998; Hailbronner, 2017), and political constitutionalists (e.g., Bellamy, 2007; Waldron, 2016), all of which highlight the importance of constitutions to create the

constitutive function that the broader set of social relations has on the political scheme, liberal constitutionalists tend to invest institutions with powers that they cannot effectively realize – and often mask oppressive institutions under the guise of a sort of political legitimacy that they cannot be said to have (Hunter, 2023). Now, above all, the core intuition foregrounding these normative-critical claims is, fundamentally, a concern with an accurate *explanation* of the reality of political and legal systems. More particularly, the central intuition is that, in virtue of its overtly narrow focus on the legal, formal aspect of constitutional orders, liberal constitutionalism ignores the more fundamental *material* socioeconomic relations in which these take place, which are fundamental for shaping juridical orders and the ways in which they unfold in reality, relations that juridical orders shape as well (e.g., Colón-Ríos, 2020; Fishkin & Forbath, 2016; Goldoni, 2022b; Goldoni & Olcay, 2020; Goldoni & Wilkinson, 2018; Hunter, 2022, 2023; Vergara, 2022a; Walker, 2023). Or, as Marco Goldoni and Michael Wilkinson have put it recently: *because* “...[m]aterial conditions and relations are [...] both constituted (by law and politics) and constitutive (of law and politics)” (Goldoni & Wilkinson, 2018, 580), *then* these material conditions must be a concern of *constitutional* theory and explanation, all the way through.<sup>12</sup> Call this methodological requirement the *Materialist Desideratum* for democratic constitutional theory.

Of course, there are many different interpretations of the *Materialist Desideratum*. One implausible account tends to fall on forms of economic and/or sociological *reductionism*. This is the case, for example, of Ferdinand Lasalle’s well-known speech entitled *On the Essence of Constitutions* (1862), which is usually recognized as the first usage of the concept of the material

---

possibility for meaningful, democratic collective agency. Yet these strands are still unsatisfactory, according to material constitutionalists, as they still seem “... insufficiently material” (Goldoni & Wilkinson, 2018, 568; also: Goldoni & Olcay, 2020; Hunter, 2021, 196). One expression of this insufficiency is their reliance on the constitutionalization of social rights to secure political empowerment without alternative institutional resources through which groups interested in accessing those rights could realize them (Vergara, 2022a, 10). It is also manifest in their endorsement of the democratic primacy of parliamentary and party politics over judicial decisions yet “... divorced from its relation to society, let alone class interests and class relations” (Goldoni & Wilkinson, 2023a 4). See Waldron (2016, 37ff), however, for an interesting reflection, on *political constitutionalist* grounds, regarding the importance of treating issues such as wealth inequality as constitutional problems.

<sup>12</sup> This puts material constitutionalism in direct dialogue with so-called ‘law and political economy’ approaches, which claim that political and legal institutions cannot be appropriately analysed as separate from the economic basis of social relations instantiated by them, nor economic relations without reference to their juridical protection and coding (Pistor, 2019). See Britton-Purdy et al. (2020) for a well-known review of the main contours of such an approach.

constitution in modern times (Vagdoutis, 2023, 133). In that text, Lasalle argued that “behind” the formal and/or written constitution of a particular state or political unit, we can always locate a ‘real constitution’ consisting of “... *the actual relation of forces existing in a given society*” (1862, np). Accordingly, this proposal suggests that formal constitutions are usually a *sham*, a “... mask that conceals underlying class-based modes and relations of production” (Goldoni, 2018, np), but that has no *real* explanatory force on the development of social orders and their shaping.<sup>13</sup> Constitutions are thus either presented as reducible to a set of socioeconomic relations or mere reproducers of them.

This view is widely rejected by contemporary champions of material constitutionalism (Goldoni, 2022a, 2). It seems obvious that formal constitutional structures have an *important* causal force in ordering political and economic relations – for example, via the specification of a certain regime of property rights, and bestowing institutions with greater or fewer powers to enforce those rights. Furthermore, even if it would be true that formal constitutions are usually *shams* which are not really aimed at realizing the values that they claim to realize, for example, political equality and freedom, the fact that they *are* instruments of reproduction of specific material relations means that they *do* fulfil ideological functions that are not *only* based on coercion and the administration of such coercion. It follows that formal constitutions cannot be reduced to relations of existing force. This also means that the relationship between these two dimensions must be taken to go both ways, suggesting a *multi-directional* explanatory structure that is explicit in the *Materialist Desideratum* when stipulating that material conditions are constituted by law and politics, and vice-versa (Walker, 2023, 222). Relatedly, I agree with Goldoni and Wilkinson’s recent, influential account (2018, 583-589), that the material constitution must be understood as a more *complex* set of ordering forces than what the reductionist view suggests. Following their categorization, then, the constitution in a material sense should be analysed *at least* in terms of several ordering forces in mutual interplay, amongst which they highlight four: 1) the relevant

---

<sup>13</sup> Lasalle’s contrast between the “formal/unreal” and “material/real” constitution can be traced back to Karl Marx’s base-superstructure metaphor in the *Preface to A Contribution to the Critique of Political Economy*, a metaphor that is usually taken as evidence that his work, and Marxist theory more generally, is fundamentally class reductionist. I think that there are excellent reasons to doubt the *extent* to which this charge is true (e.g., Goldoni, 2022; Shoikhedbrod, 2019) and, further below, I will discuss several Marxist accounts that are explicitly non-reductionist. Yet the charge is, in certain cases, obviously true, and such must be recognized. Some paradigmatic examples in constitutional studies are Kautsky (1909) and how many of his contemporary followers addressed constitutional questions, as well as Charles Beard’s (1913) materialist analysis of the US constitution (Hunter, 2022; 2023; Wilkinson & Goldoni, 2018), certain phases of Harold Laski’s intellectual trajectory (Loughlin, 2023), and several others.



form that a determinate *political unity* gives to itself (which today is, still, the modern state), 2) the central *institutions* making the coordination and vertical maintenance of the political unity possible (from governmental branches and authoritative assemblies to central banks, or the family to the enforcement of property rights), 3) prevalent *social relations* sustaining it horizontally (such as ordinary social interactions and conflicts), and 4) *fundamental political aims* (which are the main principles that the constitutional order is committed to enshrining). These ordering forces can, of course, come into conflict, and it is usually then that relevant changes in the material constitution take place (*Ibid.* 589). I shall not provide an account of the exact way in which they interplay, as this is crucially a matter of context-specific empirical social science and not normative political theory. The point is rather to clarify that a plausible interpretation of the *Materialist Desideratum* should not downplay the plurality and complexity of forces involved in the question of constitutional ordering.

These elements allow us to further specify the general idea of material constitutionalism and draw some of its important implications, particularly regarding the conceptualization of central categories in democratic theory such as the ‘state’ and the ‘people.’ One is that, because political systems are understood in an inextricable connection to the deeper socioeconomic context in which they take place, the mainstream, liberal-pluralist assessment of the state as a neutral entity that implements political outcomes resulting from ‘fair’ procedures must be reconsidered. In contrast, this approach understands state-like institutions as “... [infrastructures] of power that [reshape] society” (Klein, 2022, 18) and, in conditions of class divisions and conflicting group interests, as institutions that will often reflect them, at least to a very relevant extent. It thus rejects the modern theses of pluralism and class neutrality in state theory.<sup>14</sup> Furthermore, because the ‘people’ is no longer understood as a socioeconomically anonymous collection of individual citizens, but rather in terms of competing groups which express their political aims with more or less success, this approach draws attention to how institutions and organizations could help certain groups to potentially achieve their political aims – indeed highlighting the importance and priority of establishing institutions through which citizens can effectively secure their rights, instead of merely constitutionalizing rights (Goldoni, 2022a, 8; Goldoni & Wilkinson, 2023a, 5).<sup>15</sup> Having

---

<sup>14</sup> See Carnoy (1984, esp. 10-48) for a very good review of varieties of class-specific theories of the state and politics.

<sup>15</sup> The importance of giving social conflict an *institutional* content distinguishes this approach both from ‘radical’ (e.g., Rancière, 1999; Negri, 2009) and ‘agonistic’ theories of democracy (e.g., Mouffe, 2004) –

said that, of course, material constitutionalism is compatible with different assessments of the ‘class’ character of the state. It is also compatible with a variety of alternative arguments regarding how political institutions should be organized, and how they could represent certain political aims (whose content can, naturally, vary as well). But, at least in general terms, and connected to the centrality of the *Materialist Desideratum*, I think that all versions of material constitutionalism are committed to, at least, the two following defining conditions:

(a) Constitutional orders must be analyzed in connection to the socioeconomic background in which they are historically situated.

(b) Constitutional orders must be analyzed considering how their institutional structure contributes to organizing and representing the aims of certain groups and/or classes.

It is important to note that contemporary theorists of the material constitution tend to cash out the theoretical purchase of defining conditions (a) and (b) in *explanatory* and *critical* terms (Walker, 2023, 210). Indeed, some authors tend to claim that, while engaging with normative constitutional theory is not *irrelevant*, focusing on normative issues “... is not the way to attain *constitutional knowledge*” (Goldoni & Wilkinson, 2023a, 20-21 – my emphasis), highlighting that the “... enquiry inspired by the material constitution is not interested in purely normative questions” (*Ibid.* 5).<sup>16</sup> Others, on a more explicitly oppositional attitude against normative questions, stress that the point of material constitutionalism is to provide a “... *critique* of contemporary society as it exists, *not the normative prescription of society as it might be*” (Hunter, 2023, 115 – my emphasis). Further, they suggest that engaging in exercises of normative construction might preclude us from elaborating such a critique, and rather be prone to legitimizing unjust, or oppressive, political orders (Hunter, 2021, 191). In turn, material constitutionalism is pitched either as indifferent to normative projects or explicitly opposed to them.

My view is that both approaches are partially mistaken. On the one hand, while I agree with the idea that material constitutionalism is superior to liberal or non-materialistic conceptions, both

---

where the former strictly rejects the importance of institutions in practices of democracy, and the latter just retains the formally class-neutral institutional scheme of the liberal democratic state.

<sup>16</sup> Similarly, Goldoni claims that “... the study of the material constitution is an exercise in constitutional understanding and *not in normative design*” (2022a, 10 – my emphasis).

in explanatory and critical terms, I believe that taking this approach entails certain claims about the normative legitimacy of political orders, either implicitly or explicitly. One reason is that I find it hard to imagine *how* an inquiry on the material constitution *could* avoid assessments as to whether a concrete political unity, alongside its prevalent institutions and socioeconomic relations, is realizing the fundamental political aims that it is supposed to achieve (for example, whether a certain political unity claiming to be democratic materializes such an aspiration). It is also hard to imagine the possibility of making neutral assessments of those aims. Yet these are all issues involving *normative* and *evaluative* thinking: they are claims about what is a *good* constitutional order, and what it *should* be and achieve.<sup>17</sup> It follows that material constitutionalism *does* engage in normative political discourse, and for good reasons. On the other hand, not only is it hard to avoid these normative elements, but I also believe that the critical purchase of material *constitutionalism*, as a doctrine, is better specified when *explicitly* offering arguments on how objectionable political orders ought to be (as opposed to how they are – unless one wanted to defend the status quo). The relevance of the former is especially clear when we turn to the question of how to solve the problem of widespread political oligarchization in contemporary representative democracies – a central motivation for this work which will be discussed at length in the following chapters. Helping solve such a problem requires re-thinking the structure of the modern state and “... institutionally empower the common people to decide, collectively, on [...] political aims” (Vergara, 2022a, 14, n.71). This task, in *itself*, imposes questions of institutional design and normative justification: whether they are desirable, legitimate, just, and so on. Similarly, against the backdrop of the failure of mainstream democratic and egalitarian theory to realise its aspirations, opting for a material lens can help to redress such insufficiencies and engage in mutually beneficial dialogue. Consequently, I propose that material constitutionalism should incorporate a third defining condition:

---

<sup>17</sup> Following Kreutz’ (2023) recent analysis and rejection of ‘metanormative distinctiveness,’ that is, the idea that the ‘moral’ and/or the ‘political’ have a ‘normativity’ of their own, and whether they can be reduced to each other, I will stick to the traditional idea that using ethical language to decide on normative questions regarding practical issues, such as constitutional evaluation and design, is (*at least* heuristically) correct. Kreutz’s intention is to vindicate, however, the tenets of so-called radical realist accounts regarding what normative political philosophy should be, such as proceeding from a deep scepticism about the use of moral arguments in theory-building (e.g., Rossi, 2019; Aytac & Rossi, 2022). As it should be obvious by now, and will be even clearer later on, I agree with his rejection of metanormative distinctiveness but disagree with his latter aim.

(c) Constitutional orders must be analyzed and assessed on the basis of whether they fulfil certain political aims which make them normatively legitimate. Because of (a), that includes an ethical assessment of the material relations they reproduce.

Before proceeding to the next section, I want to argue for one last idea that I consider fundamental in this initial exploration of the general idea of material constitutionalism. And it is that, against what some leading authors advancing this research agenda have suggested (e.g., Vergara, 2020a, 104), the conjunction of these three defining conditions does not entail that material constitutionalism is an anti-oligarchic, democratic, or egalitarian, analytical framework. For it is just a fact that the history of the concept of the material constitution has not been “... attached to a specific normative theory” (Goldoni, 2022a, 1) and that many authors have endorsed deeply *conservative* interpretations of the three defining conditions that I have tried to reconstruct above. In turn, as I am trying to offer a convincing picture of the general features of the idea of material constitutionalism, I find it important to exemplify competing versions of it. The next section thus proceeds to sketch and contrast the main features of the two main contending approaches: conservative and progressive ones.<sup>18</sup>

---

<sup>18</sup> It is important to insist that I am referring not only to a very broad array of theories of constitutionalism, but *particularly to those who are explicitly materialist*. For one could say that many non-explicitly materialist theories can fall within these categories (such as the standard liberal democratic, formally class-neutral approach), or in the middle, etc., as the logical and practical consequences of them could be very similar. But here I am trying to vindicate and analyse *explicit* versions only, since the point is that some of these versions provide distinctive resources for constructing an effectively anti-oligarchic democratic theory that addresses the negative effects of class relations.

## 1.2. A Normative Restatement

### 1.2.1. Conservative Material Constitutionalism

If my general account of the idea of material constitutionalism is sound, then all its conceptions must fulfil the *Materialist Desideratum* and elaborate on the content of defining conditions (a), (b) and (c). As noted, this can be done in many ways, both in terms of how we articulate them and how much emphasis specific analyses put into each of them – an observation that is important due to the diverging views that I will explore later on. This obviously applies to conservative approaches too. But here I want to consider the *distinctive* features of this view that would reasonably apply (with caveats) to all particular conservative conceptions of material constitutionalism, especially focusing on their normative features. As already mentioned, I believe that a good way to explain this is by briefly examining the thought of Costantino Mortati (1988 [1940]), who is often considered a core thinker in the material constitutionalist tradition and a central figure within its conservative version.<sup>19</sup> That is what I shall proceed to do now.

In tune with the *Materialist Desideratum*, Mortati argued that focusing only on the formal, legal side of constitutional orders is nonexplanatory and unsatisfactory. Instead, in line with conditions (a) and (b), he argued that, while the formal constitution should certainly be granted a central role in the explanation of how a political unity works, we should focus on its ‘essential content’ or the ‘constitution in a material sense.’ In particular, Mortati proposed that we conceive this in terms of the conjunction of two broad aspects. The first is the identification of what he called the ‘normative material elements’ of the constitutional order, understood as its “...concrete configuration of socio-economic relations” (Rubinelli, 2019, 526) and the *organizational structure* making groups capable of translating their views into the political system (Mortati, 1988, 75). Thus, in this account of material constitutionalism, *institutions* like the state are also seen, fundamentally, as reflecting group and/or class interests (Colón-Ríos, 2020, 218). Similarly, the ‘people’ is theorized as a “... variety of groups in constant state of conflict and competition with each other” (Rubinelli, 2023, 96; also, Rubinelli, 2019, 538), and thus never as *one*. That said, it is of fundamental importance to note that, in this conception, while group conflict *is* located at the basis of constitutional ordering, it *does not* involve a critical perspective in the assessment of such

---

<sup>19</sup> See Rudolph Smend (2000) for another common example, and Schmitt (2008) for another yet less materialist one.

a conflict, nor assign political institutions the role of redressing the disempowerment of some groups in comparison to others. As Lucia Rubinelli (2019, 528, n.44) notes in her recent reconstruction of Mortati's thought, he never talked, for example, about classes in a Marxist sense, nor showed any sensitivity to the condition of economic domination in which some individuals or groups might be in virtue of their position within a determinate set of productive relations. Rather, conservative material constitutionalism recognises that these divisions exist as a *fact* and that they matter for defining the character of constitutional states. Put differently, this view is characteristically *indifferent*, in normative terms, to allowing inegalitarian or oppressive class relations to obtain and be reproduced by the constitutional order.

The second, fundamental element to consider when determining the content of the material constitution is the specification of what Mortati called a set of *fini politici* or 'political goals.' More precisely, he defined a *fine politico* in terms of a "... political idea, whose working entails a certain degree of *political homogeneity*, able to create a superior *unity* comprising the majority and the minority of the population and able to give shape to all the prerequisites necessary for the existence of a consistent and *harmonious* state's will" (Mortati, 1988, 55, quoted in Rubinelli, 2019, 523, my emphasis). For Mortati, then, the point was that, while different social forces will always be seeking to impose their vision of what a determinate political unity must materialize, some forces will triumph over others, stabilize their own political project, and achieve order accordingly (Goldoni & Wilkinson, 2023a, 8; Rubinelli, 2023; 2023, 94). Thus, in this perspective, the formal constitution is always "... the expression of the interests and ideas of the dominant social force" (Rubinelli, 2019, 528). Yet, as I see it, Mortati not only theorized this issue in purely factual terms but also *normatively*. Indeed, related to condition (c), he understood the normativity of the material constitution and its formal expression in terms of its capacity to secure the value of *stability* within the social order and create the conditions necessary for political unification – which is the central value that conservative material constitutionalism uses for evaluating the desirability of determinate constitutional states (Goldoni, 2022b, 40; Rubinelli, 2019, 527).<sup>20</sup> That said, it is important to note that, on the one hand, this commitment to stability is both relatively *flexible* and

---

<sup>20</sup> These concerns are also echoed by other conservative material constitutionalists, for example, Smend (2000), who claimed that the purpose of constitutional orders was to produce social integration, stability and political unity (Goldoni, 2022b, 37) – and that, to his mind, further required securing property rights against mass democracy (Goldoni & Wilkinson, 2023a, 13; Vagdotis, 2023, 126; Wihl, 2023). See also Schmitt's (2008) constant references to political unity as a fundamental constitutional end and the importance of citizens' homogeneity to secure it.

significantly *stringent*. On the one hand, it is flexible because, although usually associated with traditional and right-wing values, conservative material constitutionalism claims that “... *any* given combination of social forces that is stable enough to create homogeneity – to become a dominant force – is not only the source of the normativity of the political order, but it is also normative in and of itself” (Rubinelli, 2019, 530 – my emphasis). In turn, conservative material constitutionalism is, *in principle*, compatible with several ‘*fini politiche*’ as long as they are capable of securing socio-political stability.<sup>21</sup> On the other hand, it is *stringent* in terms of the constraints that it imposes over constitutional change, as it prioritizes the preservation of the dominant political goals already present in a given political unity (Rubinelli, 2023, 94). As a consequence, just to illustrate, Mortati was reluctant to accept parliamentary sovereignty and constitutions with unlimited amendment power (Colón-Ríos, 2020, 221) since these approaches could potentially contravene already-imposed ‘fundamental aims of the state’ carrying important normative force. This explanation completes the main characteristics that I associate with conservative material constitutionalism. It also depicts its general normative outlook: a principled normative indifference to sustaining potentially oppressive relations between social groups; a relatively flexible attitude regarding which political goals should be pursued through the constitutional scheme and a stringent prioritization of preserving those which are already enshrined to the detriment of potential constitutional change.

---

<sup>21</sup> A very interesting example showing this flexibility is depicted in the development of Mortati’s own intellectual trajectory. As Rubinelli explains, after ceasing to be a member of the Italian Fascist Party, Mortati contributed to the discussion in the new Constituent Assembly aimed at drafting Italy’s new democratic constitution, and discussed the implications of a constitution that would have democracy as the main political goal. The result was a highly participatory conception of what the constitutional state should be, according to which “... each single citizen should actively and responsibly contribute to create the totality” (Mortati, 1945, 4; quoted in Rubinelli, 2019, 542). Mortati called for constitutionalizing democratic institutions such as a Second Chamber based on complex representation (where different social forces in civil society would have special seats), giving citizens the right to initiate law-making processes and call referenda, argued for intra-party deliberative democracy, and public deliberation in primaries to elect leaders and set the party’s political agenda (Rubinelli, 2019, 545; Rubinelli, 2023, 99). That said, note that all these recommendations are reasonably stipulated *for the sake of stability*, in virtue of contingent circumstances, and not because of a principled commitment to the value of democracy itself.

### 1.2.2. *Progressive Material Constitutionalism*

As with conservative conceptions, “progressive” conceptions of material constitutionalism specify conditions (a), (b) and (c), but in a radically different manner.<sup>22</sup> They also do this in a variety of ways, and, in the next three chapters, I will elaborate in detail on the nature and competing attractiveness of different progressive conceptions. But, again, my aim in this sub-section is more modest: to sketch its most distinctive features so we can appropriately distinguish it from conservative approaches.

Holding commitment to the *Materialist Desideratum*, progressive material constitutionalism emphasizes the co-constituting relationship between socioeconomic relations and constitutional ordering. But it contrasts with conservative conceptions in (at least) two ways. The first is that, in opposition to the *fact-oriented* and *normatively flexible* character of the latter regarding class relations and conflict, progressive conceptions adopt a distinctively *critical* and *normatively specific* approach, which analyses them in terms of transgressing fundamental egalitarian and democratic normative principles. One way to depict this issue is by looking at how progressive approaches tend to analyze the material constitution in the context of capitalist society, and especially the character of their rejection of class-neutrality regarding the nature of the state and the people under these circumstances. So, regarding the nature of the state, a common theme is to highlight the *constraints* that great wealth inequalities and/or capitalist imperatives of valorisation impose over democratic governance through the constitutional scheme – e.g., by reducing the scope of possible political demands to a narrow set compatible with the interests of wealthy and economically powerful classes. It is also salient in this approach that modern constitutions are taken to *reproduce* these tendencies. Relatedly, then, progressive material constitutionalists conceive the ‘people’ not only as a plurality of social groups in competition for power, but rather as one in which wealthy, or economically powerful *minorities*, subordinate the *majority* of the population in a variety of ways – and, importantly, with the help of systems of political institutions. Material inequality thus becomes a “... *constitutional* problem” (Khaitan, 2019, 542), one that should not only be resolved through policy and formally constitutionalizing social rights, but that also calls for creating empowered institutions through which economically subordinated classes could fight their

---

<sup>22</sup> To recall, I follow Biale and Fumagalli (2023) in understanding the term ‘progressive’ as a vision of political social ordering and change involving a commitment to egalitarian social justice and widespread democratic empowerment amongst ordinary citizens.



subordination – i.e., what are usually called *class-specific political institutions*. So, just to anticipate some of the themes that I will discuss in later chapters, drawing from Machiavellian insights, so-called plebeian constitutionalists (e.g., McCormick, 2011) claim that we should constitutionalize offices for the ‘many’ for them to be able to counter the domination by the ‘few,’ as well as to regulate this conflict in their favour. Others, such as champions of what I shall call socialist constitutionalism, have proposed to recognize class struggle within the constitutional scheme and create institutions empowering the economically oppressed, usually referring to the ‘working class,’ to erode the class divisions creating oligarchic plutocracy – e.g., Second Chambers of exclusive access to workers through which they could better represent, form and channel their interests against those of capital (e.g., Adler, 2019 [1919]; Vagdotis, 2023, 127). All of these are complex, mutually divergent, ideas, and I will elaborate on their meaning and implications later on. But here the point is to highlight the critical and normatively-charged nature of progressive conceptions (a), as well as their general implications regarding institutional design (b).

Progressive material constitutionalism is, of course, also distinct from conservative conceptions regarding how it theorizes the normativity of constitutional orders and their development (c). This is already manifest in their explicit commitment to enhancing substantive democratic and egalitarian socio-political relations, which reveals a *less flexible* approach to enshrining certain specific, *substantive* political goals. Relatedly, progressive conceptions prioritize the achievement of those goals to securing constitutional stability, meaning that they are therefore *less stringent* regarding constitutional change and rather *promote* egalitarian social transformation and popular empowerment within the political system. Yet, while progressive conceptions are indeed sympathetic to radical social change and altering the material foundations of constitutional states (e.g., the prevalent structure of property rights), thus downplaying the constraints that both conservative and more traditionally liberal approaches impose over it, they *are* part of a theory of *constitutionalism*. This means that this approach, while not decisively against unrestrained social change under all circumstances (e.g., in the form of revolutionary insurrection), would not favour it as part of *its* recommendations. It also means that champions of this approach must put forward the centrality of institutional means for enacting such a change and argue that at least some form of legally-based system of representative political institutions should be considered desirable and possible (Möller, 2023, 142). This completes my broad sketch of the normative outlook of progressive material constitutionalism: a principled critique of sustaining oppressive class relations; a more substantive commitment to realizing democratic and egalitarian goals within and

through the institutional scheme; and a prioritization of egalitarian social change over preserving constitutional stability.

### 1.3. Against Conservative Material Constitutionalism

I have tried to provide a general reconstruction of the idea of material constitutionalism and its two main conceptions, to offer a clearer sense of its content and why it is intuitively appealing. Yet the sketch of both conceptions is just an illustration of their core characteristics and not an attempt to convince anyone of the truth of either. The latter requires significant theoretical elaboration and is the task of the rest of this work. But this stage confronts us with the question of whether we should decide to endorse a conservative or a progressive conception. As already indicated, we should reject the former and opt for the latter. The remainder of this section explains why.

Broadly speaking, there are two sets of reasons. The first one is *external* to conservative material constitutionalism, in the sense that it draws on principles and intuitions that are not part of its rationale. The central idea is simple, namely, that this approach neglects the centrality that certain normative principles, in particular an egalitarian conception of democracy, should have in a convincing account of a defensible form of constitutional ordering. As noted, in its emphasis on securing, *above all*, the ‘stability’ of the constitutional state and its fundamental relations, conservative material constitutionalism is explicitly *indifferent* to relations of political and economic oppression. Similarly, it has no principled interest in realizing institutions of democratic self-rule. This already makes it less attractive to those who are committed to these competing values, and naturally to those who are exercised by the oligarchization of political systems. Moreover, there are good reasons to believe that conservative material constitutionalism is *detrimental* to realizing these democratic aspirations, and hence even more strongly unappealing to champions of these values. For example, because they lack a critical theory of social and class conflict, conservative theories of the material constitution are vulnerable to fulfilling an *ideological function* of maintaining oppression in the interest of preserving political unity – since it does not matter, for them, who has power and why, but only that they have it (Vagdotis, 2023, 135; Vergara, 2020a, 104). This issue is explicit in Mortati’s defence of “...the material constitution as a stable background of control mechanism securing the hegemony of the ruling political bloc against the transience of popular democratic will” (Walker, 2023, 212). It is further reinforced by the idea that the existing

set of *fini politici*, always imposed by elites in conservative theory, carries a special normative force – an idea that not only seems to mystify the quality of such political goals, but that unduly *stops* or *slows down* desirable processes of social transformation. Thus, if a desideratum of an attractive account of material constitutionalism is that it should be committed to realizing democratic values, then conservative conceptions cannot be our weapon of choice. By the same token, as my main purpose in this thesis is to show how a material lens can contribute to debates in *democratic* theory and practice, it seems to be programmatically inadequate. Conservative material constitutionalism does not address the right problems, nor does it address problems in the right way.

Yet it makes sense to take a step back and, to achieve greater theoretical completeness, consider how conservative opponents could reply to this ‘external’ objection. Indeed, they could claim that the objection does not explain *why* is it that we should hold egalitarian and democratic values so highly, therefore concluding that rejecting the conservative approach for external reasons is too quick. For this argument would just be based on competing normative considerations that, for conservatives, are simply irrelevant and miss the point as to how questions of constitutional ordering should be addressed. In turn, it could not count as an interesting refutation of their perspective. Furthermore, by stressing the *stability-based* function of the constitution, and not relying on a morally-charged approach, they could claim that their account is more “*realist*” and, in turn, more faithful to the explanatory demands of material constitutional analysis. Yet this reply is not successful either, I think, as there are further *internal* reasons to object to conservative material constitutionalism – that is, on grounds of the aspects that *they* put forward as central to their approach. On the one hand, a degree of opportunism, even a contradiction, seems to arise from the combination of conservatives’ preoccupation with constitutional stability and their lack of attention to the *destabilizing*, crisis-prone tendencies of capitalism (e.g. Bryan, 2021; Streeck, 2011), which they often also tend to defend as the set of material relations to be stabilized and reproduced by the constitution (e.g. Schmitt, 1998).<sup>23</sup> To put it differently, *either* we care about achieving a stable material constitutional order, and thus adopt a critical perspective regarding capitalist social relations (getting closer to progressive conceptions), *or* embrace socio-political instability – yet betray the function that the constitution is supposed to fulfil.<sup>24</sup> On the other hand,

---

<sup>23</sup> See Wilkinson (2021) for a more historically informed analysis making this point against both conservatives and liberals – which also stresses the latter’s tendency to ignore questions of political economy when thinking about constitutional questions.

<sup>24</sup> Someone could argue that this argument begs the question as to whether capitalist social relations really produce these instabilities – e.g., see the literature on ‘varieties of capitalism,’ and particularly Iversen and

conservative approaches' supposed allegiance to realism is also doubtful when one analyses the *means* through which they usually hope to achieve constitutional stability, often understood in terms of exercises of state power and political parties protecting the relevant *fini politici* that the constitution must project. But these are rather idealized means since they tend to exaggerate the "... capacity of [the] political will to shape society" and conceal "... the energies and the conflict that permeate fundamental social relations" (Goldoni, 2022b, 46). Consequently, a concern with a more long-lasting, stable material constitution which does not systematically face crises, and confront periods of political disorder often resolved by recurring to sheer coercive force, must draw attention to alternative socioeconomic premises. It must also study which different means (institutional or not) could sustain order and shape the constitutional system, aside from, for example, traditional electoral democratic tools (Masin-Peters, 2021). That is yet another advantage of progressive conceptions, and the reason we must finally turn to their closer analysis.

---

Soskice (2019) for a recent study that suggests that democracy and capitalism can be mutually reinforcing in a way that promotes stability. However, these more "optimistic" analyses which give capitalist relations a stability-fulfilling function tend to focus on "advanced" (i.e., rich) democratic states to the detriment of what happens in the rest (i.e., the majority) of other political units – often the most unstable and negatively impacted by capitalist relations (Wolff, 2002, 117). They also work with very minimalistic conceptions of what democracy should mean – often understood in terms of responsiveness to face-value individual preferences and competitive elections as well as formal procedures. In further chapters, I will provide more reasons to substantiate this more "pessimistic" attitude towards the relationship between capitalism and democracy. But I also want to make clear that I do not intend to solve this issue altogether. The hope is rather to provide persuasive reasons for accepting the plausibility of my preferred empirical diagnosis. That said, see Krahé (2022) for a more sustained treatment of this topic addressing the uneasy relationship between capitalism and democracy through a historical lens.

## Chapter 2

### *On Progressive Material Constitutionalism*

#### **Introduction**

If the case presented thus far is accepted, progressive material constitutionalism should be considered a promising, anti-oligarchic and egalitarian approach to theorizing the nature, purpose, and design of constitutional orders. Just to recapitulate, the previous chapter argued that this view distinctively advances a critique of oppressive class relations and their impact on political schemes. I also claimed that it is substantively committed to realizing democratic principles and enacting egalitarian social change. Yet understanding these features requires more elaboration than what I have provided up until this point. The purpose of this chapter is to do just that. First, in section 2.1, I shall flesh out the general socioeconomic conditions that contemporary progressive conceptions of material constitutionalism attribute to the *political disempowerment* of nonwealthy citizens in capitalist society, particularly by theorizing the meaning of constitutional oligarchization and its relation to the concept of social class. Then, in section 2.2, I proceed to systematize the main features of the popular democratic alternative that progressive material constitutionalists usually advance as a solution to such a state of affairs (what I call the *General Alternative*). In particular, I highlight the strategy of constitutionalizing class-specific political institutions as a form of political empowerment for those who are not as a result of capitalist economic relations and liberal constitutional ordering. Consequently, I elaborate on the main reasons why this strategy is compelling – both in terms of the *right* of the economically disadvantaged to have the opportunity to access means to resist constitutional oligarchization, and the democratic *goods* that these means would, or could, bring about. After I do so, we will be better positioned to delve deeper into more specific interpretations of progressive material constitutionalism and some potential problems faced by them.

Following my normal procedure, I want to clarify a couple of aspects at this stage of my argument. The first is that, as it should be obvious by now, I shall leave aside all accounts that explicitly or accidentally rely on an implausible interpretation of the *Materialist Desideratum* – i.e., the idea that material conditions and relations are both constituted (by law and politics) and constitutive (of law and politics), and that, for that reason, these material conditions must be a concern of *constitutional* theorizing and explanation, all the way through. I say this because it is

important to reiterate the *reconstructive* character of this part, in the sense that it aims to cover the main features of a general yet *plausible* concept of progressive material constitutionalism. Indeed, in further chapters, I will zoom in and consider more detailed interpretations of its main tenets – particularly focusing on those provided by plebeian and socialist conceptions. Here I am still interested in progressive material constitutionalism at a high level of generality. Similarly, while my reconstruction importantly draws on Marxist theories of the constitutional state and class relations, it does not aim to be a thorough survey of the debates around them nor claim that what is presented is the most faithful to their traditional formulations. Not least because, as it is widely acknowledged, the main theoretical referent of these debates in modern times, Karl Marx, never developed either a full constitutional or state theory of his own (Carnoy, 1984, 45; Hunt, 2010, 356; Leipold, 2020a; O’Connell & Özsu, 2021, 2; Smith, 2018, 183; Vincent, 1993, 371)<sup>25</sup> nor did he have a systematic theory of class relations and formations (Wright, 1985, 4). It is also because further “Marxist” developments on these issues represent a wide variety of mutually competing approaches, some of which, as already noted, rely on implausible interpretations of the *Materialist Desideratum* (Barrow, 2016, 151).<sup>26</sup> My task is to flesh out aspects of essential importance for having a general and plausible picture of progressive material constitutionalism.

Another fundamental, related comment is that, because the perspective that I shall defend regarding constitutional oligarchization is class-centred, someone might argue that it unduly downplays the importance of other sources of political and social domination which should be obvious objects of egalitarian critique, such as gender or race-based oppression. Further, because these types of oppression are, in reality, always “intersecting,” we should not talk about class in isolation (Crenshaw, 1989), and that doing the contrary obscures them. Yet whilst such a charge could apply to some forms of class-centred analysis, I believe that it does not in this case. My account does not need to claim, nor does claim, that all forms of social domination are rooted in class. Neither does it claim that class is the only relevant factor for political disempowerment. Indeed, for example, I am very much sympathetic to the claim that gender and class-based

---

<sup>25</sup> See Miliband (1965) for a good summary of Marx’s (quite incomplete) views regarding the modern state and constitutional ordering.

<sup>26</sup> There are several thorough reconstructions of contemporary debates in Marxist state and class theory canvassing these differences, such as Gold et al. (1975), Jessop (1977), Clarke (1991), Carnoy (1984), and Barrow (2016), as well as to attempts to connect them with an analysis of the current state of neoliberal capitalism (O’Kane, 2019). Relatedly, see Goldoni and Wilkinson (2023b) for a recent historical overview of Western Marxist contributions to materialist strands of constitutionalism.

oppression are extremely intertwined, and that class formation, as well as effectively emancipatory struggles, can, and do happen, on the basis of gender-related commonalities – or just other commonalities that are, reasonably, not reducible to questions of class (Foley, 2019; Roberts, 2023; Wills, 2018). The idea is, instead, that relations of class domination on their own, as well as their effects, have a special place in explaining constitutional oligarchization as conceptualized here, that they require redress, and that such makes sense of the focus on understanding and putting them at the centre of the argument. A more complete picture of political disempowerment should include other important factors, including the effects of patriarchy and racism, as well as nationalism, and so on, in producing it. Such will be a matter of future work. Furthermore, there is no inconsistency nor distortion in believing that we can “...focus on the [specific injustices] produced by capitalist [class relations] without sidelining other social justice movements” (Muldoon, 2019, 16; also, Levine, 1987, 5), and thus with the idea that other forms of oppression that are not strictly class-based are equally important to those. While not refutative, my hope is that these comments can relax concerns regarding class reductionism and/or essentialism. The reconstruction of progressive material constitutionalism that I shall develop is therefore incomplete, but not, for that reason, indifferent to all these problems. Let me thus unpack such an account.

## 2.1 Political Disempowerment: Constitutional Oligarchization and Class Relations

### 2.1.1. *Constitutional Oligarchization*

It is time to better flesh out progressive material constitutionalists' understanding of defining condition (a),<sup>27</sup> that is, their general diagnostic and critique of the socioeconomic background in which contemporary capitalist democracies take place: a context of increasing and persistent inequalities of wealth that are translated into great concentrations of political power in few hands. Put differently, we need to provide conceptual, normative and empirical resources for theorizing the negative impact of these historically specific economic conditions on the functioning and dynamics of constitutional orders. Such is what I shall call a phenomenon of *constitutional oligarchization*: when public political power is systematically deployed in a way that mirrors the material interests and objectives of economically advantaged classes at the expense of the rest of the population, thus concealing the *political disempowerment* of the latter. In the following paragraphs, I offer a framework to understand the main features of this theory of constitutional oligarchization.

The first aspect to flesh out is the meaning of the concept of political disempowerment in the context of the problem of oligarchization. As a descriptive definition, I suggest that  $\mathcal{A}$  (e.g., an individual, group, or class, etc.) is politically empowered if and only if  $\mathcal{A}$  has a significant capacity to cause, bring about, or shape, authoritatively, processes and outcomes regarding decisions affecting public life according to their interests, especially their material interests (e.g., Landemore, 2022, 1061). By the same token,  $\mathcal{A}$  is politically disempowered if it lacks such a capacity. This descriptive definition does not pretend to be exhaustive, and I am aware of its high degree of generality. Amongst other things, this is due to the meaning of the “significant” qualifier included in it, which brings the problem of defining the threshold in which such a capacity becomes such (or the opposite). I will operate under the assumption that we can intuitively understand when such a capacity is available and when it is not – including, at least, that  $\mathcal{A}$  has effective access to resources, institutions, and organizational platforms to enact their interests. The point, here, is just to make clearer what I mean by political (dis)empowerment. Further, in the next section, I will

---

<sup>27</sup> I will be referring to these defining conditions as presented in the former chapter (section 1.1).



discuss in more detail how *collectives* can be said to be (dis)empowered in that sense, alongside issues related to how to define their “material interests.”

It is also important to make explicit that I am employing a class-based definition of oligarchization, since it associates it with the rule of wealthy or economically powerful minorities – a view that indeed can be traced back to Aristotle, who understood oligarchy as a governmental form not only in terms of the rule of the ‘few,’ but of the rich (Arlen, 2019). Some progressive material constitutionalists employ a non-class-based definition, though, such as Vergara (2020a), who understands it in terms of the rule of elites holding formal political power. However, I will side with the class-based definition, *inter alia* because it better captures the importance of economic material relations in understanding it. Further, although most contemporary authors on this issue talk about oligarchization in terms of *capture* (Arlen, 2019; Bagg, 2018; Lindsey & Teles, 2017; Winters, 2011), I will not rest my analysis in such terms since, to my view, it is insufficiently attentive to non-agential economic constraints over democratic politics. Broadly speaking, such are the constraints that capital accumulation and competition impose over what constitutional states can do. And it seems inadequate, in my view, to say that *something that is not an agent* can properly *capture* something. Yet again, this structural dimension should be included in a satisfactory account of constitutional oligarchization, as I shall further argue below, and thus we should go beyond the language of oligarchic capture.

With such basic definitional elements in mind, a crucial characteristic of constitutional oligarchization, as construed by progressive material constitutionalists, is its *systemic* nature, namely, that it happens in a regular and patterned way through the normal functioning of our current political schemes, without necessarily involving law-infringement at all (Gourevitch, 2020, 107; Vergara, 2020a). Thus, the focus is on how the *standard* institutional setting of modern constitutional orders, particularly liberal democracies in the context of capitalist social relations, tends to trigger outcomes and procedures that subsume the preferences, well-being, and self-organizational capacities of the majority of citizens, to the aim of securing conditions for greater wealth accumulation. This means that, for progressive material constitutionalists, the liberal democratic, class-neutral model for constitutional ordering is rendered practically unable to realize its political goals.<sup>28</sup> Of course, there are many causal mechanisms generating constitutional

---

<sup>28</sup> There is an increasing number of studies in mainstream empirical political science showing how political decisions in liberal democracies are significantly irresponsive to the preferences of nonwealthy citizens, especially when they clash with those of wealthy minorities. For studies focused on the US, see Bartels (2017), Domhoff (2008), Gilens and Page (2014), Hacker and Pierson (2010), and Winters (2011). See also

oligarchization. There are also different institutional vulnerabilities making it more or less intense. A complete catalogue of them is both too broad and a matter of specific political economy and comparative constitutional scholarship. Yet note that diagnosing a *significant* intensity of it, that is, the degree to which it obtains in a given constitutional order, does not mean that such intensity is *absolute*, so all that happens in liberal democracies reflect the economic interests of wealthy minorities (Lindblom, 1982, 326). That would be just another iteration of an implausible kind of material constitutionalism, and it is therefore discarded for being too simplistic (McCarthy & Desan, 2023, 3; Smith, 2018, 184). The point is rather to say that such an intensity is significant and that such an intensity calls for meaningful constitutional re-ordering.

