

critique of social democracy and the fascist critique of liberalism shared the same awareness of an irreversible caesura with the past. Their values were radically opposed, but both believed in a new society engendered by war and revolution.

### Legality and Legitimacy

Faced with the deep crisis of the *Rechtsstaat* and parliamentarism, the actors in the postwar revolutions and counter-revolutions no longer believed in the Weberian diagnosis that saw 'legal domination' as the modern form of power. It is not surprising, therefore, that Carl Schmitt referred to Lenin and Lukács as precursors of the opposition between legality and legitimacy, whose principal theorist he himself became in 1932, in the twilight of the Weimar Republic.<sup>23</sup> He refers here to two texts, both published in 1920, in which these two Marxists drew the balance-sheet of the revolutionary wave that had shaken Europe after the Russian October. The first of these was *Left-Wing Communism: An Infantile Disorder* by Lenin, directed against the leftist currents in the Comintern, in which Lenin defended the need to combine legal and illegal, parliamentary and insurrectional forms of struggle, according to concrete circumstances.<sup>24</sup> The second was an article entitled 'Legality and Illegality', written by the Hungarian philosopher in Vienna, where he had taken refuge after the crushing of Béla Kun's republic of workers' councils, and subsequently included in his collection *History and Class Consciousness* (1923). In this text, Lukács warns against the symmetrical pitfalls of 'opportunism', which adapts itself to legality and refuses to emerge from it, identifying the political struggle with

'contrary of discussion'. Carl Schmitt, *Political Theology: Four Chapters on the Concept of Sovereignty* (Chicago: University of Chicago Press, 2006).

23 See the reference to Lenin and Lukács in Carl Schmitt, 'Das Problem der Legalität' (1950), *Verfassungsrechtliche Aufsätze aus den Jahren 1924–1954. Materialien zu einer Verfassungslehre* (Berlin: Duncker & Humblot, 1958), p. 450. See also Carl Schmitt, *Glossarium. Aufzeichnungen der Jahre 1947–1951* (Berlin: Duncker & Humblot, 1991), p. 5.

24 V. I. Lenin, 'Left-Wing Communism: An Infantile Disorder', in *Collected Works*, vol. 31 (Moscow: Progress, 1966), available at marxists.org.

parliamentarism, and 'romanticism', which idealizes clandestinity and rejects on principle any action in a legal context. Both attitudes are wrong, he concludes, as the choice between legality and illegality is purely tactical, and follows from the concrete circumstances in which the Communist movement has to operate. The revolution is the bearer of a new legitimacy, which in order to impose itself has to break the old state apparatus and its legal mechanism.<sup>25</sup> The assumption behind this dialectic between legality and illegality is a critique of the liberal view of the state as an entity above classes and their conflicts. This was the basis of the Bolsheviks' conviction when they decided in December 1917 to dissolve the Constituent Assembly, a symbol in their eyes of a legality that was historically obsolete, and hence in contradiction with the legitimate power of the soviets (in which they held a majority, in alliance with the left Socialist Revolutionaries). In his pamphlet of 1918 against Kautsky, therefore, Lenin saw it as completely natural that 'the interests of the revolution are higher than the formal rights of the Constituent Assembly'.<sup>26</sup>

Schmitt, for his part, believed that the *Rechtsstaat* no longer corresponded to an age of civil war, and was being progressively replaced by the 'total state'. At the climax of the crisis of the Weimar Republic, in 1932, he published an essay entitled 'Legality and Legitimacy' in which he analysed the now insurmountable contradiction that had opened up between the two concepts.<sup>27</sup> To his mind, legality was devoid of content, being simply a neutral procedure that adapted to different parliamentary majorities and found its achieved expression in the liberalism of the nineteenth century. Its deep essence consisted in a process of legal rationalization of power, whose ultimate culmination Weber had grasped very clearly: the modern bureaucratic state. State power became increasingly impersonal, since those who embodied it confined themselves to executing the law, which held them prisoner. In an epoch of eco-

25 George Lukács, *History and Class Consciousness* (London: Merlin, 1968), p. 263.

26 Lenin, 'The Constituent Assembly and the Soviet Republic', in *The Proletarian Revolution and the Renegade Kautsky*.

27 Carl Schmitt, *Legalität und Legitimität* (Berlin: Duncker & Humblot, 1998).

conomic and political crisis, however, such as that which had begun in Europe with the Great War, and still more so in Germany after 1930, liberalism proved impotent. In such an age, state power could no longer be limited to the application of norms, but demanded compelling decisions, which had necessarily to draw on a higher authority; this was the source of its legitimacy, in Schmitt's eyes. This amounted to personalizing power, rehabilitating the older forms of domination (absolutism) by way of their modern equivalents (charismatic domination). In other words, the *ethos* of law had to make way for the *pathos* of action.

