Exception and Technocracy: Challenges and potentials of democratic politics in emergency

Colmonero Oliveira, João

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Challenges and potentials of democratic politics in emergency

MA Thesis by João Colmonero Oliveira

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Supervisor: Marie Louise Krogh

Leiden University

Abstract

The Eurozone crisis is an example of how democratic regimes can be threatened under emergencies, and it revealed two contributing phenomena – the state of exception and technocracy. This thesis aims to understand the link between the two in the context of emergency politics, through the paradox of politics. This paradox, which can be traced back to Rousseau, brings to light an aporia in democratic politics, where we need good citizens to make good laws and good laws to make good citizens. This thesis starts by analysing each phenomenon individually and the way they threaten democracy. It then interprets them through the paradox of politics as arrangements meant to resolve that paradox, but infringing upon the ideal of democracy it subscribes to (inspired by the analysis of political theorist Bonnie Honig). Finally, it analyses the link between them and the potentials for the democratization of emergency politics. The main conclusions are 1) in emergency politics, technocracy and exception display a link of mutual reinforcement that infringes upon democratic politics (empirically and conceptually), and 2) the democratization of emergency politics requires not only a de-exceptionalization of emergency (as suggested by Honig), but also a process of de-technocratization of democracy.

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Introduction

If there is one lesson we may take from the contemporary era of democratic politics it is that democracies are fragile systems. In the past thirty years, several challenges have arisen which potentially displace our faith in the democratic apparatus – growing populism which seems to awaken ghosts from more authoritarian pasts, boiling tensions within and across the global geopolitical system and the many struggles against an economic system which increasingly seems to require precarity, austerity and the instability of crises and crisis prevention - just to name a few. The fragility of democratic systems seems to reveal two distinct points. First, that our democracies are eminently fallible. Second, that non-democratic alternatives that emerge through the cracks of flawed democracies don't seem to be viable options for societal projects (if we still want to uphold democracies). The different instruments, rights, and liberties provided in democratic politics, now more than ever seem to be achievements to be not only cherished, but deepened and rethought, if we are truly committed to democratic ideals.

The now not-so-recent Eurozone crisis is a standing example of several defective features in contemporary democracies. The European Union is composed by democratic states, and it is as a supranational institution committed to democracy, among other values. However, when facing a global financial crisis which later transformed into a crisis of European public debts, the EU response shifted drastically from its democratic ambitions. The stakes were high amidst the risks of depression and the suspensions of the politico-economic order, to the point where the existence of the Euro, and even the EU, were at existential danger. In the face of emergency, several measures were exceptionally implemented through undemocratic means, overruling standard procedures and regulations (Davies 2013). What followed ranged from the technocratic reshaping of several welfare states through austerity politics, the imposition of emergency national unity governments, bailout programs by the infamous "Troika", among others. These set of crises and the subsequent responses were not always particularly well-taken by European citizens and it shed light on the thoroughly studied "democratic deficit" of the EU (Kratochvíl and Sychra 2019). Southern European countries were disproportionately affected by the crisis and its responses, which raised multiple questions about the democratic governance of the EU and its power structures. The effects of it all still shape the current political and socioeconomic landscape of Europe, observed in Eurosceptic populism, social unrest regarding its many challenges and a divided union in its aims and scopes (Berman 2019).

The Eurozone crisis is just one example of how democracies can be threatened under emergency. It reveals two different but often related phenomena which may challenge democratic politics – that of **technocratic governance** and of **the state of exception** - both of which will be the object of philosophical inquiry

of this thesis. A fundamental initial question is how to make sense of these phenomena which have the potential to restrict the scope of democratic politics and popular will even in contemporary democratic states, when emergencies hit.

Technocracy is commonly associated in contemporary politics to decision-making powers being transferred from elected politicians to non-elected experts whose legitimacy derives from technical expertise. Although not easily defined, it points toward a form of ruling based on a scientific-technical orientation towards societal efficiency. Its relation to democracy is not clear-cut, as it's been described by some as a necessary complement to democratic rule and by others as conceptually antagonistic to the idea of collective self-rule (Bickerton and Accetti 2020, 30).

The state of exception was first extensively theorized by German political theorist Carl Schmitt, who became known as the Crown Jurist of the Third Reich due to his connections to the Nazi Party. Schmitt postulated that sovereignty resides in a governing body's ability to suspend the rule of law under situations of emergency (Schmitt 2005). The state of exception is this paradigm of transcendence of the law by an absolute sovereign – and it is a judicial power available to most modern democracies in situations of extreme emergency The phenomenon has been studied by philosophers not only in its juridical dimension, but as a conceptual theory framed within, or at odds with, the democratic order.

These two phenomena are not linked by necessity. They have however manifested simultaneously in the past when democracies faced emergencies such as financial and economic crises. I will argue that they demonstrate a contingent relation of mutual reinforcement, where in times of emergency and exception the call for governance by expertise is often invoked and actualized. However, I believe the connection goes beyond the empirical realm of political circumstances and it can be interpreted at a conceptual level. More specifically, I believe both technocratic governance and the state of exception operate under logics which can threaten democratic politics. That is not to say they are necessarily incompatible with democratic systems in theory and practice – they may appear as necessary when emergencies hit. What is meant is that both technocratic governance and the state of exception operate conceptually through logics which are at tension with the idea of democracy as a form of collective self-rule. This aporetic relation allows us to understand the particular relation of each phenomenon to democracy, but it also sheds light on their relationship of mutual reinforcement (at a conceptual and political-practical level) and how it can threaten the democratic order.

The conduction of the analysis of the aporetic relation between democratic politics and the two phenomena will be done through the lens of the Paradox of Politics. This paradox, first considered by Jean-Jacques Rousseau, brings to light a tension and even aporia within the ideal of democratic politics, where we need good citizens to make good laws, but we need good laws to form and shape good

citizens (Rousseau 2018, bk. II.7). This chicken-and-egg circularity points toward the multitude of a self-ruling collective who never quite acquires the needed characteristics to actualize the democratic self-rule. The multitude never truly becomes "the people". The paradox has been interpreted as a problem of the founding of a democratic polity. However, some authors have contested this interpretation and theorized it as a paradox not located in time, but as the core centre of all political practise, repeating itself every day. Political theorist Bonnie Honig has provided important nuance to the workings of the paradox of politics. She claims that the paradox of politics is the central paradox in democratic politics, as it confronts the fact that "the people" – the centre of democracy – are always inhabited by a heterogeneous multitude. It confronts the constant and everyday reshaping of a multitude into a people. It reveals as the most fundamental problem of politics, in Rousseau's terms, the non-correspondence between the will of all (the sum of individual wills) and the general will (the collective pursuit of the common good which should be sovereign) (Honig 2009, 3–4).

Honig doesn't believe the paradox is soluble by law. The people are never fully who they need to be to exercise the power that rests with them. They are both the authors and the subjects of the law. They will write it, rectify it, make mistakes, contest, amend it and nullify it, in a process of constant re-founding of politics. New claims, new rights, new struggles will emerge that will always require a reassessment of the law and of ourselves, as subjects also formed by the law (2009, 3, 13–16). Nor does Honig believe in solving the paradox through philosophical inquiry and universal norms. Contra deliberative democrats (especially Jürgen Habermas and Seyla Benhabib), she believes the paradox cannot be seen as binary conflict between law (rationality) and democracy (legitimacy) in which correct procedures can codify the correct laws that transform us into correct citizens (2009, 17–26). Rather, she believes in the perpetuity of the paradox because she construes it as a vicious cycle which defines politics. For Honig, the paradox "has the happy effect of reorienting democratic theory: toward the material conditions of political practice, the unavoidable will of the people who are also always a multitude, and the not only regulative but also productive powers of the law" (2007, 1).

In *Emergency Politics: Paradox, Law, Democracy* (2009), Honig attempts to refocus the problems of emergency politics and the ambiguities of the state of exception through the lens of the paradox of politics. She connects the situation of emergency to the constant emergence of new rights in democracy, pointing out the productive potential of the paradox of politics in the democratization of emergency (2009, xv–xvii). This thesis draws vast inspiration from Honig's approach in using the paradox of politics as a methodological tool to analyse political phenomena in democracy. However, it adds a contribution to Honig's insight by considering technocracy as a fundamental dimension of emergency politics, alongside the exception. It establishes both of them (individually and in

their co-articulation) as attempts to resolve the insoluble paradox of politics, revealing how they can threaten democratic politics.

Hence, the aim of this thesis is to understand how the relation between the state of exception and technocratic governance can threaten democratic politics in emergency, through the lens of the paradox of politics. More specifically, the research question it attempts to answer goes as follows: How can we understand the link between the state of exception and technocratic governance in emergency politics, through the paradox of politics? A corollary question that follows is how the political arrangements which articulate the exception and technocracy threaten the ideals of democracy subscribed by the paradox of politics. Therefore, this thesis will attempt to analyse first how the two phenomena can individually infringe on democratic politics (chapter 1 and 2); secondly establish how the two phenomena are interpreted individually as attempts to resolve the paradox of politics (chapter 3); and lastly, make an argument for what is the precise link between the two (politically and conceptually), how their relation endangers democracies and how the paradox of politics can provide orientation towards the democratization of emergency politics, when we consider the dimension of technocracy (chapter 4).

The first chapter will go into a theoretical analysis of the state of exception, as to arrive at a precise theory of the state of exception and its relation to democratic politics. I will conclude that the state of exception is a politico-legal phenomenon that has potential to infringe upon democratic politics. The second chapter will analyse technocratic governance and define it as logic of decision-making which is at odds with the democratic logic of decision-making. The conclusion is that the two logics at tension may result in consequences for democratic politics (namely democratic disempowerment and depoliticization). In the third chapter, the paradox of politics comes into play, serving as a method to analyse the relationship of each of the phenomena with the democratic political order. Here, I will conclude that both phenomena can be interpreted as attempts to resolve the paradox of politics, but ultimately failing in considering citizens as authors of the law, and not mere subjects. The fourth chapter will argue that the link of mutual reinforcement between technocracy and the state of emergency, though not necessary, is deeply intimate insofar as both are co-articulated (politically and conceptually) as responses to 'the paradox of politics'. To conclude, I will leverage this insight to make the claim that what Honig calls the 'democratisation of emergency politics' not only requires de-exceptionalizing emergency but also requires a de-technocratization of democracy, where decision-making based on expertise is subject to democratic scrutiny.

The four chapters provide an interpretation of how both these phenomena threaten democratic politics, individually and when articulated in arrangements that attempt to resolve emergencies. The base of democratic politics is always provided here by the paradox of politics, in the analysis of the challenges and the potentials. The project within this thesis does not aim at drawing a normative

evaluation of the state of exception and of technocratic governance (nor their relation). However, it is informed by a specific perspective of democracy (based on the paradox of politics), which envisions citizens as both authors and subjects of the law.

Therefore, although it has a descriptive scope - in understanding the two phenomena, how they relate, and their tension to democratic politics in emergency - this analysis is cemented on a specific theory of democracy, which presents its own normative ideals and assumptions. Moreover, the conducted analysis is more focused on the dynamics of economic emergency (as they better reflect the articulations of exception and technocracy). Emergencies often reveal the fragilities of our democracies. These two specific phenomena (and their political articulations) are here treated as challenges to Democracy as a political-philosophical ideal of collective self-rule, and challenges to democracies, as real-life obstacles to the realization of that ideal within our polities.

Chapter 1 – The State of Exception

The aim of this chapter is to analyse the theoretical foundations of the state of exception and its position in the legal order, by going through the conceptualizations of Schmitt and Agamben, and contrast it with the concept of democratic politics that this thesis adopts. I will go through Schmitt's concept of sovereignty in the first section and explore Agamben's analysis of the state of exception as a paradigm of government that defines the legal order in the second section. Both these perspectives will be articulated as to arrive at a Schmittian-Agambenian theory of the state of exception that describes it as a legal device that reveals a decisionistic aspect of the legal order. The last section brings democracy into the discussion by proposing a definition and analysing how it relates to the phenomenon of the state of exception and its implications on sovereignty. It will be argued that 1) democracy is incompatible with the Schmittian notion of a "democratic" sovereign dictatorship (which he arrives at through his theory of sovereignty) and 2) the Schmittian-Agambenian theory of the state of exception, although not formally incompatible with democracy, infringes upon the possibilities of democratic politics, by virtue of its growing decisionistic character. These conclusions will serve as the basis for analysing the state of exception through the paradox of politics (chapter 3) and linking it to the phenomenon of technocracy (chapter 4).