Following some token terminology in Marxist theories of the state, it pays to distinguish two main *forms* of constitutional oligarchization. The first is grasped by *instrumentalist* approaches, that is, analyses focusing on *agential* interferences of economically powerful groups on the functioning of constitutional states. In the instrumentalist narrative, then, the point is that such a dynamic is generated because of how these groups *act* in and/or through the political system by deploying their economic resources to influence policy outcomes – often focusing on wealthy individuals, large multinationals, corporations, etc., engage in such actions (Arlen, 2022, 2; Bulmer & White, 2022, 275; Christiano, 2010, 2012). The mechanisms available for these agents to exercise such an influence are, again, multiple. Some of them are related, for example, to how periodic elections as a method for selecting representatives give them great opportunities to either hold offices themselves, campaign finance, lobby representatives, and/or bribe them (e.g., Abizadeh, 2020; Guerrero, 2014; McCormick, 2011). These methods can be similarly used in the case of unelected bureaucracies (Miliband, 1969; Landa & Pevnick, 2020) or the legal realm through accessing a *wealth defence industry*, consisting of “... lawyers and accountants whose business is creating offshore trusts and shell companies, exploiting loopholes, and helping super-rich clients avoid enforcement” (Arlen, 2022, 7). Others are related to how the wealthy can exercise indirect influence by sustaining a social environment that fosters capitalist and/or pro-market ideology. They can do this by affecting representatives’ assessment of the economy through several mechanisms, such as manipulating the informational context available to them to conduct such assessments. For example, owning media outlets (e.g., newspapers, TV stations, or digital

---

Hopkin and Lynch (2016) for a discussion on Europe in general, and Elsässer et al. (2021) for Germany. See also Elkjær and Klitgaard (2021) for a systematic review of the recent literature.

companies [Aytac, 2022])<sup>29</sup> or investing in advertisement (Wojdyski & Evans, 2020) allows them to promote narratives suggesting that political decisions going against their interests would inevitably result in steep costs that individuals cannot afford to bear – and which representatives in authoritative political institutions would, therefore, tend to avoid taking. These measures are likely to be more impactful to political decisions in contexts like neoliberal societies (which are those most vulnerable to oligarchization), where citizens are widely disorganized, politically disinformed, self-interested, and vulnerable to manipulation (Grossman et al., 2023; Morgan & Pulignano, 2020). All in all, the idea is that their economic power gives these agents a *de facto* capacity to manipulate important aspects of what happens at the level of authoritative politics and, thus, a *wealth-generated political privilege* within the exercise of political authority in the constitutional order.<sup>30</sup>

Yet constitutional oligarchization can also happen through non-agential means. It can occur in a somewhat automatic and impersonal way, that is, in virtue of the *structural properties* of capitalism in relation to the modern constitutional state. This is the central claim of so-called *structuralist* approaches in Marxist-inspired theories of the state. One classic example in this context is Charles Lindblom's (1982) argument that investment decisions impose a 'recoil mechanism' against policies disfavoured, or not explicitly oriented to favouring, capital accumulation. The point is that, according to Lindblom, our societies are usually organized based on a public perception that,

---

<sup>29</sup> Some examples are Rupert Murdoch's direct control over his media empire, which he has systematically deployed to exercise influence over US politics and beyond (Wolff, 2008), or Sheldon Adelson's ownership of the newspaper *Israel Hayom* in Israel, which there are good reasons to believe has been extremely effective in promoting Benjamin Netanyahu's far-right-wing agenda (Grossman et al. 2023). See Duch and Stevenson (2006), Garz and Martin (2021), and Jacobs et al. (2021), for further arguments supporting the claim that pro-wealthy media bias is real and politically impactful in rich liberal democracies.

<sup>30</sup> It might be useful to stress the somewhat obvious point that nonwealthy citizens do not enjoy these opportunities – i.e., because they lack such resources. This lack of opportunities has numerous consequences for the composition of liberal political institutions and policy outcomes. See, for example, Evans and Tilley (2017) for a study on how the number of working-class representatives has decreased over time in the UK, Carnes (2012) for a similar account focused in the US, and Carnes and Lupu (2021) for a cross-country analysis. See also Hemingway (2020a) and Elsässer and Schäfer (2022) for empirical evidence showing that working-class legislators statistically *do* push for more egalitarian policy priorities when compared to wealthy legislators – meaning that their political exclusion via exercises of instrumental power seems to further collaborate in generating inegalitarian policy outcomes. See, moreover, Riley and Brenner's (2022) recent diagnostic of pervasive *political capitalism* amongst "rich countries" (particularly the US), that is, the increased investment in *politics* as the key for producing investment returns – and henceforth a significant increase in exercises of instrumental power.

if these policies *were* favoured, then those who privately own the resources in question would withdraw these and engage in ‘capital flight,’ introducing a bias against the pursuit of these policies – a perception that is further reinforced by the belief that a ‘healthy economic environment’ requires preserving ‘business confidence’ on the part of investors (Block, 1977). Put differently, since the state in capitalist society *requires* private investment to materially sustain itself, the former can be considered to be *structurally dependent* on the latter by virtue of how the property regime is organized (Cohen, 1989; Przeworski & Wallerstein, 1986). This implies that capital imposes constraints on the *demands* of democratic politics – since the ones that, in general, will get raised are those pleasing investors (Wright & Rogers, 2010, 322) – but that it does so in a largely *non-agential* and *impersonal* manner, that is, due to its “mute compulsion” over social and political life (Mau, 2023; Poulantzas, 2008a; Roberts, 2017; Therborn, 1982; Vrousalis, 2021). In this conception, then, the material constitutional order is structurally biased to reproduce the political goal of wealth accumulation at the expense of those of democratic self-rule.<sup>31</sup>

Instrumental- and structural-like forms of constitutional oligarchization are distinct. They are also compatible and plausibly mutually reinforcing. One would expect that more intense cases of each will occur in contexts where the other is high (Fairfield, 2015, 421). Similarly, as already mentioned, it is reasonable to believe that these mechanisms are never absolute in real life – such that we would live in a “... class plot” (Carnoy, 1984, 49) where the economically powerful fully dominate the constitutional order, or an unescapable “cage” that would completely disable, via impersonal means, the possibility of enacting radical social change consistent with and through constitutional reform (e.g., Calnitsky, 2021; Fiorio et al., 2021).<sup>32</sup> Furthermore, as we shall see in the following chapters, varieties of progressive material constitutionalism highlight these mechanisms in different ways. But all these conceptions hold the empirical claim that constitutional oligarchization is *significant* in our actual, plutocratic world, and ascribe to the

---

<sup>31</sup> See Furendal and O’Neill (2023) for a similar, yet briefer characterization of instrumental and structural forms of oligarchization.

<sup>32</sup> A variety of factors will make the intensity of constitutional oligarchization higher or lower. For example, if wealth is more equally distributed, all the mechanisms mentioned would be harder to deploy, both in instrumental and structural terms. Similarly, specific institutional systems and legislations will be more or less vulnerable to them – e.g., if effective legislation regulating money in politics is effectively instituted, instrumental manipulation will be lower, and if capital controls are in place, structural dependency will be diminished (Bennet, 2021). This is not to say that these formal measures would eliminate constitutional oligarchization, but just to illustrate how variable the phenomenon can be.

normative claim that the widespread political disempowerment of ordinary citizens caused by it is severely objectionable. They also claim that such a situation relevantly requires re-thinking the design of our constitutional schemes so they can *lower* or, hopefully, *overcome* their oligarchic tendencies. Yet before discussing how to do so we need to explain the role of social class relations in this general context.

### 2.1.2. *Class Relations*

We must flesh out progressive material constitutionalists' main theorization of class relations because it is still related to describing defining condition (a) – since a central factor generating the possibility of constitutional oligarchization is capitalism's class structure, indeed a fundamental way of seeing the historically-specific socioeconomic background of liberal democracies. It is also central because of the role that a critical class theory plays in giving content to defining condition (b), referring to the institutional articulation of the aims and material interests of conflicting groups within the constitutional order – particularly through class-specific political institutions. In what follows, I elaborate on the essentials of how progressive material constitutionalists tend to theorize these aspects. This will also serve as a bridge to discuss, in the next section, their positive democratic vision of constitutional ordering.<sup>33</sup>

A good way to clarify the importance and meaning of social class for understanding oligarchization is to recall how champions of progressive material constitutionalism talk about the economic *sources* and *agents* generating it. As we saw, one prevalent way of conceptualizing this dynamic is in the language of *wealth inequality* and thus in *distributive* terms – which is the preferred way, as we shall see, of how plebeian constitutionalists theorize class relations and divisions (e.g., McCormick, 2011). Correlatedly, in this narrative, the crucial oligarchic agents are identified as the

---

<sup>33</sup> It is important to anticipate that I will not provide a full theory of social class, nor a systematic review of its meaning in the contemporary literature – which is widely acknowledged to be essentially contested (Demertzis, 1986, 159; Evans & Tilley, 2017, 2; Wright, 2000, 961). The purpose of this sub-section is to make sense of the claims elaborated above regarding constitutional oligarchization, claims that mainly draw on wealth stratification and Marxist approaches to class. I will not discuss the comparative advantages of such an explanation vis-à-vis other theories. Rather, I find it sufficient that, if people are convinced by the wrong of constitutional oligarchization and accept that class relations, *as defined here*, relevantly generate it, they will likely accept this general account for the clarificatory purposes at stake. See Wright (2005a) for an excellent edited volume on different approaches to class analysis, particularly Marxist, Weberian, Durkheimian, Bourdieuan, rent-based, and post-classist perspectives.

*wealthy* and/or the *rich*, using thresholds such as those located in the most affluent 10%, or 1%, etc., of the population, while the poorer rest is deemed to be politically disempowered. This means that the relevant ‘classes’ are defined by looking at *how many* economic resources people have, thus relying on a ‘stratificational’ theory that does not associate any *principled* normative wrong to class divisions (e.g., Davis & Moore, 1945). But that does not entail that stratificational conceptions have no theoretical purchase in a critical analysis of the class structure. For, while the concept of class is not considered to denote anything wrongful *as such*, champions of this view can still say that many negative *effects* systematically arise when wealth accumulates unequally. This allows them to connect the analysis of class to central problems of constitutional oligarchization, thus constituting an important source of reasons for thinking about its nature and redress.

However, some progressive material constitutionalists tend to argue that the stratificational approach is insufficient for grasping the real purchase of class analysis for anti-oligarchic democratic constitutional theory. In particular, closer to Marxist or socialist strands of analysis (e.g. O’Shea, 2019), many argue that we should understand the concept and importance of class in connection to the *underlying structure* and *dynamics* that generate the inegalitarian distributional patterns exercising stratification-minded theorists, that is, the prevalent *relations of production* of the social order under consideration – or the total set of relations of *effective power* over persons and productive forces characterizing it (Cohen, 2000, 63). Consequently, the concept of class is understood as a *structural, normatively-charged social relation*, comprising a situation wherein some agents, in virtue of their rights and powers of command over relevant resources, acquire an unacceptable degree of power over *others*, a power that gives them the capacity to economically exploit and/or dominate them (Riley & Brenner, 2022, 7; Wright, 2005b, 10; Zweig, 2000, 11).<sup>34</sup> So, provided that *capitalism* is a mode of production characterized by private property and generalized commodity production and exchange for the purpose of generating profits, this perspective analyses the main conflicting classes in terms of ‘capitalist’ and ‘workers’ – that is,

---

<sup>34</sup> The concepts of class-based ‘domination’ and/or ‘exploitation’ are also contested in the literature, and here I will not provide a detailed account of their meaning and value. Instead, I will follow Wright (2005b) in theorizing both concepts as *connected* (hence the ‘and/or’ clause), in the sense that exploitation is a form of *extractive domination* whereby an agent or (coalition of agents) *A*, in virtue of its power over productive resources, and the need of another agent (or coalition of agents) *B* to access to *A*’s resources, can control *B*’s productive activity in a significant way – a dynamic that represents an objectionable system of dependency and control. See Roberts (2017), Vrousalis (2021), and Cicerchia (2021) for similar accounts regarding the structural relationship between capitalist domination and exploitation. I am very sympathetic to all of these.

those who own and/or control such productive resources, and those who do not and depend on wages to subsist.<sup>35</sup> This also establishes what Marxists usually call *the capital relation*, whereby value is “valorised” – that is, increased – by workers’ exploitation, leading to profits for capitalists (Marx, 1996 [1867]). Similarly, the capitalist class is conceived as the main oligarchic agent because it is, as a result of its position within relations of production, politically empowered, instrumentally and structurally, against the working class, which is politically disempowered as a result. Moreover, it is fundamental to stress that this approach to class relations also characteristically demands that constitutional oligarchization must be analysed alongside the *structural constraints of the capital relation*. For, as I briefly discussed above, capital imposes its conditions on social life in an impersonal manner – that is, without the need for agents to perform actions in a voluntary or coerced way. This means that the class structure is thought of both as a *source* of oligarchic conflict and a *factor of its dynamic reproduction*, without identifiable agents performing that role nor by use of state-led coercive force.

Yet a more convincing class analysis requires the inclusion of several more layers of theoretical nuance than what I have described so far. One reason is that irrespective of which approach is highlighted in a specific interpretation of progressive material constitutionalism, both are indeed very abstract and simplified. That is to say, they do not fully represent or describe concrete class structures, which are surely more complex and variable than these binary models of the class structure of capitalism. No plausible interpretation of these narratives would claim that the only existing class positions in actual societies are the ‘wealthy’ versus the ‘poor’ or ‘capitalist’ against ‘workers,’ as it is obvious that these societies include many groups of people whose positions within it are not appropriately described by these terms – e.g., the so-called ‘middle-class’ in the first description, or peasants, and even managers, regarding the second (Smith, 2018, 188). Furthermore, in contemporary capitalist societies, these are significantly *heterogeneous* classes alongside many relevant criteria – e.g., due to gender or race characteristics, nationality, or just in virtue of different occupations, education, and access to income (Evans & Tilley, 2017; Riley & Brenner, 2022). This not only makes the enterprise of demarcating their limits difficult,<sup>36</sup> but it is

---

<sup>35</sup> A somewhat more precise way to conceptualize “workers” is by asking how people relate to *assets* in society and define its content as the class of agents that do not have any “... income from rents, dividends or interest payments” (Riley & Brenner, 2022, 12).

<sup>36</sup> Defining clear limits for social classes in concrete analyses is known as the problem of *class boundaries* (Giddens, 1982; Wright, 2005b), or the question of how to deal with their ‘messy’ character (Zweig, 2000, 37) without delimiting them arbitrarily, or missing out on something important about them. I agree with

reasonable to claim that *even* if one were able to do so, individuals sharing similar class locations would nevertheless be subject to different forms and degrees of (dis)empowerment. Concrete class structures and relations are complex.

These are important observations that should caution us against trying to directly apply abstract models of class structure and conflict to *concrete* social formations. But I take it that all progressive material constitutionalists *are*, nevertheless, committed to the claim that liberal democracies, under present conditions, are significantly biased to reproducing the material interests of economically powerful classes (construed either in terms of the ‘wealthy,’ the ‘rich,’ or the ‘capitalist class,’ that are relevantly overlapping), which exist, and whose significant political empowerment facilitates the reproduction of these tendencies.<sup>37</sup> To the extent that circumstances of intense constitutional oligarchization are actual, then, these abstract accounts should be accepted as *general* descriptions of how our social orders are stratified, structured and divided – especially referring to the identifiability of minorities holding wealth-generated political privilege.

Let me now address the issue of the meaning of ‘material class interests’ and their enactment – that is, what is usually described as the correlated problems of class *agency*, *formation* and *struggle* (Wright, 2005b). Following Erik Wright (2000, 976), the concept of material class interests can be defined as the set of things that would help the lives of those who share similar class positions go collectively better, in the long run: not for you or me, or a small fraction of our class, but for all (or a large majority of) agents in the relevant class position, across important portions of our lives. Thus, for example, in the case of nonwealthy citizens and/or workers, it is reasonable to say that they have fundamental class interests such as improving standards of living, working conditions, higher economic redistribution, increased access to leisure time, and plausibly more democratic control over their economic and political life – as all these features would ultimately benefit these members *considered as a class* (Christiano, 2012, 251). Similarly, as the economic power of the wealthy, and/or capitalists, usually depends on *not* materializing such conditions, they have a class

---

the popular view that this problem cannot be addressed without a heavily empirical approach (Giddens, 1982, 161), which is beyond the scope of my argument. For more concrete examples of offering an account of class boundaries along the lines of the approach to class provided here, focused on the US, see Zweig (2000) and Wright (2000).

<sup>37</sup> For evidence that workers are the majority of the population, see Riley and Brenner – who claim that in the US it must represent between the 68 and 80% of it (2022, 13). See also Zweig (2000) for a similar account.



interest in opposing them – and pursue others, such as incremental economic profit. One might hence get the idea that, rationally, these groups would come together and enter into conflictual relations with their dominating counterparts, either in active negotiation or struggle – because these sets of interests are indeed very fundamental, and also in opposition to each other.

But, again, as with class structures, this is an extremely abstract and simplified description of class formation. There is an increasing awareness in scholarly debates regarding the fact that capitalism’s class structure, in virtue of the prevalence of competitive markets and the proliferation of different sites of commodity production, has an endogenous tendency to produce *differentiation of interests* and heterogeneity of experiences amongst fractions of workers and/or nonwealthy citizens – indeed sometimes making the achievement of certain class interests for some fractions conditional on not materializing others’ (McCarthy & Desan, 2023; Roberts, 2023; Wright, 2019).<sup>38</sup> Moreover, the interests of specific groups sharing similar class locations are shaped by countless non-class-based factors, and it would thus be a mistake to try to “discover” them by only looking at the class structure. This means that there is no clear way to materialize the interests of all members of similar class locations without harming some of its members. Thus, as Riley and Brenner (2022, 10) have recently expressed, economically disadvantaged groups might sometimes engage in “material interests’ politics” without engaging in “class-material interests’ politics” – in the sense of pursuing their interests without regard for other fractions, or by collaborating with the wealthy and/or capitalist class. By the same token, *realizing* material class interests seems difficult, especially for those who do not enjoy economic power. For even if such interests could be better articulated amongst the whole class of the economically disempowered, great wealth differentials and capitalist social dynamics impose constraints on their capacity to politically organize their collective power and autonomy – e.g., in virtue of how competitive labour markets pit them against each other (Cicerchia, 2021), collective action problems related to the resources and time necessary to forge and mobilize political aims, and their lack of institutional platforms within the constitutional order to do so (Offe & Wiesenthal, 1980). All in all, it seems clear that, although defining the content of material class interests and the conditions for their realization are fundamental for articulating the egalitarian aspirations of progressive material

---

<sup>38</sup> As Roberts helpfully puts it: “... the working class is profoundly divided by the local concerns of its myriad fractions. Increasing the price of my labour-power may lower the price of yours. Taxing *these* profits to fund *those* public works may make *this* working-class community better off and *that* working class community less secure” (2023, 257).

constitutionalism, these are extremely difficult theoretical and practical tasks.<sup>39</sup> They involve detailed empirical analysis of specific conjectures and forms of political organizing that cannot be decided at the level of normative political philosophy.

For all these reasons, I do not intend to propose a definitive solution to these problems. The theoretical and practical difficulties of *precisely* defining who belongs to an economically and politically disempowered class, the content of their material class interests, and the conditions for enacting them, must be taken seriously – and that entails that they cannot be decided in isolation from specific socio-political contexts and at the level of abstraction with which I am operating. My argument can accommodate some degree of empirical indeterminacy. I also think that it holds independently of it. If we accept that the majority of the population *is* politically disempowered because of class divisions and that such a situation is a significant moral wrong, it imposes the normative demand to create institutions that help them realize their justified demands *as a class*. To the extent that class relations *do* harm them, then, creating institutional conditions allowing them to realize outcomes that improve their conditions in the long run and exert influence over the constitutional order, including economic conditions, is desirable and needed (Riley & Brenner, 2022, 10). Precisely because capitalism's class structure produces *intra*-class conflict in the case of the economically disadvantaged, while creating significant obstacles for their members to overcome such effects, it seems fundamental that some kind of conscious remedy aimed at diminishing these dynamics must be found (Chibber, 2022, 74). This involves explicit efforts of institutional design helping to articulate and enact the political goals of those who are under-represented and dominated within the material constitutional order, in this case, nonwealthy and/or working-class citizens. The next section explains how progressive material constitutionalists generally approach this challenge.

---

<sup>39</sup> Note that these problems are, of course, less difficult to define when addressing the capacities of the wealthy or capitalists to exercise political power, which are not only smaller in size, but also less heterogeneous and have plenty of resources and platforms to forge and realize their collective interests in maintaining the conditions for capital accumulation.

## 2.2 Political Empowerment: Popular Democracy and Class-Specific Political Institutions

### 2.2.1. *The General Alternative*

Oligarchization entails widespread political disempowerment, and there are good reasons to believe that liberal political institutions are unable to address its causes. Provided that a fundamental political goal of a desirable constitutional scheme is not only to protect fundamental individual political rights and freedoms (e.g., freedom of speech, association, movement, etc.) but to realize a substantive conception of political democracy – which, in general terms, is how this approach conceptualizes condition (c) – the regimes we live in cannot be deemed, as some liberals sometimes seem to want to say, ‘sufficiently just’ (Rawls, 1993) or ‘ordered in an appropriate way’ (Pettit, 2012). The challenge for progressive material constitutionalists is to establish the basic content of what I shall call the *General Alternative*, that is, a vision of constitutional ordering that realizes democratic and egalitarian principles through the political empowerment of ordinary, nonwealthy and/or working-class citizens within the state. This section provides an outline of the *General Alternative*.

The first element that needs to be somewhat elaborated is the content of the substantive conception of democracy which informs the *General Alternative*. By this, I refer to a broad set of theories which posit that democratic orders cannot be reduced to, for example, those who satisfy competitive elections (e.g., Schumpeter, 1970 [1946]), but that associate them with more demanding principles about how political power should be organized. Some of these principles are the centrality of securing the fair value of equal political liberties (Christiano, 2008; Klein, 2022; Rawls, 1999; White, 2020); widespread opportunities for citizens to participate (Cohen & Fung, 2004; Lafont, 2020) and deliberate (Mansbridge et al. 2010; Landemore, 2020) in formal political institutions; engaging and deciding on legislation via meaningful exercises of partisan agency and secure the value of collective autonomy (Ypi & White, 2018); and establishing formal mechanisms allowing for the control over these activities when performed by representatives, such as via mechanisms of recall or imperative mandate (Tushnet, 2020). That said, note that this perspective does not commit the *General Alternative* with “direct” forms of democratic control over political decisions only. Rather, I consider it compatible with “indirect” forms of democratic representation (e.g., Landemore, 2020; Tushnet, 2020), amongst other things, because it institutes a division of labour in political decision-making which is required for effective social cooperation under

conditions of great complexity (Schemmel, 2021, 216). Further, I stipulate that there are many ways to construe the exact institutional setup of democratic orders when informed by this conception, and thus do not advance one particular set of institutions. Similarly, I remain agnostic regarding the question as to which is the best philosophical meaning and value of democracy as such – for example, whether it is valuable for instrumental or intrinsic reasons, or whether we should focus on procedures versus outcomes.<sup>40</sup> Deciding on these determinate questions with full specificity does not concern me here – not because they are unimportant, but because I want to focus on the specific problem of fighting oligarchization. As long as there is a broad, somewhat shared understanding about the content of this demanding view of democratic constitutional ordering amongst champions of the *General Alternative*, my account is ecumenical as to which is the best account amongst them. The point is to clarify that progressive material constitutionalism participates in an explicitly popular conception of democracy and that such a conception is at the heart of its positive vision of what constitutional ordering should be.

But the *General Alternative*, as I understand it, is distinctive in other, more specific ways. One fundamental condition is that, because of its allegiance to the *Materialist Desideratum*, the *General Alternative* conceptualizes the reduction and/or elimination of the background economic conditions generating political oligarchization as a primary concern for realizing its democratic demands – which can also address condition (a), and to do so as a constitutional question. This entails, non-controversially, radically redistributing economic power in several ways (Bagg, 2018, 902), which surely requires the agency of diverse agents of change and voluntary associations to happen (e.g., winning political parties of principle, democratic trade unions, progressive social movements, etc).<sup>41</sup> The more specific content of such economic redistribution is something that I will partially address later on, as it pertains to the domain of particular conceptions of progressive material constitutionalism. But I will elaborate on the relation between my account to these voluntary associations even more tangentially. The reason is that I am concerned with the more specific issue of *how to reorder the constitutional scheme* in an effectively anti-oligarchic and egalitarian direction, and my focus is on *constitutional* strategies for social reform in particular. Regarding this task, it is important to note that such constitutional measures are also, certainly, plural. It is also

---

<sup>40</sup> See Christiano & Bajaj (2022) for a survey of the philosophical debate.

<sup>41</sup> As Khaitan puts it, the “... best way to ensure that a democracy does not become a plutocracy is by ensuring that there are no plutocrats” (2019a, 554), that is, securing an egalitarian set of economic relations. But then the question is how to realize and stably maintain such a set of economic relations, and the functional importance of the constitutional scheme to achieve such an end.

plausible to claim that there is no *single* constitutional measure likely to suffice to fight oligarchic power, meaning that we need to think about how to tackle this problem “... in terms of a toolkit and how different tools work together” (Bulmer & White, 2022, 290). One such set of measures is comprised of strategies to change the *formal legal structure* of constitutional orders, for example via establishing constitutional provisions encouraging certain policy choices or hindering others through egalitarian directive principles (Khaitan, 2019b), constitutionalizing socioeconomic rights, anti-corruption and campaign finance laws, and/or even legally blocking the accumulation of large fortunes (Fishkin & Forbath, 2014). That said, as discussed in chapter 1, material constitutionalism is characteristically sceptical about the ability of legal measures alone to realize their prescriptions since, in truth, they require *proper institutional conditions* to ensure their enforcement. A more characteristic strategy within this view is, then, aiming to change the *institutional structure* of the relevant political unity – that is, to address condition (b) in a way that maximizes citizens’ collective political empowerment through effective organizational platforms (Klein, 2022).

Along such lines, the most distinctive feature of the *General Alternative*, as I construe it, is the way in which it combines its concern with realizing a substantive conception of democracy within the formal setup of the constitutional order with the concerns regarding class conflict and economic relations. Because progressive material constitutionalism centres the problem of oligarchization at the core of constitutional ordering, as well as capitalism’s class structure as its central cause in our present historical conditions, authors distinctively propose that a fundamental way to fight this problem is to constitutionalize *empowered class-specific political institutions* – i.e., authoritative institutions excluding economically advantaged and politically empowered elites from political decision making.<sup>42</sup> Thus, as I conceive it, all versions of progressive material constitutionalism are committed to defending *some form* of what I call the *Institutionalized Class Differentiation Thesis*:

---

<sup>42</sup> Again, as expected, all my further references to class-specific political institutions assume that these are empowered and/or authoritative.

*The Institutionalized Class Differentiation Thesis.* Economically and politically empowered citizens should be excluded from participating in some authoritative political institutions – that is, from authoritative *class-specific political institutions*. This would allow economically and politically disempowered citizens to regain control over the constitutional order, advance their interests, and increase substantive democratic equality.

I specify that champions of this view are committed to *some form* of this thesis because, as we shall see in further chapters, there are different and normatively incompatible ways to interpret it. For example, there are different conceptualizations about the relevant oligarchic agents that should be excluded (and the disempowered agents that should be included); about the site of authority where class-specific political institutions should operate; regarding their institutional role and durability; and whether they are compatible with fully legitimate constitutional systems. However, the *General Alternative* is still characterized by common claims about why class-specific political institutions are desirable.

A final point to address is that, because of the aforementioned features, all versions of progressive material constitutionalism are tied to the theorization and study of democratic innovations designed to deepen citizen participation at the level of authoritative politics (Smith, 2009). They also involve a significant degree of openness to radically change the power structure of the constitutional order – although not entailing that they must prefer a fully fleshed-out set of political institutions, as different contexts and considerations will trigger a plurality of options. So, for example, authors tend to be sceptical regarding the democratic potential of the representative methods on which liberal democracies rely, such as elections – exploring, in contrast, the potential democratizing force of complementing electoral systems with mechanisms such as sortition, whereby representatives are randomly selected from a relevant polity’s demographic and then frequently rotated.<sup>43</sup> Again, this idea involves a more sympathetic view regarding the implementation of popular democratic measures and institutional forms, such as referenda and

---

<sup>43</sup> The contemporary literature on ‘lottocracy’ or sortition as a democratic method is growing and vast (e.g., Abizadeh, 2020; Gastil & Wright, 2018; Guerrero, 2014; Landemore, 2020; Van Reybrouck, 2016), and I am not suggesting that its proponents should be squared within this form of material constitutionalism. The point is that progressive material constitutionalists have so far tended to sympathize with this kind of institutional innovation. I defend the credentials of class-specific sortition, showing that its class-neutral iteration would be reasonably oligarchic, in Harting (2024).

imperative mandates over representatives, parties based on commitments of principle, and all sorts of institutional forms whereby ordinary citizens are empowered within the political system (Elsässer & Schäfer, 2022; Tushnet, 2022).<sup>44</sup> Yet, again, distinctively, the most central point is that these political measures should be accompanied by an explicit effort to politically empower economically disadvantaged classes within the constitutional order, and that this calls for the theorization and employment of class-specific political institutions. In short, progressive material constitutionalism and the *General Alternative* are characteristically class-specific, institutionalist, popular in orientation, and flexible regarding enacting substantively egalitarian constitutional change. They also require, because of their relation to the *Materialist Desideratum*, that these conditions referring to the constitution of the political unity are realized in tandem with democratic and egalitarian socioeconomic relations – again, a requirement that can take, I think, many forms. All said, the next section discusses what I think are the three main normative reasons why champions of this view suggest that constitutionalizing class-specific political institutions is a desirable strategy for democratization: the *right* of the economically disempowered to access institutions to resist oligarchic domination, and the *goods* of stabilizing such resistance (such as leading to more egalitarian outcomes) as well as enhancing meaningful forms of democratic agency.<sup>45</sup>

---

<sup>44</sup> This entails that this view is committed to the popular democratic claim that “... ordinary people are generally competent (or, perhaps more accurately, are at least as competent as the representatives they elect) in making political decisions” (Tushnet, 2022, 4; also, McCormick, 2011). This is certainly contested amongst democratic theorists, particularly opposed by those who believe that we would be better off if governed by experts, or people with ‘enough political knowledge’ (e.g., Brennan, 2016). Since my argument is strictly directed to anti-technocratic and elitist forms of democracy – which I doubt can be called democratic at all – I will leave them aside and stick with the truth of this popular democratic claim.

<sup>45</sup> I will elaborate further on these reasons and add others when replying to liberal objections to the normative justifiability of these institutions in chapter 5.

## 2.2.2 *Class-Specific Political Institutions as Vehicles for Political Empowerment*

### 2.2.2.1. *The Right to Resist Oligarchic Domination and the Argument for Special Representation*

The first set of reasons explaining why class-specific political institutions are typically considered attractive is related to the idea that nonwealthy citizens and/or workers, in virtue of nonideal circumstances of political disempowerment, coupled with a normative commitment to securing meaningful democracy, should have a *right*, that is, a justified entitlement to access platforms through which they can resist oligarchization. Put differently, in this case, the point is that such access should be granted for reasons of *fairness*, and without reference to the consequences that such an entitlement might entail. This set of reasons is thus different from the *goods* that such platforms might bring about, say, in terms of the positive policy outcomes they are likely to produce, or their collaboration to produce meaningful forms of collective political agency. One way to illustrate the grounds of such a right is by analogy to the morality of working-class strike action, which is a class-specific practice of resistance against systemic economic domination that is often thought to be a right *and* a good (Gourevitch, 2020). The reasoning is that, *because* workers suffer from systemic class oppression (which amounts to an unjustified deprivation of freedom), they should have a right to resist it, for example, through coercive means such as striking action. This right is granted *even though* exercising this right might clash with other rights, such as property rights, since a necessary requirement for effective strike action might be the use of coercive tactics (Gourevitch, 2019). Similarly, *because* nonwealthy or working-class citizens suffer from systemic oligarchic domination (which amounts to an unjustified deprivation of political freedom), they should have a right to necessary means to resist it, particularly through class-specific political institutions. And this right is granted *even though* exercising it might clash with other rights, such as formal political equality since the use of these institutions might be required to secure more meaningful democratic relations.<sup>46</sup>

---

<sup>46</sup> This argument can also be conceptualized as an argument claiming that we should promote forms of affirmative action to the benefit of the economically disadvantaged, where affirmative action is understood as "... any policy that aims to increase the participation of a disadvantaged social group in mainstream institutions, either through "outreach" (targeting the group for publicity and invitations to participate) or "preference" (using group membership as criteria for selecting participants)" (Anderson, 2010, 135). The reason is that affirmative action policies constitute a breach of strict universal equality on the basis of fairness, and so such policies can be said to overlap with Gourevitch's argument for a priority of the right to strike over other liberal rights – in this case, private property rights. See Bengtson (2024) for a recent,



This reasoning is connected to another argument related to the unfairness of the widespread under-representation of nonwealthy citizens within oligarchic constitutional orders. Based on the idea that democracy demands at least an important degree of descriptive representation,<sup>47</sup> which oligarchization transgresses by definition, economically disadvantaged groups should have a right to special representation in institutions of their own through which they could better promote their interests. In turn, as long as they are systematically excluded from political decisions and their views widely ignored in their making, reversing this situation is simply “... the necessary recognition of this group as political equals [, which is a right that all well-ordered constitutional democracies must enshrine]” (Elsässer & Schäfer, 2022, 1365). Of course, such a right to special representation is contingent on the reality and intensity of the nonideal context of oligarchization (*Ibid.* 1367). But a commitment to substantive democracy warrants it when actual and, if the reasons I have given so far are accepted, such as the pervasive lack of responsiveness of representative systems to the interests of the nonwealthy, and the significant overrepresentation of wealthy representatives within the authoritative political decision making spheres of these systems – e.g., as explained in footnotes 28 and 30 – such should be the case.<sup>48</sup> Again, progressive material constitutionalists believe that, under circumstances of widespread oligarchization and political disempowerment, nonwealthy citizens should have a right to access class-specific political institutions.

---

convincing account of affirmative action in the political domain, and Bengtson (2020) for the argument that such forms of affirmative action justify giving differential voting weights to disadvantaged groups.

<sup>47</sup> That is, the idea that representatives in democratic assemblies should share important visible characteristics and/or experiences with their constituents. See Phillips (1995) for a classic argument making the case for gender parity under circumstances of widespread patriarchal social relations.

<sup>48</sup> See, however, Mansbridge (2015) for a sceptical argument on the idea that workers currently meet the necessary conditions for having special representation within authoritative assemblies – and Elsässer and Schäfer (2022) for a convincing reply to it.

### 2.2.2.2. *Stabilizing Anti-Oligarchic Resistance and Producing Egalitarian Outcomes*

The normative justification for class-specific political institutions is also tied to the *goods* they are expected to materialize. Here, the point is not only that nonwealthy citizens should have a right to access such platforms, but that these are reasonably *beneficial* to them and the community more generally – as they stabilize means to tackle oligarchization and thus reduce harm to everyone (aside from elites). This set of arguments is largely theoretical, because concrete class-specific political institutions have not been constitutionalized in modern times – and so their effects cannot be empirically tested in their original form (Elsässer & Schäfer, 2022, 1375). But there are several reasons to believe that they would be beneficial in anti-oligarchic terms, either by appeal to intuitive hypothesizing or analogy to other class-based institutional forms that have shown to purport such effects – even if such forms are not formally constitutionalized nor carry significant political authority. That is what I proceed to outline in the remainder of this chapter.

One first, crucial good that progressive material constitutionalists highlight is the ability of class-specific political institutions to *stabilize* resistance to oligarchic domination and make such exercises of resistance more effective as a result – a function that, as I just noted, should be seen benefitting the polity as a whole, aside from elites, in the last instance (Hamilton, 2018; Muldoon, 2019; Popp-Madsen, 2022; Thompson, 2018). This is particularly the case because institutions should be enshrined at a *constitutional level*, and not merely as a matter of contingent platforms outside the terrain of the state, such as unions – which are insufficiently permanent, vulnerable to the fluctuations of politics and market relations, as well as not authoritative enough to curb oligarchization. This claim is an explicit reaction to how so-called ‘radical democrats’ (e.g., Rancière, 1999; Negri, 2009) theorize the struggle against oligarchy. It is also opposed to the usual positions of “anarchists” who claim that we should embrace an “... ethical system that rejects the seizure of state power, and, to the extent possible, any appeal to or entanglement in institutions of state power” (Graeber, 2010, 123). While sharing many of the normative concerns that I have defended thus far, from what has been said it follows that authors of these alternative brands of leftist political thought believe that “... institutions as such – however egalitarian and participatory – are inherently elitist, hierarchical, bureaucratic and oppressive” (Popp-Madsen, 2022, 6). As a consequence, the alternative they suggest is to fuel grassroots movements and mass action against oppressive political schemes, which are furthermore seen as the only true sites of meaningful democracy.

Quite obviously, progressive material constitutionalists think that this view is deeply implausible. For one, radical democratic and anarchist views not only dramatize the degree to which institutional politics *must* be ‘oppressive.’ They also ignore how ineffective their preferred forms of political struggle have been when deprived of a stable institutional content that warrants their authority (Miliband, 1973, 467). Moreover, as discussed in previous sections, capitalist class relations impose severe constraints on nonwealthy citizens to organize and engage in transformative political action. In the absence of platforms through which they can exercise and form their collective power in a stable way, that is, with a shared knowledge that opportunities will be available, in time, and without significant interruption, it is unlikely that they will produce more egalitarian outcomes. Put differently, *it is relevantly because there are no institutions through which they can enact their interests*, and not in virtue of a kind of ‘over-institutionalization’ of popular power, so to speak, that oligarchy reigns. We need to constitutionally recognize the fact of widespread political disempowerment and its causal relation to economic distribution and class structures.<sup>49</sup>

A second, related good that class-specific political institutions are thought to purport is that they would produce *more egalitarian policy outcomes* than their supposedly class-neutral counterparts. Briefly put, the idea is that these institutions should not only aim at reducing or eliminating oligarchization but that they should also be granted significant constitutional authority. For example, progressive material constitutionalists usually argue that class-specific political institutions have *negative* constitutional powers such as the capacity to veto legislation, which could make them a relevant counterpower to other, standard political institutions when perceived to deviate in oligarchic directions – such as traditional elected parliaments (Green, 2011, 185; McCormick, 2011; Vergara, 2022a). Similarly, if these were granted *positive* constitutional powers to create or initiate legislation, one would expect that members in these institutions would, on average, push for policy outcomes aimed at reducing or eliminating the causes of oligarchization – e.g., higher degrees of wealth redistribution, expropriation, or even democratization of certain sectors of the economy. All these measures would decrease both instrumental and structural dimensions of the power of capital, and thus oligarchy.<sup>50</sup> Of course, whether class-specific political

---

<sup>49</sup> For a different, yet related argument claiming that the anti-constitutionalism and institutionalism of the anti-capitalist left in the 20<sup>th</sup> century amounted, in fact, to a kind of technocracy – where tasks of mobilization or administration were, in the end, delegated to experts or leaders in this “horizontalist” organizations – see Fishkin and Forbath (2016, 1494).

<sup>50</sup> See, again, footnotes 28 and 30 for empirical studies helping to foreground these claims.

institutions would *actually* realize these outcomes are untested empirical claims. They could fail to realize what we expect from them. But, for the purposes of my argument here, it is sufficient to establish that there are good presumptive reasons to think that they would be successful. Let me finish by explaining one general reason why we should believe that they would.

### 2.2.2.3. *Enhancing Democratic Agency: Consciousness and Solidarity*

To reiterate, progressive material constitutionalists typically think that, under circumstances of oligarchization, there is a right to access class-specific political institutions, that these would provide stable platforms for resisting it, and that this would lead to more egalitarian policy outcomes. Yet an important, further reason to believe that this would be the case is that access to these platforms would increase citizens' *class consciousness* and *mutual solidarity* – that is, their recognition of their class-based subordination and a disposition to foster cohesive bonds pushing them to fight for and promote class interests (in the sense already specified), and that pursuing such interests might be costly for some groups within these class positions in the course of enacting egalitarian social change.<sup>51</sup> Thus, for example, class-specific political institutions could improve the epistemic-deliberative capacities of ordinary citizens participating in them, because the wealthy would not be able to directly influence decisions and/or set the agenda, say, by using skills acquired through a privileged background – thus allowing us to know better what “... the public *would* think, had it better opportunity to consider the question at issue *without the adverse influence of the wealthy*” (Smith and Owen 2011, 210). Further, when solidarity bonds increase, the norms on which they are based might push representatives to behave in a way that advances the shared interests of the nonwealthy, and thus helps to decrease the instrumental and structural impact of the power of wealth. In turn, the idea is that constitutionalizing class-specific political institutions could *cause* processes of class formation and enhance ordinary citizens' democratic agency.<sup>52</sup>

---

<sup>51</sup> I use this understanding of class-based solidarity in a broad, non-exhaustive sense. For discussions on the contested meaning of the concept of solidarity, see Blum (2007), Gould (2020), Gould and Scholz (2007), Rehg (2007), Sangiovanni & Viehoff (2023), and Taylor (2015).

<sup>52</sup> Another way to illustrate the idea is that “... the contemporary absence of healthy class consciousness and class contestation [should be relevantly attributed] to a failure on the part of modern republican

These are, again, empirical claims. Progressive material constitutionalists must explain why class-specificity would enhance class consciousness and solidarity amongst representatives in these institutions and, even more importantly, the public at large. One first reason to lend credence to the idea draws on evidence showing that nonwealthy citizens, especially those who *identify* themselves as such, are more likely to be motivated to oppose the dynamics that impoverish them as well as tend to prefer more egalitarian economic policies (DiMaggio, 2015; Elsässer & Schäfer, 2022; Franko & Witko, 2023; Macdonald, 2019; Western, 1999). Yet a second, more interesting hypothesis that *membership in explicitly class-specific political institutions* would likely enhance the awareness of nonwealthy citizens regarding their subordinated status, as well as provide meaningful platforms to form and enact shared class interests – which, as already discussed in section 2.1.2., is a difficult task that capitalist class relations exacerbate. It would also make the class-based nature of existing constitutional states, against their false pretension of neutrality, more explicit and visible. One way to illustrate the plausibility of this idea is to draw analogies with other institutional platforms involving class-specific criteria and see what their political effects are. This can help us understand whether these platforms enhance class solidarity bonds and how they do so. To that end, let me elaborate on this idea by drawing an analogy to the case of workers’ unions.<sup>53</sup>

As several recent studies show, societies with low levels of unionization are characterized by lower demands for redistribution, suggesting that higher unionization is *causally linked* to producing more egalitarian outcomes (Farber et al., 2021; Evans & Tilley, 2017; Frymer & Grumbach, 2023). Now, one central reason why this seems to be the case is that, when unionization proliferates, class divisions become more *visible*. This leads to higher degrees of working-class identification with their class position and, consequently, a disposition to oppose policies that harm their class-based interests (Condon & Wichowsky, 2020). Importantly, this hypothesis suggests that membership in organizations pursuing collective economic goals significantly shapes class identification and leads to class formation, resulting in stronger solidarity bonds and defined preferences for progressive policies. Workers participating in unions characterized by democratic practices get access to deliberative opportunities, share experiences, come closer and increase their mutual empathy, and thus intensify their solidarity bonds as well as giving content to their class

---

constitutions to remind common people of their socioeconomic subordination” (McCormick, 2007, 123), and that these institutions would help to redress that failure.