This line of argument inspired Schmitt's view of the president of the republic: a 'guardian of the constitution' who, in order to preserve its spirit, arrogated to himself the power to suspend its norms, in the name of a legitimacy of power that prevailed over its legal forms. In 1932, he approved the *coup de force* by which President Hindenburg dissolved the Prussian government led by the Social Democratic Party, subjecting it to the authority of chancellor Franz von Papen (to whom Schmitt was an adviser). In the same spirit, he wanted the president to make use of Article 48 of the Weimar constitution to suspend the law, ban subversive parties (the Communist and Nazi parties) and establish a dictatorship. Faced with forces that wanted to use legality in order to destroy it, the state cannot defend itself by purely legal means. It has to move beyond the legality of its institutions and grant full powers to a sovereign authority capable of action. This was the meaning of the polemic between Schmitt's 'decisionism' and Kelsen's 'normativism', which began in 1928.<sup>28</sup> It goes without saying that Schmitt's authoritarian solution did not aim at 'rescuing' the Weimar Republic, but rather at demolishing democracy and replacing it with a sovereign dictatorship (imposed by the president, if necessary with the sanction of a plebiscite).<sup>29</sup> That this was the underlying meaning of Schmitt's proposal became

28 See Dan Diner and Michael Stolleis, eds, *Hans Kelsen and Karl Schmitt: A Juxtaposition* (Gerlingen: Bleicher Verlag, 1999).

29 See Olivier Beaud, *Les Derniers Jours de Weimar: Carl Schmitt face à l'avènement du nazisme* (Paris: Descartes & Cie, 1997); and Gopal Balakrishnan, *The Enemy: An Intellectual Portrait of Carl Schmitt* (London: Verso, 2000), Chapters 12 and 13.

clear in the light of his adherence to Nazism just after Hitler's accession to power in 1933.

The anti-democratic character of both Lenin's and Schmitt's contentions found attentive critics among the left. In her last essay, written shortly before her assassination by the *Freikorps*, Rosa Luxemburg reminded the Bolsheviks: 'It is the historical task of the proletariat when it comes to power to create socialist democracy instead of bourgeois democracy, not to suppress democracy of any kind.'<sup>30</sup> Otto Kirchheimer, a young left-wing political scientist who studied under Schmitt and went on to have a brilliant academic career in exile in the United States, devoted a critical essay to Schmitt's contentions in 1933. He pointed out that, even in the case of the democratic election of the highest state authority, if its 'plebiscitary and monolithic authority' came to substitute itself for parliament, it could then no longer be termed 'democratic', since there is no democracy without the liberty, equality and pluralism of its actors, and their right to participate and deliberate.<sup>31</sup>

The turbulent postwar climate polarized the intellectual field, creating paradoxical figures of revolutionaries and conservatives who embarked on surprising dialogues, inevitably bound to fail. This was not a case of *coincidentia oppositorum*, as liberal critics of totalitarianism claim, ever ready as they are to detect symptoms of a 'red fascism' and a 'brown Bolshevism': these extremes did not meet. Sought by a few isolated and paradoxical figures, such as Ernst Niekisch, theorist of 'national bolshevism' under the Weimar Republic, the path of convergence between revolutions of the right and the left proved a blind alley.<sup>32</sup> It is true that some people at

30 Rosa Luxemburg, 'Zur russischen Revolution', *Gesammelte Werke*, vol. 4 (East Berlin: Dietz Verlag, 1983), p. 363. [Translator's note: In the English translation by Bertram Wolfe, reprinted in P. Hudis and K. Anderson, eds, *The Rosa Luxemburg Reader* (New York: Monthly Review, 2004), this sentence is elided with the previous one, on p. 308.]

31 See Otto Kirchheimer, 'Remarks on Carl Schmitt's Legality and Legitimacy', in Franz L. Neumann and Otto Kirchheimer, *The Rule of Law Under Siege*, ed. William E. Schererman (Berkeley: University of California Press, 1996), pp. 64–98.