Whether it is a natural catastrophe, an invasion by a foreign state or a financial crisis, emergencies demand from politics a different modus operandi than that from its workings in the normalcy of everyday life. They demand fast intervention, greater levels of organization, the suspension of the quotidian of civil society and urgent decisions from officials at the top. They demand, in a way, a substantially different paradigm of state operation, when its existence is in danger. It is therefore evident that modern states have legal devices to implement such states of affairs, whose names differs from place and circumstance – martial law, emergency decrees, state of siege, or more importantly for us, the state of exception.

The state of exception (SoE) refers to the suspension of the legal order, granting the sovereign the ability to transcend the rule of law. The idea of a state suspending the law in extraordinary times dates back to the magistracy of the Roman Republic, but its modern articulation within legal documents of states has its origins in the French Revolution and the following Napoleonic rule (Agamben 2008, 4–5, 35). However, the main figure that conceptualized the state of exception as phenomena within the legal order of immense philosophical and political interest was German jurist Carl Schmitt. Writing in the agitated interwar period in the Weimar Republic, Schmitt conceptualized the state of exception not as a simple legal device, but as a whole theory of sovereignty that defines the legal order and exposes its true decisionistic nature. Such views opened the door for a constitutional articulation of dictatorship, which must be analysed with caution

given Schmitt's sympathy for and collaboration with the Nazi regime. The state of exception is therefore a complex concept that goes far beyond a mere legal instrument. Because it establishes a "legal condition of alegality" (Honig 2009, 87), it reveals itself as a phenomenon not within the law, but also not outside of it.

1.1 - A Theory of Sovereignty

"Sovereign is he who decides on the exception". This opening entry of Schmitt's essay *Political Theology* encapsulates the whole essence of his theory of sovereignty (2005, 5). He believes that the decision in the exception is not a mere "exceptional" borderline case, but it reveals something essential about the state. The sovereign is he "who decides in a situation of conflict what constitutes the public interest or interest of the state" within the exceptional circumstances of "a case of extreme peril, a danger to the existence of the state, or the like" (2005, 6). The sovereign decides whether or not to suspend the legal order when immanent threat arises, and such decision cannot have a constitutional provision, it cannot depend on a norm or a procedure – it is a decision in its true form (2005, 7–11). This arises from the idea that for general norms to apply a normality must exist, "every general norm demands a normal, everyday frame to life to which it can be factually applied" (2005, 13). The legal order depends on a "normal" state of affairs, a condition of normality – which implies that no norms can be applicable to "chaos", or the abnormal situation. The definition of what counts as normal and what counts as exception is the precondition of the general law, but it stands outside of it. In this way, this decision on the exception cannot be subsumed into the general codification of the law – but it also defines that legal order. It establishes what is the normal situation of everyday life and what the exceptional situation is. Therein resides the power of the sovereign. This primacy of the exception from which the legal order can be explained leads Schmitt to conclude that "the rule proves nothing; the exception proves everything" (2005, 15). The general functioning of the legal order depends on the decision of what is "normal" and what is "exceptional" – sovereignty is revealed in the act of deciding. Schmitt's theory of sovereignty is characterized by the decision on the exception, a decision that stands outside the legal order and nevertheless defines it.

Schmitt uses the metaphor of the miracle to refer to the exception. For Schmitt, "all significant concepts of the modern theory of the state are secularized theological concepts", due to historical developments and similar systematic structures (2005, 36). The historical development of a deistic theology rejected the concept of a divine intervention transgressing the laws of nature. The ideas of the enlightenment had rejected the idea of the miracle, the stoppage of the laws that rule the universe. Analogously, they also rejected the idea of the exception – the moment where the seemingly natural legal order is ruptured, and an extra-

legal decision made by a sovereign must take place. The transcending power of God (the Sovereign) to perform the miracle (decide on the exception) thus breaking the natural laws (the legal order) is conceptually rejected in the historical development of the ideas of modernity. Legitimacy cannot depend on this transcendentalism - or for Schmitt's metaphor, on this sovereign decisionism (2005, 50–52).

The importance of the analogy is that it allows us to understand who and what Schmitt was criticizing. His main intellectual adversaries were the theorists of legal positivism, most notably jurist Hans Kelsen, who had a normative understanding of sovereignty. For these theorists "it is not the state but law that is sovereign". The modern legal order is ruled solely by laws and norms and the state's purpose is to produce and withhold the law. The authority of the state is purely confined to the task of production and maintenance of the law, but it is the law that commands power and obedience. The legal order should not depend on specific personalities or decisions, only in the upholding of the objective law (2005, 22–23, 29).

These conclusions lead Schmitt to assert that they "solved the problem of the concept of sovereignty by negating it" (2005, 21). Schmitt notes that such conception neglects the decisionistic aspect of the legal order. It ignores that "every concrete juristic decision contains a moment of indifference from the perspective of content, because the juristic decision is not traceable in the last detail to its premises and because the circumstance that requires a decision remains an independently determining moment" (2005, 30). The implication here is crucial. It reveals that the decision on the exception and all other decisions within the juridical order differ only in degree, and not in form (Burles 2016, 249). The question on who decides doesn't apply solely to the exceptional, the emergency, it applies to every juridical decision. This tells us that a norm by itself does not indicate how a law is to be applied, and more importantly, who contains the authority or who makes this decision in this zone of indifference (Schmitt 2005, 32–33). This insufficiency of the normative view of legal positivism demonstrates that the legal order will always depend on decisions. This "'legal indeterminacy'" conceives the law as having "a moment of normatively unregulated facticity", an instant of pure decision (Scheuerman 1999, 26). A norm cannot interpret or apply itself, nor can it enforce its own content (Burles 2016, 250). From this we can conclude that Schmitt's contribution goes beyond a prescription of the state of exception and a theory of sovereignty – it most importantly reveals this decisionistic nature of the legal order. While a juridical decision relates to a particular law, the decision on the exception concerns to whole legal order and its suspension. For Schmitt, this dependence on decision is fundamentally at its highest degree in the decision on the state of exception – a decision that defines who the sovereign is.

1.2 - A Paradigm of Government

If the sovereign decides on the exception, how can we understand the state of exception as a phenomenon within the law of each state? Giorgio Agamben provides one of the most notorious accounts of a theory of the state of exception, looking into its relation to the legal order conceptually and empirically. He highlights fundamental cases of the state of exception. Firstly, Germany under Nazi rule - which never ceased to be the Weimar Republic *de jure* - leading Agamben to conclude that "from a juridical standpoint the entire Third Reich can be considered a state of exception that lasted twelve years" (2008, 2). Equally importantly is the "creation of a permanent state of exception" becoming a modern component in modern democratic states. This renders the state of exception as an increasingly dominant paradigm of government, as can be seen for example with the American legislative and executive actions regarding the War on Terror. For Agamben, this recent emergency perfectly illustrates how any form of legal protection can be suspended in the exception. Individuals under suspicion of association with terrorist activities had their legal statues of individuals erased. This erasure resulted in the impossibility of enjoyment of any rights under international and American law. In the name of national and international security, the exception was declared, the laws ceased to apply, and these individuals lost any juridical protection whatsoever (and consequently any human rights) (2008, 2–4).

Agamben goes through different cases and constitutional texts to provide a thorough investigation of the increasing powers of governments in times of exception, the suspension of laws, the diminishment of rights and the expansion of unaccountable executive powers (2008, 11–22). This growing authority of governments in times of emergency become themselves a norm of ruling, a constant exercise of control over citizen's lives, exercised in different ways and through different types of emergencies. Such provisions can be illustrated through the declarations of military emergencies during wars, economic emergencies during crises (the New Deal is one of the starkest examples), or threats of security (like the War on Terror). However, it also takes place through juridical practices that, while may intensify in times of emergency, become normalized in the normal functioning of state activity. Examples are the normalization of law-decrees as a form of legislation (a common practice in Italy, as Agamben describes, where executive power trumps legislative (2008, 17–18)) or the rise of administrative powers of discretion over proceduralized processes in the US (Honig 2009, 67). All these examples, whether in emergency or in apparent normalcy, reveal the growing authority of governments in times of exception, even when emergencies are not apparent. On such subsumption, Agamben cynically remarks the declining democratic qualities of governments that constantly attempt to give lessons in democracy (Agamben 2008, 18).

Agamben analyses the difficulty (or impossibility) of including the state of exception within the sphere of juridical order. It points, once again, to this paradoxical position to the legal order. The state of exception is the suspension of the law, so how can it be contained within it? It is neither internal nor external to the juridical order (2008, 22–23). It exists in "a threshold, or a zone of indifference, where inside and outside do not exclude each other but rather blur with each other" (2008, 23). His objective is to investigate that point of indifference and its location. In similarity to Schmitt, Agamben refers to the distinction between norm and decision to understand the state of exception. It is in the exceptional situation that the norm is reduced to the minimum and decision takes its full strength as a juridical concept (2008, 34–35). The decision on the state of exception "separates the norm from its application in order to make its application possible". It is the place "where the opposition between the norm and its realization reaches its greatest intensity" (2008, 36).

The tension between the norm and decision allows us to understand how law is enforced in the state of exception. Agamben refers to the *force of law* as the application and execution of a law. This must be seen as separate from its normative and technical dimension. In the state of exception (but ultimately, in the "smaller" exceptions Agamben refers that have become the norm), we encounter a lawless *force of law*, in which a norm and its application are separated. A juridical void opens space to a pure decision (Agamben refers to it as "pure violence" (2008, 40)) without any legal reference, yet never fully outside the law (2008, 37–40). The state of exception as a growing paradigm of government operates through this logic. We can understand this logic of arbitrariness and loss of reference to law through different figures and situations of exception – the interrogators of suspects of terrorism (where the suspects have ceased to become, from a juridical standpoint, individuals); the central bankers overriding all rules of monetary policy in the face of market crashes, to fix the economy; or the government that in the face of a pandemic suspends the law and must decide what (frequently unconstitutional) path of action to follow.

Having described the main tenets of Schmitt's theory of sovereignty and Agamben's theory of SoE as a paradigm of government, I will articulate a Schmittian-Agambenian theory of the state of exception which will be incorporated and subject to analysis throughout the thesis. This conception takes Schmitt's important conclusion on the decisionistic nature of the legal order (a decisionism that is at its highest force on the decision on the SoE), and the impossibility of a rule solely on norms and law. From Agamben, it takes its understanding of the SoE as a growing paradigm of government, which (contra Schmitt) does not depend on one sovereign figure of ultimate authority, but in complex developments of state and law through many actors employing a lawless force of law. The next section will analyse a conception of democracy and understand how this theory relates to that conception.

1.3 - Democracy in the Exception

In order to evaluate the relationship between the state of exception and democracy, which is the main task of this chapter, there is first the need to establish what concept of democracy is to be used in the analysis of this thesis. I will be using a conception which at root is an abstract one – the collective self-rule between free and equal citizens. This entails a notion which, akin to Rousseau's, envisions citizens as both authors and subjects of the law. Accordingly, it demands a form of representational ruling and law-making that is featured within modern liberal democracies through free elections, constitutionally guaranteed rights and civic, political, and economic liberties and separation of powers. However, this conception is not limited to such features, as it also affirms the agonistic, conflicting, and undecidable nature of democratic politics, marked also by protest, action, affirmation and multiple forms of citizens making their voices heard in their communities, their civil society, and their state[1]. At the heart of this conception stands the paradox of politics made acquainted in the introduction, which emphasis the undecidability and perpetuity of democratic politics (this connection will be made clearer in Chapter 3).

From this conception, I will first analyse Schmitt's own understanding of democracy and evaluate the compatibility of the two. Thereafter, I will measure it against the Schmittian-Agambenian theory of SoE in an attempt to fully grasp the relationship between democracy and the latter.