<sup>53</sup> I develop these arguments in Harting (2024) too.

interests (Cornforth, 1995; Gould, 2020, 132; O’Neill & White, 2018; Streeck & Rogers, 1994, 141). Further, as Franko and Witko (2023) have recently highlighted, unions characterized by substantive forms of internal democracy utilize excellent class-solidarity-enhancing methods, such as the tendency of leaders to share information regarding pay gaps between workers and management. They also create a “... social environment where economic cleavages are more likely to be discussed and reinforced among members” (*Ibid.* 554), which both leads to members voluntarily abiding by the unions’ demands and to the establishment of more coercive anti-scab social norms pushing members to do so. All of these observations suggest that union membership is an important *cause* of class solidarity and that it can be such a cause precisely because of its class-specific features. Thus, like in the case of unions, class-specific political institutions would make class divisions more visible to members and the public at large. They would provide their members meaningful opportunities for democratic deliberation on questions of economic and political power and enhance their solidarity bonds. Further, in the putative absence of leaders within class-specific political institutions, one could imagine instituting programmes of political education whereby representatives could learn from formal organizations about the politics of wealth maldistribution, oligarchization, and other relevant issues which they might deem necessary to explore to achieve their ends more successfully. They would hence help to advance anti-oligarchic aims.

Yet much of this analysis is, of course, hypothetical, and the positive effects that I attribute to class-specific political institutions might not be actualized. As a reply to this concern, I have tried to show that there are many analogies with other class-specific institutional forms, in particular, unions, and that, for such a reason, we should expect such positive effects. But some people might argue that there are important *disanalogies* between class-specific political institutions and unions. Consequently, the analogical case that I propose might be inadequate and, given its centrality in the argument, it would constitute a strong set of reasons against my proposal. Put differently, such disanalogies should be taken as *general* arguments against this dimension of the desirability of class-specific political institutions. It is for that reason that the remainder of this section discusses several of these disanalogies and different ways in which they could be ameliorated.

The first disanalogy, (1), is that unions organize workers against more *tangible* opponents (bosses, management, etc.) than in the case of class-specific political institutions. Given the importance of a visible and direct conflict in producing class solidarity, the idea is that, without such conflict, class-specific political institutions may not produce the same kind of class solidarity.

However, I believe that, because class-specific political institutions *are* explicitly aimed at conflicting with oligarchic agents and their interests, an oppositional element is not missing – it is just presented in a different form. Therefore, we should not be too concerned with this objection. A second disanalogy, (2), is that unionized workers share more substantive experiences and know each other better than representatives in class-specific political institutions, not only because the former share in their workplaces, but because they plausibly would plausibly spend more time together than the latter when fulfilling their duties – as these representatives would change either in different electoral cycles, or, in the case of lottocratic ones, whenever random selection and rotation is decided. That said, it is important to note that class-specific political institutions can also fare as well as unions in allowing for instances of meaningful solidarity-building. One example is the central place of face-to-face deliberation, which, as partially discussed above, has proven to be a significant factor in producing shared identities and increasing solidarity – and which class-specific deliberative assemblies would allow for (Prinz & Westphal, 2023, 20). Class-specific political institutions also can facilitate such means. Accordingly, while the *way* in which shared experiences help to produce class solidarity differs from the ways unions work, class-specific political institutions have their own resources to achieve that end. Disanalogies (1) and (2) should therefore be downplayed.

But there are (at least) two further, more serious disanalogies. One, (3), is based on the claim that there are good reasons to believe that effective unions are successful in creating class solidarity because they are platforms of mass-mobilization. Since they can only achieve their demands if members stand in collective action, that creates an incentive for leaders to push members to stand in solidarity – and, for that reason, facilitate such bonds. Yet class-specific political institutions are not platforms of mass-mobilization, and they lack leaders with strong incentives to push them to create solidarity. Thus, if such an incentive structure *is* fundamental, it means that we should be sceptical of the argument presented here. Relatedly, the fourth disanalogy, (4), claims that healthy unions are such because they are *staffed* with personnel that have been successful in building solidarity, something which is not obvious in the case of class-specific political institutions. This means that we should doubt the capacity of these institutions to produce the same degrees of class solidarity as unions.

Although not decisive, I think that the following measures could help ameliorate disanalogies (3) and (4). Starting with (3), the incentives union leaders have in producing class solidarity are just *one* factor in explaining why these institutional forms produce these bonds – and thus one

should not deduce that there are *no* relevant analogies between them and class-specific political institutions. Even if, for the sake of argument, we imagine that such institutions cannot fully replicate this incentive structure since they are not platforms of mass-mobilization, it does not follow that a similar structure *cannot* be created through other measures. For instance, one way to maximize the chance of producing class solidarity would be to make sure that representatives have a clear understanding of the expected results of this kind of institution – which is a widely acknowledged factor for producing successful citizens’ assemblies (e.g., OECD, 2022). Thus, one could stipulate that, because class-specific political institutions *should* be anti-oligarchic to be successful, members could be formally *asked* to behave along the lines of the requirements theorized above, perhaps in the form of constitutional directive principles (e.g., Khaitan, 2019b). This could also be maximized through programmes of activist-led political education, as briefly suggested already. Such methods, in turn, could foster positive feedback loops whereby members not only receive formal *requests* to be in solidarity with each other but produce outcomes in which they come to have a *genuine interest* in engaging in such mutual dispositions – and thus incentives to behave in that manner.<sup>54</sup> Similarly, regarding (4), one can imagine institutional designs in which representatives could benefit from contact with staff, or experts, that have shown to align with the purpose of these institutions. Deviating from traditional arguments in democratic theory which place experts and agencies in contact with representatives to provide “impartial” expertise (e.g., Guerrero, 2014), my view is that not only could it be productive to foster interactions with experts that *do* share the *aims* of these institutions – e.g., economists of an egalitarian bent, or even union leaders that have been successful in producing class solidarity in their organizations, etc. It would also be productive to give class-specific representatives the capacity to democratically select the agencies from which they want to receive advice.<sup>55</sup> To reiterate, although I believe that all these routes for institutional experimentation are appealing in their capacity to reduce the force of (3) and (4), we cannot establish with *certainty* that they would produce their expected empirical effects. They do, however, provide us with potential solutions to diminish the extent to which these two institutional forms are disanalogous and thus contribute to the attractiveness of class-specific political institutions. I thus conclude that we have good presumptive reasons to expect positive

---

<sup>54</sup> See Klein (2022) for a similar argument regarding the necessity of evaluating procedures in tandem with the outcomes they produce, and whether these dynamically maximize relations of equality.

<sup>55</sup> See Pamuk (2021, ch. 4) for a somewhat similar proposal for democratically scrutinizing expertise in the context of scientific decisions.



effects from such institutions and that they would indeed help to create meaningful processes of class formation.

A final, important issue to consider, which is related to the comments that I began this chapter with, is whether other social divisions based on race, gender, occupation, geography, or even religion interfere with or undermine class solidarity amongst nonwealthy representatives within class-specific political institutions. This question seems particularly pressing given a common concern regarding the potential negative effects of making class salient in the context of solidarity-building, particularly in obscuring and/or reinforcing other forms of oppression pervasive in our societies. My stance on this issue is, first, that the kind of solidarity that I am primarily interested in is one that can foster opposition to oligarchy and, for all the reasons given, a focus on class seems appropriate to that effect. Further, while such a saliency of class might produce negative effects, there is also empirical evidence that it can produce the opposite – e.g., as Frymer and Grumbach (2021) have recently argued in their study showing that union membership reduces racial resentment compared with those who are not unionized under contexts where there is a minimally democratic socio-political culture. But, again, whether that would occur in class-specific political institutions is a matter of concrete experimentation, and such experimentation should be designed in such a way that is explicitly aimed at reducing the likelihood of these fundamental problems. Yet, if class-based institutional forms would indeed impede the emergence of other important forms of solidarity, and/or deepen oppressive social divisions, that would be a strong argument against their desirability – since they would just politically disempower many people in different ways, and thus betray the very purpose that these institutions have. In turn, if such would practically be the case, this would weaken the force of the general argument of progressive material constitutionalists for the *Institutionalized Class Differentiation Thesis*, maybe to the point in which it should be rejected altogether. But, again, I believe that there are no strong reasons to believe this would be the case. This completes my general characterization of progressive material constitutionalism. The next two chapters explore more particular interpretations of how it should be understood.

## Chapter 3

### *Plebeian Constitutionalism: The Regulation Model for Anti-Oligarchization*

#### **Introduction**

Having explained the general motivations for endorsing progressive material constitutionalism, its core normative and institutional content (contained in what I called the *General Alternative*), and the broad benefits that this could bring about (particularly through class-specific political institutions), the following two chapters focus on analysing two different recent interpretations of such a conception of material constitutionalism that fulfil its conditions: *plebeian* and *socialist* constitutionalism. This chapter assesses the former interpretation by critically reconstructing its main theoretical premises and institutional recommendations, to show both its strengths, but also its weaknesses. I will argue that plebeian constitutionalists' recent contributions are distinctive and important. They have taken seriously the significant negative impacts of wealth inequality over constitutional orders and oligarchization. Authors have also correctly established the need to correct these tendencies, not *only* by employing a justice-informed demand for economic redistribution and securing social rights, but *also* by constitutionalizing empowered class-specific political institutions – or, in their language, “plebeian” institutions. Yet I disagree with some of the core premises of this approach. Especially, I oppose the view that a commitment to political realism entails maintaining that modern constitutional systems are *bound* to oligarchization, and the correlated claim that the main aim of plebeian institutions must be to *regulate* class conflict, instead of explicitly helping to progressively *erode* the basis of such conflict – a reason why I label this approach the *regulation model for anti-oligarchization*. I will suggest that this aspect is theoretically problematic and empirically unfounded, in fact triggering the risk of inappropriately *entrenching* class divisions that are historically specific, wrongful and, in principle, avoidable – what I call the *Class Divisions Entrenchment Objection*. And I shall argue that this is a sufficient reason to look for another conception of progressive material constitutionalism.

Before proceeding to explain the chapter's structure, three sets of comments are due. The first is conceptual, related to the meaning of the label plebeian constitutionalism and its place within

democratic and constitutional theory. One reason concerns its terminological ambiguity. Representatives of this literature refer to it interchangeably as “plebeian constitutionalism” (Vergara, 2020a, 108), “plebeian democracy” (Mulvad & Stahl, 2019, 592), “plebeian republicanism” (O’Shea, 2022, 20), and “democratic republicanism” (McCormick, 2019, 124), without a clear conceptual explanation as to *what* these terms contribute to specifying its meaning. More counterintuitively, prominent champion of plebeianism Camila Vergara has recently claimed that plebeian constitutionalism is a form of “republican constitutionalism,” a view that, she claims, is supposed to be *opposed* to what she calls “democratic constitutionalism” (2022b, 27). But, in my view, it is more reasonable to say that plebeian approaches should be considered an *especially democratic* form of democratic constitutionalism, and not an alternative to it. Hence, for reasons of simplicity, but also because I consider that it is the term that better captures the view – i.e., to *constitutionally* empower those who are ruled but do not rule, that is, ordinary citizens who are nonwealthy – I will stick with the label *plebeian constitutionalism*. I also believe that plebeian constitutionalists tend to incorporate popular democratic normative principles that are not particularly *republican*, as often there are concerns that do not hinge directly on the principle of freedom as non-domination. Again, I think that ‘constitutionalism,’ understood as a variety of accounts aiming at defining the ‘power map’ according to which government and its governing institutions should be ordered to be normatively legitimate (e.g. Tushnet, 2020, 102), is more neutral than republicanism as a general approach in political theory. It is also better suited to address the issues that concern me in this work.

A second, related point regards the degree of overlap between plebeian constitutionalism and some varieties of radical republicanism, particularly socialist republicanism – a tradition which is, as we shall see, closely related to my preferred conception of how to theorize the meaning and justifiability of class-specific political institutions. There is a recent tendency amongst plebeian constitutionalists to conflate these two approaches (e.g., Guerrero et al. 2022; Mulvad & Popp-Madsen, 2022; Popp-Madsen, 2022, 2; Vergara, 2022a). But I think we must resist it. The main reason is that, whilst socialist republicans are, *in principle*, committed to strongly opposing capitalist class relations and dynamics (and thus place significant emphasis on *structural* forms of oligarchization), there is robust evidence suggesting that plebeian constitutionalists are *not*. And whilst the former family of theories is committed to overcoming class divisions, the latter maintains that such divisions are “unavoidable.” Hence, if we are to reconstruct plebeian constitutionalism as a *distinctive* approach in progressive material constitutionalism, it should be

distinguished from socialist republicanism in particular, and socialist constitutional thought more generally.

Further, I want to clarify that there are some elements of plebeian constitutionalists that I will not discuss, thus leaving my reconstruction of the literature incomplete. Many plebeian constitutionalists have focused on vindicating the place of several important figures in the history of political thought as being part of this tradition, exploring their ideas, corresponding socio-political contexts, and so on.<sup>56</sup> I find this historical endeavour extremely important, but here my focus is on an analytically-oriented reconstruction of the desirability of contemporary plebeian constitutionalist theory. Second, as I associate plebeian constitutionalism with an explicitly institutionalist endeavour, I will not consider contributions in the literature that, like many so-called radical democrats (e.g., Breugh, 2016; 2019; Negri, 2009; Rancière, 2010), reject formal political institutions as sites for democratic life and action – a charge that I also levelled against “anarchist” approaches in political theory and practice (e.g., Graeber, 2010). These contributions cannot be *constitutionalist*, by definition, and hence are irrelevant to my analysis. Relatedly, I will not discuss plebeian constitutionalist democratic innovations holding *non-binding* constitutional powers (e.g., Arlen, 2022; Bagg, 2021), as they fall outside the scope of the problems I want to explore here.

Finally, it is important to mention that my critique of plebeian constitutionalism is *sympathetic*, in the sense that I do not contend the validity of the overall project its champions are invested in, nor *all* the premises that they adhere to. My aspiration is to get a better rationale that satisfies core plebeian constitutionalist intuitions whilst avoiding their conservative bias. As such, one could also say that I provide a fairly *internal* critique of plebeian constitutionalism, to wit, that, *if this approach aims to truly satisfy the demands of the General Alternative*, it should not adhere to some of the premises that it currently holds. But many of the elements in the core of their empirical diagnoses and normative recommendations are not the object of my critique – indeed, the intention goes in the opposite direction and, accordingly, it is pitched as a friendly, constructive criticism. Along similar lines, I will bracket several normative objections that other egalitarians have put forward against the idea of constitutionalizing class-specific political institutions as such – e.g., that, because these institutions explicitly transgress core democratic values such as those of formal political equality and impartial deliberation, as well as potentially constitute sources of unchecked,

---

<sup>56</sup> See McCormick (2011) for sustained discussion on Machiavelli, Vergara (2020a) on the Marquis de Condorcet and Rosa Luxemburg, and Arlen (2022) on John Stuart Mill’s “plebeian liberalism.”

factional autocratic power, they should be rejected. All of these are objections that I take very seriously, and I will dedicate chapter 5 entirely to discussing them. For the moment I shall set these aside.

The chapter proceeds as follows. Section 3.1. begins reconstructing the reply that plebeian constitutionalists offer to the three main defining conditions of material constitutionalism – as established in chapter 1, and which amounts to their interpretation of the main tenets of progressive material constitutionalism. It also exemplifies this approach by examining John P. McCormick’s “People’s Tribune” institutional proposal. Section 3.2. explains the *Class Divisions Entrenchment Objection*. I then proceed, in section 3.3, to explore two ways in which plebeian constitutionalists could reply to it, that is, the *Relative Irrelevance Reply* (sub-section 3.3.1) and the *Second-Best Reply* (sub-section 3.3.2) – which I reject. I conclude that we must explore a different interpretation of progressive material constitutionalism.

### **3.1. Plebeian Constitutionalism: Regulating Class Conflict Through Constitutional Means**

#### *3.1.1. Plebeian Constitutionalism*

A good way to start reconstructing plebeian constitutionalism is to flesh out its allegiance to the *Materialist Desideratum* and its general rationale for the *Institutionalized Class Differentiation Thesis* – particularly referring to conditions (a) and (b). The first aspect in this respect can be summarized in their shared rejection of the liberal-proceduralist claim that “... a set of procedural mechanisms and constraints are *sufficient* institutional conditions for the rule of law to guarantee and promote liberty [for all]” (Vergara, 2020a, 45), arguing that a satisfactory, realistic and materialistic approach should rather recognize that constitutions are “... organizations of power that tend to create and reproduce economic and social hierarchies” (*Ibid*, 5; also Arlen, 2022, 10; Bagg, 2021, 2; McCormick, 2019, 124; Mulvad & Stahl, 2019, 595). Here, overlapping with the analyses in chapters 1 and 2, the point is that the material context in which constitutional orders take place (especially the concentration of socioeconomic power and great wealth inequality) should be a primary concern for constitutional inquiry and order, and that such a turn involves the departure from core premises of modern constitutional thought. Thus, plebeian constitutionalists reject the

liberal narrative that the “... “sovereign people” is a monolithic and socioeconomically anonymous collection of individual citizens – including elites – all of whom enjoy formal equality under the law” (McCormick, 2011, 13). Indeed, they go as far as calling this individualist pluralism the *cardinal sin* of liberal-democratic theory and practice (Mulvad & Stahl, 2019, 593). Thus, taking Machiavelli as a central theoretical referent, authors claim that we should recognize the greater amount of political power that *elite citizens* (the ruling ‘few’) have at the expense of ordinary, nonwealthy citizens (i.e., the ruled ‘many’) – which, in virtue of their political disempowerment, can be better described as *second-class* citizens within the political scheme.<sup>57</sup> And they defend the claim that circumstances of oligarchization are relevantly *explained* by the supposed class-neutrality of our modern constitutional orders, that is, *because* ordinary people lack access to *their own* institutional platforms through which they can defend their interests against the domination of the few (Hamilton, 2018, 478). Consequently, such a situation grounds a powerful claim for the constitutionalization of class-specific political institutions enshrining the political power of the many (i.e., plebeian institutions). Call it the *Plebeian Constitutionalist Interpretation of the Institutionalized Class Differentiation Thesis*:

*The Plebeian Constitutionalist Interpretation of the Institutionalized Class Differentiation Thesis.*

Wealthy members of society, or those holding offices bestowed with formal political power (the few), should be excluded from the internal workings of some politically authoritative institutions – that is, empowered *class-specific political institutions*. This would allow nonwealthy citizens (the many) to regain control over political structures, advance their interests, and increase substantive democratic equality.

---

<sup>57</sup> It is in virtue of this second-class citizenship status that these citizens are, in this literature, rendered *plebeians*. The use of the term ‘plebeian’ is a result of the impact of the already mentioned impact of Machiavelli’s thought over this strand of constitutional theorizing – see particularly John P. McCormick’s (2011) influential interpretation. McCormick emphasises Machiavelli’s praise for plebeian tribunes as the main institutions responsible for Rome’s prosperity in the *Discourses on Livy* – Book I, Chapter 5 (2003 [1531], 31-32) – and so the idea that ordinary people are the proper guardians of liberty. Thus, the plebeian subject, or ‘non-elite’ class, is commonly associated with an ambiguous stratum composed of nonwealthy, ordinary citizens that affront the threat of oligarchic domination and the reluctance to politically dominate others, which henceforth make them better suited to fight oligarchic domination (Arlen, 2019, 409). I will clarify these aspects in a moment.

The rationale presented so far is admittedly very general, and more needs to be said to get a fuller understanding of the distinctiveness of this thesis. More particularly, what we need is to flesh out (1) the theory of group conflict that grounds its understanding of oligarchization; (2) the main reasons behind its institutionalist character, as well as the positive features that it assigns to class-specific political institutions; and (3) its conception of the democratic role and legitimacy of these institutions.

Taking up on (1), the first thing to note is that plebeian constitutionalists explicitly endorse an *ambiguous* definition of *who* is to be considered ‘plebeian’ – which is said to be a “...more inclusive [category] than the industrial working class, the “proletariat”, preferred in Marxist orthodoxy, yet narrower than “the people” [preferred in liberal thought]” (Mulvad & Stahl, 2019, 592-59). This lack of specificity, by implication, affects the definition of the ‘few.’

Still, two main defining conditions do stand out in the plebeian constitutionalist literature. The first is that all plebeian citizens are taken to be vulnerable to the threat of oligarchic domination in a non-class-specific sense – namely, to be vulnerable to the political domination by elites who, in virtue of their *formal* positions of power, can use their privilege and twist legal rules and institutions to their advantage. In this reading, then, the ‘few’ are usually thought to comprise a coalition composed of agents such as “... public officials and their staff, lobbyists, judges, the military commanders, and religious leaders” (Vergara, 2020a, 244). But most plebeian constitutionalists think that such a condition is inadequately narrow and underspecified (Bulmer & White, 2022, 288). Thus, in line with my general interpretation of progressive material constitutionalism, they claim that we should interpret this divide and the harms associated with it in socioeconomic terms. In this reading, the ‘few’ are associated, above all, with a group composed of *rich* and/or affluent agents, while ordinary citizens with a group composed of *poor* and/or non-affluent agents – varying this distinction by using different wealth or income-based thresholds, say, equating elites to the wealthiest 10% of a relevant population (e.g., McCormick, 2011) or the wealthiest 25% (e.g., Arlen, 2019), and the ‘many’ to the poorer rest. It thus sides with stratificational analyses of social class. Furthermore, the condition of oligarchic harm uses *instrumentalist* and *agential* elements to understand political oligarchization, which is theorized as an *exercise* of power by wealthy elites, as individuals or coalitions of individuals, over political institutions and processes.

This brings us to the second claim, (2), which spells out the institutionalist nature of plebeian constitutionalism and its virtues – i.e., why it maintains that the exercise of the political power of

the many should not be confined to exceptional moments of, say, popular resistance, but rather as a *permanent* feature of the constitutional scheme enshrined in the guise of progressive, formally authoritative political institutions of exclusive access for them (Arlen & Rossi, 2021, 14; Hamilton, 2018; McCormick, 2011, 13; Mulvad & Stahl, 2019, 594). Roughly, the idea is that such an institutionalist condition would materialize (at least) the following three general democratic virtues, which I also discussed in the previous chapter. The first is that, as already suggested, these institutions would satisfy the right of nonwealthy citizens to resist oligarchic domination. Further, they would *stabilize* the political power of the many and help to redistribute it in their favour, against the backdrop of institutional settings that *already* offer great opportunities to elites to dominate political processes and outcomes.<sup>58</sup> In light of this, as the example that I shall provide in the next section will illustrate, plebeian institutions are thought to enhance the *negative* democratic power of the many to effectively control political elites and hold them to account, that is, to be a relevant check and counterpower to the standard setup of representative government thus avoiding plutocratic deviations (Green, 2011, 185; McCormick, 2011; Vergara, 2022a). Third, plebeian constitutionalists argue that the *Institutionalized Class Differentiation Thesis* would reasonably promote plebeians' democratic agency, for example, by increasing their participation in the political system (Vergara, 2022b, 26; McCormick, 2007, 117), or enhancing their class consciousness and mutual solidarity (McCormick, 2012, 92; Mulvad & Stahl, 2019, 598). Moreover, recognizing the conflict between the few and the many on a *constitutional* level could have spill-over effects on the polity more broadly, such as amplifying the socioeconomic identity of the latter – in the sense of understanding themselves as economically disadvantaged and politically disempowered – making their collective organization stronger, and less prone to following pro-oligarchic incentives when acting as representatives in plebeian institutions.

The last dimension (3) regards the role and democratic legitimacy of the *Plebeian Constitutionalist Interpretation of the Institutionalized Class Differentiation Thesis* – which is related to defining condition (c) in the context of material constitutionalist analysis. To understand this point, it is fundamental to introduce the idea that, in virtue of its “realist” credentials, plebeian constitutionalists claim that the conflict between the few and the many should be taken – *pace* McCormick's agnosticism about

---

<sup>58</sup> To put it differently and related to what I have argued in sub-section 2.2.2.1., the point is that, in order to get a more effective expression of popular power and resistance, state-led forms of *affirmative action* to the benefit of the many against the rule of the few are justified and required (McCormick, 2007, 125; 2011a, 187).



it (2011) – as a *socio-ontological division* (Vergara, 2020a, 242), one that is said to be “...factual and unavoidable” (Vergara, 2020b, 236), *inescapable* (Arlen, 2022, 2; Green, 2016, 84) and of a “... transhistorical and transnational [kind]” (Vergara, 2022b, 27). They usually ground this claim by appeal to Robert Michels’ iron law of oligarchy (Vergara, 2020a), generalizations based on past historical experiences (McCormick, 2011), or the idea that in every “... reasonably complex society, some people will always have significantly more power than others” (Bagg, 2021, 7; Bagg, 2018, 895). Oligarchization is thus taken as an actual threat in *all* socially feasible scenarios available for us to achieve. The consequences of this idea are profound. For example, the *role* of plebeian institutions is limited to the *regulation* of class conflict (Arlen & Rossi, 2020, 19; Mulvad & Stahl, 2019, 597; Vergara, 2020a, 113; Vergara, 2022b, 40) – since attempting to *overcome* such conflict would be an unrealistic and utopian task, in a pejorative sense.<sup>59</sup> Moreover, they are also theorized as end-state, *permanent* arrangements. For, provided the truth of the socio-ontological divide between the few and the many, plebeian constitutionalists argue that the democratic legitimacy of constitutions should be crucially decided “... depending on the role it serves in the material conflict between domination and emancipation in society” (Vergara, 2022a, 9) – notwithstanding the relative importance of other more procedural conditions, such as basic rule of law requirements, checks and balances, and so on.<sup>60</sup> But a constitution successfully *managing* that conflict, albeit involving institutionalized class-based exclusions and divisions, should “... be considered well-ordered and free” (Vergara, 2022b, 44). I infer that plebeian constitutionalists believe that class divisions are *compatible* with a free polity, that they *can* be effectively regulated and, consequently, that exclusionary plebeian institutions should be part of a well-ordered society. This completes my general reconstruction of the central tenets of the plebeian interpretation of progressive material constitutionalism.<sup>61</sup>

---

<sup>59</sup> Or, as Samuel Bagg claims, “...the best hope for [people] with egalitarian commitments [should be] to minimize the degree and permanence of the advantages possessed by whoever [...] elites turn out to be” (2021, 7).

<sup>60</sup> Put differently, against the backdrop of the *fact* and pervasiveness of material conflict, plebeian constitutionalists endorse a “... relative consequentialism” (Vergara, 2020a, 105) regarding the democratic legitimacy of legally established systems of political institutions, one that prioritises achieving egalitarian outcomes and the collective empowerment of citizens to the satisfaction of proceduralist requirements.

<sup>61</sup> Before proceeding, I think that it is necessary to mention that my reconstruction is mainly focused on the strictly ‘constitutional’ dimension of plebeian constitutionalist theory, and not on the economic and distributive conditions that they think are required for achieving a well-ordered society. In this regard, plebeian constitutionalists usually maintain that such a society requires securing the *material independence* of

### 3.1.2. Exemplifying Plebeian Constitutionalist Institutions

With these elements in mind, I want to briefly exemplify how the *Plebeian Constitutionalist Interpretation of the Institutionalized Class Differentiation Thesis* could be more concretely applied to issues of institutional design, and describe, in general terms, probably the most influential recommendation in the recent literature: John McCormick’s proposal to constitutionalize a ‘People’s Tribune’ (2011) in the context of the US. Of course, plebeian constitutionalists have proposed many other class-specific democratic innovations, varying their composition criteria, selection method, and/or the scope of their constitutional powers, amongst other aspects of institutional design.<sup>62</sup> But here I choose to describe McCormick’s only, both in virtue of its centrality in contemporary plebeian constitutional thought and as a matter of illustration.<sup>63</sup>

---

all citizens, which surely requires a high degree of distributive equality (Mulvad & Stahl, 2019, 596). Some of the policies they mention to realize such an end are substantive forms of universal basic income (Bagg, 2018, 902), guaranteed employment (Mulvad & Stahl, 2019, 597), economic floors and wealth ceilings (Casassas & De Wispeleere, 2016), and mechanisms of workplace democracy (González-Ricoy, 2014).

<sup>62</sup> For example, retaining wealth-based exclusion as a composition criterion, and sortition as a selection method, Gordon Arlen and Enzo Rossi (2020) have recently proposed a more constitutionally empowered, wide-ranging system of tribunates reviewing different domains where the influence of oligarchic forces is especially concerning and likely – particularly elected representative’s performance, direct lobbying, indirect lobbying, the influence of mass media, and that of elite philanthropists. Lawrence Hamilton (2018), on a different note, has proposed an election-based tribunitian model where “... the least powerful groups or classes in society would have exclusive rights to elect at least one-quarter of representatives for the national assembly or parliament, alongside the normal, open-party dominated processes of electing representatives” (489). Another important example is Camila Vergara’s (2020a) recent model which, although not class-based, proposes to constitutionalize a tribunitian institution based on a system of participatory assemblies, holding constitutional powers such as vetoing legislation, and even more demandingly the capacity to initiate processes of constitutional renewal. For proposals with lesser degrees of constitutional authority, see Smith and Owen’s (2011) application of class-specific criteria to different democratic innovations, such as consultative mini-publics, direct legislation and participatory budgeting; Jörke’s (2016) proposal for class-specific referenda; or Arlen’s (2022) citizens’ tax juries.

<sup>63</sup> It is relevant to clarify that this does not mean that I prefer this institutional proposal over other models. I am also not making claims regarding the short- or medium-term feasibility of materializing it nor about the strategic conditions required to maximize such chances – e.g., to answer the question of which popular movements and progressive political parties could push for constitutionalizing plebeian institutions vis-à-vis, say, reasonable elite resistance against these efforts (Arlen, 2022; Mulvad & Stahl, 2019). Rather, following McCormick’s suggestion, the point is to consider this model “... for critical but not necessarily practical purposes” (*Ibid.* 183), as a device aimed at expanding our political imagination regarding what institutionalizing the popular power of the many against oligarchic domination could, or should, mean.

In terms of composition and selection method, McCormick specifies that the People's Tribune would be constituted of fifty-one members selected by lot from the total population every year, excepting the wealthiest 10% of the US population as well as "... anyone who has held a major municipal, state, or federal office, elected or appointed, for two consecutive terms at any time in their life" (2011a, 183). Members of this institution would have the duty "...to study and discuss the business of the federal government, five days a week, six hours per day" (*Ibid.* 184) and be paid for that work. They would also have the power to make the wealth threshold for participation *more exclusionary* upon a two-third favourable vote amongst members of the Tribune, which would then need to be approved in a national referendum – a mechanism that further helps to avoid a charge of arbitrariness regarding the exclusion of the wealthiest 10% from its inner-workings (*Ibid.* 185). Regarding its constitutional powers, McCormick proposes that its members would have (1) the ability to *veto* one piece of congressional legislation, one executive order, and one Supreme Court decision over a year, upon majority vote – although the number of vetoes could be increased if decided by two-thirds of the current Tribune and the House of Representatives. They would also be conferred with (2) the power to *call one national referendum*, upon majority vote, over any issue they wish – constrained by anti-money-in-politics policies and supported by televised national debates. They would furthermore be able to, upon a minimum of the three-quarters vote, (3) *initiate impeachment proceedings* against one federal official from each of the three branches of government during their term of office (*Idem*). Yet, and very relevantly, McCormick's model also gives "... the tribunes [...] the power to initiate the constitutional expansion of their own power as a way of potentially compensating for these weaknesses down the road" (2012, 99) – against the charge that such powers would be too moderate to effectively counteract the oligarchic tendencies of representative governments (e.g., Rehfeld, 2011). All in all, constitutionalizing an institution of this kind, McCormick argues, would give ordinary people a better capacity to resist the dominance of wealthy elites over politics and better materialize the democratic demands of substantive political equality.

McCormick's People's Tribune is an exemplary institution satisfying the benefits plebeian constitutionalists attribute to class-specific political institutions. It helps to redress the lack of access nonwealthy citizens have to the political scheme. It also *stabilizes* their capacity to resist oligarchic domination, provides formal *negative powers* to check it, and *positive* opportunities to realize more egalitarian outcomes – both in their ability to call referenda as a result of their deliberations directly informed by class-specific concerns, and/or the reasonably solidarity-enhancing effects that publicising the conflict between the few and the many could bring about.

It is also significantly flexible in terms of reducing the scope of who can participate in it and potentially increasing its constitutional powers – meaning that, if perceived to be too weak in its capacity to produce the effects it should be generating, changes to its structure are not only allowed but, as I take it, encouraged. McCormick’s institutional model is furthermore not presented as a *panacea* for realizing and maintaining the requirements of meaningful democratic equality, but rather as a central means for politically empowering the economically dispossessed in the context of the oligarchization of constitutional orders.<sup>64</sup> Similarly, its general aim is to institutionalize the conflict between the few and the many and channel it in favour of the latter, but not to eliminate such conflict in itself – which is a token plebeian constitutionalist perspective. Accordingly, I think that its popular democratic effects are intuitively convincing; they would reasonably empower common citizens and their capacity to advance their class grievances in a meaningful way (Arlen & Rossi, 2020, 14). Progressive material constitutionalists have good reasons to favour institutions of such kind.

---

<sup>64</sup> A related concern is that, against the backdrop of the prevalence of structural forms of oppression that are not reducible to “class” considerations, the People’s Tribune seems ill-equipped to mitigate the effects of these prevalent norms and indeed reproduce them. Plebeian constitutionalists are not blind to concerns of this kind, though – as is the case of any plausible interpretation of progressive material constitutionalism. One example, regarding patriarchy, is the fact that they have proposed to incorporate gender-parity rules for the composition of class-specific political institutions, differentiated payments for service, and anti-discriminatory provisions regulating conduct in deliberative assemblies (McCormick, 2012, 113; Vergara, 2020a, 246). While these measures are not always enough to neutralize the effects of patriarchy in democratic deliberation, it is nevertheless important to mention them since, otherwise, readers might get the impression that plebeian constitutionalists’ concern with oppression engages in a form of class reductionism. It does not.

### 3.2. The Class Divisions Entrenchment Objection

Suppose that you are broadly convinced by the plebeian approach to progressive material constitutionalism. Furthermore, as stipulated in the Introduction of this chapter, you are not exercised by token liberal constitutionalist concerns, such as the fact that endorsing class-specific political institutions entails the idea of a constitutional order partially transgressing formal political equality, that plebeian institutions could be insufficiently impartial, or that, if highly authoritative, they could constitute sources of unchecked, factional autocratic power. The question now becomes: are there other important reasons, particularly of a popular democratic kind, in virtue of which this justification should be rejected?

I believe that there are. Although I am sympathetic to the idea that *some interpretation* of the *Institutionalized Class Differentiation Thesis* is desirable, I share some of the comments on the plebeian constitutionalist interpretation that there is “... *something* unattractive and indeed undemocratic about a scheme that pits representatives of the wealthy against representatives of the poor, reifying class conflict” (Landmore, 2020, 50 – my emphasis), and thus involving a disturbing form of “... class essentialization” (Landmore, 2022, 1063) seemingly incompatible with the *General Alternative*. The remainder of this chapter explores my own interpretation of what makes this critique intuitively appealing. More precisely, I take the intuition in question to convey a negative reaction to plebeian constitutionalists’ supposedly “realist” premise that the conflict between the few and the many should be conferred with a *socio-ontological*, unavoidable status, and the correlative claims that follow from this premise regarding the regulation-oriented role and democratic legitimacy of class-specific political institutions. For one, if we are convinced by the argument that these are an attractive form of state-led affirmative action against oligarchization, it is unclear *why* these institutions should not aim at helping to *overcome* the conditions of unjustified social privilege, much like any other form of affirmative action.<sup>65</sup> In contrast, since the erosion of the *causes* of oligarchic domination is neither a practical priority of plebeian political institutions nor a condition for their normative justifiability, the plebeian constitutionalist interpretation of the *Institutionalized Class Differentiation Thesis* is at risk of problematically entrenching historically-specific, wrongful

---

<sup>65</sup> Put differently, if we can identify the causes of conflicts leading to oligarchic harm and arbitrary rule (in this case, the fact that some agents can amass a certain amount of wealth sufficient to manipulate, as a coalition, the political system in a variety of ways), it is unclear why “... we should settle for channelling and dealing with such conflicts legitimately [...] rather than being more radical in seeking to eliminate such conflicts from the roots” (Ypi, 2015, 222).

class relations. For example, by constitutionally recognizing the unavoidable reality of oligarchic conflict and its categories (e.g., the very existence of “wealthy” and “nonwealthy” people), it could unduly reinforce the public belief that our political systems necessarily involve the existence of *substantively* wealthy and powerful social groups made by a few.<sup>66</sup> It would also mean that egalitarians should surrender the hope of fully realizing the democratic demands of universal formal political equality, and abandon principles that, to many, *are* central to our political ideals. All these reasons generate what I call *The Class Divisions Entrenchment Objection*:

*The Class Divisions Entrenchment Objection.* Although there are substantive egalitarian reasons to accept the *Institutionalized Class Differentiation Thesis*, the idea of constitutionalizing class-specific political institutions as permanent features of our political systems is vulnerable to essentializing and/or entrenching objectionable, historically-specific class divisions – those very divisions that triggered the need for class-specific political institutions in the first place. It would also preclude the realization of more inclusionary arrangements to emerge under better conditions. These conclusions are undesirable from an egalitarian point of view, suggesting that we should abandon the *Institutionalized Class Differentiation Thesis*.

As it should be obvious, I think we should not downplay the force of this objection. I also think that it is possible to avoid it. In the next chapter my argument is that their goal can be achieved by conceiving the role of class-specific political institutions in terms of helping to erode, on a *transitional basis*, the unjust conditions that trigger the need for them in the first place, thereby creating space for more inclusionary institutions to emerge. But, before explaining the content of

---

<sup>66</sup> It is important to clarify that it is not my suggestion that *all* wealth differentials are always problematic and that a better account of progressive material constitutionalism should be committed to a principle of strict distributive equality – since, for example, these inequalities could be the reflection of voluntary choices and differential preferences for leisure that are intuitively fine (Dworkin, 1981; Cohen, 1989). While here I do not want to enter into debates in contemporary theories of distributive justice, the relevant intuition in this context is that the distributive inequalities, and class relations under consideration, are problematic when they are *significant* in the sense of producing objectionable power relations and hierarchies (e.g., Anderson, 1999; Wolff, 2019). Consequently, as I will argue below, my view is that, under situations where such relations and hierarchies are absent, applying categories like “wealthy” and “nonwealthy” groups to describe such situations does not make much sense – and that, if we naturalize these categories, it is plausible to believe that we are also helping to reproduce and entrench such wrongful relations.

this alternative view, I want to consider how plebeian constitutionalists could reply to the *Class Divisions Entrenchment Objection*. The next section explores two possible routes that plebeian constitutionalists could pursue to that effect.<sup>67</sup>

### 3.3. Two Plebeian Constitutionalist Replies

#### 3.3.1. *The Relative Irrelevance Reply*

The first plebeian constitutionalist reply consists in arguing that the *Class Divisions Entrenchment Objection*, while correctly noting that class divisions *are* worrisome in some contexts, overlooks that they can be *far less* worrisome in scenarios where some particular political and socioeconomic conditions obtain, and where the many cannot be said to be relevantly disempowered. Consequently, the idea is that the permanence of class divisions is acceptable *only* in the second set of scenarios, and that “entrenching” them through their constitutional recognition is, in such a context, normatively irrelevant, or not *that* bad. Thus, this objection would represent a rather *dramatic* reaction to the permanence and constitutional recognition of such divisions and not an interesting argument against it – call this the *Relative Irrelevance Reply*. As I conceive it, the argument reminds us of the expected outcomes from an effective functioning of class-specific political institutions, the way in which plebeian constitutionalists theorize the meaning of ‘class conflict,’ and the distributive conditions required to secure the degree of material independence that all citizens must have in a free republic – showing that, once these elements are considered, the *Class Divisions Entrenchment Objection* loses significant force.

Starting with the problem of class conflict, recall that plebeian constitutionalists locate the value of institutions such as the People’s Tribune in their expected capacity to stably empower ordinary citizens to counteract oligarchic shifts, promote their interests, and increase their awareness as a vulnerability group to oligarchic domination. Now, imagine that these institutions fulfil their promises. The constitutional order would be significantly less oligarchic, and its outcomes would be oriented to the interests of plebeians – e.g., promoting pro-redistributive policies fighting the concentration of wealth (Mulvad & Stahl, 2019, 597). Consequently, the gap

---

<sup>67</sup> I discuss these objections in a more summarized way in Harting (2023).

between the few and the many (in terms of socioeconomic power) would be considerably reduced – and so the capacity of the latter to influence the political system. This claim is connected with dimension (2) of plebeian constitutionalism, that is, that such a view combines a *descriptive*, stratificational conception of class that does not associate principled moral wrongs with it (but rather *contingently* to economic maldistribution) with an instrumentalist, agent-based theory of social conflict – both phenomena that would be, as noted, highly mitigated if plebeian institutions are successful in fulfilling their ends. This reading of class conflict is then supported by the fact that plebeian constitutionalists do *not* think that constitutionalizing class-specific political institutions is a *sufficient* condition for achieving a free republic, establishing that it must also come with a robust set of policies securing the ‘material independence’ of all citizens – something that ties their approach to demanding requirements of distributive justice, as explained in footnote 61. Yet, embracing their conception of politics as permanent contestation and the ever-present oligarchic threats, plebeian constitutionalists will claim that forms of institutionalized class differentiation will still be necessary, even in contexts like this (Green, 2016). And so, although there will be a constitutional recognition of ‘classes’ within such a society, this does not involve anything particularly problematic – because the correlated wrongs associated with them are, *ex hypothesi*, strongly tamed. Hence, if *some* class divisions happen to be ‘entrenched’ – say because public belief in the socio-political necessity of the category of ‘wealthy’ agents is reinforced – that phenomenon does not seem important from the point of view of the relevant normative standards. It follows that the benefits of having permanent class-specific political institutions outweigh the concerns related to the *Class Divisions Entrenchment Objection*.

But I believe that there are important considerations casting doubt on its plausibility. Essentially, I contend that, although the *Relative Irrelevance Reply* correctly singles out some of the benefits of class-specific political institutions and their capacity to diminish the oligarchic status of political systems, it does not elaborate sufficiently on fundamental issues explaining the force of the *Class Divisions Entrenchment Objection*. One reason is that the distributive conditions which are described by it are not only severely under-specified, but one wonders why class-specific political institutions are at all needed given that state of affairs. The original statement of the *Institutionalized Class Differentiation Thesis* works under a highly nonideal presumption of *wealth-generated political privilege*, namely, that some agents have an *unacceptable degree* of political power as a result of how society produces, distributes and allocates its wealth. Yet this presumption is not likely to be materialized in the more optimistic, ideal situation depicted above, where citizens’ material independence is widespread, significant, and stable. To be sure, I do not want to commit



to the claim that such a society is free from *any* form of class conflict. My point is rather that it does not appropriately capture the *kind* of stratified society that class-specific political institutions reasonably aim to fight, and the class divisions that they should not entrench. *That* type of stratified society *is* normatively objectionable on egalitarian grounds, and people committed to egalitarianism are right to oppose politically defeatist policies that take its reality at face value and risk perpetuating it.