32 On 'national-bolshevism' and those currents of the German nationalist right attracted by the Russian Revolution, see Louis Dupeux, ed., *La 'Révolution conservatrice'*

the time saw it as the dominant tendency. Curzio Malaparte's *Coup d'état: The technique of revolution* (1931), in which he theorized the advent of an age dominated by *catilinarios* (the fascists and Communists)<sup>33</sup> united by the same will to seize power by force, and even by the same distrust of the methods of parliamentarism, found a considerable echo across Europe. But Malaparte's brilliant prose clung to the surface of reality, and his attempt to include Trotsky as 'one of the main creators of the modern technique of the coup d'état', together with the 'catilinarios of the right', the fascists and 'idolaters of the state', made his pamphlet, rather than a textbook of insurrection in the age of the crisis of liberalism, simply a 'textbook of mistakes'.<sup>34</sup>

The mistake was entertained for a short while in 1923, during the wave of nationalism that shook Germany after the French occupation of the Ruhr. Karl Radek, the Comintern emissary in Berlin, analysed the Versailles treaty as an attempt to reduce the country to the rank of a colony, in which revolutionary struggle should therefore 'place the nation first'.<sup>35</sup> On the basis of this diagnosis, Radek developed the 'Schlageter line', which paid homage to this young militant of the far right in the name of the struggle for the socialist liberation of Germany. 'The fate of this martyr of German nationalism must not be forgotten, or merely honoured in a passing word. He has much to teach us, us and the German

*dans l'Allemagne de Weimar* (Paris: Kimé, 1992), pp. 361–76; Ernst Otto Schüddekopf, *Linke Leute von Rechts. Die nationalrevolutionären Minderheiten und der Kommunismus in der Weimarer Republik* (Stuttgart: Kohlhammer, 1960); and Stefan Breuer, *Anatomie de la Révolution conservatrice* (Paris: Éditions de la Maison des sciences de l'homme, 1996). For a philologically rigorous but less contextual analysis, see Jean-Pierre Faye, *Langages totalitaires* (Paris: Hermann, 1972), pp. 79ff.

<sup>33</sup> Curzio Malaparte, *Coup d'État: The Technique of Revolution* (London: E. P. Dutton, 1932).

<sup>34</sup> Sonia Blatmann, 'La Technique du coup d'État: un manuel de l'équivoque', *Chroniques italiennes* 4 (1995). On Malaparte, see Luigi Martellini, 'Malaparte saggista politico: le "rivoluzioni europee"', in Gianna Grana, ed., *Malaparte scrittore d'Europa* (Prato: Marzorati, 1991), pp. 95ff. Trotsky replied to Malaparte in the final pages of his *History of the Russian Revolution* (Chicago: Haymarket, 2007).

<sup>35</sup> See Pierre Broué, *The German Revolution, 1917–1923* (Leiden: Brill, 2005), p. 725.

people.<sup>36</sup> Convinced that the working class was already won to the Communist cause, Radek sought a way to win the pauperized petty bourgeoisie attracted by nationalism. This nationalism had made Schlageter a 'wanderer into the void', while Communism had to transform him and his like into 'wanderers into a better future for the whole of humanity'.<sup>37</sup> This explains the contacts that the Communist Party maintained with the Nazis, a number of common meetings, and even a pamphlet in which the signatures of Radek and Paul Frölich appear alongside those of Ernst Graf Reventlow and Arthur Moeller van den Bruck – though the Nazis soon cut short an initiative that was working to the Communists' advantage.<sup>38</sup>

This ephemeral episode demonstrated the impossibility of a dialogue between revolutionaries of the left and of the right, but it revealed at the same time a strong impulse to extreme solutions in a catastrophic situation. The will to burn bridges with the past explains not only the attention that nationalist currents paid to the Soviet experiment, but also their own revolutionary language. Mussolini and Hitler both came to power legally, respectively appointed head of government by King Victor-Emmanuel III in October 1923 and by Chancellor Hindenburg in January 1933. The transformation of the political system came later, taking a few years in Italy, and adopting a more concentrated and traumatic form in Germany. Both Italian Fascism and German Nazism, however, saw these turning-points as genuine revolutions. For Mussolini, his accession to power was 'an insurrectionary act, a revolution'.<sup>39</sup> The Fascist regime cultivated the legend of the march on Rome as an armed uprising that opened a new era. After the model of the French Revolution, it tried to introduce a new calendar. Year 1 of the 'Fascist era' was marked on 29 October 1922, in an event that continued to be celebrated as a national holiday until the fall of the

<sup>36</sup> *Ibid.*, p. 727.

<sup>37</sup> *Ibid.*

<sup>38</sup> *Ibid.*, p. 729.

<sup>39</sup> Benito Mussolini, *Scritti e discorsi* (Milan: Hoepli, 1939), vol. IV, p. 293. See also Simonetta Falaschi-Zamponi, *Fascist Spectacle: The Aesthetics of Power in Mussolini's Italy* (Berkeley: University of California Press, 1997), p. 2.

regime.<sup>40</sup> In 1932, the tenth anniversary of the 'Fascist revolution' was commemorated with great pomp.