Agamben affirms that Schmitt's objective was to inscribe the state of exception within a juridical context and thus making "the concept of dictatorship finally accessible to jurisprudential consideration" (Agamben 2008, 32–34). Schmitt, although deeply sceptical of liberal democratic regimes, did not consider the concept of democracy to be of no use. Instead, Schmitt reduces democracy to the identification between the ruler and the ruled. He rejects the claims of majoritarianism, and associates democracy with the creation of a unity, by a sovereign who is legitimized by his *demos* and takes the decision in the name of the will of the people[2]. Therefore, for Schmitt, sovereign dictatorship is a democratic institution (Vinx 2014, 4, 7–10). It seems that Schmitt's conception of sovereign dictatorship and the state of exception are clearly incompatible with democracy. Schmitt sees democracy as a pure process of identification which legitimizes a ruler who makes arbitrary decisions. As long as this identification exists (and bear in the mind, the sovereign may very well be the one who determines the terms of the identification, and decided who is an enemy of "the people" who identify with him), the decisionistic rule is legitimate and democratic. The aforementioned view on democracy, on the other hand, entails

[1] As we move along the chapters of this thesis the adopted conception of democracy will become clearer. It is within the scope of the thesis to construct an understanding of democratic politics.
[2] This relates to Schmitt's concept of the political and friend-enemy distinction, which is not within the scope of this thesis. For more on this check Vinx 2014.

not only protection from arbitrary rule (safeguarded by political institutions), but also entails that citizens have some sort of authorship of the law, whether through democratic representation (democratic here, as in based on free and fair elections) or their own action. An autocratic rule, no matter the terms of identification which "democratically" legitimize a sovereign, doesn't fulfil those requirements for democracy. Hence, the Schmittian sovereign dictatorship is conceptually incompatible with this abstract view of democracy.

However, once we add Agamben's contributions, the decisionistic aspect of the exceptional (which becomes normalized as a paradigm of government) doesn't depend on a singular sovereign figure and on the identification with the people. In fact, as related before, this paradigm occurs within the democratic regimes, which at least institutionally maintain their formal tenets of democracies (elections, sets of rights and equalities, rule of law). The question on whether these paradigms of exception reduce democracy must be analysed from case to case, relating it to the particularities of each situation. However, Agamben clearly believes that it trumps democratic politics in most of these cases when he states that "the normative aspect of law can thus be obliterated and contradicted with impunity by a governmental violence that— … producing a permanent state of exception internally—nevertheless still claims to be applying the law" (2008, 87). I believe this reveals that the SoE, although insertable within democracies, opens up possibilities to infringe the democratic order, through the increasing decisionism in law that is a product of the SoE becoming a paradigm of government. As exception becomes normalized, the prime decisionism which characterizes it also becomes a norm. The increasing decisionism reduces the normative power of the law (which citizens are the authors of) and increases an arbitrariness which potentially harms fundamental rights and equalities of citizens (think of the suspects of terrorism). The conclusion here is not one of mere incompatibility (as is the case with Schmitt), but one that considers the SoE (as a paradigm) as an enabler of the infringement of democracy (as it places more and more areas of law under decisionism).

Democracy, as an abstract concept, is incompatible with Schmitt's theory of sovereignty. When we put it against the Schmittian-Agambenian theory of the SoE (which highlights the law's decisionistic nature and the SoE as a growing paradigm of government), we see that the latter has the potential to infringe the conditions of the former, if we accept Agamben's empirical findings. This conclusion will serve as a base for the state of exception when we analyse it through the lens of the paradox of politics (chapter 3). Nevertheless, the next chapter must first take a detour to analyse the other central phenomenon of this thesis, technocratic governance.

Chapter 2 - Technocratic Governance

This chapter will provide clarification on the concept of technocratic governance and how it relates to democracy. This will provide a framework which will be fundamental for the analysis conducted in this thesis on technocracy, the state of exception and democratic politics. In the first section, I will provide a definition which can encapsulate its contemporary dimension, as well as a more conceptual one. It will establish technocracy as a logic of decision-making based on expertise. The second section will explore the concept of democracy and analytically compare the different logics of technocracy and democracy, holding that a significant level of conflict exists. The final section analyses particular challenges that technocracy brings to democratic politics, and it considers the possibility of a "democratic technocracy". The main conclusion of the chapter is that democracy and technocratic governance, although not standing as incompatible systems (it is possible to have degrees of technocratic governance in democratic societies), they operate conceptually through two conflicting logics of decision-making, which has the potential to endanger democracies.

The idea that the people are unfit to rule themselves and that ruling should be based on expertise is an ancient one. Yet, despite a history of academic formulations and different forms of implementation, the term "technocracy" has only recently become a dominating topic of discussion in colloquial political debate. It is a controversial subject which divides those who have become sceptical of the apparent vices of partisanship and cunning politicians appealing to helplessly ignorant citizens and those who condemn the rise of a group of experts ruling without any reference to "the people" and their democratic will (Cole 2022, 1–3). It has been associated with a depoliticizing movement that can either enable or prevent populism – depending on who is being asked (Bertsou and Caramani 2020, 19–22). In popular debate, the term is loosely thrown around, often with no reference to a precise definition on what it is and what the nature of its relationship with democracy is. Different understandings of the nature of this phenomenon and of the meaning of democracy provide different diagnosis on what the place of technocracy is in modern-day political societies. Whether it is a complement to the inevitable lack of technical expertise of citizens, a necessary force in the governance of polities, or a hindering obstacle to the realization of a democratic project – different interpretations of technocracy derive from disagreements on its nature and the nature of democracy, in theory and in practice (Bertsou and Caramani 2020, 16–19). It is thus important to establish a precise definition which enables an analysis on its compatibility with democracy

2.1 - Defining Technocracy

The earliest resemblances of technocracy can be traced back to Plato's idea of an epistocracy. He conceptualized politics as the "art of ruling", which required a knowledge concerned with the guidance of human beings. Accordingly, only those with that knowledge to guide citizens towards the satisfaction of their needs could be fit to rule. For Plato, the conclusion would be that philosophers were the ones endowed with this sort of knowledge, and hence they should be the rulers (Bickerton and Accetti 2020, 32–34). Plato's argument for epistocracy was constructed to oppose the idea of democracy. The idea of the platonic ruler stems from the rejection of politics as a domain of freedom and the self-realization of the wishes of the community. The platonic ruler's commitment is to an idea of the truth, the good and the right (2020, 34). He equates it to a physician who "cures us against our will or with our will by cutting us or burning us or causing us pain in any other way", and they are still physicians on account of their expertise and knowledge (2020, 32). A ruler who knows how to guide human beings towards the satisfaction of their necessities would result in a better system than citizens (not in possession of such knowledge) democratically ruling themselves.

The modern-day forms of technocracy look rather different than philosopher-kings. It can be traced to 19th-century ideas of a "predictive science of society that would allow for the perfection of government as a rational system of administration" which may be associated with enlightenment thinkers or even utopian socialists (Cole 2022, 3). This idea of a society ruled by an administration of technical control, efficiency and optimization took many different forms from the economic governance of the New Deal to the bureaucratic administrative Soviet state (Bertsou and Caramani 2020, 7). However, its contemporary use is mostly associated with (but not exclusive to) market capitalism and the technical knowledge of the economic sphere – and the consequent elimination of certain spheres of policy from democratic decision-making (Sánchez-Cuenca 2020, 48–49). Contrary to the classical conception, modern day technocracy doesn't place itself at odds with democracy, rather it poses itself as a complementary mechanism. Bickerton describes this process as a transfer of powers between different domains of policy. Some spheres of policy are deemed to be "better entrusted to expert decision making" instead of being "left to the people to decide over democratically" (Bickerton 2020, 31). Therefore, modern-day technocratic politics insulates certain domains of the administration of society from democratic ruling (and representation) (2020, 34–35). Different examples can be thought of here – regulation on monetary policy, central banking, certain executive bodies (like the EU commission), certain government administrative agencies (like the CDC), supranational institutions (IMF, World Bank) (Cole 2022, 5–7).

There are different, varied, and complex reasons for the creation of technocratic forms of governance within democracies[3]. I will focus on two different factors that explain why certain spheres of governance become subject to technocratic decision-making. Firstly, there is the issue of citizen ignorance. The increasing complexity of certain domains of policy require a considerate level of technical knowledge that the average citizen is not in possession of. Technocrats acquire their legitimacy to make decisions based on their expertise and technical knowledge of the areas they are competent in, as contrary to the elected politicians whose legitimacy is derived from the democratic expression of a people. Secondly, some spheres of policy are insulated from democratic politics due to their need for autonomy from everyday political manoeuvre. This may range from the protection of citizens from short-termism (e.g., politicians increasing money supply to get popular support in the short run, but affecting the long-term economic health), or the protection of minorities from the tyranny of majoritarianism (hence having an independent body safeguarding individual rights), or just the assurance the neutrality of policies, regardless of the debate and contestation in the democratic stage (Bickerton and Accetti 2020, 36–39) (Bertsou and Caramani 2020, 3–4).

Given these dynamics of modern-day technocracy, how can we arrive at an explicit definition? One aspect implied by technocracy is that there is an effective power within the hands of the experts – they are not mere consultants or advisors, they must have within them a decision making and executive power (Cole 2022, 6). The legitimacy of technocrats derives from their expertise in that particular domain of policy. The decisions are made based on that technical knowledge and autonomously from political and ideological considerations (in theory). Centeno describes technocrats as possessing a shared mentality or cognitive framework, which he deems as an ideology of method, a form of analysing problems and solutions based on science (1993, 312). This is important to consider technocratic governance as a logic of arriving at certain decisions, based on the application of instrumentally rational techniques (1993, 314).

Henceforth, technocracy will be considered as a logic of decision-making based on the expertise of individuals in a particular policy field, which wields them effective power within politics. It is not a regime, as it can be inserted within different regimes of varying democratic degrees. It is not a mere mode of governance, as it is exercised in different ways, through many different institutions. It implies a degree of power, as in the exercise of executive decision-making of experts legitimized by their technical knowledge, and not democratic support, and exercised in different realms of policy and through different configurations across different institutions (from local, to statal, to supranational).

[3] The historical development of technocratic governance, although relevant, will not be approached in this thesis. For more on it, consult Centeno 1993 or Bickerton and Accetti 2020.

2.2 - Complement or Obstacle?

Spanish political scientist Ignacio Sanchéz-Cuenca explores the connection between the concepts of democracy and the various technocratic arrangements. He states that "technocracy stems from the tension between democracy and "truth". If there are solid truths about the conduct of public affairs, why should decisions be left in the hands of the people?" (2020, 44). In theory, technocrats possess better knowledge, they are not pressured by outside interests or short-term incentives, and so they are in the position to make the decisions that mostly approximate from "the right" decision, whereas democratic decisions are a simple reflection of what citizens believe – regardless of whether it is the right course of action or not.

To better understand the relation between democracy and technocracy, Sanchéz-Cuenca analyses two different views of democracy – each providing different final assessments (2020, 46–48). The first one is an individual, or liberal, view of democracy. Here, democracy is viewed as an instrument to produce governments that are accountable (through elections) and limited, in that they secure the most fundamental liberal rights. Democracy ensures alternation, accountability, and the protection of individual liberties. Voting is a form of aggregating individual self-interested preferences and democratic institutions ensure the fundamentals of rights, equality, and separation of powers. In this conception, technocracy is highly compatible with democracy. Since democracy is an instrument of assuring power limitation and basic fundamental rights and equalities, as long as technocratic governance is inserted within a system of elections and institutions that guarantees those rights and equalities, there is no contradiction between the electoral system (and its liberal pillars) and the power of experts to make executive decisions in certain areas of policymaking.