This argument is reinforced by the idea that the *Relative Irrelevance Reply* relies on an insufficiently sophisticated theory of class conflict that brackets important features of class relations in the context of oligarchization. By understanding social class in stratificational and distributive terms *only*, plebeian constitutionalism obscures the degree to which constitutionalizing class-specific political institutions could entrench underlying objectionable class *relations* stemming from the prevalent property regime which sustains the distribution of valuable economic resources – e.g., relations of effective power between bosses and employees, or capitalists and workers, etc. But many of these relations plausibly constitute, at least in general terms, instances of economic oppression, exploitation, and domination, even in a society satisfying the aforementioned policies – as explained in chapter 2. In turn, since the ‘class phenomenon’ is not fully grasped by descriptive, stratificational analysis, but rather must be sensitive to relations of unacceptable economic and political power over individuals and groups, including political institutions, it becomes an object of normative concern. This means that besides naturalizing class-related categories such as ‘wealthy’ or ‘nonwealthy’ agents, authoritative political institutions like the People’s Tribune could entrench historically contingent *economic power relations* of class domination that foreground them. A republic including forms of institutionalized class differentiation involving effects like these cannot be said to be well-ordered, nor free.

These considerations regarding class are also expressed in the plebeian constitutionalist overt focus on instrumental forms of oligarchization to the detriment of its structural dynamics. As I hope to have convincingly argued, market imperatives and forms of investment dependence create important biases on the part of institutional systems towards the satisfaction of the interests of the ‘few’ – meaning that oligarchization can happen in a more automatic sense than the more agential account of plebeian constitutionalists. To the extent that these constraints are significant and constitute an in-built class bias on the part of state institutions to defend the interests of the few, this should be a real concern in the context of an institutional struggle against oligarchization. So, if forms of institutionalized class differentiation do not directly problematize the *sources* of

plutocratic power – i.e., the institution of private property rights over socially necessary economic resources – and actively engage in a political project to erode them, instead of treating them as permanent features of our political orders, their democratic justifiability *must* be affected. Again, arguing that the permanence of class divisions is normatively irrelevant even under optimistic contexts as the one preferred by the standard plebeian constitutionalist account is not a compelling reply to the *Class Divisions Entrenchment Objection*. A different rationale is needed.

### 3.3.2. *The Second-Best Reply*

But the failure of the *Relative Irrelevance Reply* does not refute plebeian constitutionalism. Indeed, another option open for the plebeian constitutionalist is to bite the bullet of the *Class Divisions Entrenchment Objection* but deny that its costs outweigh its benefits. Put differently, the idea is that, although an oligarchy-free constitutional order would certainly be a best-case, desirable goal, it is nevertheless unfeasible to achieve it. Hence, aspiring to such an order would betray the very realism to which plebeian constitutionalism is committed. So, while their interpretation of the *Institutionalized Class Differentiation Thesis* logically entails the *Class Divisions Entrenchment Objection*, which *does* involve worrisome consequences, trying to materialize this interpretation *is* a second-best, namely, a preferable choice when compared to having a political system lacking class-specific political institutions and where the many are significantly disempowered within it. Call this the *Second-Best Reply* to the *Class Divisions Entrenchment Objection*. How could plebeian constitutionalists substantiate it?

As mentioned in section 3.1, besides the reliance on historical generalizations (McCormick, 2011), the most common version of *Second-Best Reply* that plebeian constitutionalists advance consists of claiming that the conflict between the few and the many has a *socio-ontological status*. In virtue of such reason, then, the idea is that overcoming this social division is just politically impossible. This means that they view oligarchization in terms of what Lawford-Smith calls a *hard feasibility constraint*, that is, as falling within the domain of “... facts about what is logically, conceptually, metaphysically, and nomologically impossible, and these serve to limit the option sets available to agents” (2013, 252). Now, of course, this begs the question as to why we should believe that intense oligarchic threats are of this kind or, to put it differently, what is the ‘social law’ that unavoidably generates them. I already suggested that plebeian constitutionalists have not

provided a systematic answer to this question, but the most common tendency is to resort to the truth of Robert Michels' so-called iron law of oligarchy, that is, to the idea that "...[w]ho says organization, says oligarchy" (1962, 365). In a nutshell, in his study of political parties, Michels argued that all organizations, under circumstances of great social complexity, require the establishment of hierarchies and functional specialization, which lead to bureaucratization and the concentration of power within the hands of elites – and that these minoritarian groups will *de facto* rule over those organizations. Now, more broadly, political and economic systems are composed of, or simply *are*, organizations, meaning that these are bound, under complex states of affairs, to be tendentially oligarchic – and produce the aggregate effect of the general divide between the few and the many. Put differently, important concentrations of power and, in this case, wealth-generated political privilege, are unavoidable tendencies.

Leaving aside exegetical issues as to whether Michels himself constructed his theory of oligarchy along the aforementioned lines (e.g., Drochon, 2020; Piano, 2019), I think that we should cast doubt of its usefulness to ground the *Second-Best Reply* when taken as presented. The reason is that it is simply unconvincing that the iron law of oligarchy is really a *law*, and hence a hard feasibility constraint on what a democratic order can aspire to. Quite obviously, Michels' is an *empirical* claim about organizations that, as such, requires positive verification. Several recent empirical studies have shown that organizations under great complexity do *not* follow these tendencies – e.g., efficient workers' cooperatives, where no clear elites are exercising significantly more power than others, and so on (Diefenbach, 2019, 546). They have also shown that the causes generating oligarchization, as well as designs that could avoid them, admit great variation – one that must be further explored to get more democratic institutions (Leach, 2005, 333). This does not mean that oligarchization is not a real problem and tendency for organizations, of course. It means that it can be avoided through a better mix of institutional design and political practice, and that it should. Historical experience is also clearly flexible, and, in any case, we cannot prophesize about what the future will look like without allowing for great possibilities of variation. So, although political oligarchization and class conflict are pervasive social conditions of our contemporary world, it seems more reasonable to argue that they are *contingent*, not *necessary*, social conditions of all feasible complex social worlds – i.e., that they are *soft* feasibility constraints over what is politically possible (Lawford-Smith, 2013, 254). Conceptualizing the conflict between the

few and the many otherwise seems “... politically defeatist” (McQueen, 2018, 97), pessimistic, and conservative.<sup>68</sup>

Now, if the conflict between the few and the many is not socio-ontological but rather contingent, the rational prescription for an egalitarian democratic struggle against oligarchization must be to dynamically realize the *best-case* mentioned above – i.e., a political system that overcomes the *sources* of oligarchic plutocracy. This requires, as a consequence, working to erode the sources of class division that make sense of the idea of constitutionalizing class-specific political institutions in the first place, namely, great economic power differentials related to how wealth is produced, distributed, and exchanged, and which plebeian constitutionalists further *do recognize* as the main causes of political oligarchization (e.g., Green, 2016, 84). It follows that the *Second-Best Reply* fails as a reply to the *Class Divisions Entrenchment Objection*. The role of class-specific political institutions should be to eliminate the existence of wealth-generated political privilege, not only to “regulate” the conflict between those who hold such privilege and the many. If we want to retain a commitment to the fundamental egalitarian intuitions of progressive material constitutionalism, we must think about the normative justifiability of class-specific political institutions differently. That is what I proceed to explore in the next chapter.

---

<sup>68</sup> Again, someone could argue that denying that the conflict between the few and the many is a hard feasibility constraint separates plebeian constitutionalism from ‘realist’ approaches in political theory – and that this connection should not be sacrificed. But this objection is, I think, incorrect. On the one hand, some political realists claim that feasibility constraints should not have a central relevance in this approach (Rossi, 2019) – *inter alia*, because “...the feasibility of political outcomes can never be fully known” (Cozzaglio & Favara, 2022, 425) and, since political realists are characterized by a commitment to epistemic humility (McQueen, 2018, 97), they should not identify too specific feasibility constraints on what is politically possible. On the other hand, if political realists reject normative standards on the basis of feasibility considerations, those are ones which are grounded on the possibility of overcoming conflict and strong disagreement in *general* – as these *are* constitutive elements of the political phenomenon (Cozzaglio & Favara, 2022, 420; McQueen, 2018, 10-12). But this does not count for *oligarchic* conflict and socioeconomic class divisions. Political realists are committed to the demand of finding institutions to channel political conflicts in a way that is conducive to desirable social goals. They are not tied to the claim that class-specific, anti-oligarchic institutions are always required to achieve those goals. See Axelsen (2019) for an excellent account against varieties of institutional conservatism in political theory.

## Chapter 4

### *Socialist Constitutionalism: The Transformative Model for Anti-Oligarchization*

#### **Introduction**

The previous chapter sought to reconstruct and critically assess the central elements of plebeian constitutionalism. Essentially, while recognizing its attractiveness and contributions to contemporary democratic theory, I argued that this perspective has important flaws which affect its normative appeal. My claim was, basically, double. On the one hand, the plebeian constitutionalist interpretation of the *Institutionalized Class Differentiation Thesis* entails the risk of entrenching and naturalizing wrongful class divisions. On the other hand, I argued that the “realist” limitation of the role of class-specific political institutions to the *regulation* of class conflict, instead of *actively undermining* it, is a morally conservative and politically unambitious thesis that must be avoided.

This chapter argues that the socialist tradition offers better resources to solve the problems of plebeian constitutionalism. As I conceive it, this theory characteristically fixes the role of class-specific political institutions in terms of dynamically eroding class divisions. This means that the democratic legitimacy of class-specific political institutions must also be understood transitionally. In other words, they must help to realize constitutional orders whereby substantive collective control over social and political life is guaranteed and be superseded when the reasons that triggered the need for them are no longer there. This general approach is what I shall call *socialist constitutionalism*, a conception of constitutional ordering that radicalizes the egalitarian democratic aspirations of progressive approaches towards the *transcendence* of oligarchic rule.<sup>69</sup> Similarly, as its

---

<sup>69</sup> I find it important to clarify that I will not associate socialist constitutionalism, as was the case with plebeian constitutionalism, with the task of fleshing out *one* specific set of institutions satisfying the *General Alternative* – for example, taking inspiration from Marx’s praise for the experience of the Paris Commune in *The Civil War in France*, to say that *that* model is the one we should strive for. I believe that this approach will be compatible with several institutional arrangements – see Muldoon (2019) for an appealing candidate. That said, see Leipold (2020) for an excellent analysis of Marx’s endorsement of the ‘social republic’ materialized in the Paris Commune.

main aim is the active *transformation* of material relations through constitutional means, I shall associate this interpretation with what I call the *transformative model* for anti-oligarchization.

Before starting to depict the general contours of socialist constitutionalism and laying out my strategy for showing its attractiveness, some remarks are in order. The first is the relation to the Marxist tradition. My proposal does not necessarily commit to subscribing to every core idea held by Karl Marx himself – e.g., the idea of historical materialism, the labour theory of value, etc. Rather, I think that what is characteristically Marxist of it is the full commitment to a radical critique of capitalism and the belief that a socialized economy is desirable. It is thus compatible with a wider array of ‘Marxisms.’ I believe that this move is sound (partly) because, as Immanuel Wallerstein (1986) noted some decades ago, we are still living in an era of a *thousand Marxisms* in which no particular strand of interpretation of what Marx believed can be reasonably said to be truly ‘orthodox’ or ‘dominating’ – meaning there is no single reference point to decisively fix what is truly ‘Marxist,’ and what it is not. But also, and perhaps more importantly, I think that *even* if such a single reference point could be found, I do not see any principled reasons for holding the value of being ‘Marxist’ in such a narrow sense. Instead, deciding whether that is the case or not should depend on providing independent reasons explaining *why* the premises associated with that should be endorsed as with any coherent, truth-bearing set of propositions. This chapter is hence concerned with elaborating an attractive all-things-considered account of how some central elements of the radical socialist tradition can help us to theorize anti-oligarchic, class-specific, constitutionally defined systems of political institutions, particularly in the context of transitioning to meaningfully egalitarian democratic orders. It is an explicit analytical project of normative justification and design, and I will not put this purpose to for further debate. This means that, for now, I will put aside charges of “revisionism,” “moralism,” and the like.<sup>70</sup>

---

<sup>70</sup> These comments take my account close to the programme of so-called ‘analytical Marxists,’ who vindicate the theoretical richness of the Marxist tradition while leaving exegetical issues regarding Marx’s thought as a matter of secondary concern (e.g., whether he thought capitalism was *unjust*, or not [e.g., Geras, 1985]), and rather focus on the importance of evaluating the plausibility of traditional Marxist theses in light of developments in contemporary political and legal theory, as well as in empirical social science. For good reconstructions of the analytical Marxist tradition, see Cohen (2000 – especially the *Preface*), Levine (1987, 6ff), Mayer (1989), Vrousalis & van Parijs (2015) and Leopold (2022). That said, while I agree with the main theoretical orientations of this approach, I find it important to mention that, *pace* Przeworski’s (1987) contributions and Wright’s important work and his *Real Utopias Project* (2010; 2019), authors of this tradition have tended to ignore Marxist “... accounts of politics and [their] related critique of the state” (Ypi, 2019a, 1), as well as “... questions of revolutionary transition” (Finlay, 2006, 374) –

The second point is related to questions regarding the economic requirements of this conception of progressive material constitutionalism. As should be expected, because it has the label *socialist* in its name, it is committed to the desirability of realizing a classless system wherein people have effective collective control over the conditions of economic reproduction. Fleshing out a full theory of socialist constitutionalism would thus require specifying the context of such an economic form of organization. While authors fundamentally agree that ‘socialism’ minimally requires materializing substantive forms of workplace democracy and distributive equality (Malleon, 2014), as well as orienting economic activity to the satisfaction of social needs instead of that of private profit and commodity production, its concrete meaning and institutional content is more contested and has been interpreted in several competing ways (Gilbert & O’Neill, 2019). Just to mention an example, there is an important debate amongst contemporary socialist economists and philosophers as to whether markets are compatible with an emancipated economy vis-à-vis their efficiency when compared to forms of central planning (e.g., Bardhan & Roemer, 1993; Devine, 1992; Vrousalis, 2022, 167-184). In my view, whether some form of socialism (e.g., one including markets, or one that does not) is better than competing alternatives involves empirical questions that cannot be resolved ahead of testing these alternatives. I also do not have much to add to these debates. Hence, my focus is on how a socialist perspective could productively inform the design of constitutional orders, and particularly state institutions, in the context of transitioning to a more meaningfully egalitarian and democratic future (economically and politically speaking). My intuition is that a form of socialist constitutionalist theory of egalitarian social transformation is compatible with several of these economic models, all of them involving high degrees of control over economic conditions and, for that reason too, political decisions. I will remain ecumenical as to which one is the best. Suffice it to say that all of these models are very demanding and indeed ones incompatible with capitalist production and class relations as we know them.

A third point to clarify is that the admittedly *constitutionalist* nature of this perspective does make it incompatible with some varieties of Marxism. Indeed, many Marxists have claimed that all the political and legal institutions of modern liberal states are necessarily undemocratic, called for their revolutionary suppression (e.g., Negri, 2009; Pashukanis, 1951; Lenin, 1987 [1917]) and/or confidently proclaimed their ‘withering away’ in a post-capitalist future – especially a communist

---

issues of primary importance for my topic here. One of my contributions in this chapter is to help correct that tendency.

one (e.g., Engels, 2010 [1]; Táiwò, 1996). But, as I shall discuss below, my argument is that state-like institutions can be democratic, and that constitutional means are fundamental for enacting social change. I am also sceptical as to whether constitutional orders involving coercion would, could, or should wither away in complex social settings. Indeed, I believe that these opposing views rest on implausible interpretations of the *Materialist Desideratum*. This stance is compatible with other tenets of Marxist theory. In fact, the Marxist tradition has been home to many thinkers sharing these intuitions. In the history of political thought, this is the case of several Austro-Marxists, who were explicitly constitutionalists *and* socialists both in terms of how they conceived a desirable future and the ways to effectively get there.<sup>71</sup> More recently, this same conjunction has been systematically defended by socialist republican political theorists, who claim that realizing the ideal of freedom as non-domination requires *both* the establishment of democratic political institutions *and* a substantive break with capitalist economic relations (e.g., Gourevitch, 2013; Leipold, 2018, 2020a; Leipold et al. 2020; Muldoon, 2019; O’Shea, 2019, 2022; Roberts, 2017; Thompson, 2018, 2019; Vrousalis, 2019a).<sup>72</sup> Further, it pays to notice the wide variety of Marxist approaches conceiving coercively-backed political and legal systems as terrain of critique but also construction, namely, one that can constitute a productive and liberating means to achieve emancipation (e.g., Abel, 1991; Hunt, 1992; Lustgarten, 1988; Miliband, 2006; Shoikhedbrod, 2020; Sypnowich, 1987, 1990, 1992, 1999).<sup>73</sup> Marxist arguments offering institutionalist remedies to oligarchization are historically existing and logically possible. One of the contributions of my thesis is to elaborate arguments sympathetic to such an approach.

---

<sup>71</sup> The term ‘Austro-Marxism’ refers to a strand of thought associated with the early-20<sup>th</sup> century Austrian left, some of whose most prominent representatives were Otto Bauer, Max Adler, Karl Renner, Otto Neurath, and Rudolf Hilferding. Austro-Marxists were characterized by a shared commitment to realize theoretical Marxism in political practice, a non-orthodox view of Marxism as a changing body of empirical social science, and an “integrative” (Möller, 2018, 80) strategic vision standing *between social-democratic reformism and Bolshevism* (Bottomore, 1978, 44; Leser, 1976, 137; Loew, 1979; Möller, 2018, 79; Scott, 2021, 73). They interpreted state institutions as loci for enacting emancipatory social transformation and are thus of central relevance for my purposes.

<sup>72</sup> There is also a growing literature producing socialist republican interpretations of key figures in the history of the Marxist tradition, such as Karl Marx himself (Roberts, 2017; Leipold, 2020a), Rosa Luxemburg (Muldoon & Booth, 2022), Antonio Gramsci (Mulvad & Popp-Madsen, 2022), and Eugene Debs (O’Shea, 2022). As with plebeian constitutionalism, however, I will not engage in sustained historical analysis of specific socialist constitutionalist authors.

<sup>73</sup> See O’Connell and Özsu (2021) for a good, and recent edited volume compiling both critical and constructive essays on the connection between Marxism and law.



Because this chapter occupies a central place in this thesis, it is longer than the rest. It mirrors the structure of chapter 3, but it is comparatively more elaborated. It unfolds as follows. Section 4.1 begins explaining the main tenets of socialist constitutionalism: its general rationale for the *Institutionalized Class Differentiation Thesis*, the theory of class conflict on which it is grounded, the role of class-specific political institutions in redressing such conflict, and how it theorizes the democratic legitimacy of these institutions. I proceed to discuss this final aspect in more detail in a separate sub-section (4.1.1), as I think it is where we can find the most distinctive way in which the socialist tradition should inform a theory of constitutionalism. According to this perspective, legitimate class-based coercive institutions must be temporally limited, help to correct the unjust conditions that make them attractive, and progressively wither away. I argue that endorsing this conception of the role and democratic legitimacy of class-specific political institutions allows socialist constitutionalism to avoid the *Class Divisions Entrenchment Objection* while retaining the benefits of the plebeian variant discussed above. Yet I also contribute to recent Marxist literature by arguing that, against some common interpretations, a well-ordered constitutional order does not entail the disappearance of *all* coercive political institutions. Instead, only oppressive institutions, including class-based ones, either working-class or capitalistic, must be rejected. Sub-section 4.1.2 then exemplifies how these institutions might look by analysing Max Adler's proposal of constitutionalizing a working-class Senate in tandem with a traditional parliament. I also suggest how this proposal should be amended in light of my observations regarding the way in which socialist constitutionalists should understand the democratic legitimacy of class-specific political institutions. Further, I offer several avenues for institutional design to contemporary circumstances which could accommodate these concerns, particularly speculating on how McCormick's People's Tribune should be amended along my preferred conception of class-specific democratic legitimacy. Section 4.2 presents three important problems for the socialist constitutionalist: that constitutionalizing class-specific political institutions constitutes an unduly utopian strategy (sub-section 4.2.1), plausibly generates heavy forms of conservative reaction (sub-section 4.2.2), and/or that it would produce pernicious forms of class co-optation disfavoured by the working class (4.2.3). I also provide three interrelated replies to these objections, before moving on to discuss, in the next chapter, how this alternative of progressive material constitutionalism clashes with liberal constitutionalism and how (much) these competing theoretical perspectives and political ideologies can be reconciled.

## 4.1. Socialist Constitutionalism: Eroding Class Conflict Through Constitutional Means

### 4.1.1. Socialist Constitutionalism

A good way to reconstruct the main tenets of socialist constitutionalism is to establish its allegiance to the *Materialist Desideratum* and its general rationale for the *Institutionalized Class Differentiation Thesis* – that is, to its relation to conditions (a) and (b) of the idea of material constitutionalism. Like its plebeian counterpart, this view is committed to the rejection of class-neutral/pluralist theories of the state and politics (Miliband, 1969, 4). In particular, while sensitive to instrumental forms of oligarchization and, of course, to the problems that great inequalities of wealth impose on the realization of meaningful democracy, socialist constitutionalism follows the Marxist-inspired approaches to state theory and social class explained in chapter 2. To recall, the crux of these theories is that they highlight *structural* forms of oligarchization and the underlying relations of production that generate it. As a consequence, referring more directly to condition (b), this rationale maintains that, because liberal constitutional orders have structural tendencies to favour the interests of capital vis-à-vis labour in virtue of capitalist social relations (Levine, 1987, 154), they are conceived as *class states* or *dictatorships* of the bourgeoisie, whereby workers are, in turn, politically disempowered. Along the lines of Machiavelli and his plebeian constitutionalist followers, then, this brand of progressive material constitutionalism adheres to the more realist idea that, under capitalist class society, state institutions cannot be said to represent the ‘general interest’ of the community, since such a community does not exist at all. Instead, in this view, these constitutional orders are characterized by a fundamental conflict of interests between the classes composing it, and where the state in its liberal form robustly reproduces the conditions for capital accumulation. Yet, again, the point is that this happens not *only* through the concerted actions of oligarchic agents but also due to structural constraints (Hunter, 2021, 200). These claims do not mean that *all* state institutions are *always* bound to reproduce the interests of capitalist minorities, though. Rather, the idea is that such a situation calls, amongst other things, for creating authoritative political institutions redistributing “...the terms of power between classes” (Muldoon, 2019, 13; also, Bauer, 2021 [1924]; O’Connell, 2020, 15) within the state. In particular, the idea is to rebalance such power relations to the benefit of politically disempowered classes which, broadly conceived, are members of the working class, and which are relevantly in that position *because* they lack institutions of their own through which they can form, organize, and enact their interests. It also means that these institutions should be explicitly oriented to erode the structural sources of wealth-generated political privilege, dispersing economic power, and

contributing to restructuring the socioeconomic relations characteristic of contemporary constitutional orders. This general description constitutes the essential elements of the *Socialist Constitutionalist Interpretation of the Institutionalized Class Differentiation Thesis*:

*The Socialist Constitutionalist Interpretation of the Institutionalized Class Differentiation Thesis.* Members of the capitalist class, or those holding offices bestowed with formal political power, should be excluded from the internal workings of some politically authoritative institutions – that is, empowered *class-specific political institutions*. This would allow members of the working class (i.e., the economically and politically disempowered majority) to regain control over political structures, advance their interests, and increase substantive democratic equality against the instrumental and structural power of capital.

With this general description in mind, let me now unpack in greater detail (1) how this theory understands class conflict (as well as its criteria for exclusion from class-specific political institutions), (2) the main benefits of socialist class-specific political institutions, and (3) begin to elaborate its rationale for the democratic legitimacy of such institutions.

Following the definitions provided, the basic content of (1) is cashed out in terms of a struggle and opposition of interests between workers and capitalists, and such a division can be drawn by looking at the property regime and whether agents have or lack control over productive assets. Accordingly, in this theory, classes are defined relationally, that is, depending on how agents relate to the economic structure of society. Similarly, their conflict is understood in terms of who can control how productive assets are deployed, as well as how to distribute the surplus generated from their economic activity. As we saw, these forms of structure-enabled social power are also said to involve principled wrongs, such as exploitation and domination. Such a structural dimension also affects the theorization of the meaning of political oligarchization. Not only working-class citizens are vulnerable to oligarchic domination in instrumental terms, as it was highlighted in the plebeian constitutionalist story, but rather in virtue of the structural dependency of the institutional system on the requirements of capital accumulation. These are two first elements distinguishing socialist constitutionalism from plebeian variants: a relational and normatively-charged concept of class, on the one hand, and an emphasis on structural oligarchization, on the other.

Before addressing (2), I need to introduce a couple of caveats. Chapter 2 sought to clarify that the class divide between ‘capitalists’ and ‘workers’ in terms of ownership over productive assets operates in a high level of abstraction, and specifying its content in a more meaningful sense requires sensitive sociological and historical analysis. For this same reason, the definition of class boundaries, as spelt out in the *Socialist Constitutionalist Interpretation of the Institutionalized Class Differentiation Thesis*, does not provide much guidance for the purposes of concrete institutional design. As a consequence, it is not so informative to specify the exclusion criteria for the *composition* of class-specific political institutions. Following my previous reasoning, then, while I think that it *is* true that socialist constitutionalism involves a distinct interpretation of class conflict and boundaries than plebeian constitutionalism (i.e., one that is relational, normatively charged, and structural-oriented), we should not spend too much time trying to cash out its full consequences for defining this aspect and rather opt for more simplified criteria in the context of initial institutional design. On the one hand, if it is true that the set of agents characterized by being ‘propertyless workers’ significantly overlap with the majority of the population under current oligarchic plutocracies, and thus with those who are not rich, the plebeian constitutionalist strategy of using wealth thresholds for stipulating exclusion from class-specific political institutions seems adequate, and indeed simpler, for defining membership. On the other hand, like plebeian constitutionalists who propose that we should grant *members within* class-specific political institutions the power to change the criteria of exclusion along the way of their functioning (e.g., McCormick, 2011, 185), the socialist alternative could do the same and reasonably include the kind of features that they attribute to ‘class’ while considering these changes – and thus encompass greater degrees of complexity. For example, in particular conjunctures, and plausibly always after a specified set of institutional processes, representatives could exclude from participation agents about certain occupations correlated with great degrees of economic and social power (e.g., the managerial class, rentiers, etc.), if they would democratically decide to. One potential procedure would be to establish that they could decide to do so after a relevant period of deliberation followed by a (super)majoritarian voting procedure within the institution, which could then be put to a national referendum, or alike. Again, because this is a matter of concrete political context and discussion, I cannot determine what is the best exclusion criteria in the level of analysis that I am operating at the moment, nor which is the most convincing set of institutional processes to decide on these issues. The point is that the socialist constitutionalist understanding of class divisions and conflict, albeit simplified for explaining the general dynamics of capitalism, does not need to directly inform who is excluded from class-specific political institutions – i.e., in terms of having

relevant control over productive assets (or not). But it is also the point that socialist constitutionalists can easily start with more ecumenical forms of class analysis and then integrate complex criteria, particularly if workers themselves think it to be appropriate.

Let me now move to discuss the second central question of progressive material constitutionalism, that is: (2) Why are class-specific political institutions considered to be valuable vehicles of egalitarian social change? Concerning the good of stabilizing resistance to oligarchic domination, the reason is that these institutions would plausibly enshrine the three main democratic virtues that all progressive forms of material constitutionalism attribute to them. To recall, these virtues are materializing the right of the politically disempowered to resist oligarchic domination; increasing their authoritative power over the constitutional order, both in terms of the capacity to veto or create legislation, as well as other expressions of state power; and enhancing working-class solidarity, consciousness, and interest-formation by creating opportunities to participate in these institutions vis-à-vis the difficulties that competitive labour markets create for them to solve their collective action problems. They also would make explicit the class character of current oligarchic orders, and so expectedly increase citizens' consciousness of such character and more generally motivate them to oppose it.

But, due to how class relations and oligarchization are construed, the content of these virtues differs from the plebeian constitutionalist approach in a variety of ways. Particularly, along the lines of the more explicit condemnation of class divisions as involving principled moral wrongs, socialist constitutionalism justifies granting class-specific political institutions greater constitutional powers than in the case of plebeian institutions, especially in terms of their capacity to control certain aspects of the economy – inter alia, because “... mere redistribution that does not tackle underlying patterns of ownership leaves questions of power and control unaddressed” (Furendal & O’Neill, 2023, 12). It also imposes more substantive criteria as to what class-specific political institutions should do, namely, to channel their decision-making capacity in a way that is explicitly oriented towards eroding the sources of instrumental *and* structural oligarchization. Some examples of how to realize such an aim are to facilitate more democratic forms of economic production and distribution, as well as lower the dependency of state institutions on the economic power of capital.<sup>74</sup> Moreover, as mentioned, in this theory such institutions should be aimed at

---

<sup>74</sup> One quite radical example of this expansion of constitutional powers would be to give these institutions the power of expropriating, without compensation, strategically important parts of the economy for the sake of eroding class divisions. Less radical forms can be represented by giving these institutions the capacity and purpose of fostering the realization forms of economic democracy, for example, through

making more visible not only how the ‘few’ exercise undue control over the political system, but also increasing people’s collective awareness of, and popular capacity to contest, the private and public power of capital as a form of constituting economic relations (Giddens, 1982, 165). Oligarchic domination in *our historical situation* must be understood not only as the government of a powerful few agents at the detriment of the many but also whenever political institutions are *structurally biased* to the interests of the few at the detriment of the many in virtue of how productive relations are organized. Later on, I will discuss how these virtues can be cashed out more concretely in the context of institutional design. But this brief characterization suffices to have a sense of the distinctive sense in which socialist constitutionalists understand class-specific political institutions.

Socialist constitutionalism thus differs from plebeian strands in aspects (a) and (b) of the idea of material constitutionalism. However, I believe that what makes it *truly* distinctive pertains to how it theorized the third dimension that every theory of progressive material constitutionalism must answer, namely, dimension (c), or the third crucial question that needs to be answered: (3) What is it that makes the constitutional order democratically legitimate in general, and empowered class-specific political institutions in particular, considering their explicitly exclusionary character? The next sub-section proceeds to discuss it in detail.

---

what Furendal and O’Neill (2023) call collective capital institutions, that is, institutions whose aim is to *gradually* achieve that end – and which, to a certain extent, can be considered class-specific political institutions on their own. Furendal and O’Neill explain this route through an extremely interesting exploration of Rudolf Meidner’s proposal of instituting wage-earner funds within a capitalist economy, where parts of corporate profits would be redistributed, annually, to collective funds held by workers in each firm, and thus dynamically shift ownership towards these and decrease the power of capital. That would progressively empower workers within the state, too, and thus minimize oligarchization.

#### 4.1.2. *Socialist Constitutionalism and the Question of Democratic Legitimacy*

As anticipated already, this sub-section elaborates on the third aspect that every theory of progressive material constitutionalism must answer, i.e., how can we justify that the set of rules comprised by the constitutional order can be legitimately imposed on democratic citizens, and particularly how to justify the *Socialist Constitutionalist Interpretation of the Institutionalized Class Differentiation Thesis* vis-à-vis its admittedly exclusionary character. Briefly put, my reply to this question is that morally legitimate class-specific political institutions can only be transitional platforms for egalitarian social change. Considering the reasons provided against plebeian constitutionalism and the *Class Divisions Entrenchment Objection*, the general point is that, because a free constitutional order is *incompatible* with class divisions, class-based institutions can only be emancipatory and desirable if they contribute to eroding, or hopefully eliminate, these divisions and hence the sources of wealth-generated political privilege – which amounts to progressively realizing a state of affairs where people have effective collective control over economic relations, broadly conceived.

I have already said that I will not elaborate much on the exact meaning of these economic conditions, as doing so pertains to a different kind of theoretical endeavour than the one I am pursuing here. But, again, the point is that this idea grants a provisional rationale for giving class-specific political institutions greater constitutional powers than plebeian constitutionalists do, such as the capacity to facilitate conditions in which their erosion would be more likely (e.g., produce greater redistribution through legislation of that kind), or even directly targeting the source of class power (e.g. private property rights over productive assets via expropriation). Hence, as these divisions cease to exist, and more inclusive democratic social relations are accessible, successful class-specific political institutions become functionally redundant and, following Engels' (2010 [1878]) famous expression, *wither away*.<sup>75</sup> Put differently, while plebeian constitutionalists theorize class-specific political institutions as a strategy whose primary objective is, in Erik Wright's terms, *neutralizing harms*, socialist constitutionalism conceives them in terms of aiming to *transcend structures* (2019, 53): Instead of *regulating* class conflict and oligarchization, the theory mandates to *transform*

---

<sup>75</sup> I shall argue, however, that there are good reasons to limit the scope of the traditional doctrine of the withering away of the *state* – i.e., of *all* coercive institutions involving a reasonably high degree of centralization – to *class-based* political institutions. I thus depart from some traditional Marxist arguments that claim that the state form is necessarily class-based and dominating.

the social order so that, in the long-run, such conditions are superseded. It is for this reason that I call this approach the *transformative model* for anti-oligarchization.<sup>76</sup> I elaborate on these ideas in the remainder of this section and offer my account regarding how they should be understood.

As we already saw, like plebeian constitutionalism, socialist constitutionalism adopts a materialist perspective to understand the oligarchic tendencies of existing constitutional democracies, as well as how they engage in systematic hindrances on people's political freedom. But it amends such an understanding according to the remarks on class and state theory already explained. This conception of democratic legitimacy proposes a more demanding standard for deciding on its justifiability when compared to the plebeian constitutionalist alternative – which, to recall, is put forward in terms of the capacity of legal and political institutions to regulate the conflict between the few and the many to the benefit of the latter, thus facilitating their emancipation and reducing their oppression. Instead, on this more demanding view, a “... legitimate political order is one that enables those subjected to its power to interact through institutions that are created by them, that realize justice, and that speak in the name of all” (Ypi, 2019a, 8). This means that the undemocratic, oligarchic nature of the liberal state and capitalist economic relations *ought* to be dynamically superseded, in time (Levine, 1987, 5). It also means, as discussed in my replies to plebeian constitutionalism, that these conditions *can* be superseded, since oligarchization and class conflict are taken to be historically specific *soft constraints* on what is politically achievable – i.e., they are treated as facts that reduce the *likelihood* of achieving a desirable outcome, but that do not decisively limit the option sets available to agents as such. Accordingly, taking inspiration from Marx's claim that “... freedom consists in converting the state from an organ superimposed upon society into one completely subordinate to it” (Marx, [1875] 2019, 1038) and, as an interpretation of the *General Alternative*, the theory demands the long-term instantiation of radically democratic institutions and practices within the constitutional order.

Such a demand has several implications. A central one is a large-scale, progressive decentralization of political and economic power, usually stipulated in terms of systems of councils involving substantive citizens' participation in political decision-making (Levine, 1987, 137ff; Muldoon, 2018, 2020). In its more traditionally Marxist formulation, it also claims that, because coercive systems of institutions entail principled hindrances of freedom (e.g., because they involve

---

<sup>76</sup> See O'Shea (2022) for a similar contrast between the regulation and the transformative model, where the first is associated with plebeian and the second with socialist forms of republican thought.



the legal threat of sanctions), an ideal, fully legitimate political order should be *classless and stateless*, radically transforming the socioeconomic relations and its institutional environment (Levine, 1987; Ypi, 2019a).

In a moment, I will push back from the idea that a desideratum for socialist constitutionalist democratic legitimacy should be tied to realizing a stateless constitutional order. But first I want to highlight one central aspect of this theory, namely, that although class-based forms of political power cannot be *fully* legitimate (and, for that reason, must be transitional), they *can* hold *limited* legitimacy (Ypi, 2019a). Essentially, the idea is that, while class-based constitutional orders cannot realize social freedom – relevantly, because they *entail* a socioeconomic background characterized by the opposite – these orders can nevertheless contribute to maximising it *in time*, and so hold legitimacy in this more limited sense. Hence, that means that the explicitly exclusionary character of these institutions can be democratically justified. But it is important to stress that their authority is only *provisional*, conditional on allowing for more substantively democratic relations to emerge, and then disappear.<sup>77</sup> In consequence, if these institutions are perceived to entrench or naturalize class divisions, their constitutional legitimacy is equally affected, and so are the reasons for having them. It thus speaks more directly to egalitarian intuitions regarding the wrongful character of class relations – and it embeds our constitutional thinking accordingly.

That said, I believe that the more orthodox, Marxist belief that this theory of class-based forms of legitimate political authority should entail the disappearance of *state-like institutions* is implausible. Such is the case because of reasonable hypotheses about, on the one hand, constraints of individual behaviour and expectations of voluntary cooperation and compliance with laws. On the other hand, and especially, such is the case because of the collective-action problems that reasonably always arise under circumstances of great social complexity. Regarding the first, the idea is that, given the non-class-produced inclination of some individuals to transgress defensible social and legal norms, and the persistence of strong interpersonal disagreements, *some important degree* of coercive political authority must be considered a permanent fact of life (Pettit, 2012, 135; Rawls, 1993, 64). Such a political authority, usually put forward in the form of a constitutionally-

---

<sup>77</sup> Expressed in terms of how it realizes the value of equality rather than the value of freedom, the basic thought is that while liberal democracies “... proclaim equality the better to organize the domination of the many by the few [...], [class-specific constitutional orders], more transparently, proclaim inequality – to the advantage of the many and the detriment of the few – in order to superintend the transition to a classless society where equality for all is finally achieved” (Levine, 1987, 140).

based legal system, seems further required to impartially adjudicate between reasonable competing goals that individuals might still have in a classless society (Pettit, 2012; 135; Sypnowich, 1987, 326). Accordingly, our standards of full-democratic legitimacy should not presuppose the possibility of the opposite – unless we understand full-democratic legitimacy merely as a regulative ideal, a case in which it would lose its political imprint and usefulness for theorizing questions of political transition. Yet, of course, one could still claim that these considerations on individual behaviour are soft feasibility constraints which, eventually, could be superseded and make state-like institutions redundant. Now, while I find this idea too optimistic, I believe that even if I am wrong, its plausibility is affected by the second kind of concern that I want to consider, namely, that of constraints regarding socio-political complexity. In short, the point is that it is plausible to believe that every complex society, including a socialist one, must “... necessarily admit of diverse forms of economic organization and calculation” (Hirst, 1986, 12). Yet this requires complex systems of legislation, services, and assistance, as well as a great diversity of agencies of decision-making which, to function appropriately, reasonably need to be backed up by the threat of sanctions, or at *least* general laws guiding agents to fulfil different functions under a certain division of labour – however different from a capitalistic one. Accordingly, it is reasonable to believe that *some form of state* would be functionally needed in an efficient classless society and that “... [coercive] law should have a permanent, positive role to play in a flourishing socialist society” (Sypnowich, 1987, 326).<sup>78</sup> Thus, the idea is that the normative demands of socialist constitutionalist democratic legitimacy should not be tied to the idea of a stateless future.

Of course, again, an objector could still press me on the idea that deciding on feasibility and efficiency considerations is a matter of empirical dispute and context evaluation – and that, perhaps, systems of coercive regulation are *not* necessary under complex social systems (Levine, 1987, 175). Such would be somewhat the line of argument that I have provided against the conservative features of plebeian constitutionalism when addressing the *Class Divisions Entrenchment Objection*. For example, pessimistic concerns related to human nature can be attributed to a reified vision of it, one that is insufficiently sensitive to our capacity as moral agents to change and act for good reasons (Ypi, 2019a, 11). They could also reject the idea that strong disagreements would disappear in a post-capitalist society, instead claiming that these would take a *more reasonable form* whereby people solve them by means of peaceful deliberation and not because of the fear of

---

<sup>78</sup> See Pettit (2012, 182ff) for a more sustained, and very good discussion of these reasons in favour of the necessity and desirability of state-like agencies.

facing sanctions (*Ibid.* 12). Further, one could argue that efficiency considerations can only be tested once a post-capitalist social system is (or close to being) materialized, and so the argument that state institutions are always required under complex settings is unwarranted.

But I believe that these reasons are connected to other important considerations that should affect how we think about the content and application of this theory in the context of progressive material constitutionalism. In short, my view is that, as the feasibility and efficiency constraints just mentioned cannot be taken at face value, the truth of the withering away of *all* state-like institutions in a classless society must be held as a matter of *radical uncertainty in the context of political transition*. Thus, because the nonideal theoretical domain of socialist constitutionalism is that of political transition, it should include a list of desiderata that make class-based forms of political rule democratically justifiable without relying on overly utopian premises. The highly optimistic belief that all state institutions would wither away overlooks this uncertainty, and this makes the theory less plausible and more vulnerable to important objections. In particular, I think that a convincing account should be (1) non-reductionist, (2) constitutionally constrained, and (3) explicitly finite in terms of durability.

The first point (1) consists in arguing that we should be sceptical of the hypothesis that state institutions would wither away in tandem with class divisions, and that such an idea must inform our legitimacy assessments of these institutions. The main reason is that, as I have tried to explain on several occasions, such a hypothesis is based on an implausible, *class-reductionist* version of the *Materialist Desideratum*. According to this view, class divisions are taken to be the main, if not the only, relevant source of dominating social relations, while constitutional states are conceived mainly as a factor of reproduction of such relations to the benefit of oppressive classes. But class relations are reasonably not the main, nor sole, source of social domination or conflict. It is also reasonable to believe that constitutional states can work, under certain socio-political favourable circumstances, to the benefit of economically oppressed classes. If these ideas are true, it might well be the case that state-like institutions *would not* wither away once class relations are superseded. They could also be, freed from their class character, freedom-enhancing institutions. For example, these institutions could be platforms for ordinary citizens, and especially minorities, to contest dominating social relations that might persist in classless societies – such as forms of gender or race-based discrimination (Muldoon & Booth, 2022). They could also, again, perform important forms of planning required for efficient economic organization and that would go to the benefit of the polity as a whole. Thus, the philosophical implication is that we should embrace the more

modest claim that full legitimacy *does not necessarily involve* the withering away of the state and legal systems as such. Rather, what matters is that *class-based* institutions progressively help to erode the conditions that allow for class-based domination to emerge, and then wither away.<sup>79</sup>

Second (2), something needs to be said regarding *how constitutionally constrained* the authority of class-based forms of political rule should be. At first glance, because of the weight that this position gives to the normatively problematic nature of class relations, it might seem that it entails giving class-specific political institutions global constitutional powers – e.g., to the degree that other traditional political institutions, such as formally ‘class-neutral’ parliaments or courts, should be ignored. Yet we must resist this conclusion. Endorsing forms of global, or full constitutional empowerment for class-specific political authorities seems insufficiently sensitive to the *risk* that the measures they take during a transitional period, where a healthy popular democracy is not yet in place, are harmful. It is plausible, I believe, to think that these institutions could involve tyrannical, or simply non-liberating exercises of political power. Furthermore, allowing for systems where some agents have great discretionary power without further checks on what they can do can facilitate authoritarian shifts that, *de facto*, could empower reactionary groups during periods of radical social transformation (Möller, 2018, 86). Hence, while I think that a good socialist constitutionalist conception of the democratic legitimacy of constitutional ordering *should* allow for great constitutional powers to class-specific political institutions (such as dealing with how the property regime is organized in several ways), these should be constitutionally constrained and checked by other institutions, like traditional parliaments, courts, and so on (Hirst, 1986, 86).<sup>80</sup> It is not my intention to provide a fully fleshed argument as to how this should be arranged. The point is rather that this move reduces realistic conservative risks that do matter in the dynamic

---

<sup>79</sup> This resonates with Ralph Miliband’s claim that the “... task of Marxist politics is to defend [bourgeois democratic] freedoms [and the institutions that protect them]; and to make possible their extension and enlargement by the removal of their class boundaries” (2006, 196). See also Poulantzas (2008b).