German nationalism adopted the same language. In 1925, Ernst Jünger wrote a number of articles for the newspaper *Standorte* designed to dispel the misunderstanding that presented the nationalists as 'reactionaries'. After leaving the trenches, he admitted, they had to fight on the home front against the Spartacists – Communist revolutionaries who confronted them as 'their own mortal enemy'.<sup>41</sup> But this opposition to Bolshevism did not make the nationalists reactionary, since, while belonging to an old tradition that was equally valued by certain currents of conservative culture, they acknowledged the necessity of adopting 'revolutionary methods',<sup>42</sup> in a context in which political struggle meant 'the continuation of war by other means'.<sup>43</sup> 'What matters for us', Jünger concluded, 'is not a revolution in the form of state, but rather a revolution in the soul, capable of creating amid chaos new forms that spring up from the soil.'<sup>44</sup> In other words, this revolution was simply the culmination of the profound changes provoked by the war. In his speech inaugurating the Reich *Kulturkammer* in November 1933, Josef Goebbels, as minister of propaganda, described Hitler's rise to power as a 'total revolution'. This was in his eyes a 'revolution from below' that was beginning to 'forge the German nation into a single people' (*Volk*). Like every genuine revolution, it aimed at a 'radical transformation of our cultural life and our spiritual creation'.<sup>45</sup>

Delio Cantimori, an unusual figure as a scholar and intellectual who passed from fascism to Communism in the course of the 1930s,

40 See Emilio Gentile, *Il culto del Littorio. La sacralizzazione della politica nell'Italia fascista* (Bari/Rome: Laterza, 1993), pp. 90–8.

41 Ernst Jünger, 'Die Methode der Revolution', in *Politische Publizistik, 1919 bis 1933* (Stuttgart: Klett-Cotta, 2001), p. 116.

42 Ernst Jünger, 'Die Reaktion', in *ibid.*, pp. 119–25.

43 Ernst Jünger, 'Unserer Politiker', in *ibid.*, p. 64.

44 *Ibid.*, p. 18.

45 Goebbels, 'Die deutsche Kultur vor neuen Aufgaben. Rede zur Eröffnung der Reichskulturkammer in Berlin', in *Reden 1932–1945* (Bindlach: Gondrom Verlag, 1991), pp. 131–2.

strongly insisted on the 'revolutionary' nature of fascism. In 1931, he published an essay entitled 'Fascism, European Revolution rather than Reaction', in which he took care to make clear the meaning of this formula. In his view, it amounted to a *new* movement just as much as did Communism, with which it competed for the conquest of the Old World, the old Europe in need of reconstruction. Mussolini, he emphasized, was not a dictator in the sense of Primo de Rivera – an authoritarian and conservative military man – but rather 'the head of a great national revolution' that was completing the work of the Renaissance and the Risorgimento. Its subversive character, however, had little to do with the Jacobin tradition, whose heirs were rather to be found in Marxism and Communism. The fascist and Communist revolutions were mutually opposed. That is why fascism appeared in his eyes as a 'dialectical synthesis of the demands represented by extreme revolution and extreme reaction'.<sup>46</sup> On the same lines, Mussolini had defined fascism as a kind of 'revolution against revolution'. For historians such as George Mosse, Emilio Gentile and Zeev Sternhell, fascism was at one and the same time a revolution, an ideology, a world-view and a culture: a revolution, since it sought to build a new society; an ideology, because it had reformulated nationalism within a perspective that, after rejecting Marxism, was equally opposed to both conservatism and liberalism, seeking an alternative way – a world-view, as its political project followed from a view of history, seeking to create a 'new man' and presenting itself as the providential destiny of the nation; and a culture, since it sought to transform the collective imaginary, change lifestyles, and suppress any cleavage between private and public life. This was manifestly a 'revolution of the right',<sup>47</sup> its social driving force lying in the middle classes and its ambition being to construct a new civilization, focused on the state, the nation or

46 Delio Cantimori, 'Fascismo, rivoluzione e non reazione europea', in *Politica e storia contemporanea. Scritti 1917–1942* (Turin: Einaudi, 1991), pp. 117–18. See also on this text Giovanni Miccoli and Delio Cantimori, *La ricerca di una nuova critica storiografica* (Turin: Einaudi, 1970), p. 30.