However, a more abstract understanding of democracy – and one that resembles the one explored in the previous chapter – might unravel two conflicting logics. The collective conception sees democracy as an exercise of popular self-rule. So, the democratic process is not seen as an aggregator of individual process to form a government, but as a collective expression of popular sovereignty and self-determination. Such conception emphasis the values of conflict, compromise, discussion, agonism and undecidability, seeing democracy as a continuous process of the disputes of citizens – who are the law makers and its subjects. Under such a view of democracy – more focused on the collective aspects of citizenship - technocracy appears at a tension. On simple terms democracy is "rule by the people" and technocracy is "rule by experts" (Sánchez-Cuenca 2020, 48). But applying our definition of technocracy, we uncover where the two different logics really apply. Sánchez-Cuenca (who is analysing technocratic governance in its neoliberal configuration) concludes that in certain areas of government – most importantly the economic – the political democratic order is eliminated and "the operation of the market is left in the hands of technocrats"

(2020, 59). The potential for democratic realization is significantly reduced in the dimensions of policy that concern the technocrats. The exercise of popular power does not enter certain realms (especially that of the market orders), the potential for democratic expression is shrunk and the effective power of a demos is curtailed in these spheres.

At a conceptual level, the technocratic decision-making process and the democratic decision-making process have fundamentally conflicting logics. The democratic process is the expression of self-government, of a popular sovereignty, a decision that (attempts at) represents a collective will, it is a project of governance by the people. So even though it can (and should) be informed by expertise which should be incorporated in the deliberation, it ultimately does not operate under that expertise. Technocracy does. It removes a certain sphere of policy from democratic expressions, and it makes decision based on technical expertise. From a decision-making point of view, it is equivalent to a loss of democratic agency. Popular sovereignty becomes an emptied concept within technocratic spheres of policy, which for a differing number of reasons, from case to case, must be accepted and must become naturalized, as the people are not fit to decide on those specific topics.

Still, two conflicting logics do not equal two incompatible systems. In every democratic regime there are technocratic dimensions, it is not a binary distinction. However, the more technocratic spheres exist within a democratic regime, the less democratic such regime becomes, as it extends the number of spheres where popular self-rule is eliminated. This is the logical conclusion if one takes a view of democracy that highlights its collective self-ruling dimension. The last section will consider how some of the challenges technocracy brings to democratic politics manifest and considers the possibility of a democratic technocracy.

2.3 - Challenges and Possibilities

The prevalence of the technocratic logic over the democratic brings about different challenges that may threaten the "democratic health" of a system. This last section will consider two potential consequences of technocracy in democratic regimes – democratic disempowerment and depoliticization. It will also consider the possibility of democratizing technocracy.

The disempowerment of democratic agents is a direct consequence of the application of technocracy as a logic of decision-making in governance. Citizens, and their representatives, become powerless to intervene in certain areas of policy, even when it deeply affects their lives and the functioning of society. A clear example of this is the setting of interest rates – it is controlled by central banks (with no type of democratic selection) that commit to certain policies and

mandates which are not democratically determined, and yet affect the livelihood of every citizen. This is just a broad example across a whole spectrum of market and economic policies which are decided by institutional arrangements of technocratic nature. These areas of policy become cleansed from democratic interference, even though they have a significant effect on the democratic society. It is a movement of democratic disempowerment (Sánchez-Cuenca 2020, 55–59).

This brings about a second challenge, in which certain affairs become depoliticized. Technocratic governance is legitimized through expertise, so its decision-making process is claimed to be apolitical and non-ideological. As it happens, not even knowledge production is politically neutral or free from the bias of its contingencies. Even the "truths" these sciences produce occur within dynamics of social constructions, from which knowledge cannot be free from ideology and the sociopolitical constraints of its times, as we are reminded by Michel Foucault (Tortola 2020, 63–64). However, when technocracy enacts certain policies the potential for political contestations regarding these affairs is reduced, as they are justified by a logic of decision-making which appears as alien to democratic politics, removed from democratic scrutiny. This is not a sceptical remark on the scientific value of such knowledge, but yet a recognition that by non-democratically imposing such knowledge through technocratic policies, the possibilities of democratic expression regarding those affairs is diminished in this process of depoliticization. Sánchez-Cuenca accounts for the elimination of politics in the economic sphere within neoliberal regimes – on which markets and the economic sphere becomes protected from democratic politics (depoliticized), even though it is one fundamental aspect of political societies (2020, 52–55). Political issues become depoliticized under the pretence of the technical knowledge of "apolitical", "ideology-free" sciences – even though such neutrality can be deeply contested. Cole regards depoliticization as an ultimate source of domination "when technocracy removes decisions from public determination, and citizens have an interest in how those decisions are made…it excludes stakeholders from the process and leaves them powerless to contest harmful decisions" (2022, 8). Accordingly, it sets in motion a loss of reference to citizens and a loss of accountability to technocrats. What is considered an issue cannot be considered without reference to citizens as "bearers of a kind of expertise" who can "contribute to the identification and resolution of social problems" (2022, 10). The loss of reference (due to the neutrality of apolitical technical expertise) and the loss of democratic accountability (due to the necessary autonomy of technocratic decisions) further insulate any form of democratic expression from the spheres in which technocratic governance is exercised. These two challenges to democratic politics serve as illustrations of the two conflicting logics of technocracy and democracy.

Given the conclusion on the two conflicting logics of democracy and technocracy (and the potential consequences of the latter on the former), wouldn't it be possible, however, to conceive a democratic form of technocracy - one that would ensure collective self-ruling by

making technocrats accountable, contesting which spheres should or shouldn't be insulated, creating institutional frameworks so that technocrats go through forms of democratic legitimation? Centeno proposes a hypothetical scenario of such "democratic technocracy", one where: "a) A wide social consensus regarding the objectives of state policy and the means through which these could be achieved; b) A willingness on the part of the population to endure individual sacrifices for the long term good of the collective; and c) Relatively quick success in its policies" (1993, 326).

Such conditions, surely not theoretically impossible but seemingly improbable in modern-day manifestations of technocracy, would ensure a democratic expression of self-rule regarding the policies produced by technical expertise. However, I argue that the existence of a wide consensus and a willingness of enduring sacrifice indicates that the power to accept such policies would be indeed in the hands of the demos. Here, experts do not exercise a form of power to apply their policies through their logic of decision-making, which would mean that it wouldn't qualify as a technocracy at all.

However, these conditions may point towards more informed forms of democracy, where instead of a technocracy, there exists a synergy between citizens and experts, where technical expertise is taken into account, but it does not subordinate democratic will, nor it depoliticizes spheres of policy. It introduces accountability, the virtues of advisory and consultation, and the democratic possibilities of engaging with knowledge production and transmission. This of course depends on the institutional arrangements of such democracies – but it evidences the potential of more knowledgeable practices in democratic life (Cole 2022, 11–13).

In this chapter I established a definition of technocracy, based on its modern-day forms and its conceptual logic of policy making. This definition placed it at odds with a collective understanding of democracy, concluding that they constitute conflicting logics of decision-making, which can endanger democracies – through the disempowerment of democratic citizens and depoliticization. I hinted at the possibility of more democratic interactions between politics and technical expertise, which will be explored in more detail in the last chapter. The main conclusion is that technocratic governance operates through a logic which is at tension with the logic of democratic politics. The next chapter will re-introduce the paradox of politics and analyse the relationship between democratic politics and the phenomenon of technocracy and the state of exception, through the paradox's lens.

Chapter 3 – The Paradox of Politics

In this chapter, I will be revisiting the Paradox of Politics which was briefly approached in the introduction. This paradox will be used as a method to analyse technocratic governance and the state of exception – more specifically their relationship with the concept of democratic politics. The main arguments present in this chapter is that both the state of exception and technocracy are political arrangements which attempt at resolving apparent tensions in democratic politics – a tension in between law and decision in the case of the former, and a tension between democracy and rationality in regard to the latter. At the heart of these tensions, we find the paradox of politics (that emphasizes the insoluble and undecidable character of democratic politics) which stands as the ultimate tension of democratic politics, not meant to be resolved, managed, or transcended by political arrangements or universal principles. An interpretation of the undemocratic nature of technocratic governance and the state of exception through the lens of the paradox will support the analysis of the relation between the two and the potentials democratic politics offer to overcome their threats (which will be the object of the next chapter). However, before beginning the analysis of each phenomenon, I will briefly address what the paradox informs about a conception of democratic politics and justify its use as a methodological tool in this analysis.

The paradox of politics confronts us with the idea that in democratic politics, we need citizens to be "good citizens" to make "good laws", but we need good laws to shape citizens into becoming who they need to become. Rousseau puts it as "In order for a nascent people to be able to appreciate sound maxims of politics and to follow the fundamental rules of statecraft, the effect would have to become the cause: the social spirit that is to be the work of the institution would have to preside over the institution itself, and men would have to be prior to the laws what they are to become through the laws" (2018, bk. II.7). This chicken-and-egg situation underpins the true nature of democratic politics, undecidable and insoluble. The paradox is not a mere problem of foundation, it can't be located in time, it itself provides the orientation for democratic action to take place. The reason for this comes from the understanding of "the people", as a unit of popular sovereignty which is guided by, and realizes, the general will, the collective pursuit of the common good. The paradox of politics shows that "the people" are always inhabited by the *multitude*, this heterogeneous constitution of a demos, where private wills are aggregated into the will of all. Honig identifies with the paradox this "deep inextricability" between the general will and the will of all, which are distinct, but can never be fully disentangled (2007, 4). The essence of democratic politics resides in the condition of a never-ending undecidability, where "plural and contending parties make claims in the name of the public good,

seek support from various constituencies, and the legitimacy of outcomes is always contestable" (2007, 15).

This view of democracy concurs with the conceptions explored in the previous chapters, where democratic politics are not reduced to its institutional tenets (a set of rights and equalities, free and fair elections, separation of powers), but also entail the collective pursuit of self-rule through the exercise of different forms of organization, contestation, revision of law, negotiation, and compromise amongst a plurality of parties, within and beyond the institutional mechanisms. This never-ending pursuit of a common will, that never ceases to be inhabited by the will of all, reveals a fundamental aspect of the paradox of politics. The paradox cannot be managed, nor resolved, nor transcended. There is no possible institutional solution that establishes the condition where "the people" are truly formed and we can distinguish it from the multitude. The chicken-and-egg situation is not overcome considering that the vicious cycle is what defines the conditions for democratic politics. Accordingly, the paradox of politics cannot be conceived as conflict of binaries, or two different logics, as Honig affirms (2007, 2–3). It is not a tension between popular sovereignty (the autonomy of "the people", the democratic logic) and reason (law, universal principles, morality) that can be resolved through the correct procedures, as Honig claims that deliberative democrats such as Benhabib and Habermas defend. According to her view, there are no independent standard norms which resolve politics and permits that "the people" find the "correct" laws. By focusing on a binary conflict which may be articulated through correct procedures and provides the "missing moral standpoint" to democratic agency, we lose "the fecundity of undecidability" (2007, 5, 7). This fecundity is the uncertainty of democratic politics, the notion that any law is contestable, different struggles always arise in the face of institutional solutions, no procedure fully ensures the disentanglement of "the people" from the heterogeneous multitude. Democratic politics are repeated *ad infinitum*, as new claims emerge out of every arrangement (2007, 14–15).

The advantage of using the paradox of politics as a methodological tool is that it allows us to re-interpret the nature of certain institutional arrangements (technocratic governance and the state of exception). More specifically it allows us to shine light at how these arrangements challenge democracy, by analysing how it relates to the problem of "the people" never ceasing to also be the multitude and never being quite who they need to be. I will be analysing how these phenomena can be conceived as attempts to resolve or manage the paradox of politics, by way of establishing a binary conflict between two logics. As it turns out, these articulations never quite resolve the questions they attempt to answer, as demonstrated by the contestatory democratic claims against them, the calls for democratic agency which has been denied. These solutions mark the problem, rather than solving it – they highlight the aporias between them and democratic politics. Hopefully, the paradox of politics also gives the opportunity to re-orient

democratic action and the potentials of contesting and democratizing these arrangements.

3.1 - Technocrats: Lawgivers gone rogue?

This section will analyse the political phenomenon of technocratic governance through the paradox of politics, by interpreting technocracy as an attempt to resolve it as a conflict between democracy and rationality. I will analyse Rousseau's figure of the lawgiver as a metaphor to understand modern-day technocracy in light of the paradox.