<sup>80</sup> These observations bring my interpretation of socialist constitutionalism very close to recent socialist strands in republican thought (e.g., Leipold, 2020; Muldoon, 2019, 2021; O’Shea, 2019, 2022; Thompson, 2018, 2022), which combine the need for having institutional setups of this kind in tandem with widespread public ownership and forms of economic democracy. The reason why these authors endorse such a claim is partly, and relevantly explained by virtue of their allegiance to a Marxist-inspired interpretation of the *Material Desideratum*. Yet, to my knowledge, contemporary socialist republicans have not provided systematic normative defences, reconstructions, or models for class-specific political institutions as vehicles for democratization and the erosion of class divisions. One of my aims is to help to fill this gap.

realization of freer social orders. And this risk-reduction reasonably renders transitional class-specific political institutions more publicly justifiable and democratically legitimate.

The last desideratum that I want to discuss here is that class-specific political institutions should be *temporally finite* (3). My view is that a *temporarily unlimited* class-based exclusionary rule could only be justified if there is confidence that it will eventually wither away somewhat spontaneously. However, as already stated, given that such a final situation is *uncertain*, it seems difficult to offer public justifications for this form of class-based political rule for many citizens undergoing such a transitional period. Amongst other things, they could reasonably say that these institutions could be entrenching class divisions and, undesirably, become permanent features of our institutional landscape – a problem that, as I tried to explain, plebeian constitutionalists are vulnerable to and that egalitarian democrats should avoid. I thus believe that the socialist constitutionalist perspective of democratic legitimacy requires establishing ways in which citizens could evaluate whether class-specific political institutions *are* fulfilling their role, that is, eroding class divisions, and otherwise dissolving them. For example, this could be materialized by introducing periodic constitutional conventions aimed at assessing the effectiveness of these institutions and dissolving them if perceived to be failing. In the following pages, I will explain how these measures could be cashed out more concretely in matters of institutional design. But the point is that they would provide empowered class-specific political institutions a necessary layer of legitimacy against the backdrop of their potential failure or harmful effects, as well as stress their required transitory nature more explicitly. This completes my characterization of the socialist constitutionalist view of the democratic legitimacy of class-specific institutional forms. The next section considers how it should inform their design.

#### 4.1.3. Exemplifying Socialist Constitutionalist Institutions

As with plebeian constitutionalist class-specific political institutions, their socialist constitutionalist variation has seldom been, if ever, fully realized in the context of modern constitutional orders. For that reason, it is hard to find concrete examples of how its specific institutional features would be or test their effects. But proposals as to how they should be arranged do exist in the history of political thought. In particular, in this sub-section, I shall exemplify this conception of progressive material constitutionalism by focusing on depicting the main features of Max Adler's ([1919] 2018) proposal to constitutionalize a Second Chamber (i.e., a Senate) exclusively elected and composed by working-class citizens. After I do so, I will critically assess some aspects of this institutional model and amend it according to how, I think, this conception of progressive material constitutionalism should theorize the composition and democratic legitimacy of class-specific political institutions. After that, to make that case more robust, I will speculate as to how all these reasons should affect the design of less empowered class-specific political institutions by using McCormick's People's Tribune as a template. My final task is to show more concretely how these institutions would be beneficial on egalitarian-democratic grounds.

Before proceeding I want to make a couple of important clarifications. The first is that, like plebeian constitutionalist class-specific political institutions, these proposals should be taken as thought experiments of *hypothetical* oligarchy-eroding institutions (McCormick, 2011a, x). Because these institutions have never been materialized as such, it is possible that they could *not* bring the positive outcomes that I attribute them – as any serious democratic theorist, sensitive to the complexity of empirical social life, must accept. Secondly, referring to Adler's position, it is relevant to note that the fact that his proposal is pitched as functioning under the context of bicameralism does not suggest a principled endorsement of such a political form of organization. What it *does* aim is to show how these class-specific political institutions could work alongside traditional parliaments and so better fulfil conditions that I explained in the interpretation of the theory of democratic legitimacy underlying socialist constitutionalism. But my view and, I take it, Adler's, are not praise of bicameral systems as such, nor that they are the best way to structure constitutional orders. Instead, it is more reasonable to claim that such is only one possibility to establish checks and balances for the functioning of democratically legitimate class-specific political institutions, and there are certainly other alternatives. Third, readers should not expect to find here context-dependent, specific details regarding institutional design – such as the

appropriate number of members, hours they should work per day while being representatives, whether they should be paid for their service, and so on. Addressing these important issues requires a great deal of cross-disciplinary research, which is furthermore needed if we are in the business of making these abstract ideas a matter of political reality. But here I will pursue the more modest aim of exploring their intuitive appeal as a matter of theory – which is my overall purpose in this work. Let me thus articulate these ideas by depicting Adler’s proposal of a working-class Senate.

Writing in the context of the Austrian revolution, where the working class was significantly organized through workers’ councils, Max Adler ([1919] 2018) proposed the idea of constitutionalizing an elected, working-class Second Chamber alongside a traditionally elected parliament.<sup>81</sup> A socialist constitutionalist, Adler thought that solving the oligarchic character of liberal parliamentary democracy required substantively breaking the power and influence that capitalists, and the capital relation, have over the state, and that such a thing could only be done through democratizing the economy (*Ibid.* 172). But then, of course, the question was which measures are required to achieve it and which political agent would effectually push for that task. In this context, he rejected the Bolshevik strategy of a proletarian seizing of state power which would bypass democratically elected parliaments as it seemed to him ineffective and undesirable. One fundamental, more conjectural reason is that it seemed to pave the way for huge conservative forms of reaction. Yet a more normative one was that a democratic form of socialism “... *presupposes* such [type of] parliaments, for it presupposes those liberties that feed the revolutionary fire, including freedom to speak and criticise the revolutionary leadership” (Vrousalis, 2019b, 40). Thus, while recognizing some of the democratic features of parliaments, Adler saw in the German workers’ council system of his time an institutional force that could serve as a constitutional counterweight to a captured parliamentary system. This system of workers’ councils was a federal, pyramid-like institutional structure whereby workers elected representatives at municipal, district, regional, and then the national level, leading to a Central Workers’ Council which coordinated their political activity and was said to represent their collective class interests. Under the idea that socialization of the conditions of labour could only “...be sustained by assigning a *permanent* role to those in whose name socialization is carried out” (*Ibid.* 39 – my emphasis), then, Adler proposed

---

<sup>81</sup> See Vrousalis (2019b) for a historical overview of Adler’s approach and a defence of its feasibility to achieve socialist aims.

the strategy of constitutionalizing the Central Workers' Council as a class-specific Second Chamber, that is, again, a working-class Senate.

Adler's working-class Senate was pitched as an annually elected, representative institution where only working-class citizens, understood in that case as the industrial proletariat, would be allowed to participate (both as voters and candidates). More demanding, he added criteria for participation defined as those who "... belong or belonged within a certain recent timeframe to a social democratic, communist, or some other group that recognised the socialist class war" (Adler, 2018, 173). The reason for this very demanding criterion of exclusion is that, otherwise, "... the council system [would, in a short time], degenerate into an instrument representing the petty, ridiculous interests of factories, workshops, and offices" (Adler, 2018, 177). Socialist partisanship helped to ensure, then, that workers would create *a unified will* (Ibid. 176) based on a *common social foundational vision* (Ibid. 173) oriented towards the realization of a "... solidary community of human work" (Ibid. 177) – where councils would further be "... schools of socialist thought and feeling" (Ibid. 173). That said, Adler maintained that socialist partisanship is different from other forms of party politics since it would not represent the interests of only a part of society, but those of "... the entire society, [yet], to be sure, a society that is just forming itself" (Ibid. 176). In the meantime, though, he claimed that "... the national parliament should continue to exist with its wholly different rules for election, thus giving the non-socialist segment of the population the possibility of having their interests represented" (Ibid. 174). But, as mentioned *in passim*, he thought that this was desirable mainly because it would avoid strong forms of conservative reaction, and not because he thought the existing Austrian parliament was democratic at all. Parliaments, senates, or whatever other kind of authoritative political-institutional setting could only be truly democratic, for him, if a whole new different set of economic social relations alternative to capitalism would be part of the material constitutional order.

In terms of constitutional powers, his Senate would carry a similar amount of authority when compared to the national parliament (and thus a great amount of political power). It would be able to initiate and veto legislation, impeach public officials, call referenda, and have the "...right to deal with all matters of the economy, of commerce and finance" (Ibid. 174). It would also be able to elect government in partnership with the parliament – powers that, furthermore, could be expanded if the workers' councils had come "...to possess [more power] through their own activity" (Ibid. 181; Loew, 1979, 34). All in all, the idea was that this working-class Senate would be a constitutionally authoritative force able to erode class divisions *directly* – e.g., because of its



legislative authority to decide over economic issues, it could eventually eliminate private property rights if approved by parliament as well. It would also have empowered the working class *indirectly*, by offering them a *powerful wall-breaker* (Adler, 2018, 172) to deal with the oligarchic capture of representative government – e.g., through pro-worker veto powers and legislative initiatives. Adler thus thought that this class-specific political institution would help as a platform to materialize working-class citizens’ partisan agency and their ability to participate in governmental decisions. He also maintained that these features provided this institution with special democratic legitimacy.

At this stage of the argument, one crucial aspect to note is that the Adlerian justification for this working-class Senate was explicitly *transitional* and thus more capable of avoiding the *Class Divisions Entrenchment Objection*. Indeed, he was adamant that “...the whole institution of the workers’ councils [and, by implication, the Senate] is only *a form of battle for the revolution*, and is not to be thought of as an enduring constitutional form” (Adler, 2018, 179). He thought that the role of this institution should be to produce “... a gradual democratic re-appropriation of workplace, state and market, by the actors directly subjected to their workings” (Vrousalis, 2019b, 38-39), as well as an instance of democratic deliberation and decision-making. Thus, Adler believed that, once this *developmental process* was sufficiently advanced – although, he claimed, it would be reasonable to believe that it would “...continue [indefinitely] for years” (Adler, 2018, 175) – class-specific bicameralism would no longer be needed, become superfluous (Vrousalis, 2019b, 38). Indeed, it would wither away, giving space to a more popular democratic system as a result. Hence, he took this institutional arrangement to be *incompatible* with a free society, and its role is rather understood as promoting the achievement of truly democratic institutions which need to supersede it – i.e., “... institutions that offer the assurance that that which the people have determined actually occurs” (Adler, 2018, 181).

With this description in mind, let me now assess Adler’s proposal and see how it fits with my preferred characterization of socialist constitutionalism. I already pointed out that this institution was never realized and, because of that reason, the effects that he attributed to his working-class Senate cannot be empirically demonstrated. I also explained in chapter 2 that the reasons that make this kind of institutional design attractive are mostly speculative or can be drawn by analogy with other institutional forms which, while class-specific, are not state-based nor carry great degrees of constitutional authority – such as working-class unions including important degrees of internal democracy. But I am sympathetic to the idea that a Senate designed along these lines would likely produce positive effects in egalitarian and anti-oligarchic terms – however

controversial this idea might be. Further, the *transitional character* of this form of constitutional strategy for social transformation is a crucial innovation in the history and development of progressive material constitutionalism. It is especially this innovation, I argue, that egalitarians persuaded by the *Institutionalized Class Differentiation Thesis* should integrate when thinking about this strategy for social reform.

Now, even though one might think that Adler's proposal retains important benefits of progressive material constitutionalism and agrees with my claim that it better avoids the *Class Divisions Entrenchment Objection*, I think that it carries important weaknesses. Champions of socialist constitutionalism should learn from these shortcomings both for the purpose of better normative justification and institutional design. One problem regards how Adler theorizes the *composition* or membership of his preferred class-specific political institution, which seems to hold a high degree of allegiance to an implausible interpretation of class formation. This is the case both in virtue of its confidence that workers could achieve a *unified will* grounded on a *common social foundational vision*, as well as the reductionist lack of discussion around non-class forms of oppression, or his confidence that a free society could be achieved through economic democratization alone. This latter claim is further supported by his view that, once parliament and the working-class Senate would wither away, there would be imposed a system "...which in place of the *domination of the people* [...] establishes an *administration* of common living and developmental interests" (Adler, 1919, 179 – my emphasis). Such an idea conflicts with more politically-oriented aspects of the socialist constitutionalist approach – e.g., that political institutions are, reasonably, *permanently* needed under classless systems where strong political disagreements persist. If this interpretation is correct, that would flesh out another important flaw in Adler's view. Further, as I already tried to show in chapter 2, a commitment to a Marxist-inspired conception of class, that is, which is particularly sensitive to problematic forms of social and political power stemming from economic relations, does not need to be essentialist, reductionist, or homogenizing at all. Particularly, when thinking concretely about institutional design, we should take very seriously the identity- and interest-pluralism internal to the working class, the *degree* to which it is necessary to attribute them shared interests, *who* should be effectually excluded from class-specific political institutions, and *how* to integrate measures helping to neutralize the effects of other forms of oppression within them.<sup>82</sup> All these tasks are, reasonably, more difficult for us to define than they would have been

---

<sup>82</sup> Due to this sensitivity to internal pluralism, we should also cast doubt on imposing a requirement of 'socialist partisanship' for membership, which seems both outlandish in current political settings as well as, perhaps, insufficiently democratic. Furthermore, a formal requirement of socialist partisanship does

for someone like Adler, as he was writing in a context where the prevalent class position was indeed that of industrial workers. These agents were furthermore *already* organized in councils sharing strong forms of class-based solidarity. We are now in a situation where the boundaries are more complex, and the working class is widely unorganized. An Adlerian proposal committed to a more plausible view of social class, as well as one that could be potentially applied to our political contexts while sharing a commitment to democratic principles, requires amendment.

While the exact design of these institutions is a question of empirical testing, I believe that some normative guidance can be established. For example, following my reasoning above, since contemporary class structures are increasingly complex, yet evidently characterized by vast inequalities of wealth where capitalists *overlap* with the rich, it makes sense to decide the definition of its composition criteria through measures such as wealth thresholds (e.g., the 10% or 20% of the population). Further, in virtue of the arbitrariness of using wealth thresholds to define membership in these institutions, as well as their relative insensitivity to other forms of class-related social power, an Adlerian Senate would benefit from establishing democratic procedures through which elected members could introduce further requirements for participation, upon meaningful collective deliberation, when considering the concrete instances of the class divisions in which they are placed.<sup>83</sup> Moreover, in the absence of organizational structures such as workers' councils, it makes sense to suggest that representatives in the Senate should be elected directly from the local level to the national one – although introducing more intermediate bodies would certainly be, I think, desirable in the long run. The relative absence of socialist affiliation amongst

---

not rule out the possibility, and perhaps the high likelihood, that committed reactionaries, wealthy agents, capitalists, and so on, would *claim* to be socialists for the sake of participating in these institutions and aim to co-opt them, corrupt them, etc.

<sup>83</sup> For a similar point, see Prinz and Westphal's (2023) recent argument that designing political institutions "... grounded in an income/wealth-based understanding of class fails to recognize the internal diversity of plebeian voices and the complexity of concentrated power" (9), and that we should rather focus on the need for establishing further processes through which deciding who should be excluded as these institutions work. But, in a totally different direction than mine, they argue that such a failure should lead us to reject class-specific criteria for participation altogether – and rather opt for a class-neutral model for thinking about empowered anti-oligarchic democratic innovations. I think that we should resist this conclusion. The challenge, as I see it, is to arrive at a *better* understanding of class in defining the composition of these rather than abandoning it altogether. Their account also ignores the benefits that class-specific institutional forms could bring about to democratic orders (e.g., working-class formation and increased class-consciousness and as solidarity between them, leading to stronger efforts to materialize anti-oligarchic outcomes), as well as the weakness of class-neutral language in resisting oligarchization.

workers renders this criterion for exclusion historically inappropriate too. But we could integrate Adler's concern with factionalism, and benefit from introducing forms of education and discussion which are not expert-based, such as forms of activist-led political education (e.g., Shelley, 2021), where nonwealthy members deliberate over the pervasive negative effects of capitalist social relations over democratic life leading to a higher development of class consciousness. While not exhaustive, all these indications would make proposals like Adler's more sensitive to the issues I have tried to explain above.

My concerns regarding the unlimited temporal nature of class-specific political institutions should also affect how we think about the transitional nature of institutions such as Adler's working-class Senate. Essentially, the question is *how long* this institution can claim limited legitimacy and how to measure its failure or success vis-à-vis the uncertainty as to whether it would fulfil its promises. Adler seemed to share the class-reductionist confidence in that his form of constitutionalized dual-power would eventually bring about a classless future and, along such lines, that such a Senate and the state, more generally speaking, would become functionally redundant. But, as we saw, this hope is something that we should be sceptical of. I believe that the following amendments can relax these worries.

Essentially, the idea is that we should create standards through which it is possible to evaluate whether class-specific political institutions are helping to make our relevant polity class-conscious in a progressive sense and materialize social conditions related to such consciousness – and dissolve these institutions if they fail to do so. That is, citizens, or nonwealthy/working-class representatives within these institutions, need to have opportunities to check whether class divisions are being eroded alongside the reduction of oligarchization and wealth-generated political privilege. Some examples would be to check whether economic inequality is reduced, productive relations progressively democratized, and working-class interests, more generally, are being served. But standards are not enough on their own and they need to be applied from time to time through procedural and institutional means. One way to make this requirement explicit would be to recognize the purpose of eroding class divisions in constitutional preambles, especially when discussing the general role of these institutions within the constitutional order (Khaitan, 2019b). It could be more concretely materialized, for example, by introducing procedures such as periodic conventions (say, every 10 years or, if someone would be worried that 10 is too short, it could be 20 years, and so on), whereby members of class-specific political institutions, and/or an independent, democratically appointed body of nonwealthy citizens,

evaluate whether these institutions have fulfilled the stipulated standards above. Then, if they decide that these institutions are not delivering their promises, the broader public could have the option to dissolve, retain, or modify these institutions via a national referendum.<sup>84</sup> Clauses of temporariness like these would, in turn, provide socialist constitutionalist class-specific political institutions with layers of democratic legitimacy that are very much needed. They would also ameliorate the noxious risk of entrenching class divisions.

In this context, a very important objection to anticipate is that stipulating a temporary clause for class-specific political institutions might militate against the benefits of *constitutionalizing* them and, in fact, betray the nature and purpose of formal constitutions as such. The intuition foregrounding this objection is that the benefits of formal constitutions depend on their ability to be as *permanent* as possible, difficult to change, and have indefinite duration. In a sense, this is an iteration of the long-standing debate in constitutional theory as to whether formal constitutions should impose strict, somewhat perpetual constraints over democratic politics altering them (e.g., Hayek, 1960) or not (e.g., Shapiro, 1968), or if past generations can justifiably “pre-commit” or bind future ones through the constitution – a view that, famously, Thomas Jefferson vehemently argued against in the history of the founding of the US.<sup>85</sup> That said, while I see the value, relevance, and complexity of these issues – to which I do not have much to add – my side is with the *not* unpopular view that formal constitutions should indeed be treated as changing, and changeable, documents of juridical ordering, whose fundamental aims can, and should be, to promote democratic empowerment within our political systems. These are fundamental elements of what “transformative constitutionalists,” for example, have strongly insisted should be at the centre of constitutional thinking (e.g., Klare, 1998; Hailbronner, 2017). Not only do I find it more plausible to claim that, realistically speaking, no constitution remains *de facto* unchanged in the course of its existence – e.g., their content is interpreted in different ways, they are subject to amendments, applied in multiple forms, and the like. I also do not see *principled* problems (in the sense of leading to contradiction), on constitutionalist grounds, of *de jure* recognizing realities of constitutional finitude. Moreover, it is important to insist that my claim about the necessary temporariness of *class-specific political institutions* is not an invitation to live, ironically speaking, in a permanent

---

<sup>84</sup> See Leipold et al. (2020, 8) for a democratic egalitarian argument regarding the importance of somewhat periodically revising formal constitutions. See also White (2017) for a discussion on the normative analysis of different models of constitutional conventions.

<sup>85</sup> See Holmes (1993, 195-240) for an excellent discussion of such debates.

constitutional convention. The temporariness in question refers to *these institutions*, not necessarily all of the formal constitution in its entirety. Further, note that the limited durability of class-specific political institutions is fixed either in terms of evident success (which would mean that the material constitutional order has changed enough up to the point to make them redundant) or constitutionally defined processes through which success (or failure) can be decided. And, in neither of such cases, it would be “easy” enough to get rid of these institutions in such a way that sacrifices their necessary stability. For all these reasons, I believe that we can leave this objection aside.

These amendments and caveats should render Adler’s proposal more plausible to realistic class analysis and democratic standards of normative political justification. They improve its plausibility in the context of how a conception of progressive material constitutionalism could effectively realize its aims through institutions that are explicitly transitional. However, it is also important to acknowledge that some egalitarian democrats might still, perhaps rightly, contend that, although this rationale is compelling, the idea of constitutionalizing a working-class *Senate*, or a legislature, is inadequate at the level of the principles stipulated by the *General Alternative*. For it would mean creating an explicitly exclusionary institution with *excessive* constitutional authority. To put it differently, it would mean that it would be *too empowered*, indeed bestowed with powers which are hardly justifiable on democratic grounds – e.g., unlimited veto powers over legislation, to “deal with all aspects of the economy,” co-elect government with parliament, etc. While I am not particularly sympathetic to this more moderate stance, I think it is certainly a fair one and constitutes a ground for reasonable disagreement. Thus, I want to end this section by considering this point of view and explaining that socialist constitutionalism, as a general theory, is compatible, allows, and can encourage the creation of class-specific political institutions with lesser degrees of constitutional authority as well. Also, as already mentioned, this theory is not limited to bicameral systems, and is therefore compatible with institutional forms that are not parliamentary or Senate-like. Part of the reason for focusing on Adler’s proposal is that, *if* it is accepted provided all these considerations, less empowered class-specific political institutions would plausibly be justified too – and thus increase its normative appeal.<sup>86</sup> Other class-specific political institutions,

---

<sup>86</sup> Note that, nevertheless, socialist constitutionalism *does* claim that these institutions should have significant degrees of authority, as that is a likely necessary condition for radical egalitarian social change through constitutional reform. I have discussed why this is the case on several occasions. But, again, the point is that authority can come in different degrees.

less empowered, could be recommended. But how exactly would these amendments affect their design?

A way to illustrate a reply to this question is to apply my reasoning to John McCormick's, sortition-based People's Tribune and speculate how it should be amended with lesser constitutional powers than Adler's working-class Senate. Holding constant the selection method (i.e., random selection), and addressing composition, I think that the initial socialist constitutionalist version of it should be, basically, the same – i.e., excluding the wealthiest 10% of the population. Yet it would be qualified by the idea that it would be desirable (yet not required) that members of the institution reflect on the class character of the institutions considering the specific conditions of the social structure in which it takes place. It would also give members, upon the satisfaction of some specific procedure, the right to make the criterion for participation more exclusionary, and thus make it more sensitive to other considerations regarding the class-based character of such an institution (i.e., considerations that go beyond the employment of wealth thresholds, including more sophisticated features of the class structure at stake, and the like).

But it would be explicitly different in the institutional dimensions of constitutional powers and durability. On the one hand, while one might not want to grant class-specific political institutions *too much* power, socialist constitutionalism does involve at least a *pro tanto* case for conferring them *greater powers* and/or directing those powers to specific domains responsible for wealth-generated political privilege – as their *role* is conceived differently, that is, in terms of their capacity to erode the *sources* of such privilege.<sup>87</sup> The most obvious example is to expand their activity into the control of some aspects of the economy, although not necessarily *all* of them. One way of doing this would be to give members of the People's Tribune the power of, subject to reasonable constraints like a super-majoritarian vote, calling referenda regarding the potential expropriation

---

<sup>87</sup> I add this *pro tanto* clause because, in this context, I am considering the moderate approach to socialist constitutionalism. The purpose is to show that such a clause could relax the worries of egalitarians of a more moderate stance, which are sceptical about the efficiency costs of institutional solutions changing the constitutional scheme (Elster, 1993b) or the property regime in a too radical fashion (Frye, 2020; cf. O'Shea, 2020). It is also aimed at speaking to the intuitions of those who might be sceptical about bestowing them with great constitutional powers unless there are appropriate checks and balances constraining them. Although my own position is that the intensity of oligarchization requires bold institutional experimentation and less risk-averse attitudes regarding authoritative class-specific political institutions, I am willing to grant that there might be reasonable disagreement concerning the details of the proposal. I shall discuss considerations like these more extensively in the next section and chapter 5.

(with or without compensation) of strategically important property or economic sectors, provided that doing so would convincingly promote substantive political equality in the long run.<sup>88</sup> Another possible example would be to grant this institution special veto powers regarding tax policy perceived to be against the demand for greater economic redistribution. On the other hand, because it is of fundamental importance for a progressive form of material constitutionalism to avoid the *Class Divisions Entrenchment Objection*, this version of the Tribune should incorporate procedures for periodic revision such as the one I ventured for the amended version of Adler's working-class Senate. Again, these ideas can take many policy-specific forms, and more discussion and context evaluation are needed if we are going to make a convincing case for the design of particular class-specific political institutions. The point is, however, that more moderate champions of socialist constitutionalism might find in these directions some ease regarding a potential charge of excess. The case for transitional class-specific political institutions effectively targeting the sources of constitutional orders' political oligarchization stands. Egalitarian democrats convinced by the necessity of battling such a political disease have good reasons to embrace them.

#### 4.2. Three Internal Objections

I have defended the attractiveness of the socialist interpretation of progressive material constitutionalism. If I am right, the arguments given so far allow us to avoid the conservative bias of plebeian conceptions – i.e., the *Class Divisions Entrenchment Objection* – while retaining their egalitarian and anti-oligarchic benefits. This renders socialist constitutionalism a particularly promising progressive interpretation on egalitarian democratic grounds. Yet now I want to consider some non-principled reasons that champions of the *General Alternative* could advance against it. By that, I mean reasons that are both not strictly based on the normative principles motivating egalitarian democratic theory, and that leave aside more liberal objections that I will tackle in the next chapter. Rather, these are worries that target the plausibility of constitutionalizing class-specific political institutions on its terms, that is, which consider the ability of this strategy

---

<sup>88</sup> I stipulate super-majoritarian requirements and ratification via referendum in virtue of how controversial these decisions might be, and in the context of how a more moderate reader might react to this institutional proposal. See Vergara (2020b, 245) for a plebeian constitutionalist argument supporting expropriation without compensation, which socialist constitutionalists should reasonably share.



to realize the objectives that it seeks to materialize.<sup>89</sup> It is for that reason that these objections are *internal* to socialist constitutionalism. I will consider three interrelated objections of that sort. The first claims that this strategy for social transformation is unduly *utopian*, in the sense that it is politically naïve, impossible for us to pursue it here and now, nor plausibly in the foreseeable future – call this *The Utopianism Objection* (sub-section 4.2.1). The second objection claims that the attempt to radically transform the constitutional order is blind to the reasonable likelihood of severe forms of conservative reaction waged by classes holding wealth-generated political privilege. It also incorrectly assumes that the politically disempowered are *already* empowered to fight these reactions – call this *The Conservative Reaction Objection* (sub-section 4.2.2). Finally, the third objection holds that *even if it would be both pursuable and not entail heavy forms of conservative reaction*, constitutionalizing class-specific political institutions would generate negative forms of *class co-optation*, namely, that it would *de facto* reduce, instead of increase, workers’ capacity to enact egalitarian social change by *de jure* constraining them to the rules of existing oligarchic plutocracies – what I call the *Class Co-optation Objection* (sub-section 4.2.3). In the following sub-sections I elaborate on the substance of each of these objections and proceed to reply to them in turn.<sup>90</sup>

---

<sup>89</sup> Note that these objections affect plebeian constitutionalism as well, since they affect the idea of constitutionalizing class-specific political institutions *simpliciter*. In the next section, I will make some comments as to how these objections apply somewhat differently to plebeian and socialist varieties, but I focus more on the latter since, as I have tried to argue, it is comparatively better considering the political goals of the *General Alternative*. It thus requires more urgent and extensive defence.

<sup>90</sup> An important caveat is that, because these three objections are largely hypothetical and empirical, a socialist constitutionalist might just be tempted to simply dismiss them at the level of theory. They could claim that only further attempts of political practice in tandem with more social scientific research could prove whether they are true, and that we should stick to the hope that class-specific political institutions would produce the positive effects that we associate with them. For this reason, one might say, there should not be too much worry about them before such attempts are enacted. But I think that they are very serious objections which should not be quickly dismissed. We must do our best to either reply to them or clarify why they are misdirected, or to explain how socialist constitutionalism can incorporate them. The replies to these objections are also indecisive, though, as they *also* draw on largely hypothetical and empirical premises. Expecting the opposite would be, I think, an impossibly demanding standard for speculative institutional design and normative justification. My aim is, therefore, not to provide knock-down refutations, but to show that there are plausible socialist constitutionalist replies to these objections.

#### 4.2.1. *The Utopianism Objection*

As already anticipated, the first objection to consider claims that constitutionalizing class-specific political institutions is unduly *utopian*, in the sense that it is politically naïve, impossible for us to pursue it here and now, nor plausibly in the foreseeable future. In this context, it is important to note that the point is *not* that the *ends* of socialist material constitutionalism are impossible or undesirable, such as an effective system of political institutions securing popular rule, and/or a democratized and egalitarian economy. Instead, the idea is that the *strategies*, or means, it suggests, are utopian in a pejorative sense. One reason is that the standard position seems to assume that “... [t]hrough argument and other rational means, [we could] convince people [especially the wealthy] of the desirability and justice of the ideal pattern and the injustice and unfairness of their special privileges, thereby getting them to act differently” (Nozick, 1974, 326). Furthermore, constitutionalizing class-specific political institutions of this kind seems to overlook the importance of the social environment in which they take place (*Idem*): In the context of current neoliberal capitalist states, the objection goes, attempting this strategy seems outlandish, to say the least. It follows that this form of egalitarian social transformation seems ineffective and naïve. And this conclusion, of course, significantly affects the attractiveness of the idea of constitutionalizing class-specific political institutions.

The *Utopianism Objection* is, in my view, the easiest to reply to. The reason is that it mischaracterizes the premises and political intentions put forward by progressive material constitutionalism in general, and socialist constitutionalism in particular. To begin with, the idea of constitutionalizing class-specific political institutions does not suggest that such a process would be clean, easy, or simple, nor that it would be materialized through reasoned arguments appealing to the moral consciousness of everyone, especially that of oligarchic agents.<sup>91</sup> As mentioned in sub-section 2.2.1 above, this strategy for constitutional re-ordering requires the concerted initiatives of diverse agents of change, such as winning left-wing political parties of principle, democratic trade unions, social movements, and so on, which would have to engage in *struggle* against the political oligarchization and those who benefit from it (Deveaux, 2021; Felicetti & Della Porta, 2019, 160-5). As a critical theory of constitutional ordering, this is one that *explicitly*

---

<sup>91</sup> Similar to Robert Nozick’s comments on how to think about utopia in a non-pejorative sense, yet from a radically opposite normative perspective, “... we make no assumption that people can be gotten voluntarily to give up privileged positions” (1974, 328).

*recognizes* social conflict as a matter of constitutional discourse and design. Similarly, it adheres to the idea that there is no realistic way to, following Gourevitch's comments on radical working-class strike action, 'purify resistance' (2020, 107-110): As we shall see, connected to the *Conservative Reaction Objection*, champions of socialist constitutionalism must be aware of the real likelihood that enacting radical social change through constitutional reform will be faced with hostility by some actors, especially from the economically privileged. I will address this issue in a moment. But note that, again, socialist constitutionalism neither assumes that it would be easy to constitutionalize class-specific political institutions under current circumstances, nor that it would be the "first step" to enact egalitarian social change. Champions of the *Utopianism Objection* portray this strategy as if it were isolated from a larger political project involving many other organizations and forms of collective empowerment. These are required for egalitarian constitutional change to flourish. But the point is that *constitutionalizing* class-specific political institutions would also maximize the chances of these organizations to enact their ends and retain the results of working-class struggles, not least because constitutional politics better resists market fluctuations in a way that normal politics does not, and so entrenches these gains more robustly. The mutually supporting relations between these informal organizations and formal constitutional platforms for the oppressed are complex and cannot be spelt out as a neat formula to be applied to all circumstances. But, to make the point clear, the idea is that a plausible understanding of socialist constitutionalism claims that popular movements backed up by political parties *are* fundamental, *but so are institutional channels for popular power conferring stability in its opposition to organized oligarchic power* (Klein, 2021; Gastil & Wright, 2019, 32; Mulvad & Stahl, 2019, 603; Wright, 2019, 43). I want to insist that a plausible reply to the *Utopianism Objection* must affirm that *both* elements are fundamental. By suggesting that the institutional side of the coin is readily accessible or sufficient to enact egalitarian social change, the *Utopianism Objection* only targets a strawman of socialist constitutionalism.

#### 4.2.2. *The Conservative Reaction Objection*

The second objection, which I call the *Conservative Reaction Objection*, rather begins by rejecting the premise that constitutionalizing these institutions is utopian in the specified sense by the *Utopianism Objection*. Instead, it considers that constitutionalizing class-specific political institutions of this sort, as well as their political aims, are politically accessible – i.e., that constitutional orders could realistically include them via the pressure of progressive social movements and, maybe, effectively achieve their aims, at least to a certain extent. But then, the objection proceeds to claim, it is reasonable to think that the *externalities* of such a strategy would likely be overall disastrous. In particular, it seems that socialist constitutionalists believe that “... those whose privileges are threatened will not intervene actively, violently, and coercively to crush the experiment and changes” (Nozick, 1974, 326), while the opposite might well be the case. Partly because “... [m]aking a radical constitutional change in a state is like giving a kaleidoscope a twist: you can never be entirely sure what the outcome will be” (Barber, 2018, 238), but also since such a kind of radical democratic innovation would harm the interests of wealthy minorities, we should expect them to react in many violent or politically undesirable ways – e.g., capital flight, strike, or even attempts to overthrow democratic governments (Elster, 1993b). There are, furthermore, good reasons to doubt that current political elites would implement these class-specific political institutions voluntarily – that is, what Mulvad and Popp-Madsen recently called the ‘problem of power’ in the quest for realizing more meaningfully egalitarian democratic institutions (2021, 87). In turn, the point is that severe forms of conservative reaction harming the working class are likely to occur, thus undermining the cause of the oppressed, and perhaps increasing constitutional oligarchization. Moreover, to avoid such a state of affairs organized political agents would have to force elites to accept creating institutions strong enough to resist these reactions. Yet such a recognition suggests the *redundancy* of class-specific political institutions since, as it appears to be, materializing them *already needs* a politically empowered class-conscious and solidary political subject. So, why bother with designing institutions politically empowering the economically disempowered, if for them to come about the many *already need* to be politically empowered?<sup>92</sup> This is the substance of the *Conservative Reaction Objection*.

---

<sup>92</sup> For a similar reasoning targeting the viability of an emancipatory universal basic income, see Gourevitch and Stanczyk (2018).

This objection is harder to reply to when compared to the *Utopianism Objection*. To recall, while it accepts that it is socially possible to amass sufficient degrees of organizational power required to constitutionalize class-specific political institutions, such an effort would be confronted with several forms of conservative reaction that, eventually, could become pernicious to the working class – and deepen their political disempowerment. Further, because these agents are already assumed to be organizationally powerful, they would be better off pursuing other strategies instead of fighting for a constitutional anchor that would trigger these reactions. As I already clarified, I do not believe that there are decisive replies to this objection. It is a historical question that cannot be answered in the abstract. But there are some arguments to try and weaken it. Let me unpack some of them.

The first is that, as the objection stands, it reasonably applies to *all* forms of strategies of radical egalitarian social change, that is, which meaningfully challenge the basic structure of capitalist constitutional orders. Social movements, general strikes, forms of widespread demonstration and civil disobedience, would *all* plausibly make the wealthy unhappy and trigger forms of conservative reaction. Yet embracing the truth of this empirical claim without reservation, in the sense that progressives should henceforth refrain from trying to enact them, is just a form of political defeatism that goes against the core motivations of a bold struggle against oligarchization. Risks of conservative reaction are, realistically speaking, unavoidable, and they can only be contingently faced via political ingenuity and organizational force. That said, and also speaking against the charge of redundancy, my view is that *contra* what the objection claims, progressive material constitutionalism offers resources that are *particularly sensitive* to forms of reaction when compared to other forms of radical social transformation. For one, as already suggested, the stability-enabling function of constitutionalizing workers' political power is a valuable *addition*, not a replacement, for unformalized working-class organizations when theorizing meaningful forms of egalitarian constitutional change – indeed, an addition that would protect the gains of these organizations from the fluctuations of market-dependent political life. It is also odd that this constitutional strategy is seen as *particularly radical* since, quite the opposite, it is a *relatively cautious* anti-oligarchic form of struggle that is both explicitly developmental and that accepts (with all the reservations provided) the legitimacy and structure of some bourgeois democratic institutions. To go back to Adler's proposal, it is important to remember that one of the reasons in favour of a working-class Senate was that, by recognizing parliament's political legitimacy *too*, it would protect forms of egalitarian social change "... from terrorism and ensure a further development of society free of

the storms of civil war” (2018, 174). It is thus a strategy that is admittedly aimed at avoiding these risks.

I also think that we must strongly resist the claim that class-specific political institutions are redundant to enact egalitarian social change. Constitutionalizing class-specific political institutions is a strategy that projects the power of the economically dispossessed into the future and places their struggle *within* the oligarchic state, which is, I think, without much doubt, one of the most important sites for the exercise of authority in modern societies. In turn, such institutions would enable these agents to use the transformative force of state power and not only fight *against* it. It fulfils a unique function in the constellation of non-reformist reforms and practices of collective emancipation that we need. Accordingly, the *Conservative Reaction Objection* seems to be too quick in dismissing the appropriateness of this radical strategy for constitutional reform. It also downplays the fact that such a strategy is *particularly oriented towards* finding ways to maximize the political power of the economically dispossessed *while* not ruining it in the process of stabilizing it. It thus does not provide special reasons nor sufficient grounds to reject socialist constitutionalism as an egalitarian strategy for social transformation.

Finally, it might pay to consider the potential idea that plebeian constitutionalism offers a better reply to the *Conservative Reaction Objection* when compared to socialist constitutionalism, and that this might make it comparatively better as a conception of progressive material constitutionalism *even though* it would entail the *Class Divisions Entrenchment Objection*. The main intuition foregrounding this claim is that because the plebeian interpretation accepts the permanence of class divisions (thus giving the wealthy a somewhat comfortable space within the constitutional order) and grants lesser constitutional powers to class-specific political institutions, its recommendations would be faced with lesser strength than in the case of the socialist alternative. But this argument misinterprets the problem. For one, while the wealthy would plausibly be happier with strategies that explicitly recognize the unavoidability of their existence, *it is also true that their existence disempowers the many, simpliciter*. So, although opting for the socialist alternative might entail stronger reactions at the beginning of enacting this route for egalitarian social transformation, it would be better in the long-run. Further, this idea ignores that socialist constitutionalism is compatible with a variety of more moderate interpretations which grant lesser constitutional powers to class-specific political institutions than, say, the Adlerian proposal. Because socialist constitutionalism further avoids (or explicitly aims to avoid) the *Class Divisions Entrenchment Objection*, it still seems philosophically and politically superior.

#### 4.2.3. *The Class Co-Optation Objection*

The last objection that I want to consider is what I call the *Class Co-optation Objection*, which brackets both the charge of utopianism and the likelihood of conservative reaction by capitalists (and/or capital). Rather, it is based on the premise that workers (or the nonwealthy class, etc.) are organized enough to push for constitutionalizing empowered class-specific political institutions more stably. But it targets the truth of the expectation that such a strategy would increase their political power in a meaningful sense. On the contrary, the claim is that such a constitutional strategy would produce the opposite effect. A paradigmatic champion of this objection in the history of political thought was György Lukács (2014 [1920]). Directly replying to Adler's proposal of creating a working-class Second Chamber, Lukács considered that such an idea constituted "... a new peak in 'parliamentary cretinism'" (*Ibid.* 62). The main reason behind such a dictum was that, by integrating workers' councils within the legal apparatus of the bourgeois state, as well as constraining their political authority to specific legal domains, these platforms would lose their revolutionary potential and become reactionary. This is because, for Lukács, emancipatory working-class organizations should be autonomous and *offensive* platforms against capital, while integrating them within the capitalist state would only absorb their transformative potential and subsume them to its oligarchic rules and procedures.<sup>93</sup>

A different way to illustrate this objection is through Leo Panitch's (1981) analysis of the development of corporatist arrangements in advanced capitalist societies, whereby trade unions were formally included as decision-makers in important matters of economic policy – and which, in a way, constitute examples of 'actually existing' class-specific political arrangements within the state. According to Panitch, these forms of group-interest representation within states were *de facto* detrimental to labour's organization, 'enmeshing' them in the legal apparatus and 'juridifying' class conflict in a way that more than anything slowed down progressive social transformation (*Ibid.* 37). Fostering an ideology of class-cooperation according to which both capital and labour should pursue the 'general interest,' these organizations were particularly effective in legitimizing the capitalist state *because* they were class-based, according to Panitch. For they conveyed the

---

<sup>93</sup> Indeed, he applied this reasoning to legal measures more generally, claiming that "... [l]egality in any shape or form – i.e., integration into bourgeois society, with precisely defined limits to its competence – would transform [the existence of working-class organizations] into a sham: the workers' council would turn into a cross between a debating society and a poor man's parliamentary committee" (Lukács, 1920, 62).

appearance that *workers themselves* voluntarily agreed with official governmental policies that were, by no means, to their advantage as a class. Accordingly, corporatist strategies decreased workers' class consciousness, disciplined labour unions instead of increasing their bargaining capacity within the state, alienated rank-and-file members from political decision-making (creating bureaucratic hierarchies) and facilitated their co-optation by the interests of capital (Maher & Aquanno, 2022, 249). Moreover, because of their tendencies toward bureaucratization, such arrangements were unstable in the long run: As they were progressively integrated within capitalist states, they adopted a pro-capitalist logic that triggered hostility from union members, who often withdrew from participation. On this account, then, the diagnostic is that these arrangements did not create long-lasting forms of collective power against the interests of wealth. In a nutshell, the general point of the *Class Co-optation Objection* is that incorporating working-class organizations within the state apparatus is generally pernicious for increasing the political power of the economically disempowered. Rather, such means need to be *autonomous* from the capitalist state, all the way down. And, of course, such a conclusion directly affects the idea that constitutionalizing authoritative class-specific political institutions is an attractive way to increase workers' power. If true, this is very bad news for socialist constitutionalism.