47 Emilio Gentile, *Qu'est-ce que le fascisme? Histoire et interprétation* (Paris: Folio-Gallimard, 2004), p. 152.

the race.<sup>48</sup> In other words, a revolution both anti-liberal and anti-Marxist, 'spiritual' and 'communitarian'.<sup>49</sup> It located itself at the opposite extreme from that of Communist revolution, which also carried an ideology, a world-view and a culture. As distinct from the Communist revolutions that had radically changed forms of property, all variants of fascism integrated the old economic, administrative and military elites into their system of power. The birth of fascist regimes always implied a certain degree of 'osmosis' with authoritarianism and conservatism. No fascist movement came to power without the support, whether enthusiastic or resigned, as the case might be, of traditional elites.<sup>50</sup> In short, any reference to a fascist 'revolution' should always be placed in quotes, to avoid sanctioning fascism's own rhetoric and aesthetic. Philippe Burrin is correct in defining fascism as a 'revolution without revolutionaries'.<sup>51</sup> The 'new man' that fascism and Communism respectively wanted to forge was not the same, but the desire for change that ran across the devastated Europe of this time followed the lines of a magnetic field whose two symbolic poles were Rome and Moscow.

#### 'Dangerous Connections'

Extremes do not meet, but their opposition may proceed from the same starting-point – that of the European crisis, the definitive collapse of a political order and the need to find a radical solution for the future. The age of constitutionalism and deliberation seemed passé, swept away by a wave of destruction whose only recognizable characteristics were those of *nihilism*. This was the context in

48 George L. Mosse, *The Fascist Revolution: Towards a General Theory of Fascism* (New York: H. Fertig, 2000); Zeev Sternhell, 'Introduction. Le concept de fascisme', in Zeev Sternhell, Mario Sznajder and Maia Ashéri, *Naissance de l'idéologie fasciste* (Paris: Gallimard, 1994), p. 23–4.

49 Zeev Sternhell, *Neither Right nor Left: Fascist Ideology in France* (Princeton: Princeton University Press, 1995), pp. 289–91.

50 Robert O. Paxton, *The Anatomy of Fascism* (New York: Knopf, 1994), p. 98.

51 Philippe Burrin, 'Fascisme: la révolution sans révolutionnaires', *Le Débat* 38 (1986), pp. 164–76.

which the 'dialogue' between Walter Benjamin and Carl Schmitt took place, a dialogue compromised in advance. Naphta could no longer escape a political choice. This figure from *The Magic Mountain* seems to unite in himself features of both the Jewish critic from Berlin and the Catholic lawyer from the Rhineland. Thomas Mann describes him as an apocalyptic philosopher simultaneously revolutionary and reactionary, an Orthodox Jew converted to Catholicism and trained by the Jesuits, a romantic socialist and an admirer of the counter-reformation, scathing about progress and prophesying catastrophes, for whom revolution and preservation found a meeting-point in 'the dissolution of all worldly orders, and the reconstitution of society after the model of the ideal, the communistic City of God'.<sup>52</sup>

It was Benjamin who took the initiative to contact Schmitt, in December 1930, writing him a letter in which he announced that he was sending him his book on German baroque drama. His interest in this right-wing, Catholic and reactionary philosopher was not surprising, on the part of an intellectual who had always paid great attention to right-wing thought, from Ludwig Klages to Stefan George and Marcel Jouhandeau. According to Gershom Scholem, who recalled his and Benjamin's friendship in Munich with the future Nazi philosopher Hans Heyse, towards the end of the Great War, Benjamin 'knew how to perceive the rumbling of revolution in the most reactionary authors', and showed a great sensitivity towards what he called 'strange interferences between reactionary theory and revolutionary practice'.<sup>53</sup> In a letter of June 1934 to Gretel Karplus, who was soon to marry Adorno, he confessed that his life and thought 'moved on extreme positions', taking shape as a result of the juxtaposition of antinomic points of view that his friends saw as 'dangerous relations' (*gefährliche Beziehungen*).<sup>54</sup>

52 Thomas Mann, *The Magic Mountain* (London: Vintage, 1999), p. 587.

53 Gershom Scholem, 'Walter Benjamin', in *Fidélité et Utopie. Essais sur le judaïsme contemporain* (Paris: Calmann-Lévy, 1978), p. 134. On their friendship with Hans Heyse, see Gershom Scholem, *Walter Benjamin: The Story of a Friendship* (New York: NYRB Classics, 2003), p. 99.

54 Walter Benjamin, *Gesammelte Briefe*, vol. IV (Frankfurt: Suhrkamp, 1998), p. 441. For a detailed exploration of the relationship between the two philosophers, see Susanne