In the face of the paradox of politics, Rousseau introduces the figure of the lawgiver. The lawgiver would be seen as the good man prior to the good laws, who could have the power to found the polity and to guide the people into good law, by virtue of his extraordinary wisdom and impartiality (2018, bk. II.7) (Honig 2007, 3). The lawgiver would need to have the difficult task of changing the nature of humans, of transforming the multitude into "the people". There have been different interpretations on the role of the lawgiver in Rousseau's theory, on the degree of authority of his role, and on whether it resolves or it highlights the paradox of politics (Honig 2007, 3). William Connoly observes that more than the role of the lawgiver itself, the interest of this figure lies in the way it locates the paradox in time. The paradox of politics is placed in the founding of the polity, where the figure of the lawgiver would somehow make sure that a society is formed and good laws are established (Connolly 1995, 1:137). Honig reflects that on this reading the figure of the lawgiver personifies a "foundational violence" that is necessary in the founding period, and that by resolving the paradox in this instance, allows it not to spill over into future politics (2007, 3). It prevents this violence from occurring in the everyday life post-foundation. Both Honig and Connoly dismiss this reading, as such an instance of lawgiving disregards the view of democratic politics as a process of contestation infinitely replayed, where the paradox is a vicious cycle that defines politics. The violence of the foundation could never prevent further violence thereafter, as what marks democracy is undecidability, the constant struggle of plural contesting parties. Once again, the paradox cannot be located in time.

Regarding the analysis in this thesis, the interest of the lawgiver is that we can interpret technocratic governance as modern-day lawgivers. Surely, they are rather different. Rousseau conceived them as men capable of drafting the laws which found the polity, whilst technocrats (as explored in the previous chapter) exercise a form of power solely based on their expertise and confined to a specific sphere of policy. Rousseau did not imagine the lawgiver as a technical expert who was concern with affairs such as the setting of interest rates, the direction of trade policy or the laws regarding food security. However, there is a fundamental similarity between the lawgiver and the technocrat – both are seen as solutions

to problems regarding the insufficiency of the citizens. They are not capable of ruling themselves, they are not quite a "people", they have personal biases, they lack the information and the virtue. Both the lawgiver and the technocrat address this insufficiency of citizens by virtue of an extraordinary character, in the case of the former, and of the specific knowledge of technical expertise, in regard to the latter. They both bridge a gap of the insufficient knowledge of citizens. When Rousseau claims that "each individual, appreciating no other plan of government than that which bears on his particular interest, has difficulty perceiving the advantages he is to derive from the constant privations imposed by good laws", he was referring to the need of a figure to guide them towards the right laws to found the polity. But couldn't this same sentence refer to, for example, citizens opposing a certain economic policy because they fail to consider the overall gains for a nation, over their own interest or sacrifice? The technocrat, instead of being a guide for the foundation of the polity, can be interpreted as a figure of expertise that re-shapes societies into projects of efficiency and solution of socioeconomic problems.

The increasing complexity of modern societies, with all its technology, globalization, and ever-growing pace appears to demand more expertise and more guidance from technocracy as modern-day lawgivers. This necessity justifies the emergence of groups of experts with power and influence, who are capable of solving socio-economic problems and to guarantee efficiency in the functioning of societies and its institutions at different levels. These dynamics fall in the line with the account of technocracy explored in the previous chapter, where the reduction of the scope of democratic politics is counterpart to the introduction of technocratic spheres of policy. Democratic agency is reduced in these spheres due to the inability of democratic decision-making to provide the best outcomes (regarding these spheres).

If we return to an analysis through the paradox of politics, we can interpret technocratic governance as a solution to it, an attempt to make good laws which citizens cannot make. This solution arises as an articulation of a conflict of binaries – that of democracy and that of truth. This tension was briefly mentioned in the last chapter. Here, however, we can understand how the articulation of the two ideals, seemingly at conflict, functions as a project of overcoming the essence of the paradox, the undecidability of democratic politics. The conflict here is between a democratic ideal and an ideal of rationality. Democracy is seen as the project of a collective self-rule, the pursuit of a general will that is exercised through popular sovereignty, as in the notion that "the people" decide on the rules which they shall be subject to. It is a notion of legitimacy of ruling based on this democratic agency. Rationality refers here not only to a pursuit of truths in scientific fields but also the necessary moral reasoning to guide the laws which are informed by such knowledge (technocratic decision-making is never confined to pure technical expertise, as it is always applied in a context of different values regarding distribution and equality, for example (Bickerton and Accetti 2020,

36–38)). The two ideals enter into a conflict, as they provide different answers on which principles should guide a democratic society. The Democratic is placed at odds with the Truth, and technocratic governance appears as an articulation of both, where the tension between the two is resolved by the delineation of the different spheres of policy, ones to be guided by technocratic decision-making and others to be guided by the result of democratic participation. This articulation is being described conceptually, but it outlines the principle over which the multiple and diverse technocratic arrangements occur at different institutional levels. Technocratic governance enters the political stage as a form of power capable of resolving the problems of the inability of citizens to rule themselves in the many different socioeconomic aspects of life – it materializes as a phenomenon attempting to escape the paradox of politics.

Evidently, technocratic governance doesn't resolve the paradox, nor does it perfectly articulate a democracy guided by rationality. The previous chapter addressed the different ways it can threaten our democracies through disempowerment and depoliticization. One doesn't need to go beyond the hundreds of thousands of people who marched against the austerity politics guided by technocrats – people contesting being the bearers of these economic, but personal sacrifices - to understand that the tension is not resolved (Fominaya 2019). To make sense of this irresolvable tension, I will return to the figure of the lawgiver, more specifically Honig's interpretation of it. Rather than a reading which envisions the lawgiver as a solution to the paradox of politics, Honig sees it as a mark of the problem. The lawgiver is not an extraordinary figure who appears at the foundation of the polity to provide the right laws which the citizens will accept. "The true lawgiver is no more clearly identifiable to the "people" than is the general will" (2007, 6). The decision to accept the laws given by him is still in the hands of "the people" who have no certainty whether he is a good lawgiver or a simple charlatan. The decision made by the people "reflects who they are, and/or it also forms them into the particular people they are and are to be". The lawgiver doesn't replace the autonomy of the demos, on the contrary, his acceptance or refusal is an instance of that autonomy being exercised. On this reading the lawgiver (that can also be a charlatan) is not a solution to the paradox of politics, but a sharp indicator that we are (and always will be) inside the paradox, and citizens must still make the decisions which will shape them.

However, a brief look at the modern-day lawgivers provides a fairly different image. As observed in the previous chapters, what characterizes technocratic governance is an effective form of power, not a mere advisory position to be accepted or rejected. The technocrat has gained legislative or/and executive power and such power defines him. Whilst the Rousseauian lawgiver holds no sovereignty and has "an authority that amounts to nothing" (2018, bk. II.7), the technocrat is defined by this authority. Technocratic spheres of governance are isolated from democratic determinations by definition. Therefore, technocrats can be interpreted as lawgivers gone rogue, and do not respond to the claims of

democratic expression[4]. They answer to the laws of their specific technical expertise and all the potential biases associated. Following the metaphor, they become, instead of lawgivers, lawmakers without any form of democratic representation whatsoever.

The tension that appears irresolvable, the emergence of a technocratic class that appear as lawgivers gone rogue, all indicate that we are still deep inside the paradox of politics. However, the paradox also provides us with the orientation to challenge the technocratic forms of power. The non-acceptance of the terms of this false choice between the two ideals provides citizens with the potential to contest technocratic forms of power, to point the finger at the unjust outcomes they can produce, to re-evaluate the existence of spheres where democratic expression does not enter and to gain agency that has been taken. The last section of the next chapter will explore the democratic potentials on the contestation of technocratic governance.

3.2 - Decision or Norm – a false choice?

If technocratic governance deals with a supposed binary of democracy and rationality in the face of increasingly complex and technical societies, the state of exception addresses the problems of emergency in democratic politics. In this phenomenon, we get an apparently different paradoxical situation than the paradox of politics – we get a state of exception that is both within, but outside the law (as described in the first chapter). The state of exception emerges from a binary opposition between law and decision, between norm and exception, and it reveals the decisionistic nature of the legal order (expressed at its highest in the SoE). The decision on the state of exception cannot be included within the general codification of the law, as it constitutes the suspension of the law itself. The decision on what constitutes the exception (and consequently, what defines the norm) and when to suspend the law is the mark of sovereignty – residing either in one powerful autocratic figure (in the case of Schmitt), or in a more complex paradigm of government (for Agamben). With the state of exception, we cannot speak of a lawgiver but of a law-suspender, who comes in many forms and complexities and who exercises power through decision and discretion in the face of emergency (that is handled through an exceptional suspension of law).

Honig labels these set of binaries as "neo-Schmittian paradoxes that juxtapose binary logics or principles to each other" and addresses how the adoption of these binaries outsets a conceptual conflict between deliberation and decisionism (2007, 1–2). Deliberative democrats want to find a right balance between democracy (autonomy, popular sovereignty) and practical reason (law, morality)

[4] This is not to say technocrats have no pressure from democratic expressions. They can (and do sometimes) face it through different forms of contestation. Nevertheless, the case is that, as an institutional arrangement, technocratic governance does not answer to democratic claims.

and their goal is to identify to correct procedures to unite these ideals under grounded universal principles (the concept of a constitutional democracy, for example). On the absence of such justifications and reasoned practices, democracy runs the risk of sliding into the realm of decisionism. For them, decisionism occurs when, on the lack of grounded principles that justify law and political action, political power is exercised arbitrarily and rather dangerously. Only through a system of articulation between democracy and law, which involves deliberative practices, revision ("tappings", as Habermas refers to it), and grounded ideals can the binaries at tension be transcended. The opposing view need not be the "democratic" sovereign dictatorship conceived by Schmitt (Vinx 2014, 4, 7–10) or the exceptional paradigms of government Agamben describes. It can come through the form of an articulation between the two incommensurable logics of democracy and liberalism (as theorist Chantal Mouffe poses it, drawing from part of Schmitt's theory), and the indication of "a productive tension that cannot be resolved, but can be exploited" which can guide democratic action (Honig 2007, 2). Nonetheless, both the deliberative and decisionistic[5] position share the perspective of the establishment of two logics in conflict – be them law contra decision, democracy contra liberalism, or exception contra norm.

Once again, the establishment of a binary oppositional structure, and in this specific phenomenon, the emergence of the concept of the state of exception can be interpreted as a concealment of a fundamental problem of politics – the one defined in the paradox of politics. This interpretation recounts the state of exception as a legal and conceptual device to transcend an apparent choice between norm and exception, decision and law. However, once more, the characterization of that choice as a binary conflict to be managed, resolved, or transcended dismisses the undecidability which characterizes democratic politics in the paradox of politics. The state of exception, the supposed need for a higher authority to transcend law in the face of emergency, can be conceived as a resolution to the problem of the insufficiency of citizens, the chicken-and-egg situation where good citizens presuppose good law and vice-versa, where the will of all inhabits the general will.

This connection is made clearer by first understanding that (the state of) exception and emergency are not mere synonyms. Emergencies are facts of life or society that disrupt normality. Emergencies purely happen – viruses spread, earthquakes hit, markets crash. Exceptions are a product of emergencies. In the face of the possibly deep consequences that those emergencies produced/can still produce, the normality of the management of affairs (either local, statal or international) is deemed insufficient. The juridical order is treated as incapable of having the devices to manage emergency. In the state of exception law is suspended, fundamental civil rights and liberties are withheld, because the

[5] This is a label attributed by deliberativists to those who go against their perspective, it does not necessarily describe the nature of the multiple and diverse non-deliberative accounts.

emergency reveals the insufficiency of the law (more interesting to us, law produced by democratic means) and the insufficiency of citizens to manage it. One cannot deny on the one hand the need for different forms of management of affairs when emergencies strike. They demand more organisation from societies, higher degrees of concern, more focused and fast decision-making processes. On the other hand, one cannot conclude that the establishment of a state of exception which reveals the decisionistic nature of a sovereign necessarily follows from emergencies. This logical step demands an extremely crucial assumption. It assumes that both citizens and the democratic institutions (which they rule, and which rules them) are incapable of operating in these emergencies and their resolution. It assumes citizenry is a nuisance to be disciplined, restricted, and constrained when emergency strikes. And more fundamentally, it treats citizens as pure subjects of the law and not as also authors of it. The logic of exception fails to consider citizenry as a productive element to manage emergencies[6]. It envisions law as only a regulative device of citizenry, and citizenry as an element which belongs solely to normalcy.