How could we reply to it? Again, while the *Class Co-optation Objection* is based on several empirical issues that cannot be replied to decisively, I want to end by considering several reasons that could ameliorate its force. More particularly, my view is that this objection dramatizes the degree to which these negative effects would materialize. It also downplays the reasonability of their positive effects, as well as ways in which we could maximize them through better institutional design. First of all, one must note that constitutionalizing class-specific political institutions does not involve the idea of subsuming *all* forms of working-class organization within the state, nor replacing them altogether. Rather, to reiterate, this strategy is better conceived as an *addition* to such forms of working-class organization, that is, existing alongside them, in a way that stabilizes anti-oligarchic resistance and gives the economically disadvantaged power within the liberal capitalist state (on a transitional basis). There are also several reasons why it makes sense to believe that the Lukácsian worry is overly harsh and blind to the benefits of constitutionalizing class-specific political institutions. This is because, again, while these dangers *are* real, they are not *necessary*, and many things can be done to minimize them. A way to illustrate this is by appealing to forms of corporatist arrangements that *have* brought such positive effects – as was the case of the post-war era Scandinavian countries (Korpi, 1978). Following Archer's (1988) defence of the potential benefits of corporatism, whether this form of organization (or other state-based forms



of pro-labour class power) succeeds in advancing workers' demands, and is not co-opted by the interests of capital, depends on the balance of power in a specific political situation. In particular, the observation is that such has been the case when, in virtue of its high degrees of organization and bargaining power, *labour* has set the terms of negotiation with capital. Now, the point is that such a thing *may* occur. It also suggests that the success of class-specific political institutions in enacting social transformation plausibly requires high degrees of labour organization. But it is also important to highlight that forms of corporatism have sometimes *maximized* the balance of power in favour of labour. Class-specific political institutions, organized along such lines, could maximize it too. The main factors to highlight here are that these institutional forms provide workers *stable*, formal political authority over policy at a national level – something that both unions and lesser authoritative class-specific political institutions lack (*Ibid.* 102).<sup>94</sup> They also create forms of centralization that allow factionalized workers the ability to better form more unitary material interests in favour of the working class as a whole, especially vis-à-vis how difficult it is for workers to organize in the first place (*Ibid.* 94) – and this is significantly valuable in the quest of effective strategies against instrumental and structural forms of oligarchization. Now, as discussed in the context of plebeian constitutionalist replies to the *Class Divisions Entrenchment Objection*, high degrees of centralization within organizations increase the risks of oligarchization which, in turn, would break the solidarity bonds that we seek to create within these institutions, as well as the likelihood that these would produce the outcomes that we, egalitarian democrats, want them to produce. Yet again, one has to note that this is a problem for *all* organizations involving hierarchical differentiation and vertical representation. Also, like all complex organizations, there are ways to counteract and even eliminate this flaw, in this case, via securing “... strong internal union democracy” (Archer, 1998, 91) in corporatist arrangements, and forms of democratic accountability over authoritative class-specific political institutions coupled with mechanisms to foster solidarity amongst representatives.<sup>95</sup> Thus, my non-decisive reply to the *Class Co-optation*

---

<sup>94</sup> So, taking corporatism back as an example, combining the industrial power of highly organized unions with government has sometimes given them the bargaining capacity to enact and promote policies they would otherwise not be able to enact, such as increasing “... low unemployment, tax cuts [in favour of labour, increased welfare spending, new investment, and, last but not least, greater economic democracy” (Archer, 1998, 99).

<sup>95</sup> Arguing against this possibility, in his discussion of corporatism, Panitch claims that we should not “... fall prey to the romantic notion that [we could solve these problems] in formulations that rhetorically combine invocations to retain the maximum responsiveness to membership [of unions] with programmes for further assimilating [them] into corporatist political structures” (1981, 42-43). However, it is not clear

*Objection* is just that, while it points to real dangers of socialist constitutionalist class-specific political institutions, it is not a knockdown objection. We *do* have resources to address them, and these resources should be a part of socialist constitutionalist experimentation. Attention to avoiding class co-optation in the course of such experimentation is one of the challenges for champions of this view. The case for socialist constitutionalism stands.

---

to me why these efforts should be romantic or rhetorical, as they are rather real problems that should be, and can be faced, through better institutional design.

## Chapter 5

### *Liberal and Progressive Material Constitutionalism: A Partial Reconciliation*

#### **Introduction**

Throughout this thesis, I have argued that progressive material constitutionalism is an attractive approach for theorizing anti-oligarchic democratic innovations conducive to egalitarian social change. I have attempted to convince readers that constitutionalizing class-specific political institutions of exclusive access to politically disempowered social classes, especially along the lines of what I called the socialist interpretation, is a desirable and reasonably effective strategy. Now it is time to address a set of important concerns that many fellow egalitarians of a more liberal bent may have regarding its moral justifiability. In particular, this final chapter aims to reconcile my defence of progressive material constitutionalism with some of the core normative intuitions held by liberal egalitarians and/or neorepublicans regarding what justice and political legitimacy require. Starting from the premise of the moral equality of persons – that is, what some label the ‘egalitarian plateau’ (Kymlicka, 2001, 4) and/or ‘bedrock’ (Valentini, 2013, 177) of any plausible conception of social justice – these theories claim that it is fundamentally important that the state must treat these persons with equal concern and respect (Dworkin, 2002; Pettit, 2012; Schemmel, 2021; Sen, 1980). This idea is widely taken to mean, among other things, that political unities need to be organized based on reasons that ought to be publicly justifiable to citizens, which has (at least) three core implications. First, citizens should have access to an equal set of fundamental individual rights and liberties compatible with everyone else’s rights, as well as a fair value such as liberties including access to a democratic system involving an equal distribution of votes regarding public issues (e.g., Rawls, 1971; 1993; 2001). Second, a desirable constitutional order should be one in which citizens agree on the terms of social cooperation, as much as possible, through reasoned consensus and impartial deliberation. Thus, a healthy democratic life should not unduly favour the partisan views of certain groups over others, especially at the level of formal political institutions, but rather be oriented towards pursuing the general interest (e.g., Habermas, 1989 [1962]; Landmore, 2020). Third, it is also usually claimed that such a system requires effective institutional platforms to ensure that individuals are protected from the capacity of the state to

arbitrarily interfere with their lives, especially from certain majorities having a constant, authoritative say on political decisions at the expense of the rest (Christiano, 2008; Pettit, 2012). Of course, representative authors disagree as to how to specifically realize these requirements. But it is common to argue that a legitimate constitutional order must realize the values of formal political equality and procedural fairness; that it should aim to promote reasoned, impartial and inclusive deliberation among the democratic citizenry; and that it should avoid forms of public domination and majority tyranny.

This brief characterization shows that standard liberal egalitarian and/or neorepublican constitutional theorizing, in virtue of its full allegiance to the value of political equality, is committed to formally designing political unities in class-neutral terms. Furthermore, because of the central place in which reasoned consensus and impartial deliberation occupy in their rationale, constitutionalizing explicitly partisan political institutions seems, to say the least, undesirable. By the same token, empowering certain majoritarian economic groups and/or classes within the constitutional scheme could constitute a dangerous source of unchecked dominating power – especially when citizens are said to ‘blindly defer’ (Lafont, 2020) to the political decisions of representatives, as in the case of lottocratic political institutions, and which progressive material constitutionalists tend to favour. However, all these intuitions seem to conflict with the *Institutionalized Class Differentiation Thesis* and cast doubt on the virtues that I have associated with it in chapters 2, 3 and 4. If true, then, it would follow that my account is incompatible with mainstream liberal egalitarian constitutional thought and thus with a great portion of contemporary political philosophy. Indeed, as Lafont puts it, “... the road to an undemocratic hell might be paved by good democratic intentions” (2020, 3), and constitutionalizing class-specific political institutions might be just one instance of such a bad journey. But I want to resist this conclusion and explore ways to reply to these objections. How?

This chapter challenges such a conclusion by exploring separate yet interrelated arguments against these objections. These are interrelated because they are united by a common theme. Particularly, the salient intuition is that we should unapologetically insist on the distance between the severely *nonideal* context of the justification for class-specific political institutions – i.e., circumstances of significant political oligarchization – and the severely *idealized* picture of democratic politics that all these liberal objections advance. In a sense, these arguments use very demanding principles of democratic legitimacy to judge these institutional forms, principles that, while desirable, are far from being materialized in contemporary constitutional orders. As I tried

to show in chapter 2, there are several theoretical and empirical reasons to claim that liberal democracies are, despite their professed “class-neutral” character, class-divided oligarchic plutocracies, where the value of political liberties is unfair and political decisions biased to the interests of wealthy elites. These are *badly ordered societies*, societies “...regulated by principles favouring narrow class interests” (Rawls, 1999, 310) and that lack just constitutions (Edmundson, 2017; Ypi, 2019a). Now, as several authors suggest (e.g., Shelby, 2017; Gourevitch, 2018), I believe that the normative standards for assessing the justifiability of political practices must shift depending on the degree of idealization in which the analysis is carried out, which in this case, is very much nonideal. Thus, in addition to the explanatory issues discussed in chapter 1, a core mistake of liberal constitutionalism is to apply the aforementioned values “... as limiting conditions to severely non-ideal political and social relations” (Gourevitch, 2018, 910), while ruling out strategies that *partially* transgress these values but that promise to better realize them in time. These strategies should therefore be reconsidered. Such is the case of a plausible justification for class-specific political institutions, namely, one that understands their desirability to depend on their ability to gradually remove the causes of class conflict and produce more *de facto* inclusionary institutional settings – i.e., what the socialist constitutionalist rationale mandates. The road to an illiberal hell might be paved by good liberal intentions, and less liberal strategies for social transformation are worth trying out if we are to avoid entrenching oligarchization. The point of this chapter is, then, to reach a partial reconciliation between liberal constitutionalism and progressive material constitutionalism.

As usual, before fleshing out the chapter’s structure, I want to clarify some important issues. The first is that in my engagement with alternative traditions, I shall set aside conservative material constitutionalists (against which I have already argued in chapter 1) or right-wing libertarians (e.g., Nozick, 1974), who care neither about distributive equality nor social domination nor, plausibly, about constitutional oligarchization, as I understand it. Rather, I will engage in a productive dialogue with authors who might be sceptical of my account but whose claims about what political justice requires significantly overlap with those of the *General Alternative*. This is, again, the case of some liberal egalitarian and neorepublican theories that, although different from each other (e.g., regarding the place of the values of equality and freedom in their internal rationales), are widely seen to be similar both in normative terms and in their institutional recommendations. Relatedly, something needs to be said about my association of these two traditions with the label ‘liberal constitutionalism,’ which, in chapter 1, I described as an overly reductive understanding of constitutional ordering focused on how to protect individual rights through the counter-

majoritarian enforcement of judicial decisions by courts. Of course, in my view, such an association is not overall unfair – e.g., see Rawls’ (1993) praise for the figure of the Supreme Court as a crucial institution for securing justice. But it is important to say that there is a great degree of internal pluralism among liberals in how to understand the nature and role of constitutional ordering, including issues of judicial review, and so on (Waldron, 1998). In any case, my focus is on discussing liberal intuitions that are of a more *egalitarian* kind, and which are supposed to rule out the justifiability of class-specific political institutions.

Another point is that someone could argue that this whole enterprise is useless, as progressive material constitutionalism should not be concerned with ‘morality’ at all. Rather, in this view, such an approach should rest on sources of normativity that do not draw on moral intuitions and retain their transformative force at the same time – e.g., as some ‘radical realists’ tend to argue (e.g., Rossi & Aytac, 2022). However, I think this move is incorrect. As I argued in chapter 1, there are good reasons to claim that the idea of material constitutionalism unavoidably involves making claims about the moral normativity of political orders. The realist suggestion is, in my view, a false alternative: It may be useful rhetorically, but it is, perhaps unfortunately for some, philosophically untenable. Instead of rejecting liberal morality altogether, the challenge is to show that the “... political outlook [advanced here] is a more effective form of realization of reciprocal moral relations between human beings than the liberal one” (Ypi, 2018, 10). This makes enough sense of the importance of this chapter in the context of this work. Hopefully, this approach will also improve the moral appeal of the strategies for social transformation that I have proposed thus far.<sup>96</sup>

The chapter proceeds as follows. Section 5.1 briefly characterizes, and proceeds to reply to, the three main reasons why liberal egalitarians and neorepublicans object to the *Institutionalized Class Differentiation Thesis* – i.e. because it transgresses the values of formal political equality and procedural fairness (sub-section 5.1.1.), what I call the *Political Equality Objection*; impartial and inclusive deliberation (sub-section 5.1.2.), what I call the *Impartiality Objection*; and freedom as nondomination and anti-tyranny (sub-section 5.1.3.), what I call the *Anti-Tyranny Objection*. After

---

<sup>96</sup> I also want to clarify that my characterization of the liberal objections in question, as well as my replies to them, do not pretend to be exhaustive. There are other objections liberal authors might make to my proposals, and other ways in which those objections could be addressed. Rather, I aim to reconstruct these objections in a plausible way and show that progressive material constitutionalism can offer convincing replies to them. Thus, because they *are* central to liberal constitutionalism, we can conclude that these two perspectives are not incompatible bedfellows *at least on those grounds*.

showing that such transgressions are not as serious as they are usually portrayed, section 5.2. briefly concludes by clarifying the scope of the argument, suggesting that we have good grounds to maintain a partial reconciliation between progressive material constitutionalism and the views considered.

## 5.1. Three Liberal Constitutionalist Objections

### 5.1.1. Formal Political Equality

Let me start discussing this group of objections by sketching the general liberal constitutionalist rationale for the primacy of the value of formal political equality in their theorization of a well-ordered political order – i.e., that, under an authentically democratic system, all individual citizens must have a *right* to an equal set of basic political liberties, including “... near-universal suffrage, free speech, and the rest” (Dworkin, 2002, 186), as well as an equal allocation of political power in the form of equal votes on public issues (Urbinati, 2011, 168; Valentini, 2013, 188). There are multiple reasons grounding this claim, and I do not want to expand on them here in a way that unduly distracts us from what matters in this section. However, perhaps the most salient one is that if we are to properly justify the coercive imposition of laws to free and equal citizens living under a constitutional order from which they cannot voluntarily exit (Rawls, 2001, 4), we have to make sure that each of them has an “... equal share of sovereignty in determining the conduct of common affairs” (Cohen, 2002, 101; Schemmel, 2021, 208). Doing otherwise, the argument goes, would fail to treat individual “... citizens *qua* rational and autonomous agents” (Valentini, 2013, 178) and thus violate the fundamental political liberty that should be based on a legitimate political order. Hence, in this view, political legitimacy requires establishing conditions in which citizens can accept the terms of social cooperation in a way that nobody has “... unfair bargaining advantages over others” (Rawls, 2001, 15), such as in the case of arbitrary exclusions from participation in certain institutions on the basis of property (Rawls, 1997, 771). In contrast, *if the constitutional order can be said to be legitimate*, it must be effectively regulated by a ‘public conception of justice’ that reasonable citizens can accept (Rawls, 2001, 5).<sup>97</sup> It must also issue commands that

---

<sup>97</sup> This claim is related to Rawls’ liberal principle of public reason, according to which “... political power is legitimate only when it is exercised in accordance with a constitution (written or unwritten) the essentials

do not constitute circumstances of domination (Pettit, 2012, 146),<sup>98</sup> regardless of whether these do not fully reflect the particular, personal interests of individual citizens. Furthermore, materializing such conditions requires ensuring that the *value* of political liberties must be *fair*, that is, that their worth “... to all citizens, whatever their economic or social position, must be sufficiently equal in the sense that all have a fair opportunity to hold public office and to affect the outcome of elections, and the like” (Rawls, 2001; 149; also, Rawls, 1993, 327). Moreover, it requires the instantiation of a system of popular control over political authority that is “... individualized, unconditioned and efficacious” (Pettit, 2012, 153), through which each citizen can contest decisions made by representatives. All of these are basic conditions of political equality that an authentically democratic political order, which treats citizens with equal concern and respect, must realize.

While brief, this description explains why, for many, any plausible egalitarian conception of democratic constitutionalism must be “... radically based on individual equality and opposed to [...] communitarian and class-based approaches” (Urbinati, 2011; 163), which are considered to be illiberal and undesirable *tout court*. But, if this is true, the normative appeal of constitutionalizing class-specific political institutions is significantly affected. For, the argument goes, although exclusion from participation might be reasonably permissible (with restrictions) in the context of voluntary associations, introducing such exclusions at the level of political institutions would “... violate the fundamental right to equal liberty all citizens should enjoy under a [constitutional] republic” (Vergara, 2020a, 227; Urbinati 2021, 160).<sup>99</sup> Therefore, class-specific political institutions should be rejected for *procedural* reasons *even if* they could have positive effects in countervailing

---

of which all citizens, as reasonable and rational, can endorse in the light of their common human reason” (2001, 41).

<sup>98</sup> I take it that the neorepublican conception of freedom as nondomination (e.g., Pettit, 2012; Lovett & Pettit, 2019) is sufficiently well-known to further elaborate on its content. Suffice it to say that, in this conception, freedom obtains when agents are not subjected to the arbitrary will of others (which can be constrained through violence, laws, etc.), meaning that they need to have means to *secure* their freedom and *control* relevant constraints, whenever present.

<sup>99</sup> Along similar lines, champions of this objection suggest that such exclusions would be *arbitrary* because “... [n]obody chooses to be born into a wealthy family or in a low-income one” (Vergara, 2020a, 244), and *unfair* because, say, as it is the case in electoral class-specific political institutions – such as the one proposed by Lawrence Hamilton (2018), and which I briefly explained in footnote 62 – “... some social groups would have the right to elect more representatives than others, which would constitute a violation of the principle of equal suffrage” (Vergara, 2020a, 238).



oligarchic power. Put differently, even granting that they could “...prove beneficial to the cause [of nonwealthy citizens and/or workers], allowing for a stronger class consciousness to emerge among [them]” (Vergara, 2020a, 224), many egalitarian democrats deem them “...unnecessarily contentious” (*Idem*) and unjustifiable.<sup>100</sup> All these points lead to the following formulation of the *Political Equality Objection*:

*The Political Equality Objection.* An appropriate egalitarian conception of constitutional democracy should be committed to upholding formal political equality in all circumstances. This is incompatible with imposing group-specific qualities on the exercise of political rights, that is, with the *Institutionalized Class Differentiation Thesis*. But constitutionalizing class-specific political institutions entails such a thesis. Therefore, this strategy should be ruled out, regardless of their potential positive outcomes.

As noted, then, the *Political Equality Objection* targets class-specific political institutions’ transgression of basic democratic rights and conditions of procedural fairness. That is, the objection questions the morality of this strategy for egalitarian social change regardless of the potential positive outcomes that it might bring about. How could a progressive material constitutionalist perspective defend, against the view, that politically disempowered classes should have access to class-specific political institutions?

---

<sup>100</sup> In this regard, Vergara further suggests that constitutionalizing class-specific political institutions does not even deserve to be considered a *post-liberal* strategy (i.e., one which partially deviates from this liberal morality), and should rather be understood as fundamentally *illiberal*, since it transgresses the “... basic tenants of political liberalism such as individual rights and pluralism” (2020a, 120). I highlight this point because Vergara is a central figure in contemporary plebeian constitutionalism, meaning that the political equality objection is also embraced by “less liberal” authors, indeed by some people who are supposed to sympathize with core tenets of progressive material constitutionalism. This is also the case of some liberal socialists (e.g., Bobbio, 1990; Sypnowich, 1992) and socialist republicans, who claim that, unlike “...some forms of socialism, [their normative commitments nullify the legitimacy of] temporary forms of class rule in which non-workers [or wealthy citizens] would be excluded from political decision-making” (Muldoon, 2019, 13; 2018; also, Thompson, 2018). And they reject these forms of class-specific political authority, again, *notwithstanding doing so could effectively countervail oligarchic power*.

One first route of justification is stressing the great comparative relevance of producing egalitarian outcomes over that of securing fair procedures, especially under circumstances of oligarchization – where, importantly, exercises of political power are not expressive of public reason, are reasonably dominating, and the fair value of political liberties does not obtain. This route has been typically advanced by plebeian constitutionalists, who claim that, in circumstances where the political unity attempts to assign universal formal rights to all citizens participate in all institutions to all citizens, *yet* the reality is these citizens’ interests are *de facto* significantly underrepresented in political decision-making, *then* we should avoid the “... temptation to fetishize formal equality” (McCormick, 2012, 106) and rather prioritize the achievement of “... substantive political outcomes” (*Ibid.* 109). Thus, not only is it not the case that the *Institutionalized Class Differentiation Thesis* excludes wealthy elites from *all* political decisions, but the point is that they should be excluded only from *some*, and for the sake of producing outcomes that egalitarians should want. Thus, when the material constitutional order is such that it produces unwanted consequences for the many, it calls for altering the political unity so it can do otherwise. Class-specific political institutions should be vindicated on those consequentialist grounds.

However, the cost of this argument is that it talks past liberal constitutionalist intuitions – which is exactly what I am *not* trying to do here. We must speak more directly to the intuition that the *Political Equality Objection* conveys, namely, that procedural fairness should matter quite a lot for a plausible egalitarian conception of constitutional ordering, and without overly relying on consequentialist reasons. In other words, the challenge is to show that class-specific political institutions can be justified *on grounds of fairness*. Let me sketch three arguments to that effect.

The first is contained in the argument by analogy that I developed in chapter 2 between the priority of the right to strike over securing property rights (Gourevitch, 2018), and that of the right to have access to platforms to resist oligarchic domination over the real importance of securing *de jure* formal political equality – since such platforms might be necessary to *de facto* realize substantively democratic relations (Klein, 2022). This argument has an outcome-based component (i.e., stabilizing the capacity to resist oligarchic domination with the hope of producing more egalitarian results), but it highlights the importance of securing the *justified entitlement* of nonwealthy and/or working-class citizens to resist oligarchic domination *regardless of their potential failure*, and thus as a matter of *right*. In turn, even though access to class-specific political institutions would not, say, produce short-term desirable outcomes, it provides a case for granting access to them on

grounds of a right to resist oligarchic domination: It is only fair that politically disempowered classes have *opportunities* to do so in such circumstances.

Yet such an argument must be supported by further considerations, as critics might still argue that opportunities to resist domination must be always consistent with the value of formal political equality. Thus, a second argument, due to Khaitan (2019a), consists in the claim that class-specific political institutions are useful tools for advancing the fair value of political liberties in contexts of widespread wealth-generated political privilege for the few – and thus speak directly to realizing the substantive components of the value of formal political equality. In particular, because nonwealthy citizens have insufficient opportunities to participate or influence in political decisions (and hence are, in his words, ‘locked-out’ from these), we should create formal organizations and mechanisms to guarantee them a modicum of political power that *compensate* for such disempowerment – in this case, via access to class-specific political institutions, *for the sake of political equality*. Therefore, given that a fundamental premise of liberal constitutionalism is to secure the fair value of political liberties and that these institutions could help to do so under such nonideal circumstances, we have reasons to value them on grounds of fairness. Democratic citizens should therefore accept such reasons as forms to advance basic questions of political justice and constitutional essentials pertaining to a well-ordered society, but which is not yet materialized.<sup>101</sup>

A final, third possible supporting argument related to considerations of fairness is that of securing more working-class descriptive representation within authoritative political institutions – e.g., parliaments (Elsässer & Schäfer, 2022) – which can be seen as a condition for political equality under circumstances of oligarchization, as we saw in chapter 2. Put differently, under class-divided societies, where formal political equality is transgressed, and most citizens are under-represented,

---

<sup>101</sup> This helps us to address Vergara’s objections in footnote 99, according to which excluding wealthy agents at the level of the state would be arbitrary because nobody chooses where one’s born, and unfair because it could transgress fundamental democratic procedures, such as giving everyone equal voting opportunities and weighs. Yet one must note that, although nobody “chooses to be born rich”, there is reasonably (almost) always a prerogative for people to *remain* privileged – and, if these agents understand the seriousness of oligarchization, they should not complain if they want to remain as such. The fact that they cannot participate in *some* political institutions should not be a matter of justified complaint. Similarly, if the wealthy understand that (part of) the purpose of class-specific political institutions is to correct for the unfair value of political liberties by, for example, giving more votes to those who are currently politically disempowered due to class relations, it seems bizarre that they would object to that strategy on grounds of fairness – which would rather likely express as a complaint based on their already available privilege.

achieving political systems that more appropriately reflect such conditions to the benefit of the under-represented requires institutions that fulfil that role. In conclusion, as long as material relations impede constitutional orders from effectively realising conditions of full political equality, and class-neutral political institutions systematically fail to correct such tendencies, employing class-specific political institutions is a promising and fair strategy for the egalitarian.

Now, it is crucial to highlight that, for all these arguments to be truly convincing replies to the *Political Equality Objection* in a way that establishes a partial reconciliation with liberal constitutionalism, they must acknowledge the normatively problematic character of class-specific political institutions – i.e., that they *do* partially transgress important values that well-ordered constitutional orders should enshrine. Particularly, in this case, we must recognize that the fact that these institutions are exclusionary and, to a certain extent, politically inequalitarian, *is* an issue, not only because formal political equality is valuable, but also because the class divisions that trigger the need for them are wrongful. We must recognize that a truly just constitutional order, where citizens are treated with equal concern and respect, requires realizing conditions where more inclusionary arrangements can be materialized without allowing for oligarchy to reign – which not only means departing from formally class-neutral liberalism, but also from plebeian constitutionalism. In turn, along with the socialist conception of progressive material constitutionalism that I developed in the last chapter, class-specific political institutions must be explicitly transitional and temporarily limited: Besides realizing other important democratic principles, they must advance conditions in which political liberties are equal and of fair value, something that requires eroding class relations to be effective. This was the main reason why, coupled with the risk of these institutions to fail in showing that they are fulfilling their purpose, I suggested that constitutionalizing class-specific political institutions should include, as a matter of design, periodic constitutional conventions (every 10 or 20 years) aimed at evaluating their performance – and dissolve them, via a national referendum, or a procedure of that sort, if these are not realizing succeeding. Yet, if they *do* realize their ends, they should wither away, as they would be functionally redundant. If such conditions are met, then, I think that egalitarian democrats should downplay the force of the *Political Equality Objection* and change their constitutional thinking accordingly. I submit that progressive material constitutionalism is partially compatible with liberal constitutionalism on these grounds.<sup>102</sup>

---

<sup>102</sup> Along similar lines, Christian Schemmel (2021) has recently argued that liberal egalitarians and neorepublicans should embrace partial deviations from political equality if that is needed, for example, to

### 5.1.2. *Impartiality, Inclusivity, and the General Interest*

Now, as already mentioned, the *Political Equality Objection* is not the only reason why liberal constitutionalists of an egalitarian bent reject the *Institutionalized Class Differentiation Thesis*. A second, related source of criticism, usually advanced by deliberative democrats, attacks such a thesis *not only* because it transgresses basic *rights* but also because it questions the idea that it would produce better *outcomes*. In particular, the idea is that a well-ordered, desirable constitutional democracy should be committed to securing as many channels as possible for impartial and inclusive deliberation for citizens to decide on the content of laws and that doing so would better help to express the general interest. Again, the idea is that a truly egalitarian democracy must be one in which citizens justify laws and policies to each other for mutually acceptable reasons (Christiano, 2008; also, Urbinati, 2021, 155) and without pursuing personal or overtly partisan interests as a primary motive when engaging in public matters. Thus, as Habermas has famously put it, democratic deliberation in the political sphere should at least *ideally reflect* “... the authority of the better argument” (1989 [1962], 36) and embody “... the reasonable consensus of publicly debating” citizens (*Ibid.* 132). Only in such a way, this view claims, political institutions will be truly oriented toward representing *the people as a whole* and achieving policies that are in their interest. Furthermore, by including as many views as possible in deliberative processes, political institutions become more *cognitively diverse* and tend to produce better policies in the interest of the people as a whole (Landemore, 2020; Abizadeh, 2020). Constitutionalizing political institutions of an explicitly partisan character would not only exacerbate unnecessary socio-political antagonisms but overall achieve worse policy outcomes – *inter alia* because they would be ignorant to important perspectives from certain individuals or groups in the polity that would help to better understand socially complex problems.

---

protect basic liberal rights (and hence for procedural or fairness-based reasons) or achieve significantly better political outcomes – even if such deviations involve transgressions of what justice requires. He also recognizes that there “... is no algorithm for calculating how much transitional injustice one should accept in the name of fuller political equality” (220). That said, he believes that we should adopt a presumption for political equality, namely, that transgressing it must be a matter of strict necessity and decided with extreme carefulness (*Ibid.* 221). While he does not offer clear guidance as to how to determine such a necessity, my view is that, when circumstances of oligarchization are significant, such a presumption can be set aside.

All of these elements constitute the content of what I call the *Impartiality Objection*. Essentially, the idea is that, because class-specific political institutions are explicitly exclusionary, partisan and conflict-oriented, they become less intrinsically justifiable from a democratic standpoint and would likely deviate from achieving the common good. For example, champions of this objection, such as deliberative democrats like Landemore, claim that the whole rationale behind constitutionalizing class-specific political institutions seems ‘undemocratic,’ ‘unattractive,’ and ‘unsettling,’ indeed portraying a view of constitutional ordering that denies “... the fundamental political equality that should be at the heart of an authentic democracy” (2020, 50). Furthermore, when class-specific institutional forms claim to be *democratic*, that is not only false but also distorts the latter’s commitment to inclusivity. In other words, class-specific political institutions *cannot* be democratic since, *as a matter of principle*, they can never represent the *people* but rather a certain part of them (*Ibid.* 2020, 54). Moreover, we must add that excluding members from participation in some political institutions seems to be just a bad policy choice, as it would be to choose to reduce potentially greater cognitive diversity among representatives and, with that, better decision-making outcomes (*Ibid.* 7, n.13) – for example, by alienating progressive elites who could be beneficial for the causes of nonwealthy citizens and producing too-homogeneous assemblies (Vergara, 2020a, 244). There are also reasons to cast doubt on the idea that they would create mutual empathy and solidarity (as I argued in chapter 2) among ordinary citizens and rather *erode* it by dissolving the idea that the constitutional order can represent *people* (Lafont, 2020, 3). In other words, introducing a *partisan* and *partial* element into the construction of authoritative, representative political institutions undermines their democratic credentials and prevents them from achieving desired outcomes (Barber, 2018, 156ff). In summary then:

*The Impartiality Objection.* An appropriate egalitarian conception of constitutional democracy should promote impartial forms of deliberation as well as inclusivity within formal political institutions. This is incompatible with constitutionalizing authoritative institutions based on partisan aims or excluding certain groups of the citizenry – and thus with the *Institutionalized Class Differentiation Thesis*. Doing so would also plausibly produce bad policy outcomes, as opposed to more inclusionary institutional arrangements. But constitutionalizing class-specific political institutions entails the *Institutionalized Class Differentiation Thesis*. Therefore, this strategy should be ruled out.

How could a plausible version of progressive material constitutionalism respond to the *Impartiality Objection*? A first avenue of justification is to argue against the *interpretation* of democratic deliberation at its heart and question its appropriateness for theorizing the problems at stake – oligarchization due to class relations. In this context, one first step is to note that this objection, as I presented it above, is based on what Mansbridge et al. (2010) have called a ‘classic’ ideal of public deliberation, according to which legitimate and just laws should not embody “... a compromise between competing private interests” (Habermas 1989 [1962], 81) and reflect the force of reasons. Now, while this idea of democratic deliberation might seem attractive in fairly ideal circumstances, where both citizens have real chances to engage in such forms of debate and effectively influence the outcomes of political decisions, there are good reasons to believe that it seems naïve when applied to less idealized social worlds where these conditions are not available. Indeed, many deliberative democrats, who are also liberals, endorse alternative interpretations of democratic deliberation including more partisan and self-interested forms of conflict and negotiation.<sup>103</sup> They are thus willing to relax impartiality-based constraints when assessing democratic institutions, especially when relevant parties represented and/or participating in them are highly unequal in terms of political and economic power (*Ibid.*, 82-83) – which is the case in constitutional systems involving significant oligarchization.<sup>104</sup> If true, then, champions of the *Impartiality Objection* would only represent a *specific* interpretation of public deliberation and the constraints that it imposes in our political practices, which could be abandoned without resigning to the idea as such. If we are keen to think that the conditions for genuinely impartial deliberation do not apply to oligarchic plutocracies, the burden of justification is on the authors participating

---

<sup>103</sup> See, for example, Jane Mansbridge’s (2010) co-authored paper with many crucial figures in the deliberative democracy literature, who agree on this partisan-based idea, including James Bohman, Simone Chambers, David Estlund, Andreas Føllesdal, Archon Fung, Cristina Lafont, Bernard Manin and José Luis Martí. I will largely draw from such a paper in the following discussion.

<sup>104</sup> Mansbridge et al. (2010) point out two main reasons why this should be the case. One is due to the need to create conditions for good deliberation, which is incompatible with power inequalities where one group can *neutralize* the other. This is the case in circumstances involving significant oligarchization, as wealthy agents can mobilize their economic power to gain privileges within the political system and impede the results of democratic deliberation that would deny such privileges. Thus, measures that partially transgress the classical ideal of deliberation can be justified for their own sake. The second is related to an argument based on the value of *self-defence* (*Ibid.*, 83), namely, that trying to deliberate with others who do not want to do so at all is pointless and allows deviations from the deliberative ideal as a result. This is often the case with oligarchic plutocrats, and such a case gives us reasons to foreground forms of contestation against them that are more oppositional than the classical ideal of democratic deliberation.

in the classic conception. In the absence of such a justification, the partisan case of which the *Institutionalized Class Differentiation Thesis* is, I believe, more convincing. The idea that we should give more institutional weight and attention to the views of politically disempowered classes can be made consistent with some forms of liberal constitutionalism. Their views regarding which forms of public deliberation are admissible and valuable. They can overlap.<sup>105</sup>

However, champions of the *Impartiality Objection* can still reject the classic model for democratic deliberation and claim that class-specific political institutions would not produce the benefits that I associate with them. Indeed, they could claim that we should retain a normative commitment to pursuing the general interest through inclusive means, which these overly partisan institutions would not be able to track. They could also insist that more inclusive and cognitively diverse institutions would better realize this end. As I have discussed on several occasions, these are complicated, empirical questions regarding the concrete benefits of class-specific institutional forms, questions which could be appropriately decided only through real-world experimentation with them. But, as I have also suggested, there are good presumptive reasons to believe in such benefits and therefore push back against this part of the *Impartiality Objection*. One is to resort to a topic that I have discussed in many parts of this thesis, i.e., to cast doubt on the idea that the ‘general interest’ can be achieved and/or conceptualized under circumstances of significant oligarchization. Indeed, such circumstances are characterized by a fundamental *conflict* of interests that can, reasonably, be effectively superseded only by radically changing the material conditions that give rise to it. In addition, as far as such a conflict is in place, it seems that pursuing the ‘general interest’ through formally class-neutral institutional models only is a false alternative that could perpetuate undemocratic relations (Young, 1990, 96-121). Indeed, if the intensity of oligarchization is as high as I have suggested, it is strange to expect that having more formally ‘inclusive’ arrangements would produce better outcomes than otherwise. These arrangements will keep producing *elitist, pro-capitalist* decision-making outcomes. And these outcomes are unacceptable on liberal egalitarian and/or neorepublican grounds. People sharing those intuitions

---

<sup>105</sup> That said, I agree with Mansbridge et al. (2010) in that, although allowing desirable, public deliberation to include the pursuit of more partisan interests, its processes and outcomes should be generally regulated by “... universal constraints of moral behaviour and human rights and by the particularly deliberative constraints of mutual respect, equality, reciprocity, fairness, and mutual justification” (76). If class-specific political institutions were to transgress these norms in an intense and repeated manner my arguments would not support them.



should be more sympathetic to institutional innovations (in this case, class-specific ones) that promise potential democratic solutions to such a state of affairs.

Now, leaving aside the problem of aiming to identify and/or represent the general interest under nonideal conditions of oligarchization, I think that there are further reasons why liberal constitutionalists should be less sceptical about the benefits of class-specific political institutions. One set of reasons is contained in my discussion, in chapter 2, about the analogies between healthy workers' unions and these institutions. To recall, drawing on empirical evidence suggesting that the former are conducive to producing greater class solidarity leading to more egalitarian decision-making outcomes, I argued that we should expect similar trends from the latter because of their institutional resemblances. Thus, to the extent that class-neutral arrangements lack the anti-oligarchic resources of their class-specific counterparts, the latter could be better equipped to produce certain kinds of positive outcomes than the former. Therefore, while one must concede that, sometimes, class-specific political institutions could increase social antagonisms in a problematic way and that they are not a panacea for democratization, we *should* expect beneficial outcomes from them. On the other hand, there are good reasons to relax concerns about securing cognitive diversity. For, as I have also extensively discussed in previous chapters, the nonwealthy and/or working class, regardless of how one wants to operationalize the category, is *already* internally diverse in all realistic settings. As a consequence, class-specific political institutions are not overly homogeneous but rather spare just a small portion of citizens' views, a sacrifice to be admitted by virtue of all the other benefits we have reason to think they would purport. A commitment to full inclusivity in authoritative political institutions forecloses relevant anti-oligarchic possibilities, and deviating from this commitment does not entail a lack of diversity. Again, this part of the *Impartiality Objection* is insufficiently grounded.

Yet again, as I specified in the case of the *Political Equality Objection*, one crucial feature of my account is that democratically justifiable class-specific political institutions must be explicitly transitional and temporary. For one, granted that it is plausible to include partisan conflict in nonideal democratic deliberation – and deviate from an overly idealized notion of impartiality as a result – that does not mean that this state of affairs is desirable as such. Rather, my socialist rationale for the *Institutionalized Class Differentiation Thesis* is based, first, on the recognition that such contexts systematically hinder meaningful exercises of deliberation and control for the majority of citizens, who are nonwealthy. Partly for this reason, these must be granted opportunities to access political institutions of exclusive access to them, that is *because there is a real*

*problem which must be overcome.* Second, in light of all the arguments provided against the plebeian constitutionalist stance and its vulnerability to the *Class Divisions Entrenchment Objection* (chapter 3), we must not reify the divisions that trigger the need for these institutions. Indeed, we must aspire to realize political orders whereby these noxious forms of conflict are absent. Achieving a partial and convincing reconciliation with liberal constitutionalism requires recognizing the shared end of achieving states of affairs whereby laws are largely defined by reasoned debate among free and equal citizens, through which the interest of the *people*, not class divided, can be conceived and materialized. It is only when such states of affairs do not obtain, and particularly when oligarchy reigns, that these institutions can be justified as forms of struggle against what impedes their realization – e.g., class relations. The point is that these institutions must help us to advance those desirable conditions and then wither away if successful. Again, I conclude that, construed in this way, the clash between these two perspectives is not as dramatic as it initially seemed. The philosophical basis for a partial reconciliation between this approach and liberal perspectives on constitutional ordering becomes more stable.

### 5.1.3. *Democratic Control Against Tyranny*

The last objection that I want to consider is closely related to the former two already explained. Sometimes labelled “... the catch-22 of republican theory” (De Dijn, 2019, 54), this argument focuses on the importance of making sure that state institutions do not engage in public domination or tyranny against citizens and the correlative necessity that the latter must have a relevant degree of *control* over the decisions that the former takes (Pettit, 2012, 167). Thus, the point is that we should be extremely cautious with constitutionalizing institutional forms holding degrees of authority that are too high. It also entails that we should be sceptical of forms of political representation entailing what Lafont (2020) calls forms of blind deference, where citizens are said to have little control (or no control) over who represents them or what those representatives decide – as it seems to be the case with authoritative lottocratic arrangements, whereby political authority is just ‘delegated’ to randomly selected representatives without the capacity to elect them nor hold them accountable through further means (*Ibid.* 116-136). It also points to the well-known problem of the possibility that the institutional scheme might create forms of *factionalism* and *majority tyranny*, where a “...specific group trying to push through its own interests [through state institutions] while trampling upon the interest of others” (De Dijn, 2019,

64; also, and famously, Madison in *Federalist 10*). Such a scenario occurs when it is possible to identify, in the functioning of the political system, groups of individuals who transgress the possibility of opposers to certain policies to change decisions (i.e., what Pettit [2012, 211] calls ‘sticky’ majorities) and thus militate against the requirement of democratic rule that everyone must have a chance to be on the ‘winning side.’ Consequently, in this view, the possibility of *recursion* is a requirement of a well-ordered constitutional scheme, namely, that minorities must have channels to contest and amend political decisions – e.g., through the availability of forums such as courts, from which challengers could “... expect an impartial assessment [of their exercises of contestation] and, *ideally*, resolution” (*Ibid.* 215 – my emphasis). Otherwise, the state would neither be able to satisfy fundamental demands of political equality (such as those discussed above) nor institutionalise democratic control.

Now, the problem is that there seem to be good reasons to believe that implementing the *Institutionalized Class Differentiation Thesis* risks producing a suitable environment for circumstances of public domination and tyranny to emerge. Firstly, it seems to grant class-specific political institutions too much authority, whilst being insufficiently attentive to how some of the institutional designs it favours might entail forms of blind deference. This is the case, for example, of McCormick’s (2011) People’s Tribune proposal, wherein nonwealthy *representatives* are randomly selected from the general population and bestowed with important degrees of constitutional authority, thus making decisions for the rest of the nonwealthy *citizenry* without the capacity of the latter to control those decisions (Lafont, 2020, 114). As a consequence, even though these representatives *might* advance the interests of the many, they also might *not* and, if so, citizens would not have control over such decisions. Empowered class-specific political institutions like these would thus have a status akin to that of a “... benevolent despot” (Pettit, 2012, 205). Secondly, because it aims to explicitly maximize the representation of nonwealthy citizens’ interests in opposition to those of economic minorities, implementing the *Institutionalized Class Differentiation Thesis* risks creating sticky majorities and systematically ignoring the views of wealthy minorities, who should also be granted the right to control political decisions.<sup>106</sup> All these reasons create what I call the *Anti-Tyranny Objection*:

---

<sup>106</sup> For example, “... [w]hen the majority of the population decides to impose higher taxes on the wealthy [...] that particular minority might with reason feel that this decision was taken without their approval and that hence they are being treated as slaves whenever the tax man comes” (De Dijn, 2019, 55). If mechanisms of democratic control are in place, the wealthy should thus be granted the possibility to

*The Anti-Tyranny Objection.* In an appropriate conception of constitutional democracy, all individual citizens should have access to meaningful opportunities to exercise control over political decisions, as well as to avoid creating majorities whose views are systematically represented at the expense of minorities. This is incompatible with constitutionalizing authoritative institutions explicitly aimed at significantly empowering economic majorities – and thus with the *Institutionalized Class Differentiation Thesis*. But constitutionalizing class-specific political institutions entails the *Institutionalized Class Differentiation Thesis*. Therefore, this strategy should be ruled out.

How could we successfully reply to the *Anti-Tyranny Objection*? To repeat, the first part of this objection is that, because empowered class-specific political institutions, as I have construed them, are supposed to carry excessive authoritative power, they might reasonably constitute channels for public domination and erode democratic control. In addition, the objection targets the flexibility of progressive material constitutionalism regarding constitutionalizing political institutions supposedly involving forms of blind deference – such as institutions whereby members are randomly selected from the relevant pool of nonwealthy citizens. My reply to this initial set of concerns is twofold. First, it is important to insist on the apparent incapacity of formally class-neutral political systems to realize these very demands of democratic control – and rather reproduce significant degrees of wealth-generated political privilege. If this is the case, I take it that the burden of justification is on champions of these class-neutral settings *too*. Deciding on which is a better candidate to realize democratic control would benefit from experimentation with their class-specific counterparts, and this is a presumptive, fundamental reason to relax the force of this objection.

Second, and, I think, more importantly, it is fundamental to note that the *Institutionalized Class Differentiation Thesis* does not mandate the full replacement of existing institutional settings with these democratic innovations. Neither does it mandate that these democratic innovations would have *unconstrained* authoritative powers, and there is not much reason to believe that they would fare worse than current alternatives. As I have explained in chapter 4 (where I also provide several suggestions regarding how to avoid tyranny-associated risks), a convincing democratic argument

---

recurse to such tax decisions – and that seems to be something that class-specific political institutions explicitly aim to avoid.

for class-specific political institutions should claim that such platforms must work in the context of a broader system of checks and balances. There are also several ways to mitigate potential risks by limiting their authority according to different contexts – not least because these institutions could fail to achieve their purpose.<sup>107</sup> In other words, all these risks are *contingent*, and there are many ways in which they could be mitigated. Similarly, proposals using sortition as a method for selection *are* more vulnerable to issues of blind deference (e.g., McCormick’s People’s Tribunal, because, in principle, representatives are not elected by citizens and neither can be punished ex-post elections [Lafont, 2020, 127]). These could be easily complemented with other mechanisms of democratic control and accountability – e.g., to put high-stake decisions to referenda, recall them if they do not abide by basic rules of conduct, or even pre-defined political goals, such as the remarks I have made in chapter 4 regarding decisions such property expropriation without compensation. To be sure, this idea might find some resistance from some liberal constitutionalists; but my view is that, if they take seriously the extent of oligarchization, they should agree with bestowing greater authority to class-specific political institutions.<sup>108</sup> In any case, my argument is that these are problems that can be addressed through appropriate institutional design.<sup>109</sup> And, in virtue of the anti-oligarchic promises of class-specific political institutions, the

---

<sup>107</sup> To be sure, still, this does not mean *subordinating* class-specific political institutions to checks and balances in a way that would *de facto* neutralize their power. Indeed, to take the People’s Tribunal as an example again, if representatives of such an institution would decide to veto a particular piece of legislation, or impeach a public official, that would of course constitute a final say on these matters. Yet, also, one must note that it is simply not the case that such an institution holds *unlimited* veto powers. Pieces of legislation that were once vetoed could be proposed again by other institutions at further points in the course of political life – say, in the next electoral cycle, or so. Further, impeached officials need not necessarily be forbidden to run for office ever again. In other words, authoritative decisions of class-specific political institutions, while binding, need not determine political life forever.

<sup>108</sup> A further counterargument to consider in this context, due to Lafont, is that electoral checks make randomly selected representative bodies superfluous, since if the political decisions made by those bodies “... have to be endorsed by the citizenry or their elected representatives, then they may as well be directly asked for their endorsement without any need for the intermediate step” (2020, 130). My view is that this idea is too quick. Amongst other things, Lafont seems to assume that citizens would have access to enact the political decisions suggested by lottocratic assemblies in their absence, which is not obvious at all. Rather, electoral checks might be appropriate to ensure the democratic credentials of some politically authoritative decisions that, without proper institutions in place, would not be available for citizens to assess. Electoral checks are not superfluous – and there are non-electoral checks that could also mitigate problems of blind deference.

<sup>109</sup> Related to this issue, I find it illuminating to point out that, in *The People’s Terms*, particularly in a footnote discussing the problem of majority tyranny, Pettit himself claims that his theory of republicanism does not suggest that “... the status quo in most democracies is pretty well OK” (2014, 217, n. 34). Rather, he

context-dependent exercise of thinking about how to compose them in an effectively democratic direction is, to reiterate, worth considering.

Let me now tackle the second part of the *Anti-Tyranny Objection*, i.e., that constitutionalizing class-specific political institutions would invite the creation of sticky majorities suppressing the democratic right of economic minorities to have meaningful opportunities to shape political decisions. Additionally, the objection suggests that progressive material constitutionalist arguments are prone to deny economic elites the possibility of recursion to political decisions that they should be able to contest, and thus with basic requirements of democratic control. But again, these problems are *contingent*, not necessary, and my account has several resources to solve them. As usual, one first aspect to consider in this context is that class-specific political institutions are only justifiable under circumstances of constitutional oligarchization. Yet such a context is, somewhat paradoxically, characterized by the presence of sticky *minorities*, namely, economic elites who do not allow for the interests of the many to be on the ‘winning side.’ Further, the latter often lacks meaningful channels for recursion – e.g., vis-à-vis the tendency of courts to rule in favour of the rich and reproduce economic inequality (e.g. Gilman, 2014). They thus lack unconditional access to the channels of control that liberals suggest *every* legitimate constitutional order must realize. Accordingly, the situation presented by the *Anti-Tyranny Objection* seems to be, in this case, inverted: In the relevant nonideal circumstances under discussion, by tracking the interests of economically advantaged, sticky minorities, formally class-neutral political orders tend to systematically deny ordinary citizens many policies that would be to their benefit. Access to empowered class-specific political institutions could exactly help to redress this dynamic, that is, to *minimize* tyrannical oligarchic power and create conditions for meaningful democratic self-rule.

All being said, I find it important to end this discussion by mentioning a more general issue that, in a sense, speaks to the three objections that I have considered here. And such is that progressive material constitutionalism’s siding “... with an agent of change [i.e. plebeian, nonwealthy citizens] in a political struggle against agents of injustice [i.e. the wealthy]” (Laurence,

---

suggests that realizing a republican ideal certainly requires institutional innovations and recognizes that it might require radical measures, explicitly mentioning McCormick’s People Tribune – with which, moreover, he claims to have no “... necessary divergence” (*Idem*). There is, however, no explicit intention in his book (and, to my knowledge, in his work more generally) to argue for class-specific political institutions, nor anything alike. In fact, the word ‘class,’ socio-economically speaking, is almost absolutely absent in his theoretical production. I find this absence, quite obviously, a flaw.

2020, 9, n.23), as well as its commitment to favouring processes of class formation, might still be seen by liberals with extreme caution. For example, progressive material constitutionalists' prioritization of the views of the economically disadvantaged, at the level of political decisions, over those who are not, whenever oligarchization is in place, might seem anti-pluralistic and therefore undemocratic. Such would also be the case because it is based on certain views regarding how to organize economic relations, particularly in its opposition to states of affairs where these relations translate into great power differentials over political and social life. To put it differently, liberals of a more proceduralist bent would plausibly object that these positions are unduly biased towards the economically disadvantaged, as well as that they impose contestable and substantive conceptions of justice to citizens – which should rather consider everyone's views in a process of contestation and debate. They could further insist on the dangers of entrenching class divisions (and producing sticky majorities) by constitutionalizing class-specific political institutions – a topic that I have discussed repeatedly. In my view, if liberals stubbornly insist on these aspects, our paths, as egalitarian democrats, must diverge from them. For not only we must recognize our involvement in a *partisan* political project, namely, that we *do* want to advance a certain conception of how a constitutional order should be. *If* liberals are *also* egalitarians, nudging democratic processes to achieve that end should not be seen with too much suspicion: Doing so is, in my view, just a matter of intellectual and political honesty. Furthermore, while the strategy for social change that I am advancing does entail the risk of entrenching class divisions, there are many ways to mitigate such a risk in the transition towards a more democratic, non-oligarchic future – as I extensively explained in chapter 4. What does not follow is that class-specific political institutions necessarily entail a permanent transgression of formal political equality, impartial deliberation, or democratic control. Rather, they could help us to cure our constitutional orders from the tyranny of wealth and capitalist compulsion. When all this is considered, all of these liberal objections lose much of their initial plausibility. Their force must be reconsidered by those who advance them.

## 5.2. Conclusion

I have argued that liberals of an egalitarian mindset should be less reluctant to the idea of constitutionalizing class-specific political institutions. Especially, once we situate these in the nonideal context of oligarchic and class-divided societies, while conceiving them as transitional platforms aimed at helping to realize political orders wherein citizens are genuinely treated with equal concern and respect, we can strike a reconciliation between liberal and progressive strands in material constitutionalism. The values of political equality, impartial deliberation, and democratic control are all fundamental for an appropriate conception of a constitutional democracy. I thus concede that class-specific institutional forms *are* normatively problematic and cannot be compatible with a just political system. But, against the backdrop of significant constitutional oligarchization, and because of their promising capacity to correct such a state of affairs, these are attractive and justifiable. Egalitarian liberalism can learn from these materialist intuitions without abandoning its core foundational principles.

All being said, much more work needs to be done to provide a complete reconciliation between these perspectives. One such reason is that, as already mentioned, ‘liberal constitutionalism’ does not represent *one* body of thought (Waldron, 1998). For example, some people might attach more importance to one of the values I have discussed in comparison to others. They could also conceive competing values which *are* incompatible with my account as central, such as the idea of private property over productive means. Thus, while my account is admittedly not exhaustive, and is rather aimed at illustrating how progressive material constitutionalism could reply to objections of this kind, achieving theoretical completeness would require more detailed and fine-grained discussion – e.g., targeting representative authors in a more specific way, considering other important values, institutional practices, and so on. Furthermore, many of my arguments are largely empirical and their strength cannot be decided at the level of abstraction that they operate alone. For that reason, I do not expect to have *fully* convinced liberal egalitarians and/or neorepublicans; neither those who are more sympathetic to these ideas, nor those who are sceptical. But I do hope that they can now see better why they are appealing. And that such an appeal will affect, in turn, our willingness to try them out in our struggle against oligarchic, plutocratic, unjust, illegitimate, constitutional orders.



## 6. Conclusion

### *Vindicating Progressive Material Constitutionalism*

I have argued that progressive material constitutionalism, specifically along the lines of what I called the socialist conception, offers attractive conceptual and normative resources to theorize and remedy the oligarchic tendencies of modern constitutional states. My key aim was to defend the claim that constitutionalizing class-specific political institutions, with explicit egalitarian aims and temporal limits, is an interesting idea for advancing more meaningfully democratic futures. Embracing the *Institutionalized Class Differentiation Thesis*, I proposed, would not only help to dismantle the false belief that these systems are *de facto* class-neutral but would also make more visible its class-divided nature and politically empower marginalised socio-economic classes. Making sense of these ideas has taken us over a wide terrain, from the defence of the idea of material constitutionalism as a general approach in democratic constitutional theory (chapter 1); to the reconstruction of the main tenets of progressive material constitutionalism, as well as the main normative and empirical reasons showing why class-specific political institutions are desirable (chapter 2); from the consideration of the strengths and weaknesses of plebeian conceptions (chapter 3), to the defence of the comparative normative superiority of the socialist one (chapter 4); from offering reasons to be sceptical about the claims that constitutionalizing class-specific political institutions is unduly utopian, would necessarily trigger harsh forms of conservative reaction, and/or be co-opted by capitalist structures (chapter 4); to taking into account several questions in normative political philosophy as to why liberal constitutionalists ascribing to a broadly egalitarian project should be less sceptical about this strategy for social reform and be motivated to seriously consider it (chapter 5). As a result, my argument has been that the conjunction of all these features gives us a compelling account regarding how class-specific institutional forms could help us to better realize the values that, unfortunately, many so-called democratic political systems are supposed to enshrine but that they currently do not.

Where does this argument leave us? Should we be happy with it? At this point, I expect that its content is clear enough and that it is not necessary to summarize it again. So, by way of conclusion, I want to address two questions and show why, particularly regarding the second, our reply to it must be ambivalent. On the one hand, the next section (6.1.) will briefly summarize the most significant reasons why, I think, it is attractive and carries important consequences for democratic

constitutional theory and practice. The final section (6.2), on the other hand, fleshes out several limitations of my account and how these limitations open several avenues for future research.

### **6.1. Benefits and Consequences of the Argument**

The attractiveness of *Material Constitutionalism and the Politics of Anti-Oligarchy* can be summarized by the fact that, as announced in its Introduction, it is the first systematic account in the canon of normative political theory focused on the meaning and value of progressive material constitutionalism. This brings a number of correlated theoretical benefits. One is that, against the backdrop of the scattered character of current debates about the meaning of this approach, it offers a fundamental set of resources for *testing* its quality. It equips us with new fundamental distinctions, with clearer and more ordered arguments in its favour and fleshes out many of its shortcomings. Accordingly, theorists interested in expanding on progressive material constitutionalist arguments, but also in attacking them, should welcome this work. Now, of course, the point of this thesis was not only to offer a new framework, but also to defend it by showing that it can solve many crucial problems that exercise democratic theorists – in particular, that of constitutional oligarchization. The thesis engages in extensive arguments showing that formally class-neutral liberal democracies are strongly bound to oligarchization, that constitutionalizing class-specific political institutions helps to redress such tendencies, particularly along the lines of a socialist interpretation, and to realize essential democratic values as a result. It develops these arguments in a non-self-serving way and considers several dimensions, normative and empirical, that, thus far, have been neglected by champions of constitutionalizing class-specific political institutions. All of these ideas should, therefore, not only be clearer but more appealing to egalitarian democrats.

If I am right about these benefits, the arguments of *Material Constitutionalism and the Politics of Anti-Oligarchy* should have several consequences for future debates in democratic and constitutional theory. For one, it would mean that we should pay greater attention to questions of economic organization and design, and in a way that does not treat these questions as if they were “exogenous” to the issue of how to realize meaningfully democratic forms of socio-political organization. It should also nudge us to seriously think about non-reformist reforms and democratic innovations in connection to questions of social class. It would mean to downplay

conservative or overly moderate positions that impede us from experimenting with such reforms. And it should bring the theory and practice of movements for emancipatory transformation to address questions of constitutional ordering, motivating them to be genuinely interested in creating authoritative platforms for those who currently lack political power. Or, at least, champions of this view, like me, would expect to see these consequences increasingly reflected in the work of others who might be, after all the reasons I have provided, more sympathetic to it.

## 6.2. Limitations and Future Challenges

Yet more work remains to be done. Not least because the object of study of a theory of progressive material constitutionalism is very broad and highly complex. This is also the case because a better account of it should include many aspects that I have not considered here. I thus want to end by fleshing out an important group of limitations that, in my view, must be recognized and amended in future research.

The first group of questions have to do with questions of theoretical *incompleteness*. By that, I mean the potentially limited and under-described character of the empirical and normative premises that my argument is built upon. Regarding the former, *empirical* kind of premises, some people could object that the whole diagnostic of widespread constitutional oligarchization is overly dramatic, or that the picture of class relations operating at the core of my work is not elaborated enough. Others might still be sceptical regarding the anti-oligarchic effects that I attribute to class-specific political institutions, not least because I have not sufficiently engaged in detailed institutional design. My arguments could also be said to rest on an overly optimistic attitude towards ordinary citizens' average capacity to enact good political judgement – and so we could go on. Put differently, it might be objected that many real-world aspects of the theory I am offering are not substantiated adequately, either the ones that I just mentioned or other potential hypotheses. My reply to this concern, which I have partly discussed in other chapters is that, to convince these sceptics, progressive material constitutionalists would have to integrate more empirical literature addressing specific pressing issues. A better perspective would also need further experimentation with class-specific political institutions, something which requires addressing context-specific questions of institutional design. Now, because social-scientific research is ever-evolving, such an enterprise must be open-ended. It follows that progressive

material constitutionalism cannot ever be fully complete in empirical terms. But it can be *more* complete, and that is a regulative ideal that should guide its theoretical development.

Such incompleteness also affects the *normative* components of my account and its institutional recommendations. One central locus of this issue regards the content of the *General Alternative*, which should be more thoroughly elaborated. For example, as recognized by the end of chapter 5, under-specification plausibly affects the degree to which my arguments might convince liberal-minded egalitarians reluctant to accept the consequences that I relate to this vision of democratic constitutional ordering. They might also think that other values should be discussed at length to achieve a better reconciliation between these views – e.g., the value of private property. Such is also the case regarding the understanding of economic justice and the institutional conditions that are at the heart of the *General Alternative*. Better accounts should unpack and discuss such conditions. Still, at the high level of generality and depth that my account operates, these questions of incompleteness and under-description are not defeating. To repeat, my aim has always been to show that the theory works *on that level of generality*, and only once all the caveats and empirical claims that I have introduced are considered. Moreover, because my focus has been on justifying a particular solution to constitutional oligarchization in the mode of nonideal theory, the point was never to fully flesh out a full conception of justice and its institutional prescriptions. My view is that progressive material constitutionalism, while incomplete, still represents an intuitive and plausible vision with concrete resources for fighting constitutional oligarchization – especially in its socialist interpretation. But more engagement with literature and philosophical argumentation addressing them is needed and desirable.

A second, broad group of limitations regards the worry that my account engages in bad idealizations in the context of producing a convincing justification for constitutionalizing class-specific political institutions. I think that such a worry can broadly apply to my account in the form of two general sub-sets of considerations. The first regards my understanding of citizens' political disempowerment and its causes. A clear sense in which this is expressed, I believe, is by looking at how I spelt out the very definition of 'citizens.' To recall, in the Introduction, I stipulated that such a category should encompass everyone living within a given jurisdictional system, that is, including people such as undocumented migrants. The reason for this methodological decision was to maximize simplicity and avoid addressing a whole range of extremely complicated questions associated with the ethics and reality of migration. Yet these questions *are* crucial. Not only it is obvious that undocumented migrants are *not* considered full

citizens under existing liberal democracies. It is also a status that is, obviously, a high factor of political disempowerment for these people. Thus, operating with the false hypothesis that they are considered citizens distorts the theoretical and practical challenges of tackling oligarchization. For example, all things equal, if not addressed, limiting the scope of participation to those who are currently considered citizens in most liberal democracies would *de facto* impede nonwealthy and/or working-class undocumented migrants from participating in class-specific political institutions. But this is not the only problem. Bracketing these aspects of the question is, very plausibly, also a limitation for achieving *a more convincing form of class analysis*, since the class phenomenon is significantly shaped by international labour markets – and vice-versa (Ypi, 2016). To the extent that progressive material constitutionalism seeks to politically empower economically disadvantaged classes, not considering issues of migration and citizenship is a serious limitation on the grounds of my theory’s internal purposes. This also applies if we bracket the disempowering effects of gender and patriarchy, as well as other forms of oppression, such as racism. On several occasions, I have mentioned my belief that these dimensions are crucial factors of political disempowerment (e.g., Wills, 2018), which are often extremely intertwined with class relations, and that should be redressed as a result. But what are these connections, more precisely? And how should they be conceptualized in the context of theorizing and designing emancipatory class-specific political institutions? Integrating the long-lasting contributions that many authors have made in these debates is a major challenge for a more convincing theory of progressive material constitutionalism.

The second sub-set of questions related to bad idealizations is directly related to my focus on the *modern state* as a means of political empowerment. In a sense, the issue is that, while I *have* recognized capital flight and the *international* nature of capitalism as a main cause for oligarchization – particularly in its structural form, as I specified in chapter 2 – the worry is that, because “... inequality within states is a function not only of the domestic policies of the state, but also of the normative and regulatory structure of the international order” (Khaitan, 2019a, 542; 570), *constitutionalizing class-specific political institutions should focus on how to change the international order*. In a sense, the point is that the argument should more seriously address the need for thinking about how this kind of democratic innovation would work in the context of international law – i.e., the real context in which it would operate – and also how it could more specifically tackle challenges of capital flight in the context of the globalized world economy (e.g., Rodrik, 2012; Bennet, 2021). These challenges could be met by showing, and arguing, that my non-reformist reform would require international cooperation between states to be effective, that is, that they

should constitutionalize class-specific political institutions in tandem. These are fundamental questions to be addressed. That said, I still believe that the interest of focusing on the state is not defeated by this aspect, not least because it remains a fundamental locus for social transformation (Khaitan, 2019a). It is also the case because, directed in certain ways, it can be a means to *erode* the basis for capital flight – e.g., if it constitutionalizes institutions aimed at reducing the role of private investment in defining political decisions (Furendal & O’Neill, 2023, 15). But one must recognize that such a focus is limited. It must be expanded.

The final, third group of limitations is, I think, contained in the way in which *Material Constitutionalism and the Politics of Anti-Oligarchy* addresses questions of political *agency*. I have repeatedly tried to make it clear, in almost all of the chapters, that progressive material constitutionalism is not committed to the view that constitutionalizing class-specific political institutions is *sufficient* to realize its ends and would require the support of transformative agents of change, such political parties, democratic trade unions, and progressive social movements. Yet more must be said about *how* the type of non-reformist reform that I have explored should be concretely related to these agents. *Because* the theory seeks to contribute to a theory and practice of egalitarian social change, one must ask: Which are these concrete agents? How would they be included in class-specific political institutions? What would be their more specific role within them and in their design? All of these, and more, are eminently political, context-specific questions that everyone interested in realizing the aims of progressive material constitutionalism must try to address. But these are also questions that a *theory*, which aims to be practical, must focus on in a more active way than I have done. Engaging with them is what an effective politics of anti-oligarchy, part of the title of this work and one of its fundamental purposes, requires.

## References

- Abel, R. L. (1991).** “Capitalism and the Rule of Law: Precondition of Contradiction?”, available in <https://legalform.files.wordpress.com/2017/08/abel-capitalism-and-the-rule-of-law-1990.pdf>
- Abizadeh, A. (2020).** “Representation, Bicameralism, Political Equality, and Sortition: Reconstituting the Senate as a Randomly Selected Citizen Assembly”, in *Perspectives on Politics*. Published online first, <http://doi.org/10.1017/S1537592719004626>
- Adler, M. [1919] (2018).** “Democracy and the Council System”, in *Austro-Marxism: The Ideology of Unity. Volume II: Changing the World: The Politics of Austro-Marxism*, Mark E. Blum & William Smaldone (eds.). Chicago: Haymarket Books. 172-183.
- Adler, M. [1922] (2020).** *The Marxist Conception of the State: A Contribution to the Differentiation of the Juristic and the Sociological Method*. Haymarket: Chicago.
- Akbar, A. (2020).** “Demands for a Democratic Political Economy”, in *Harvard Law Review, Forum*, 134. 90-118.
- Alexander, L. (1998).** *Constitutionalism: Philosophical Foundations*. Cambridge: Cambridge University Press.
- Alvaredo, F., A.B. Atkinson, T. Piketty, & E. Saez (2013)** “The Top 1 percent in International and Historical Perspective” in *Journal of Economic Perspectives*, 27(3). 3-20.
- Anderson, E. (2008).** “Expanding the Egalitarian Toolbox: Equality and Bureaucracy”, in *Proceedings of the Aristotelian Society*, Supplementary Volumes, 82. 139–160.
- Anderson, E. (2009).** “Toward a Non-Ideal, Relational Methodology for Political Philosophy: Comments on Schwartzman’s “Challenging Liberalism””, in *Hypatia*, 24(4). 130–145.
- Anderson, E. (2010).** *The Imperative of Integration*. Princeton, NJ: Princeton University Press.
- Archer, R. (1998).** *Economic Democracy: The Politics of Feasible Socialism*. Oxford: Oxford University Press.

**Arlen, G. (2019).** “Aristotle and the Problem of Oligarchic Harm: Insights for Democracy”, in *European Journal of Political Theory*, Vol. 18. 393–414. <https://doi.org/10.1177/1474885116663837>.

**Arlen G. (2022).** “Citizen Tax Juries: Democratizing Tax Enforcement after the Panama Papers”, in *Political Theory*. 50 (2). 193-220. doi:10.1177/00905917211018007

**Arlen, G. & Rossi, E. (2020).** “Must Realists Be Pessimists About Democracy? Responding to Epistemic and Oligarchic Challenges”, in *Moral Philosophy and Politics*. 27-49. <https://doi.org/10.1515/mopp-2019-0060>

**Aytac, U. (2022).** “Digital Domination: Social Media and Contestatory Democracy”, in *Political Studies*, 0(0). <https://doi.org/10.1177/00323217221096564>

**Aytac, U. & Rossi, E. (2022).** “Ideology Critique without Morality: A Radical Realist Approach”, in *American Political Science Review*. 117(4). 1215-1227. doi:10.1017/S0003055422001216

**Axelsen, D. V. (2019).** “Against institutional conservatism”, in *Critical Review of International Social and Political Philosophy*, 22:6. 637-659. DOI: 10.1080/13698230.2018.1426816

**Bagg, S. (2018).** “The Power of the Multitude: Answering Epistemic Challenges to Democracy”, in *American Political Science Review*, Vol. 112, No. 4. 891-904. doi:10.1017/S0003055418000527

**Bagg, S. (2021).** “Do we need an anti-oligarchic constitution?”, in *European Journal of Political Theory*. 399-411. doi:10.1177/1474885121996281

**Bagg, S. (2022).** “Sortition as Anti-Corruption: Popular Oversight against Elite Capture”, in *American Journal of Political Science*. 100-105. <https://doi.org/10.1111/ajps.12704>

**Barber, N. W. (2018).** *The Principles of Constitutionalism*. Oxford: Oxford University Press.

**Bardhan, P. & Roemer, J. (1993).** *Market Socialism: The Current Debate*. Oxford: Oxford University Press.

**Bartels, L. (2017).** *Unequal Democracy: The Political Economy of the New Gilded Age*. Princeton: Princeton University Press.



**Barrow, C. (2016).** *Toward a critical theory of the states: the Poulantzas-Miliband debate after globalization.* Albany: SUNY Press.

**Bauer, O. (2021 [1924]).** “The Equilibrium of Class Forces”, in Allan Scott (2021) “The Kelsen-Bauer debate on Marxist state theory and the equilibrium of class forces”, *Thesis Eleven*. 88-99. doi:10.1177/0725513620985651

**Beard, C. A. (2019) [1913].** *An Economic Interpretation of The Constitutions of The United States.* Whithorn: Anodos Books.

**Bellamy, R. (2007).** *Political Constitutionalism. A Republican Defense of The Constitutionality of Democracy.* Cambridge: Cambridge University Press.

**Bennett, M. (2021).** “The capital flight quadrilemma: Democratic trade-offs and international investment”, in *Ethics & Global Politics*, 14:4. 199-217. DOI: 10.1080/16544951.2021.1993646

**Bengtson, A. (2020).** “Differential Voting Weights and Relational Egalitarianism”, in *Political Studies*, 68(4). 1054-1070. <https://doi.org/10.1177/0032321719889870>

**Bengtson, A. (2024).** “Affirmative Action in the Political Domain”, in *Political Studies*, 72(1). 158-176. <https://doi.org/10.1177/00323217221095379>

**Biale, E., & Fumagalli, C. (2023).** “A progressive approach to normative political theorizing”, in *European Journal of Political Theory*, 0(0). <https://doi.org/10.1177/14748851231189598>

**Binns, P. (1980).** “Law and Marxism”, in *Capital and Class*, Vol. 4, Issue 1. 100-113.

**Blum, L. (2007).** “Three Kinds of Race-Related Solidarity”, in *Journal of Social Philosophy*, 38. 53-72. <https://doi.org/10.1111/j.1467-9833.2007.00366.x>

**Block, F. (1977).** “The Ruling Class Does Not Rule”, in *Socialist Revolution*, Vol. 33. 6–27.

**Bobbio, N. (1990).** *Democracy and Dictatorship.* Minneapolis: University of Minnesota Press.

**Bowles, S. & Gintis, H. (1986).** *Democracy and Capitalism: Property, Community, and the Contradictions of Modern Social Thought.* London: Routledge.

**Breaugh, M. (2019).** “The Plebeian Experience and the Logic of (Radical) Democracy”, in *Constellations*, Vol. 26. 581–590. DOI: 10.1111/1467-8675.12425

- Brennan, J. (2016).** *Against Democracy*. Princeton: Princeton University Press.
- Britton-Purdy, J. S., Grewal, D., Kapczynski, A., & Rahman, K. S. (2020).** “Building a Law-and-Political-Economy Framework: Beyond the Twentieth-Century Synthesis”, in *Yale Law Journal*, Columbia Public Law Research Paper No. 14-657, Available at SSRN: <https://ssrn.com/abstract=3547312>
- Bryan, A. (2021).** “The dominating effects of economic crises,” in *Critical Review of International Social and Political Philosophy*, 24:6. 884-908. DOI: 10.1080/13698230.2019.1581492
- Bulmer, E. & White, S. (2022).** “Constitutions Against Oligarchy”, in Michael Bennet, Huub Brouwer, and Rutger Claasen (eds.), *Wealth and Power: Philosophical Perspectives*. 274-294.
- Calnitsky, D. (2021).** “The Policy Road to Socialism”, in *Critical Sociology*. 397-422. doi:10.1177/08969205211031624
- Carnes, N. (2012).** “Does the Numerical Underrepresentation of the Working Class in Congress Matter?”, in *Legislative Studies Quarterly*, 37:1. 5–34.
- Carnes, N., & Lupu, N. (2021).** “Working-Class Officeholding in the OECD”, Conference Paper, available at: [https://www.noamlupu.com/Carnes\\_Lupu\\_OECD.pdf](https://www.noamlupu.com/Carnes_Lupu_OECD.pdf)
- Carnes, N., & Lupu, N. (2015).** “Rethinking the Comparative Perspective on Class and Representation: Evidence from Latin America”, in *American Journal of Political Science*, 59:1. 1–18.
- Carnoy, M. (1983).** *The State and Political Theory*. Princeton: Princeton University Press.
- Chancel, L., Piketty, T., Saez, E., Zucman, G. et al. (2022).** *World Inequality Report 2022*. World Inequality Lab, [wir2022.wid.world](http://wir2022.wid.world)
- Christiano, T. (2003).** “Introduction”, in *Philosophy & Democracy: An Anthology*, Thomas Christiano (ed.). Oxford: Oxford University Press. 3-13.
- Christiano, T. (2008).** *The Constitution of Equality: Democratic Authority and Its Limits*. Oxford: Oxford University Press.
- Christiano, T. (2010).** “The Uneasy Relationship Between Democracy and Capital”, in *Social Philosophy and Policy*, Vol. 27 (1). 195-217.

- Christiano, T. (2012).** “Money in Politics”, in David Estlund (ed.), *The Oxford Handbook of Political Philosophy*. <https://doi.org/10.1093/oxfordhb/9780195376692.013.0013>
- Christiano, T. & Bajaj, S. (2022).** “Democracy”, in *The Stanford Encyclopedia of Philosophy*, Edward N. Zalta (ed.), URL = <<https://plato.stanford.edu/archives/spr2022/entries/democracy/>>.
- Chibber, V. (2022).** *The Class Matrix. Social Theory After the Cultural Turn*. London: Verso.
- Cicerchia, L. (2021).** “Why Does Class Matter?”, in *Social Theory and Practice*. Vol. 47, No. 4. 603-627. DOI: 10.5840/soctheorpract2021916136
- Clarke, S. (1991).** *The State Debate*. New York: Palgrave.
- Cohen, J. (1989).** “The Economic Basis of Deliberative Democracy”, in *Social Philosophy and Policy* 6 (2). 25–50.
- Cohen, J. (2002).** “For a Democratic Society”, in Samuel Freeman (ed.), *The Cambridge Companion to Rawls*. Cambridge, UK: Cambridge University Press. 86– 138.
- Cohen, G. A. (1983).** “The Structure of Proletarian Unfreedom”, in *Philosophy & Public Affairs*, Winter, 1983, Vol. 12, No. 1. 3-33.
- Cohen, G. A. (1989).** “On the Currency of Egalitarian Justice”, in *Ethics*, Vol. 99. 906-944.
- Cohen, G. A. (1992).** “Is There Still a Case for Socialism?”, in *Social Scientist*, 20(12). 3–18. <https://doi.org/10.2307/3517739>
- Cohen, G. A. (2000).** *Karl Marx’s Theory of History: A Defense*. Oxford: Oxford University Press.
- Cohen, J., & Fung, A. (2004).** “Radical Democracy”, in *Swiss Journal of Political Science*, Vol. 10, No. 4. 23-34.
- Collins, H. (1982).** *Marxism and Law*. Oxford: Oxford University Press.
- Colón-Ríos, J. (2020).** *Constituent Power and the Law*. Oxford: Oxford University Press.
- Condon, M. & Wichowsky, A. (2020).** “Inequality in the Social Mind: Social Comparison and Support for Redistribution”, in *The Journal of Politics*, 82:1. 149-161
- Cooke, B. & Kothari, U. (2011).** *Participation: The New Tyranny?* London: Zed Books.

**Cornforth, C. (1995).** “Patterns of Cooperative Management: Beyond the Degeneration Thesis”, in *Economic and Industrial Democracy*, 16. 487-523.

**Cozzaglio, I., & Favara, G. (2022).** “Feasibility beyond Non-ideal Theory: A Realist Proposal”, in *Ethical Theory and Moral Practice*, 25. 417–432. <https://doi.org/10.1007/s10677-021-10206-3>

**Crenshaw, K. (1989).** “Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics”, in *University of Chicago Legal Forum*, Vol. 1989, Issue 1, Art. 8. 139-167.

**Crouch, C. (2004).** *Post-Democracy*. Cambridge: Polity Press.

**Davis, K., & Moore W. (1945).** “Some Principles of Stratification,” in *American Sociological Review* 10(2). 242–49. <https://doi.org/10.2307/2085643>

**De Dijn, A. (2019).** “Republicanism and Democracy: The Tyranny of the Majority in Eighteenth-Century Political Debate”, in Yiftah Elazar and Geneviève Rousselière (eds.), *Republicanism and the Future of Democracy*. Cambridge: Cambridge University Press. 59-74.

**Demertzis, N. (1986).** “On Class Once More”, in *Acta Sociologica*, 29(2). 159-166.

**Deveaux, M. (2021).** *Poverty, Solidarity, and Poor-Led Social Movements*. Oxford: Oxford University Press.

**Devine, P. (1992).** “Market Socialism or Participatory Planning?”, in *Review of Radical Political Economics*, 24(3-4). 67-89.

**Diefenbach T. (2019).** “Why Michels’ ‘iron law of oligarchy is not an iron law – and how democratic organisations can stay ‘oligarchy-free’”, in *Organization Studies*. 40(4). 545-562. [doi:10.1177/0170840617751007](https://doi.org/10.1177/0170840617751007)

**DiMaggio, A. (2015).** “Class Sub-conscious: Hegemony, False Consciousness, and the Development of Political and Economic Policy Attitudes”, in *Critical Sociology*, 41 (3). 493–516.

**Domhoff, G. (2013).** *Who Rules America? The Triumph of the Corporate Rich* (7<sup>th</sup> Edition). New York. McGraw-Hill.

- Draper, H. (1974).** “Marx on Democratic Forms of Government”, in *Socialist Register*, Vol. 11. 101-124.
- Drochon H. (2020).** “Robert Michels, the iron law of oligarchy and dynamic democracy”, in *Constellations*, 27. 185–198. <https://doi.org/10.1111/1467-8675.12494>
- Duch, R. M., & Stevenson, R. (2006).** “Assessing the Magnitude of the Economic Vote over Time and across Nations”, in *Electoral Studies*. 25 (3). 528–47.
- Dworkin, R. (1981).** “What is Equality? Part 2: Equality of Resources”, in *Philosophy and Public Affairs*, Vol. 10, No. 4. 283-345.
- Dworkin, R. (2002).** *Sovereign Virtue. The Theory and Practice of Equality*. Cambridge: Harvard University Press.
- Edmundson, W. (2017).** *Rawls: Reluctant Socialist*. Cambridge: Cambridge University Press.
- Elsässer, L. & Schäfer, A. (2022).** “(N)one of us? The case for descriptive representation of the contemporary working class”, in *West European Politics*, 45:6. 1361-1384. DOI: 10.1080/01402382.2022.2031443
- Elsässer, L., Hense, S., & Schäfer, A. (2021).** “Not just money: unequal responsiveness in egalitarian democracies”, in *Journal of European Public Policy*, 28:12. 1890-1908. DOI: 10.1080/13501763.2020.1801804
- Elkjær, M., & Klitgaard, M. (2021).** “Economic Inequality and Political Responsiveness: A Systematic Review”, in *Perspectives on Politics*. 1-20. doi:10.1017/S1537592721002188
- Elster, J. (1993a).** “Introduction”, in Jon Elster and Rune Slagstad (eds.), *Constitutionalism and Democracy*. Cambridge: Cambridge University Press. 1-17
- Elster, J. (1993b).** “Arguments for Constitutional Choice: Reflections of the Transition to Socialism”, in Jon Elster and Rune Slagstad (eds.), *Constitutionalism and Democracy*. Cambridge: Cambridge University Press. 303-323.
- Engels, F. (2010) [1878].** “Anti-Dühring”, in *Collected works of Marx and Engels (Vol. 27)*. London: Lawrence and Wishart 2010.

- Evans, G. & Tilley, J. (2017).** *The New Politics of Class: The Political Exclusion of the British Working Class*. Oxford: Oxford University Press.
- Fairfield, T. (2015).** “Structural power in comparative political economy: perspectives from policy formulation in Latin America”, in *Business and Politics*, 17 (3). 411-441.
- Farber, H., Herbst, D., Kuzeimko, I., & Naidu, S. (2021).** “Unions and Inequality over the Twentieth Century: New Evidence from Survey Data”, in *The Quarterly Journal of Economics*, Volume 136. 1325–1385. <https://doi.org/10.1093/qje/qjab012>
- Felicetti, A. & Della Porta, D. (2019).** “Joining forces: The sortition chamber from a social-movement perspective”, in Erik Olin Wright and John Gastil (eds.), *Legislature by Lot: Transformative Designs for Deliberative Governance*. London: Verso. 145-165.
- Finlay, C. J. (2006).** “Violence and Revolutionary Subjectivity: Marx to Žižek”, in *European Journal of Political Theory*, Vol. 5, N. 4. 373–397. <https://doi.org/10.1177/1474885106067277>
- Fiorio, C. V., Mohun, S., & Veneziani, R. (2021).** “Class, Power and the Structural Dependence Thesis: Distributive Conflict in the UK, 1892–2018”, in *Political Studies*, 69(4). 985–1008. <https://doi.org/10.1177/0032321720928259>
- Fishkin, J., & Forbath, W.E. (2016).** “The Democracy of Opportunity and Constitutional Politics: A Response”, in *Texas Law Review*, 94, 1469-1494.
- Foley, B. (2019).** “Intersectionality: A Marxist Critique”, in *New Labor Forum* 28(3). 10–13.
- Franko, W. W., & Witko, C. (2023).** “Unions, Class Identification, and Policy Attitudes”, in *The Journal of Politics*, 85:2. 553-567. [10.1086/722347](https://doi.org/10.1086/722347)
- Frega, R. (2019).** “Solidarity as Social Involvement”, in *Moral Philosophy and Politics*. vol. 8, no. 2, 2021. 179-208. <https://doi.org/10.1515/mopp-2019-0008>
- Frye, H. (2020).** “Efficiency and Domination in the Socialist Republic: A Reply to O’Shea”, in *Political Theory*, 48 (5). 573-580.
- Frymer, P. and Grumbach, J.M. (2021).** “Labor Unions and White Racial Politics”, in *American Journal of Political Science*, 65. 225-240. <https://doi.org/10.1111/ajps.12537>

**Furendal, M. and O'Neill, M. (2023).** “Work, Justice, and Collective Capital Institutions: Revisiting Rudolf Meidner and the Case for Wage-Earner Funds”, in *Journal of Applied Philosophy*. <https://doi.org/10.1111/japp.12631>

**Gallie, W. B. (1956).** “Essentially Contested Concepts”, in *Proceeding of the Aristotelian Society, New Series*, Vol. 56 (1955 - 1956). 167-198.

**Gastil, J., & Wright, E. O. (2018).** “Legislature by Lot: Envisioning Sortition within a Bicameral System”, in *Politics & Society*, 46(3). 303-330. <https://doi.org/10.1177/0032329218789886>

**Gastil, J. & Wright, E. O. (2019).** *Legislature by Lot: Transformative Design for Deliberative Governance*. London: Verso.

**Garz, M. & Martin, G.J. (2021).** “Media Influence on Vote Choices: Unemployment News and Incumbents’ Electoral Prospects”, in *American Journal of Political Science*, 65. 278-293.

**Grossman, G., Mitts, T., & Margalit Y. (2022).** “How the Ultra-Rich Use Media Ownership as a Political Investment”, in *Journal of Politics*. 84(4). 1913-1931.

**Giddens, A. (1982).** “Class Structuration and Class Consciousness” in *Classes, Power, and Conflict* (eds. Anthony Giddens and David Held). London: The MacMillan Press. 157-174.

**Giddens, A. & Held, D. (1982).** *Classes, Power, and Conflict*. London: The MacMillan Press.

**Gilbert, P. & O'Neill, M (2019).** “Socialism”, in *The Stanford Encyclopedia of Philosophy* (Fall 2019 Edition), Edward N. Zalta (ed.), URL = <https://plato.stanford.edu/archives/fall2019/entries/socialism/>.

**Gilbert, A. (1991).** “Political Philosophy: Marx and Radical Democracy”, in *The Cambridge Companion to Marx*, Terrell Carver (ed). Cambridge: Cambridge University Press. 168-195.

**Gilens, M. & Page, B. (2014).** “Testing Theories of American Politics: Elites, Interest Groups, and Average Citizens”, in *Perspectives on Politics*, Vol. 12, No. 3. 564-581.

**Gilman, M. (2014).** “A Court for the One Percent: How the Supreme Court Contributes to Economic Inequality”, in *Utah Law Review*, Vol. 2014, Issue 3. 389-464.

**Gold, D., Clarence, Y., Lo, H., & Wright, E. O. (1975).** “Recent Developments in Marxist Theories of the Capitalist State”, in *Monthly Review*. 29-51.

**Goldoni, M. (2018).** “Introduction to the Material Constitution”, in <https://legalform.blog/2018/02/09/introduction-to-the-material-constitution-traditions-and-constitutive-elements-marco-goldoni/>

**Goldoni, M. (2022a).** “Material Constitution”, in Richard Bellamy and Jeff King (eds), *Cambridge Handbook of Constitutional Theory*. Cambridge University Press: Cambridge. <http://dx.doi.org/10.2139/ssrn.4216799>

**Goldoni, M. (2022b).** *The Materiality of the Legal Order*. Cambridge: Cambridge University Press.

**Goldoni, M & Olcay, T. (2020).** “The Material Study of Constitutional Change”, in Contiades, & A. Fotiadou (eds.), *Routledge Handbook of Comparative Constitutional Change* (1 ed.). Routledge. <https://doi.org/10.4324/9781351020985-16>

**Goldoni, M. & Wilkinson, M. (2018).** “The Material Constitution”, in *The Modern Law Review*, 81(4). 567-597.

**Goldoni, M., & Wilkinson, M. (2023a).** “Introduction” in *The Cambridge Handbook on the Material Constitution*, Cambridge: Cambridge University Press. 1-22.