The disempowerment of democratic agency in the state of exception need not be the full-on declaration of the suspension of the law, in the classical Schmittian way. Sovereignty in the exception can be actualized through the notion of state of exception as a paradigm of government Agamben offers. However, it can occur even through way of "new administrative powers" with increasing powers of "discretionary decision", as Honig describes when elaborating on the decisionistic element of governance in the US (2009, 66–67). The point is, the decisionistic elements of exception do not depend on the striking of a sudden emergency and appearance of a figure of sovereignty – it can be growingly ingrained in the working of states, through different institutional arrangements (as has been described in the first chapter). Accordingly, Honig affirms that the legalist disdain of the decisionistic elements of the administrative dimension may lead to an overemphasis on the rule of law that "contribute[s] to the rule of law's undoing" (2009, 85). The pursuit to be fully constrained, regulated, commanded, and policed by law is also a movement of democratic disempowerment. It restricts our capacities to interpret, challenge and undo the law, it refuses our agencies as authors of the law (2009, 84–86).

If both the strict rule of law and the apparently necessary rule by decision in the exception appear as forces of democratic disempowerment, we arrive at the fundamental point that sees the binary conflict between law and decision to be a false one, that fails to resolve the problematics of emergency. It fails to recognize the agency of citizens in democratic politics, the quest for collective self-rule as authors and subjects of the law, as "the people" who never cease to be a multitude. In sum, it fails to understand that we are still well inside the paradox of politics.

[6] Honig's work throughout the different essays in Emergency Politics (2009) explore the potential productive power of democratic politics inside the emergency, in contrast with decisionistic and discretionary sovereignty in the state of exception.

The paradox can't be seen as a binary conflict between a logic of decision and law. It can't be transcended by legal mechanisms that bring about the state of exception. It can't be managed through increasing discretionary administrative power or its counterpart: the strengthening of the rule of law. It understands that democratic politics are marked by its undecidability, by the plurality of contesting claims that have their own interpretation of the common good and by the never-ending processes of emerging struggles of the heterogeneous multitude attempting to form "the people".

Furthermore, the paradox of politics offers the benefit of re-orienting democratic action, as Honig establishes (2007, 13–15). In regard to the conundrums of the state of exception, she invites us to "de-exceptionalize the emergency" (2009, xviii) and to "democratize sovereign powers" that rule the exception (2009, 111). Honig invites us to consider a more heterogeneous concept of sovereignty, conceptualize as "implicated in and dependent upon popular power" (2009, 87–89). These democratic potentials will be explored in the next chapter, preceded by the elaboration on the political and conceptual link between the state of exception and technocratic governance.

Chapter 4 – The co-articulation of Exception and Technocracy

In this chapter, I will elaborate on the relationship between the state of exception and technocratic governance so as to arrive at a final conclusion on how this relation threatens democratic politics (articulated through the paradox of politics), and what the perspectives are for democratizing emergency politics given its subsumption to both these phenomena. The first section will analyse the empirical relationship between the two in the context of the modern neoliberal state and the technocratic regimes of exception (as a political conjuncture which articulates them). The second section will turn back to the paradox of politics to analyse a conceptual link between them, a relation of mutual reinforcement that weakens democratic politics. The third section will analyse how the paradox of politics provides orientation towards the democratization of emergency, given the link between the state of exception and technocracy. I will argue that democratizing emergency entails not only a de-exceptionalization of emergency, but also a democratization of decision-making based on knowledge (or a de-technocratization). This conclusion points towards a complement to Honig's theory of emergency politics and democracy, one that departs from her work, by extending its focus as to include how decisions based on expertise (in emergency, and in exception) are made.

4.1 - Exception and Technocracy in the neoliberal state

In this section, I will look into the modern neoliberal state as a paramount example of a political conjuncture where the state of exception and technocracy co-articulate, in technocratic regimes of permanent exception (Davidson 2017) (Davies 2013) (Best 2018). This articulation can be illustrated by the financial and economic crises in the late 2000's and early 2010's and the consequent prevalence (especially in the EU) of austerity politics, fiscal responsibility, increasing power of central banks and debt programs, all justified under the exceptional premisses of emergency and necessity of technocratic governance (Best 2018, 10–14). The concepts of underlying threat and neoliberal state aporia will be used to understand the articulation between the two phenomena. The connection between them at an empirical-political level will serve as a base to analyse it on a conceptual dimension in the following section.

In the face of a global financial crisis in 2008, EU states acted in clear exceptional fashion through "a paradoxical suspension of a private market economy, precisely so as to save a private market economy" and "without any normative appeal to the public good" (Davies 2013, 33). Across the EU and in the US, banks were bailed out, their debts were transformed into public or sovereign debts, and a

paradigm of austerity politics was imposed under pretences that a population was living above their means (Davidson 2017, 11). During the emergency period, the rationale was that necessity required rules to be overridden, new authorities were given to states, and the normativity of economic evaluations was suspended. However, these moments of rupture opened up the possibility of "permanently exceptional states", where the decisionistic features of the Schmittian-Agambenian state of exception (as a paradigm of government) could meet the decision-making based on expertise of technocratic governance. In the face of a constant threat of economic emergency, but also the technocratic tendency of removal of the economic sphere from democratic politics, modern democracies adopted features of technocratic permanently exceptional regimes, where the logics of decisionism (and the sovereignty at the exception) and technocracy (especially in the economic sphere, in neoliberal states) articulate[7]. These regimes involved fiscal responsibility and budget reduction through increasing taxation, dismantlement of welfare states and overall cuts on spending resulting in a decay of socioeconomic conditions (Davidson 2017, 11–17).

Two different concepts provide an understanding of the articulation of exception and technocracy in these regimes. The first one is the notion of an underlying threat, a constant risk in economies and societies which must always be on the mind of policymakers and of citizens, the imminent danger of a crisis erupting and the need to prevent it and resolve it in case it does erupt. The threat of economic collapse, invoked by politicians, experts, and put at the centre of public discourse, justifies the redefinition of the limits of normal politics and economics, the suspension of norms and the establishment of the exceptional (Best 2018, 7). Emergency actions are articulated with a technocratic strategy, democratic oversight is often suspended, and the exception is put "into place through a set of highly technical theories and policies that work in the background" (2018, 9). Jacqueline Best labels these routines as instances of "technocratic exceptionalism". The logic of central bank independence, for example, where these institutions invoke threats of economic necessity, seek autonomy from the state and democratic scrutiny and work according to technocratic logics displays these growing powers, where exceptionalism surges in the face of the underlying threat (the crisis, the hyperinflation, the market crash) (2018, 10–14). Although not entirely based in the temporality of an emergency, it functions as a response to a potential re-emergence of emergency, an underlying threat that serves as a justification for the removal of democratic politics from policy spheres and the establishment of the permanent exception reflected on the routinization of these technocratic decisions (2018, 12).

[7] Although I will be using the EU (and to a certain extent, the US) as a set of illustrations on the creation of these regimes, they are not singular, isolated phenomena. The imposition of regimes of fiscal discipline by the IMF in the Global South can also display the articulation of exception and technocracy in the neoliberal state (Davidson 2017, 15–16), although in quite different terms which demand their own analysis.

This importantly points towards the second aspect that explains technocratic regimes of permanent exception, which is what some authors characterise as the state aporia characteristic of neoliberalism. What defines the neoliberal state is a constitutive tension between state authority and the free market[8]. On the one hand there is a tendency of freeing markets from state intervention, reducing the scope of this interference (and consequently of democratic expression in this sphere) for the promise of freer markets and prosperity (a process which involves, but is not exclusive to, technocratization) (Best 2018, 1–3) (Davies 2013, 34–37) (Davidson 2017, 7, 14). On the other hand, the state has a fundamental role in "refashioning society according to market principles" (Davies 2013, 34) and producing and maintaining the freedom of the markets. This tension, in which the state is pushed to be minimal but also required to intervene systemically is the state aporia of neoliberalism and is most clearly manifested in periods of crises, where market rules are suspended to save the markets and state authorities impose exceptions. Economic emergencies and the consequent regimes of permanent exception showcase this aporia of a tendentially minimal, yet thoroughly decisionistic authority, which often acts according to, and justified by, principles of technocracy.

This observed tension between a minimal, yet highly decisionistic state gains conceptual depth if we analyse it on an ideological field. Scheuerman elaborates on the ideological link between Hayek (a father of neoliberalism) and Schmitt's decisionistic view of the state (1997). He demonstrates how both had similar diagnosis of democratic politics and how the intervention of the state in the economy leads to arbitrary decision-making and a weakened parliamentary sovereignty (1997, 176, 178–80). However, more interestingly, Scheuerman although recognizing the rather different natures of their proposals, (as Hayek advocated for a curtailment of the welfare state, not a dictatorship) shows how Hayek also relied on a rather decisionistic view of the state. He argues that Hayek opts for a model which vastly reduces democratic participation, by guaranteeing the freedom and autonomy of the market (1997, 181–82). This guarantee, focused heavily on the proper functioning of the market, implies an extremely significant level of state intervention to protect it from crises, crashes, emergencies, to guarantee its stability and even to defend it from democratic contestation and oversight (Best 2018, 9–10). Once again, the need for a minimal state, with a reduced democratic scope and a freer market, requires simultaneously a strong decisionistic state operation which protects the market order. This tension is one of the defining traits of the neoliberal state, in practice and in theory.

The notions of underlying threat and neoliberal state aporia clarify how technocratic regimes of permanent exception emerge in democracies (as articulations of the logic of exception and the logic of technocracy). To

[8] Evidently, the definitions and theories of what neoliberalism is range across a wide spectrum of accounts. For the purpose of this thesis, I will use this more simplistic definition based on this tension.

understand this link and the co-articulation at a more conceptual level, I will once more use the paradox of politics to argue that this arrangement infringes upon democratic politics in emergency, by attempting to resolve a central question of democratic politics.

4.2 - The mutual reinforcement of technocracy and exception politics

In the previous chapter, I analysed the phenomena of technocracy and the state of exception, in light of the paradox of politics. I concluded that they are attempts at resolving the most fundamental problems of politics, by managing a binary opposition (decision and law in the former, democracy and rationality in the latter), which do not solve the vicious cycle within the paradox (which offers the capacity to orient democratic politics). Having analysed in the previous section an articulation of the two phenomena – in the technocratic regimes of permanent exception – it is important to bring the paradox into play, by analysing the link between the two at a more conceptual level. More precisely, understanding how the problem of the insoluble and perpetual insufficiency of citizens (and of the law) is still at the core of this articulation. The reference to the paradox makes clear how the co-articulation infringes upon the ideals of democratic politics. My main argument will be that like the institution of exceptions, technocracy appears as a response to the insufficiency of citizens and of laws in the face of emergency. Technocracy and the state of exception exhibit a relation of mutual reinforcement when emergencies occur. This relation can strengthen into paradigms of governments (or the regimes of permanent exception) that become the norm of ruling.