**Goldoni, M. & Wilkinson, M. (2023b).** “The Tradition of the Material Constitution in Western Marxism”, in *Cambridge Handbook on the Material Constitution*. Cambridge: Cambridge University Press. 25-44.

**Gould, C. C. (2020).** “Motivating Solidarity with Distant Others: Empathic Politics, Responsibility, and the Problem of Global Justice”, in Thom Brooks (ed.), *The Oxford Handbook of Global Justice*. <https://doi.org/10.1093/oxfordhb/9780198714354.013.6>

**Gould, C.C. & Scholz, S.J. (2007).** “Introduction”, in *Journal of Social Philosophy*, 38. 3-6. <https://doi.org/10.1111/j.1467-9833.2007.00362.x>

**Gourevitch, A. (2013).** “Labor Republicanism and the Transformation of Work”, in *Political Theory*, Vol. 41 (4). 591-617.

**Gourevitch, A. (2018).** “The Right to Strike: A Radical View”, in *American Political Science Review*, Vol. 112, (4). 905-917.



**Gourevitch, A. (2020).** “Themselves Must Strike the Blow: The Socialist Argument for Strikes and Self-Emancipation”, in *Philosophical Topics*, 48(2). 105–130. <https://www.jstor.org/stable/48652123>

**Gourevitch, A. & Stanczyk, L. (2018).** “The Basic Income Illusion”, in *Catalyst*, Vol. 1, No. 4. 1-22.

**Graeber, D. (2010).** “The rebirth of anarchism in North America, 1957-2007”, in *Historia Actual Online*, ISSN-e 1696-2060, No. 21. 123-131.

**Green, J. (2011).** “Learning How Not to Be Good: A Plebeian Perspective” in *The Good Society*, Vol. 20, No. 2. 184-202.

**Green, J. (2016).** “Liberalism and the Problem of Plutocracy”, in *Constellations*, 23. 84-95. <https://doi.org/10.1111/1467-8675.12147>

**Grimm, D. (2016).** *Constitutionalism. Past, Present, and Future*. Oxford: Oxford University Press.

**Guerrero, A. (2014).** “Against Elections: The Lottocratic Alternative”, in *Philosophy and Public Affairs*, Vol. 42. 135-178. <https://doi.org/10.1111/papa.12029>

**Guerrero, D., Laín, B., & Popp-Madsen, B. A. (2022).** “Radical Republicanism: Democracy, Property and Rights”, in *Theoria*: 69(171). v-xii. <https://doi.org/10.3167/th.2022.6917101>

**Guinan, J. & O’Neill, M. (2018).** “The institutional turn: Labour’s new political economy”, in *Renewal: a Journal of Social Democracy* 26 (2). 5-16.

**Habermas, J. (1989) [1962].** *The Structural Transformation of the Public Sphere*. Cambridge, MA: MIT Press.

**Hacker, J. & Pierson, P. (2010).** *Winner-Take-All Politics: How Washington Made the Rich Richer – and Turned Its Back on the Middle Class*. New York: Simon & Schuster.

**Hailbronner, M. (2017).** “Transformative Constitutionalism: Not Only in the Global South”, *The American Journal of Comparative Law*, Volume 65, Issue 3. 527–565. <https://doi.org/10.1093/ajcl/avx016>

**Hamilton, L. (2018).** “Resistance and Radical Democracy: Freedom, Power and Institutions”, in *History of European Ideas*, Vol. 44, N. 4. 477-491. DOI: 10.1080/01916599.2018.147396.

**Harris, C. (2019).** “Mini-Publics: Design Choices and Legitimacy”, in Stephen Estlund and Oliver Escobar (eds.), *Handbook of Democratic Innovation and Governance*. 46–59. Cheltenham: Edward Elgar Publishing.

**Harting, V. (2023).** “An Egalitarian Case for Class-Specific Political Institutions”, in *Political Theory*, 51(5). 843-868. <https://doi.org/10.1177/00905917231178288>

**Harting, V. (2024).** “Lottocracy and Class-Specific Political Institutions: A Plebeian Constitutionalist Defence”, in *Journal of Social Philosophy*. 1–21. <https://doi.org/10.1111/josp.12564>

**Hayek, F. (1960).** *The Constitution of Liberty*. Chicago: University of Chicago Press.

**Hemingway, A. (2020a).** “Does Class Shape Legislators’ Approach to Inequality and Economic Policy? A Comparative View”, in *Government and Opposition*, 57:1. 24-84.

**Hirst, P. Q. (1986).** *Law, Socialism and Democracy*. London: Allen & Unwin.

**Hochfeld, J. (1967).** “The Concept of Class Interest”, in *The Polish Sociological Bulletin*, No. 16. 5-14.

**Holmes, S. (1993).** “Precommitment and the Paradox of Democracy”, in John Elster and Rune Slagstad (eds.), *Constitutionalism and Democracy*. Cambridge: Cambridge University Press. 195-240.

**Hopkin, J., & Lynch, J. (2016).** “Winner-Take-All Politics in Europe? European Inequality in Comparative Perspective”, in *Politics & Society*, Vol. 44(3). 335-343.

**Hunt, A. (1992).** “A Socialist Interest in the Law”, in *New Left Review*, Vol. 192. 105-119.

**Hunt, A. (2010).** “Marxist Theory of Law”, in Dennis Patterson (ed.), *A Companion to Philosophy of Law and Legal Theory*. Cambridge: Blackwell. 355-366.

**Hunter, R. (2017).** “Constitutionalism: Appearance, Form, and Content”, available in <https://legalform.blog/2017/12/03/constitutionalism-appearance-form-and-content-rob-hunter/>

**Hunter, R. (2018).** “Marxism and Public Law”, available in <https://legalform.blog/2017/10/23/marxism-and-public-law-rob-hunter/>

**Hunter, R. (2021).** “Marx’s Critique and the Constitution of the Capitalist State”, in Paul O’Connell & Umut Özsü (eds.), *Research Handbook of Marxism and Law*. Cheltenham: Edward Elgar Publishing Ltd. 190-208.

**Hunter, R. (2023).** “‘A Certain Shadowy Totality’: In Search of the Material Constitution of the United States”, in M. Goldoni & M. Wilkinson (Eds.), *The Cambridge Handbook on the Material Constitution*. Cambridge: Cambridge University Press. 112-123. doi:10.1017/9781009023764.009

**Isaac, J. C. (1990).** “The Lion’s Skin of Politics: Marx on Republicanism”, in *Polity*, Vol. 23, No. 3. 461–488.

**Iversen, T. & Soskice, D. (2019).** *Democracy and Prosperity: Reinventing Capitalism Through a Turbulent Century*. Princeton: Princeton University Press.

**Jacobs, A., Matthews, J., Hicks, T., & Merkeley, E. (2021).** “Whose News? Class-Biased Economic Reporting in the United States”, in *American Political Science Review*, 115(3). 1016-1033. doi:10.1017/S0003055421000137

**Jessop, B. (1977).** “Recent Theories of the Capitalist State”, in *Cambridge Journal of Economics*, vol. 1, no. 4. 353–373. <http://www.jstor.org/stable/23596382>.

**Jörke, D (2016).** “Political participation, social inequalities, and special veto powers”, in *Critical Review of International Social and Political Philosophy*, 19 (3). 320-338.

**Kautsky, K. (1909).** *The Road to Power*. Germany: Bloch.

**Kelly, J. (2020).** “The Rich are Getting Richer in the Pandemic”, in: <https://www.forbes.com/sites/jackkelly/2020/07/22/the-rich-are-getting-richer-during-the-pandemic/?sh=501585565c7e>

**Kelsen, H. (2021 [1924]).** “Otto Bauer’s political theories”, in Allan Scott (2021) “The Kelsen-Bauer debate on Marxist state theory and the equilibrium of class forces”, *Thesis Eleven*. 79-88. doi:10.1177/0725513620985651

**Khaitan, T. (2019a).** “Political insurance for the (relative) poor: How liberal constitutionalism could resist plutocracy”, in *Global Constitutionalism*, 8(3). 536-570. doi:10.1017/S2045381719000200

- Khaitan, T. (2019b).** “Constitutional Directives: Morally-Committed Political Constitutionalism”, in *The Modern Law Review*, 82. 603-632. <https://doi.org/10.1111/1468-2230.12423>
- Klare, K. (1998).** “Legal Culture and Transformative Constitutionalism”, *South African Journal on Human Rights*, 14:1. 146-188. DOI: 10.1080/02587203.1998.11834974
- Klein, S. (2022).** “Democracy Requires Organized Collective Power”, in *Journal of Political Philosophy*, 30. 26-47. <https://doi.org/10.1111/jopp.12249>
- Kolers, A. (2016).** *A Moral Theory of Solidarity*. Oxford: Oxford University Press.
- Kolodny, N. (2014).** “Rule Over None II: Social Equality and the Justification of Democracy”, in *Philosophy & Public Affairs*, Vol. 42. 287–336.
- Korpi, W. (1978).** *The Working Class in Welfare Capitalism: Work, Unions and Politics in Sweden*. London: Routledge.
- Krahé, M. (2022).** “Changing accounts of the relationship between capitalism and democracy: From incompatibility to partnership, and back?”, in *History of Political Thought*, Volume 43, Number 1. 161-198.
- Kreutz, A. (2023).** “Realism and metanormativity”, in *Inquiry*, DOI: 10.1080/0020174X.2023.2185907
- Kymlicka, W. (2001).** *Contemporary Political Philosophy: An Introduction*. Oxford: Oxford University Press.
- Lafont, C. (2020).** *Democracy Without Shortcuts*. Oxford: Oxford University Press.
- Landa, D. & Pevnick, R. (2020).** “Is Random-Selection a Cure for the Ills of Elected Representation?”, in *The Journal of Political Philosophy*, Vol. 0, No. 0. 1–27. DOI: 10.1111/jopp.12219
- Landemore, H. (2020).** *Open Democracy: Reinventing Popular Rule for the Twenty-First Century*. Princeton: Princeton University Press.

- Landemore, H. (2022).** “Review of *Systemic Corruption: Constitutional Ideas for an Anti-Oligarchic Republic*. By Camila Vergara. Princeton: Princeton University Press”, in *Perspectives on Politics*, 20(3). 1062-1064. doi:10.1017/S1537592722002171
- Lassalle, F. (1862).** Über Verfassungswesen, all quotes are from the English translation available at <https://www.marxists.org/history/etol/newspape/fi/vol03/no01/>
- Laurence, B. (2020).** “The Question of the Agent of Change”, in *The Journal of Political Philosophy*, Vol. 28. 355-377. <https://doi.org/10.1111/jopp.12204>
- Lawford-Smith, H. (2013).** “Understanding Political Feasibility”, in *The Journal of Political Philosophy*: Volume 21, Number 3. 243–259.
- Leach, D. (2005).** “The Iron Law of What Again? Conceptualizing Oligarchy across Organizational Forms”, in *Sociological Theory*, 23(3). 312–337. <http://www.jstor.org/stable/4148876>
- Leipold, B. (2020).** “Marx’s Social Republic: Radical Republicanism and the Political Institutions of Socialism”, in Bruno Leipold, Karma Nabulsi and Stuart White (eds.), *Radical Republicanism: Recovering the Tradition’s Popular Heritage*. Oxford: Oxford University Press. 172-193.
- Leipold, B., Nabulsi, K., & White, S. (2020).** “Introduction: Radical Republicanism and Popular Sovereignty”, in Bruno Leipold, Karma Nabulsi and Stuart White (eds.). *Radical Republicanism: Recovering the Tradition’s Popular Heritage*. Oxford: Oxford University Press. 1-19.
- Leopold, D. (2022).** “Analytical Marxism”, in *The Stanford Encyclopedia of Philosophy* (Fall 2022 Edition), Edward N. Zalta & Uri Nodelman (eds.), URL = <<https://plato.stanford.edu/archives/fall2022/entries/marxism-analytical/>>.
- Leser, N. (1976).** “Austro-Marxism: A Reappraisal”, in *Journal of Contemporary History*, Vol. 11. 133-148.
- Lenin, V. I. (1989 [1917]).** “The State and Revolution”, in *Essential Works of Lenin*, Henry M. Christman (ed.). New York: Dover Publications. 271-364.
- Levine, A. (1987).** *The End of the State*. London: Verso.
- Lindblom, C. E. (1982).** “The Market as Prison”, in *The Journal of Politics*, Vol. 44, No. 2. 324-336.

- Lindsey, B., & Teles, S. (2017).** *The Captured Economy*. Oxford: Oxford University Press.
- Loew, R (1979).** “The Politics of Austro-Marxism”, in *New Left Review* (118). 15-51.
- Loughlin, M. (2019).** “The Contemporary Crisis of Constitutional Democracy”, in *Oxford Journal of Legal Studies*. 39. 10.1093/ojls/gqz005.
- Loughlin, M. (2023a).** “Laski’s Materialist Analysis of the British Constitution”, in M. Goldoni & M. Wilkinson (Eds.), *The Cambridge Handbook on the Material Constitution*. Cambridge: Cambridge University Press. 64-75. doi:10.1017/9781009023764.005
- Lovett, F. & Pettit, P. (2019).** “Preserving Republican Freedom: A Reply to Simpson”, in *Philosophy & Public Affairs*. 46. 10.1111/papa.12126.
- Lukács, G. (2014 [1920]).** “The Question of Parliamentarianism”, in *Tactics and Ethics, 1919-1929*. London: Verso. 126-154.
- Lustgarten, L. (1988).** “Socialism and the Rule of Law”, in *Journal of Law and Society*, Vol. 15, No. 1. 25-41.
- Macdonald, D. (2019).** “How Labor Unions Increase Political Knowledge: Evidence from the United States”, in *Political Behavior*, 43 (1). 1-24.
- Machiavelli, N. [1531] (2003).** *Discourses on Livy*. New York: Oxford University Press.
- Maher, S. & Aquanno, S. (2022).** “Capitalist Restructuring, State Transformation: Leo Panitch and Capitalism Today”, in *Socialist Register*, Vol. 59, Capital and Politics.
- Malleson, T. (2014).** *After Occupy: Economic Democracy for the 21st Century*. Oxford: Oxford University Press.
- Mansbridge, J. (2015).** “Should Workers Represent Workers?”, in *Swiss Political Science Review*, 21:2, 261–70.
- Mansbridge, J., Bohman, J., Chambers, S., Estlund, D., Føllesdal, A., Fung, A., Lafont, C., Manin, B. and Martí, J. (2010).** “The Place of Self-Interest and the Role of Power in Deliberative Democracy”, in *Journal of Political Philosophy*, 18. 64-100. <https://doi.org/10.1111/j.1467-9760.2009.00344.x>

- Martin, J. (2008).** “Introduction”, in *The Poulantzas Reader*, James Martin (ed.). London: Verso. 1-24.
- Marx, K. (1996) [1867].** *Capital, Volume I*. In *Karl Marx and Frederick Engels Collected Works* (MECW), Vol. 35. London: Lawrence & Wishart.
- Marx, K. (2019).** *The Political Writings*. London: Verso.
- Masin-Peters, J. (2021).** “Electoral Democracy and Structural Injustice”, in *Journal of Social Philosophy*, 1-18. <https://doi.org/10.1111/josp.12441>
- Mason, A. (1998).** “Solidarity”, in *Routledge Encyclopedia of Philosophy*, Taylor and Francis, viewed 24 July 2023, <<https://www.rep.routledge.com/articles/thematic/solidarity/v-1>>. doi:10.4324/9780415249126-L097-1
- Mau, S. (2023).** *Mute Compulsion: A Marxist Theory of the Economic Power of Capital*. London: Verso.
- Mayer, T. F. (1989).** “In Defense of Analytical Marxism”, in *Science & Society*, 53(4). 416–441. <http://www.jstor.org/stable/40403029>
- McCarthy, M. A., & Desan, M. H. (2023).** “The Problem of Class Abstractionism”, in *Sociological Theory*, 41(1). 3–26. <https://doi.org/10.1177/07352751231152489>
- McCluskey, M. (2017).** “Constitutional Economic Justice: Structural Power for 'We the People'”, in *Yale Law & Policy Review*, Vol. 35, No. 1, 2017, University at Buffalo School of Law Legal Studies Research Paper No. 2017-001, Available at SSRN: <https://ssrn.com/abstract=3015496>
- McCormick, J. (2007).** “People and Elites in Republican Constitutions, Traditional and Modern”, in Martin Loughlin and Neil Walker (eds.), *The Paradox of Constitutionalism: Constituent Power and Constitutional Form*. Oxford: Oxford University Press. 107-126.
- McCormick, J. (2011).** *Machiavellian Democracy*. Cambridge: Cambridge University Press.
- McCormick, J. (2012).** “Machiavellian Democracy in The Good Society”, in *The Good Society*, Vol. 21, No. 1. 90-117

- McCormick, J. P. (2019).** “The New Ochlophobia? Populism, Majority Rule, and Prospects for Democratic Republicanism”, in Y. Elazar & G. Rousselière (Eds.), *Republicanism and the Future of Democracy*. Cambridge: Cambridge University Press. 130-151.
- McQueen, A. (2018).** *Political Realism in Apocalyptic Times*. Cambridge: Cambridge University Press.
- Michels, R. [1911] (1962).** *Political Parties: A Sociological Study of the Oligarchical Tendencies of Modern Democracy*. New York: Free Press
- Miliband, R. (1965).** “Marx and the State”, in *Socialist Register*. 278-296.
- Miliband, R. (1969).** *The State in Capitalist Society*. New York: Basic Books.
- Miliband, R. (1973).** “The Coup in Chile”, in *Socialist Register*, Vol. 10. 451-474.
- Miliband, R. (1985).** “State Power and Class Interests”, in *New Left Review*, Vol. 1/138. 57-68.
- Miliband, R. (2006).** *Marxism and Politics*. London: The Merlin Press.
- Morgan, G. & Pulignano, V. (2020).** “Solidarity at Work: Concepts, Levels and Challenges. Work, Employment and Society”, Vol. 34, No. 18-34. doi:10.1177/0950017019866626
- Möller, K. (2018).** “The Red Polybius: Otto Bauer’s theory of the democratic republic”, *Studies in Social and Political Thought*, 270. doi: 10.20919/sspt.27.2017.73.
- Möller, K. (2023).** “The Constitution as Social Compromise: Hybrid Constitutionalisation and the Legacy of Wolfgang Abendroth”, in M. Goldoni & M. Wilkinson (Eds.), *The Cambridge Handbook on the Material Constitution*. Cambridge: Cambridge University Press. 136-149. doi:10.1017/9781009023764.005
- Mortati, C. (1945).** *La costituente*. Roma: Darsena.
- Mortati, C. (1998 [1940]).** *La costituzione in senso materiale*. Milan: Giuffré.
- Mouffe, C. (2004).** *Agonistics*. London: Verso.
- Muldoon, J. (2018).** “Council Democracy: Towards a Democratic Socialist Politics”, in James Muldoon (ed.), *Council Democracy: Towards a Democratic Socialist Politics*, New York: Routledge. 1-27.



**Muldoon, J. (2019).** “A Socialist Republican Theory of Freedom and Government”, in *European Journal of Political Theory*. 47-67. DOI: 10.1177/1474885119847606

**Muldoon, J. (2021).** “Institutionalizing Radical Democracy: Socialist Republicanism and Democratizing the Economy”, in *New Political Science*. 189-207. DOI: 10.1080/07393148.2021.1886797

**Muldoon, J., & Booth, D. (2024).** “Socialist democracy: Rosa Luxemburg’s challenge to democratic theory”, in *Philosophy & Social Criticism*, 50(2). 369-390. <https://doi.org/10.1177/01914537221107403>

**Mulvad, A. M., & Stahl, R. H. (2019).** “Civilizing Left Populism: Towards a Theory of Plebeian Democracy”, in *Constellations*, Vol. 26. 591–606. <https://doi.org/10.1111/1467-8675.12458>. Search in Google Scholar

**Mulvad, A. M., & Popp-Madsen, B. A. (2022).** “From Neo-Republicanism to Socialist Republicanism”, in *Theoria*, 69(171). 97-118.

**Negri, A. (2009).** *Insurgencies. Constituent Power and the Modern State*. Minneapolis: University of Minnesota Press.

**Nozick, R. (1974).** *Anarchy, State and Utopia*. Harvard: Harvard University Press.

**O’Connell, P. (2020).** “Marxism and Public Law”. Available at SSRN: <https://ssrn.com/abstract=3732346> or <http://dx.doi.org/10.2139/ssrn.3732346>

**O’Connell, P. & Özsu, U. (2021).** *Research Handbook on Law and Marxism*. Cheltenham: Edward Elgar Publishing Ltd.

**O’Kane, C. (2019).** “Towards a New State Theory Debate”, available in <https://legalform.blog/2019/05/24/towards-a-new-state-theory-debate-chris-okane/>

**O’Neill, M. P., & White, S. (2018).** “Trade Unions and Political Equality”, in *Philosophical Foundations of Labour Law*. Oxford: Oxford University Press.

**O’Shea, T. (2019).** “Socialist Republicanism”, in *Political Theory*. DOI: 10.1177/0090591719876889

- O'Shea, T. (2020).** "In Defence of Public Ownership: A Reply to Frye", in *Political Theory*, 48 (5). 581-587.
- O'Shea, T. (2022).** "Eugene Debs and the Socialist Republic", in *Political Theory*, 0(0). <https://doi.org/10.1177/00905917221095084>
- OECD (2022).** *OECD Guidelines for Citizen Participation Processes*, *OECD Public Governance Reviews*. OECD Publishing: Paris, <https://doi.org/10.1787/f765caf6-en>.
- Offe, C. & Ronge, V. (1982).** "Theses on the Theory of the State", in Anthony Giddens and David Held (eds.), *Classes, Power, and Conflict*. London: The MacMillan Press. 249-256.
- Pamuk, Z. (2021).** *Politics and Expertise: How to Use Science in a Democratic Society*. Princeton: Princeton University Press.
- Panitch, L. (1981).** "Trade Unions and the Capitalist State", in *New Left Review*, 1 (125). 21-43.
- Pashukanis, E. (1951).** *General Theory of Law and Marxism*. Cambridge: Harvard University Press.
- Pek, S. (2021).** "Drawing Out Democracy: The Role of Sortition in Preventing and Overcoming Organizational Degeneration in Worker-Owned Firms", in *Journal of Management Inquiry*, 30(2). 193–206. <https://doi.org/10.1177/1056492619868030>
- Peter, F. (2023).** "Political Legitimacy", in *The Stanford Encyclopedia of Philosophy* (Summer 2017 Edition), Edward N. Zalta (ed.), URL = <<https://plato.stanford.edu/archives/sum2017/entries/legitimacy/>>.
- Pettit, P. (2012).** *On the People's Terms. A Republican Theory and Model of Democracy*. Cambridge: Cambridge University Press.
- Piano, N. (2019).** "Revisiting Democratic Elitism: The Italian School of Elitism, American Political Science, and the Problem of Plutocracy", in *The Journal of Politics*, vol. 8, no. 2. 524-538.
- Piketty, T. (2014).** *Capital in the Twenty-First Century*. Harvard: Harvard University Press.
- Pistor, K. (2019).** *The Code of Capital: How the Law Creates Wealth and Inequality*. Princeton: Princeton University Press.
- Phillips, A. (1995).** *The Politics of Presence: The Political Representation of Gender, Ethnicity, and Race*. Oxford: Oxford University Press.

**Popp-Madsen, B. (2020).** “Between Constituent Power and Political Form: Toward a Theory of Council Democracy”, in *Political Theory*. 49 (1). 54-82. <https://doi.org/10.1177/0090591720925435>

**Popp-Madsen, B. A. (2022).** “Non-domination and Constituent Power: Socialist Republicanism versus Radical Democracy”, in *Philosophy & Social Criticism*. 49(10). 1182-1199. <https://doi.org/10.1177/01914537221107401>

**Poulantzas, N. (2008a).** “The Problem of the Capitalist State”, in *The Poulantzas Reader: Marxism Law and the State*, James Martin (ed.). London: Verso. 172-185.

**Poulantzas, N. (2008b).** “Towards a Democratic Socialism”, in *The Poulantzas Reader*, James Martin (ed.). London: Verso. 361-378.

**Prinz, J. & Westphal, M. (2023).** “The Tribune as a Realist Democratic Innovation”, in *Political Theory*, 0(0). <https://doi.org/10.1177/00905917231191089>

**Przeworski, A. & Wallerstein, M. (1986).** “Popular Sovereignty, State Autonomy, and Private Property”, in *European Journal of Sociology*, 27(2). 215-259.

**Przeworski, A. & Wallerstein, M. (1988).** “Structural Dependence of the State on Capital”, in *The American Political Science Review*, Vol. 82, No. 1. 11-29.

**Rancière, J. (1999).** *Disagreement: Politics and Philosophy*. Minneapolis: University of Minnesota Press.

**Rawls, J. (1993).** *Political Liberalism*. Harvard: Harvard University Press.

**Rawls, J. (1997).** “The Idea of Public Reason Revisited”, in *The University of Chicago Law Review*, Vol. 64, No. 3. 765-807.

**Rawls, J. (1999) [1971].** *A Theory of Justice* (rev. ed.). Cambridge, MA: The Belknap Press.

**Rawls, J. (2001).** *Justice as Fairness: A Restatement*. Cambridge MA: The Belknap Press.

**Rehfeld, A. (2011).** “Incentivize the Powerful or Empower the Poor? Thoughts on John McCormick’s Machiavellian Democracy”, in *The Good Society*, 20(2). 226–239. <https://doi.org/10.5325/goodsociety.20.2.0226>

- Rehg, W. (2007).** “Solidarity and the Common Good: An Analytic Framework”, in *Journal of Social Philosophy*, 38. 7-21. <https://doi.org/10.1111/j.1467-9833.2007.00363.x>
- Riley, D. & Brenner, R. (2022).** “Seven Theses on American Politics”, in *New Left Review*, 138. 5-27.
- Roberts, W. C (2017).** *Marx’s Inferno: The Political Theory of Capital*. Princeton: Princeton University Press.
- Roberts, W. C. (2022).** “Whose Realism? Which Legitimacy? Ideologies of Domination and Post-Rawlsian Political Theory”, in *Analyse & Kritik*, vol. 44, no. 1. 41-60. <https://doi.org/10.1515/auk-2022-2028>
- Roberts, W. C. (2023).** “Class in Theory, Class in Practice”, in *Crisis and Critique*, Vol. 10, Issue 1. 249-262.
- Robeyns, I. (2008).** “Ideal theory in theory and practice”, in *Social Theory and Practice*, 34(3). 341–362.
- Rodrik, D. (2012).** *The Globalization Paradox*. Oxford: Oxford University Press.
- Roemer, J. (1982).** *A General Theory of Exploitation and Class*. Cambridge, MA: Harvard University Press.
- Rogers, J. & Streeck, W. (1994).** “Productive Solidarities: Economic Strategy and Left Politics.” 128-145 in David Miliband (ed.), *Reinventing the Left*. London: Polity Press.
- Ronzoni, M. (2018).** “How social democrats may become reluctant radicals: Thomas Piketty’s Capital and Wolfgang Streeck’s Buying Time”, in *European Journal of Political Theory*, Vol. 17 (1). 118-127.
- Rossi, E. (2019).** “Being realistic and demanding the impossible”, in *Constellations* 26(4). 638–652.
- Rubinelli, L. (2019).** “Costantino Mortati And the Idea of Material Constitution”, in *History of Political Thought*, 40 (3). 515-546. <https://doi.org/10.17863/CAM.35279>

- Rubinelli, L. (2023).** “The Constitution in the Material Sense According to Costantino Mortati”, in Marco Goldoni & Michael Wilkinson (Eds.), *The Cambridge Handbook on the Material Constitution*. Cambridge: Cambridge University Press. 89-99. doi:10.1017/9781009023764.005
- Sangiovanni, A., & Viehoff, J. (2023).** “Solidarity in Social and Political Philosophy” in *The Stanford Encyclopedia of Philosophy*, Edward N. Zalta & Uri Nodelman (eds.), URL = <<https://plato.stanford.edu/archives/sum2023/entries/solidarity/>>.
- Schemmel, C. (2021).** *Justice and Egalitarian Relations*. Oxford: Oxford University Press.
- Schmitt, C. (1998).** ““Strong State, Sound Economy””, in R. Cristi (ed.) *Carls Schmitt and Authoritarian Liberalism: Strong State, Free Economy*. Cardiff: University of Wales Press.
- Schmitt, C. (2008).** *Constitutional Theory*. London: Duke University Press.
- Schumpeter, J. (1970) [1943].** *Capitalism, Socialism and Democracy*. London: Unwin University Books.
- Scott, A. (2021).** “The Kelsen-Bauer debate on Marxist state theory and the equilibrium of class forces”, in *Thesis Eleven*, 165 (1). 72-100. doi:10.1177/0725513620985651
- Sen, A. (1980).** “Equality of What?” in *McMurrin S Tanner Lectures on Human Values*, Volume 1. Cambridge: Cambridge University Press.
- Shapiro, M. (1968).** “Introduction”, in the *The Constitution of the United States and Related Documents*. New York: Appleton-Century-Crofts. xxi-xxii.
- Shelby, T. (2016).** *Dark Ghettos: Injustice, Dissent, and Reform*. London: The Belknap Press of Harvard University Press.
- Shelley, C. (2021).** “Activist-led Education and Egalitarian Social Change”, in *The Journal of Political Philosophy*, 29. 456-479. <https://doi.org/10.1111/jopp.12247>
- Shelley, C. (2022a).** *Justice & class consciousness: a theory of political transition*. PhD thesis, London School of Economics and Political Science.
- Shelley, C. (2022b).** “Murray Bookchin and the value of democratic municipalism”, in *European Journal of Political Theory*, 0(0). <https://doi.org/10.1177/14748851221128248>

**Shoikhedbrod, I. (2020).** *Revisiting Marx's Critique of Liberalism. Rethinking Justice, Legality and Rights.* Switzerland: Palgrave Macmillan.

**Skocpol, T., & Hertel-Fernandez, A. (2016).** "The Koch Network and Republican Party Extremism", in *Perspectives on Politics*, 14(3). 681-699. doi:10.1017/S1537592716001122

**Smend, R. (2000).** "Constitution and Constitutional Law", in Arthur Jacobson and Bernhard Schlink (eds.), *Weimar: A Jurisprudence of Crisis.* Los Angeles: University of California Press. 213-417.

**Smith, T. (2018).** *Beyond Liberal Egalitarianism: Marx and Normative Social Theory in the 21<sup>st</sup> Century.* Chicago: Haymarket.

**Smith, G. (2009).** *Democratic Innovations: Designing Institutions for Citizen Participation.* Cambridge: Cambridge University Press.

**Smith, G. & Owen, D. (2011).** "Machiavellian Democratic Innovations: McCormick's People's Tribune", in *The Good Society*, Vol. 20, No. 2. 203-215.

**Streeck, W. (2014).** *Buying Time: The Delayed Crisis of Democratic Capitalism.* London: Verso.

**Sultany, N. (2012).** "The State of Progressive Constitutional Theory: The Paradox of Constitutional Democracy and the Project of Political Justification", in *Harvard Civil Rights-Civil Liberties Law Review (CR-CL)*, Vol. 47, No. 2, 2012, Available at SSRN: <https://ssrn.com/abstract=2132397>

**Sypnowich, C. (1987).** "The "Withering Away" of Law", in *Studies in Soviet Thought*, Vol. 33. 305-332.

**Sypnowich, C. (1990).** *The Concept of Socialist Law.* Oxford: Clarendon Press.

**Sypnowich, C. (1992).** "The Future of Socialist Legality: A Reply to Hunt", in *New Left Review*, Vol. 193. 80-88.

**Sypnowich, C. (1999).** "Utopia and the Rule of Law", in *Recrafting The Rule of Law: The Limits of Legal Order*, ed. David Dyzenhaus. Oxford: Hart Publishing. 178-195.

**Táíwò, O. (1996).** *Legal Naturalism: A Marxist Theory of Law.* Cornell: Cornell University Press.

**Taylor, A.E. (2015).** “Solidarity: Obligations and Expressions”, in *Journal of Political Philosophy*, Vol. 23. 128-145. <https://doi.org/10.1111/jopp.12035>

**Therborn, G. (1982).** “What Does the Ruling Class Do When it Rules?”, in Anthony Giddens and David Held (eds.), *Classes, Power, and Conflict*. London: The MacMillan Press. 224-248.

**Thompson, C. (2020).** “Ideal and Non-ideal Theory in Political Philosophy”, in *Oxford Research Encyclopedia of Politics*.  
<https://oxfordre.com/politics/view/10.1093/acrefore/9780190228637.001.0001/acrefore-9780190228637-e-1383>.

**Thompson, M. J. (2018).** “A Theory of Council Republicanism”, in *Council Democracy: Towards a Democratic Socialist Politics*, James Muldoon (ed.). New York: Routledge. 108-127.

**Thompson, M. J. (2020).** “The Three Spheres of Democratic Socialism”, in *An Inheritance for Our Times: Principles and Politics of Democratic Socialism*, Gregory Smulewicz-Zucker and Michael J. Thompson (eds.). London: OR Books. 13-28.

**Tushnet, M. (2000).** *Taking the Constitution Away from the Courts*. Princeton: Princeton University Press.

**Tushnet, M. (2020).** “Varieties of Liberal Constitutionalism”, in Contiades & Fotiadou (eds.), *Routledge Handbook of Comparative Constitutional Change*. London: Routledge. 101-114.  
<https://doi.org/10.4324/9781351020985>

**Tushnet, M. (2022).** “Institutions for realizing popular constitutionalism”, in *Revus* URL: <http://journals.openedition.org/revus/7744>; DOI: <https://doi.org/10.4000/revus.7744>

**Urbinati, N. (2006).** *Representative Democracy: Principles and Genealogy*. Chicago: University of Chicago Press.

**Urbinati, N. (2011).** “Republicanism: Democratic or Popular?”, in *The Good Society*, Vol. 20, No. 2. 157-169.

**Urbinati, N. (2021).** “On the Necessity of Political Theory”, in *Raisons politiques*, 84, 153-164.  
<https://doi.org/10.3917/rai.084.0153>

- Vagdoutis, N. (2023).** “The Material Constitution in Greek Constitutional Thought”, in Marco Goldoni and Michael Wilkinson (eds.), *The Cambridge Handbook on the Material Constitution*. Cambridge: Cambridge University Press. 124-135 doi:10.1017/9781009023764.009
- Valentini, L. (2012).** “Ideal vs. non-ideal theory: A conceptual map”, in *Philosophy Compass*, 7(9). 654–664.
- Valentini L. (2013).** “Justice, Disagreement and Democracy”, in *British Journal of Political Science*, 43(1). 177-199. doi:10.1017/S0007123412000294
- Van Reybrouck, D. (2016).** *Against Elections: The Case for Democracy*. London: Bodley Head.
- Vergara, C. (2020a).** *Systemic Corruption: Constitutional Ideas for an Anti-Oligarchic Republic*. Princeton: Princeton University Press.
- Vergara, C. (2020b).** “Populism as Plebeian Politics: Inequality, Domination, and Popular Empowerment”, in *The Journal of Political Philosophy*. 28, No. 2. 222–246.
- Vergara, C. (2022a).** “Towards material anti-oligarchic constitutionalism”, *Revus* [Online]. DOI: <https://doi.org/10.4000/revus.8133>
- Vergara, C. (2022b).** “Republican Constitutionalism”, in *Theoria*, 69(171). 25-48.
- Vergara, C. (2022c).** “Response to Hélène Landemore’s Review of *Systemic Corruption: Constitutional Ideas for an Anti-Oligarchic Republic*”, in *Perspectives on Politics*, 20(3). 1064-1064. doi:10.1017/S1537592722002183
- Vincent, A. (1993).** “Marx and Law”, in *Journal of Law and Society*, Vol. 20, No. 4. 371-397.
- Vinx, L. (2021).** “Hans Kelsen and the material constitution of democracy”, in *Jurisprudence*. Vol, 12, No. 4. 466–490. DOI: 10.1080/20403313.2021.1921493
- Vrousalis, N. (2013).** “Exploitation, Vulnerability and Social Domination”, in *Philosophy & Public Affairs*, Vol. 41, No. 2. 131-157.
- Vrousalis, N. (2019a).** “Workplace Democracy implies Economic Democracy”, in *Journal of Social Philosophy*, Vol. 0. No. 0. 1-21. DOI: 10.1111/josp.12275



**Vrousalis, N. (2019b).** “Erfurt Plus Councils: The Distinctive Relevance of the German Revolution of 1918-19”, in *Socialist History*. Vol. 55, 27-46.

**Vrousalis, N. (2021a).** “Socialism Unrevised: A Reply to Roemer on Marx, Exploitation, Solidarity, Worker Control”, in *Philosophy and Public Affairs*, Vol. 49. 78-109. <https://doi.org/10.1111/papa.12183>

**Vrousalis, N. (2021b).** “The Capitalist Cage: Structural Domination and Collective Agency in the Market”, in *Journal of Applied Philosophy*, 38. 40-54. <https://doi.org/10.1111/japp.12414>

**Vrousalis, N. (2022).** *Exploitation As Domination: What Makes Capitalism Unjust*. Oxford: Oxford University Press.

**Waldron, J. (1987).** “Theoretical Foundations of Liberalism”, in *The Philosophical Quarterly* (1950-), Vol. 37, No. 147. 127-150

**Waldron, J. (2016).** *Political Political Theory: Essays on Institutions*. London: Harvard University Press.

**Walker, N. (2023).** “Three Registers of the Material Constitution”, in Marco Goldoni and Michael Wilkinson (eds.), *The Cambridge Handbook on the Material Constitution*. Cambridge: Cambridge University Press. 210-222. doi:10.1017/9781009023764.009

**Wallerstein, M. (1986).** “Marxisms as Utopias: Evolving Ideologies”, in *American Journal of Sociology*, Vol. 91, No. 6. 1296-1308.

**Waluchow, W. (2018).** “Constitutionalism”, *The Stanford Encyclopedia of Philosophy* (Spring 2018 Edition), Edward N. Zalta (ed.), URL = <<https://plato.stanford.edu/archives/spr2018/entries/constitutionalism/>>.

**Western, M. (1999).** “Who Thinks What About Capitalism? Class Consciousness and Attitudes to Economic Institutions”, in *Journal of Sociology*, Vol. 35, No. 3. 351-370.

**White, S. (2020).** “Citizens’ Assemblies and Republican Democracy”, in *Radical Republicanism: Recovering the Tradition’s Popular Heritage*, Bruno Leipold, Karma Nabulsi and Stuart White (eds.). Oxford: Oxford University Press. 80-99.

**White, J. & Ypi, L. (2016).** *The Meaning of Partisanship*. Oxford: Oxford University Press.

**Wihl, T. (2023).** “Rudolf Smend’s Legacy in German Constitutional Theory”, in Marco Goldoni and Michael Wilkinson (eds.), *The Cambridge Handbook on the Material Constitution*. Cambridge: Cambridge University Press. 76-88. doi:10.1017/9781009023764.009

**Wilkinson, M. (2021).** *Authoritarian Liberalism and the Transformation of Modern Europe*. Oxford: Oxford University Press.

**Wilkinson, M. & Lokdam, H. (2018).** “*Law and political economy*”. LSE Law, Society and Economy Working Papers (7/2018). London School of Economics and Political Science, Department of Law, London, UK.

**Wills, V. (2018).** “What Could it Mean to Say: “Capitalism Causes Sexism and Racism?””, in *Philosophical Topics*, Vol. 46, No. 2, Gendered Oppression and its Intersections. 229-246.

**Winters, J. (2011).** *Oligarchy*. Cambridge: Cambridge University Press.

**Wojdyski, B. W., & Evans, N. (2020).** “The Covert Advertising Recognition and Effects (CARE) Model: Processes of Persuasion in Native Advertising and Other Masked Formats”, in *International Journal of Advertising*. 39 (1). 4–31.

**Wolff, J. (2002).** *Why Read Karl Marx Today?* Oxford: Oxford University Press.

**Wolff, J. (2015).** “Political Philosophy and the Real World of the Welfare State”, in *Journal of Applied Philosophy*, 32. 360-372. <https://doi.org/10.1111/japp.12125>

**Wolff, J. (2018).** “Method in Philosophy and Public Policy. Applied Philosophy versus Engaged Philosophy”, in: Annabelle Lever and Andrei Poama (eds.) *The Routledge Handbook of Ethics and Public Policy*. London: Routledge. 13-24.

**Wolff, J. (2019).** “Equality and Hierarchy”, in *Proceedings of the Aristotelian Society* 119 (1):1-23.

**Wolff, M. (2008).** *The Man Who Owns the News: Inside the Secret World of Rupert Murdoch*. New York: Random House.

**Wright, E. O. (1985).** *Classes*. London: Verso.

**Wright, E. O. (2000).** “Working-Class Power, Capitalist-Class Interests, and Class Compromise”, in *American Journal of Sociology*, 105(4), 957–1002. <http://www.jstor.org/stable/3003886>

- Wright, E. O. (2005a).** *Approaches to Class Analysis*. Cambridge: Cambridge University Press.
- Wright, E. O. (2005b).** “Foundations of a neo-Marxist class analysis”, in Erik Olin Wright (ed.), *Approaches to Class Analysis*. 4-30. Cambridge: Cambridge University Press. doi:10.1017/CBO9780511488900.002
- Wright, E. O. (2009).** “Understanding Class. Towards an Integrated Analytical Approach”, in *New Left Review*, 60. 101-116.
- Wright, E. O. (2010).** *Envisioning Real Utopias*. London: Verso.
- Wright, E. O. (2019).** “Postscript: The Anti-Capitalist Argument for Sortition”, in Erik Olin Wright and John Gastil (eds.), *Legislature By Lot: Transformative Designs for Deliberative Governance*. London: Verso. 39-46.
- Wright, E. O., & Rogers, J. (2010).** *American Society: How it Really Works*. New York: W. W. Norton.
- Young, I. M. (1990).** *Justice and the politics of difference*. Princeton, N.J.: Princeton University Press.
- Ypi, L. (2015).** “Two pictures of Nowhere”, in *Philosophy & Social Criticism*, 41(3). 219–223. <https://doi.org/10.1177/0191453714560428>
- Ypi, L. (2016).** “Taking Workers as a Class: The Moral Dilemmas of Guestworker Programs”, in Sarah Fine and Lea Ypi (eds), *Migration in Political Theory: The Ethics of Movement and Membership*. Oxford: Oxford University Press.
- Ypi, L. (2018).** “The Politics of Reticent Socialism”, in *Catalyst*, Vol. 2, No. 3. 156-175.
- Ypi, L. (2019a).** “A Sufficiently Just Liberal Society is an Illusion”, in *Res Publica*. DOI: 10.1007/s11158-019-09441-4
- Ypi, L. (2019b).** “Democratic Dictatorship: Political Legitimacy in Marxist Perspective”, in *European Journal of Philosophy*. 1-15. <https://doi.org/10.1111/ejop.12500>
- Zweig, M. (2012).** *The Working Class Majority: America’s Best Kept Secret (2nd Ed.)* Ithaca: Cornell University Press.