The exception is a response to an emergency, a need to escalate the decisionism within the law, by suspending it. However, the decisions taken during the exceptionality of the emergency are often decisions with high stakes, that can make or break a potential solution, that can resolve the emergency, be of no use, or even worsen the situations. Exceptionality alone doesn't manage the emergency – there is a need for expertise if politicians are serious about the resolution of the problems emergencies bring. Technocracy, as a logic of decision-making, can often cover this need for expertise in the high-stakes situations emergencies bring (given the specific nature of each situation). When put in context of the paradox of politics, states of exception are attempts at resolving emergencies (by leaning towards full decisionism and suspension of law), but technocracy may emerge as a toll to inform the "necessary" decisionism. The conflict between democracy and the rationality from which technocracy is justified reaches a greater intensity when the stakes of the decisions are the highest. In this framework, emergencies call for technocracy to the extent that decisions need a base of expertise to be taken. Emergencies require the exception because the normalcy of the law is insufficient to handle the perils it entails. But

it also requires technocracy to instruct the decisionism of the exception, a process where citizens don't participate, and democracy is temporarily void. Technocracy then takes the role of more than a response to the insufficiency of citizens producing law according to expertise (or rationality). Through this lens, we can interpret it as a political phenomenon that is enhanced in the stage of emergency, where the insufficiencies of citizens and law seem the largest, when democratic politics appear the most fragile. In emergency, technocracy offers new modes of thinking about the problems, solutions to the perils, and also forms of prevention and control of future emergencies.

The states of exception (and the emergencies which justify them) requires technocratic governance, which can now be interpreted (also) as a device of emergency politics. However, I now argue that the link can be even deeper if we pay attention to the dynamics between exception and technocracy. Technocracy may not be a simple request of exceptions. It can also serve as a reinforcement of decisionism and exception. In emergency, the exceptionalism establishes a domain of decision through the suspension of the law. In the case I am making, technocratic governance may not only be a device of decision-making within those emergencies, but it may also vindicate the implementation of the exception. Its own lens of expertise may provide not only solutions to emergencies, but also validate the need to exceptionalize the emergency, to suspend normalcy and to render decision as necessary – at least in the required spheres (for example suspension of market rules to save markets). This argument can be made clearer if we understand technocracy itself a form of exceptionalism, as suggested by Best (2018), where democratic politics have been suspended and a different logic of decision-making takes place. The need for decisions in areas where democracy is deemed as insufficient is the justification for the "exceptional spheres" of technocracy. Technocratic exceptionalism is thus incorporated into the normalcy of political life (2018, 7–10). In emergency there is a need for more exceptionalism, one that goes beyond the technocratic spheres of policy and may even include the suspension of the whole law (in Schmittian theory). However, the reasoning behind the exceptionalism of technocracy and the reason behind the more encompassing exceptionalism of emergency is not distinct. This points towards Best's conclusion that "the difference [between the exceptionalism of technocracy and of emergency] is more one of degree than of kind: in both cases, key actors have invoked a powerful threat in order to define the limits of normal politics, suspended liberal democratic norms, and then routinized those exceptions through a series of bureaucratic practices" (2018, 14). If we take this into consideration, I argue that technocracy might vindicate the exception of emergency by virtue of its own rationale. Its own exceptionalism is based on an insufficiency of citizens in certain policy spheres. In situations of emergency a higher degree of exceptional spheres is required, one that may encompass the whole legal order.

We can thus understand a conceptual link between exception and technocracy in emergency through the paradox of politics. On the one hand, emergencies necessitate technocracy as a logic of decision-making in the exception – to produce informed decisions, to analyse the problems and the solutions, and to prevent its reoccurrences, through expertise. On the other hand, technocracy and emergency exceptionalism function according to the same rationale (albeit different degrees) of the insufficiency of democratic citizens and democratic law. This may open up room for the politics of growing exceptionalism that characterize the technocratic regimes of permanent exception, where the exceptionalism of technocracy and the exceptionalism of emergency blur under the pretexts of the underlying threat – the market crash, the hyperinflation, the economic crisis. The state of exception and technocracy mutually reinforce each other, through the need of expertise in the exception and the need to activate mechanisms of exception in the cases of emergency. The need for resolution and management in emergency politics is responded by these two mutually reinforcing phenomena that respond to the fact that citizens and the law they produce (and produces them) are never good enough. In emergency, the need to transcend the insoluble paradox is seemingly even higher, and we are confronted with the apparent shortcomings of democracy more urgently. The conflicting logics of law and decision, and of democracy and rationality are apparently at its peak tension. In this framework, technocracy intends to assure that the right decision is taken in the exception instituted to respond to the emergency. In the process, we once again lose the citizen as the author of the law (they become mere subjects). Emergencies, the exceptions that follow, and the technocratic regimes of permanent exception which result from the co-articulation of the two phenomena reduce the possibilities for democratic politics when the exception (regarding both emergency and technocracy) becomes the norm. Democratic politics are threatened in both technocracy and the exceptions of emergency – and most importantly in the conjunctures that articulate them, where they reinforce one another. This infringement of democratic politics, through the co-articulation of the two phenomena, may appear as a necessity to respond to emergencies. However, I will argue that it is not the case, and once more, the paradox of politics can orient democratic action even in periods of emergency. The last section will provide an attempt to re-discover and re-orient the possibilities of democratic politics in the emergency subsumed by the co-articulation of exception and technocracy.

4.3 – Democratizing Emergency Politics

Having analysed how technocracy and the state of exception are co-articulated in modern political conjunctures, and how they link conceptually in a relation of

mutual reinforcement which reduces the potential for democratic politics, this last section analyses how the paradox of politics provides a re-orientation of democracy in emergency. More specifically, I will analyse how the relation between the two phenomena relates to the democratization of emergency. I will go through Bonnie Honig's insights on emergency politics and potentials for democracy (2009; 2014), and conclude that the democratization of emergency implies not only a "de-exceptionalization" of emergency (as she affirms), but also a "de-technocratization" of democracy. This argument goes further than Honig's, in considering technocracy and the co-articulation of both phenomena in the process of democratizing emergency politics. The paradox of politics has the potential to re-orient democratic action in emergency, not only through contesting the exception, but also democratizing the decision-making based on knowledge.

Honig's insights of emergency politics invites us to consider "actually existing opportunities, invitations, and solicitations to democratic orientation, action, and renewal even in the context of emergency" (2009, xv). She wants to offer an alternative to the Schmittian idea that emergencies reveal the weaknesses of democracy and the lack of actual sovereignty, which demand a sliding into decisionism (2014, 46). Likewise, she warns us about the limits of the law in emergency, of the overreliance on the rule of law as adversarial to the rule of man (2009, 66, 85–86). Her invocation of the paradox of politics – which heavily inspired the analysis in this thesis – redirects the attention to human action in emergency, in multiple ways, shapes and forms. Moments of emergency is when the paradox is most aggravated, when "the people" and the multitude appear as more untangled, when the contrast between the common will and the will of all appears the starkest. However, it can instruct us in assessing the multiple paths citizens can follow in emergency. It can inspire us to claim new rights, to ask for more voice, to demand political transformation (2014, 68). She rightfully brings forward the question of who we want to be after the emergency. Do we merely want to survive it, abdicating what apparently needs to be abdicated and not claiming authorship and autonomy of choosing our own paths (2009, 8–10)? The paradox of politics, at its highest intensity in emergency, teaches us to reclaim citizen's authorship of the law, of democratically self-overcoming emergency, of not accepting a sovereignty that is alien to them.

In her claims of democratizing emergency, she highlights the need to claim sovereignty, not merely resist it (2014, 48). Claiming sovereignty requires seeing it not dependent of autocratic figures, paradigms of government or permanent regimes of exception, but understanding it as more heterogeneous and democratic (2009, 106–8). In this different conception, sovereignty is not merely those who declare the exception, but also those who resist it. Envisioned as a constellation of players that encompasses politicians in the three-branches of government, policymakers, protesters, organizers and activists, occupiers,

journalists and commentators, intellectuals and theorists, leaders and strikers, we see sovereignty as a plural, fragile and democratic being - we see the paradox of politics. Here, rather than the Schmittian idea of the exception functioning on the model of the miracle (see Chapter 1), she borrows a different conception of miracle, "not one of ruptural power, imposition or governance" but one of "receptivity, openness, and a future" (2009, 90), posited by theologian Franz Rosenzweig. The miracle here, the emergency, is the opening of possibilities for citizens, highlighting it as a sign of ambiguity and potential to democratically self-determine our futures. In emergency, we must see citizens as parts of sovereignty, as capable of making claims, changing courses of action, making their voices heard (or demanding the acquisition of such powers when they are lacking).

Through historical accounts of different movements: from one man's imaginative use of the law to defend those persecuted in the First Red Scare (2009, 69–86); to the political and activistic struggle against the moralizing and homophobic institutional campaigns that handled the AIDS crisis (2014, 53–58); Honig highlights the importance of reclaiming sovereignty as citizens, as contesting the exceptionality of emergency and the removal of democratic politics when normalcy is suspended. The call to de-exceptionalize the emergency is exactly that – to demand to have a voice when emergencies arise, to claim democratic expression on who we will become after the emergency, to resist an exception which continuously strips citizens of democratic powers and conditions them to become mere subjects of the law.

The analyses of the previous chapters have called attention to the state of exception's potential on infringing democratic politics (chapter 1) and the negative consequences of technocracy as a logic of decision-making at tension with democracy (chapter 2). The paradox of politics has shined light on how these phenomena disempower citizens in democracies (chapter 3). Now, I have established a relationship between the two phenomena in modern political conjunctures and at a conceptual level. Given Honig's call for the de-exceptionalization of the emergency, it is necessary to understand what the case I have made on the co-articulation of both phenomena thus far reveals about democratizing emergency.

Technocratic governance has been seen as a political arrangement that resolves an apparent tension between democracy and rationality, but also as a device to be used to decide on the institution of the exception when emergencies hit (and the decisions which follow). I further argued that it can itself be seen as a form of exceptionalism, which mutually reinforces the exceptionalism of emergencies, and can establish the technocratic permanent states of exception described earlier on this chapter. It is a force of depoliticization and democratic disempowerment, which removes spheres of political decisions from democratic politics, reduces citizen's voices in affairs that severely influence them and hands them to unaccountable, unelected experts. Given the entrenchment of technocracy in emergency, and its problematics infringements on democratic

politics, I affirm that in the processes of democratizing emergency (that Honig so thoroughly investigates) we must also consider countering technocratic governance. The decisions taken on exceptions and the permanence of exceptions both depend deeply on technocracy. The processes of decision-making based on knowledge are insulated from citizens, even more so in emergencies, where normalcy is suspended. Hence, the struggle against technocratic governance is a fundamental aspect of the democratization of emergency politics. De-exceptionalizing emergency is a necessary step towards it no doubt, to contest the decisionism, to advocate for democratic handling and prevention of emergencies and to reclaim sovereignty to citizens when normalcy is suspended. However, I argue that de-technocratizing emergencies (and democracy, evidently) is also a crucial step, which puts citizens also at the table when decisions based on knowledge are being made, that asks citizens who they want to be and become after the emergency, that emphasizes the entrance of citizenship in the technocratic spheres of governance. If technocratic governance is a device used to take decisions on the exception, to provide a base of expertise on the decisions to attenuate emergencies, and to vindicate the growing exceptionalism in the future prevention of emergencies, it follows that the democratization of emergency politics also requires a process of de-technocratization. The argument follows not only from the threats to democracy which technocracy brings (chapter 2), but also from the co-articulation of exception and technocracy in the face of emergency, and their relation of mutual reinforcement. The implemented exception in the face of emergency, its reliance on technocracy and technocracy's own role in complementing and reinforcing the exceptionalism indicates that democratizing emergency politics implies confronting the exceptionalism (and decisionism which follows), but also the technocratization inherent to it, in the co-articulated arrangements. This conclusion stands as a complement to Honig's insights of the democratization of emergency, a step further in understanding the dynamics of the emergency and the exception, and an addition to the potentials of democratic action within it. The paradox of politics can also re-orient democratic action in the face of technocratic exceptionalism and its problematic relationship with the exceptionalism in emergency.

Here, it might be important to remember that the austerity implicated in the technocratic regimes of permanent exception – an apparent necessity – was not met without democratic contestation whatsoever. Across multiple countries, not exclusive to Europe and the US, hundreds of millions protested the burdens of economical sacrifices being imposed on citizens in response to market crashes, debt crises and recession. Rocketing unemployment, fundamental services underfunded (like education and health), and rising inequality motivated seas of citizens to take the streets in intense demonstrations (Groshek and Al-Rawi 2015). A sentiment of frustration with the establishment, in the face of economic emergency and technocratic solutions, flooded the political culture of almost

every EU state, especially with movements like the *Indignados* in Spain, the global *Occupy Movement*, the Greek anti-austerity *Indignant Citizens*, and the student protests in the UK (Peterson, Wahlström, and Wennerhag 2015). Beyond the evident economic aspect of these movements –against the austerity and the decay of living conditions – a curious aspect they displayed was a yearning for deepening democracies. A significant number of these movements were not only demanding an ending to austerity. They were also taking the streets to challenge the lack of democracy which had seemingly gotten to the current state of affairs. They were demanding more control, more participation, more voice within their democracies (Fominaya 2019). They were, if we turn to the paradox of politics, reclaiming their position as authors of the law and not mere subjects.

In the face of the emergencies that get dragged into regimes of exception and technocracy, democratic action can be reoriented by asking the question – who do we want to be after the emergency? Do we have to accept austerity, the precarity it brings, the balanced budgets and fiscal responsibility, the citizens who cannot again live above their means? Should we blindly accept these decisions taking place with no democratic consultation whatsoever? Must we take as given the systems which have gotten us to this place? Is it possible at least have a voice in the debate? De-exceptionalizing and de-technocratizing democracy can point towards a multitude of action, from institutional to activistic. It can come from questioning the defence of markets that justified the exceptionality in the first place (and the following austerity), either by appealing to the law and institutions, or by contesting the lack of such mechanisms. As Honig reminds us "engaging the state is a feature but not the essence of democratic politics. The choice between social movements and a more juridical politics…is a false one" (2009, 135). It can come from claiming new economic rights that defend citizens from technocratic logics when the exception hit. It can come from grassroot movements that take the streets and advocate for more democracy and participation. It can come from harder scrutiny on the relationship between experts and the decisions they make, asking for more accountability. It can come from demanding a more synergistical relationship between citizens and expertise (even, or perhaps especially, in emergency), one where knowledge informs citizens and citizens inform knowledge, and the virtues of consultation and advisory are enhanced, contrary to disempowerment and depoliticization. Cole's call for a "smart democracy" echoes this process of de-technocratization, where democratic participation and expertise do not oppose each other and are not separated, but yet complement one another. This can take the form of innovations such as participatory budgeting, institutions which relish better exchange of information and accountability, and more direct and participatory forms of democracy. Such measures, amongst many others, aim to politicize issues that have been confined to the technocratic sphere and empower citizens to take part in the decisions, even when advised and consulted by expertise (Cole 2022, 11–13) and even in the face of emergencies.

The fruitfulness of the paradox of politics comes from the open-endedness image of democratic politics it provides. The construction of democratic politics will be perpetual, we will never fully reveal the general will, we will never become "the people". The guarantee is that we are citizens and subjects of the law, and democratic politics opens the door to our action in attempting to become who we will never become and to contest the arrangements that attempt to crystalize and resolve democracies and politics. The vicious cycle of the paradox of politics can help us re-orient democratic action to contest the exceptionalisms and the technocracies which emergencies bring upon us and to remind us that sovereignty is not merely a figure or a regime to be obeyed, but a constellation of democratic players which every citizen is, and always will be a part of.

Conclusion

The research question this thesis aimed to answer was how we can understand the link between the state of exception and technocratic governance in emergency politics, through the paradox of politics. Correspondingly, it was also the aim of this investigation to analyse the potential threats to democracy that the co-articulation of the two phenomena can bring in emergency politics. The followed path consisted of 1) analysing each phenomenon individually and their relation to democracy; then 2) interpreting them through the paradox of politics as arrangements meant to resolve that paradox; and finally, 3) analyse the link between them and the potentials for democratization of emergency and technocracy.

The first two chapters covered the first task. In the first chapter, the analysis on the state of exception laid the foundations of a Schmittian-Agambenian theory of SoE, which describes it as a paradigm of government that reveals the decisionistic aspect of the law and has the potential to infringe upon democratic politics, due to the growing decisionism and exceptionalism. The second chapter theorized technocracy as a logic of decision-making which is at tension with the logic of democracy, as it is based on decision by expertise and not democratic expression – bringing potential threats to democracy such as depoliticization and disempowerment of citizens.

Having theorized on each phenomenon and their relation to democracy (to serve as bases for the following analysis), the third chapter introduced the analysis through the paradox of politics – where each phenomenon was investigated through the lens of a central question of politics, the perpetual insufficiency of citizens and the law they create (and which forms them as citizens). This allowed me to reach the conclusion that each phenomenon could be interpreted as an arrangement to resolve, or manage the paradox, by establishing a binary conflict (democracy vs rationality for technocracy, and law vs decision for the SoE) and finding an institutionalized solution. However, such solutions disregard the aspect of citizenship as authors of the law and not mere subjects – a conclusion which corroborates the findings of democratic infringements in the first two chapters. In the fourth chapter I established the link between the state of exception and technocratic governance in emergency politics, first by analysing the technocratic regimes of permanent exception following economic emergencies (empirically and ideologically, through the concepts of underlying threat and neoliberal state aporia), and secondly by drawing the conceptual connection between them through the paradox of politics. I made the case for the relation of mutual reinforcement between the SoE and technocracy in emergency politics, where the decisionism of the exception requires the expertise of technocracy, but where technocracy (itself as a form of exceptionalism) may vindicate the growing exceptionalism of emergencies (and the follow-up regimes). At the heart of this co-articulation stands again the paradox of politics,

where citizens – perpetually insufficient – are denied authorship of the law which shapes them, and democratic politics is trumped. Lastly, the chapter ends on an analysis of Honig's insights on the democratization of emergency (guided by the paradox) and I argued for a further contribution, where beyond the de-exceptionalization of emergency, there is a need to de-technocratize democracy and emergency, by introducing greater democratic scrutiny to decision-making based on knowledge.

The question on understanding the link between technocracy and SoE in emergency politics, through the paradox of politics is answered in the last chapter, when the technocratic regimes of permanent exception are explored, and the aforementioned relation of mutual reinforcement is settled at a conceptual level. The first two chapters lay the ground to understand the two phenomena and the third chapter expounds the paradox as methodological tool to analyse them when juxtaposed with a specific ideal of democracy. On the one hand, the use of a specific ideal of democracy, more abstract and demanding, partially based on Rousseauian ideals of autonomy and equality, allows the development of an investigation which pinpoints conceptual flaws on modern-day institutional arrangements and questions the limited extent of democratic possibilities within them, especially in the context of emergency politics – which I believe is a relevant analysis provided in this thesis. On the other hand, the reliance on this ideal of democracy – and its normative implications – neglects other accounts of democracy, that may highlight more its liberal dimensions, and its main role as the protection of individual rights and liberties (instead of the more collective scope). In this sense, this thesis is limited to an analysis which relies on its own specific conception of democracy. The use of a different account could potentially arrive at different conclusions.

The thesis focuses on questions of emergency politics, and how the two phenomena articulate in emergency situations and the potential infringements of democracy. However, it deals mainly with emergency of economic/financial nature. On the one hand, it is a self-evident choice, as it is in the face of these types of emergencies where the two phenomena articulate the most clearly. On the other hand, however, different sorts of emergencies might themselves display a different relation between the exception and decision-making based on knowledge. Health-related emergencies, or security-related emergencies might bring different arrangements, with different phenomena from the ones investigated in this thesis. While I believe the conclusions of de-technocratization and de-exceptionalization of emergency are fundamental altogether, it is important to keep in mind that this analysis relied on the investigation of a specific sort of emergency.

The main upshots provided in this thesis are 1) an analysis on the articulation of the two phenomena in emergency, through the paradox of politics, 2) a case that this co-articulation infringes upon an ideal of democratic politics, and 3) a complement to Honig's insights of democratization of emergency which

emphasized the need of de-technocratization. These points contribute to questions regarding emergency politics - the first two by establishing an analysis which stresses the importance of the undecidable and insoluble nature of democratic politics which the citizen should be the author of. To analyse the co-articulation of technocracy and the SoE as responses to the paradox of politics in emergency has the advantages of understanding the ways in which democratic politics are infringed upon and threatened, and also the possibilities of re-orientation of democratic action. This leads to the third and final upshot which contributes by adding an important dimension to the questions regarding democratizing the situations of emergencies – the de-technocratization. Linking these two phenomena, understanding their relationship to democracy and to each other, and relating them conceptually and empirically was a motivation and aim of this thesis. Even though the scope of the analysis is limited, important points about democracy and emergency of economic nature were touched upon. Although democracies are not improved with mere theories or analysis, quite often they can help us guide and orient democratic action, more crucially in times where democracy appears quite fragile. However small-scale a contribution might be, I'd like to believe that maxim still applies.

References

Agamben, Giorgio. 2008. *State of Exception*. University of Chicago Press.

Berman, Sheri. 2019. 'Populism Is a Symptom Rather than a Cause: Democratic Disconnect, the Decline of the Center-Left, and the Rise of Populism in Western Europe'. *Polity* 51 (4): 654–67.

Bertsou, Eri, and Daniele Caramani. 2020. *The Technocratic Challenge to Democracy*. Routledge.

Best, Jacqueline. 2018. 'Technocratic Exceptionalism: Monetary Policy and the Fear of Democracy'. *International Political Sociology* 12 (4): 328–45.

Bickerton, Christopher, and Carlo Invernizzi Accetti. 2020. 'Technocracy and Political Theory'. In *The Technocratic Challenge to Democracy*, 29–43. Routledge.

Burles, Regan. 2016. 'Exception and Governmentality in the Critique of Sovereignty'. *Security Dialogue* 47 (3): 239–54.

Centeno, Miguel Angel. 1993. 'The New Leviathan: The Dynamics and Limits of Technocracy'. *Theory and Society*, 307–35.

Cole, Mathew. 2022. 'What's Wrong with Technocracy?' *Boston Review*, 2022.

Connolly, William E. 1995. *The Ethos of Pluralization*. Vol. 1. U of Minnesota Press.

Davidson, Neil. 2017. 'Crisis Neoliberalism and Regimes of Permanent Exception'. *Critical Sociology* 43 (4–5): 615–34.

Davies, William. 2013. 'When Is a Market Not a Market?:"Exemption",'Externality'and 'Exception'in the Case of European State Aid Rules'. *Theory, Culture & Society* 30 (2): 32–59.

Fominaya, Cristina Flesher. 2019. 'European Anti-Austerity and pro-Democracy Protests in the Wake of the Global Financial Crisis'. In *Resisting Austerity*, 6–25. Routledge.

Groshek, Jacob, and Ahmed Al-Rawi. 2015. 'Anti-Austerity in the Euro Crisis: Modeling Protest With Online-Mobile-Social Media Usage, Users, and Content.' *International Journal of Communication (19328036)* 9.

Honig, Bonnie. 2007. 'Between Decision and Deliberation: Political Paradox in Democratic Theory'. *American Political Science Review* 101 (1): 1–17.

———. 2009. *Emergency Politics: Paradox, Law, Democracy*. Princeton University Press.

———. 2014. 'Three Models of Emergency Politics'. *Boundary 2* 41 (2): 45–70.

Kratochvíl, Petr, and Zdeněk Sychra. 2019. 'The End of Democracy in the EU? The Eurozone Crisis and the EU's Democratic Deficit'. *Journal of European Integration* 41 (2): 169–85. https://doi.org/10.1080/07036337.2019.1569001.

Peterson, Abby, Mattias Wahlström, and Magnus Wennerhag. 2015. 'European Anti-Austerity Protests – Beyond "Old" and "New" Social Movements?' *Acta Sociologica* 58 (4): 293–310. https://doi.org/10.1177/0001699315605622.

Rousseau, Jean-Jacques. 2018. *Rousseau: The Social Contract and Other Later Political Writings*. Cambridge University Press.

Sánchez-Cuenca, Ignacio. 2020. 'Neoliberal Technocracy: The Challenge to Democratic Self-Government'. In *The Technocratic Challenge to Democracy*, 44–60. Routledge.

Scheuerman, William E. 1997. ‘The Unholy Alliance of Carl Schmitt and Friedrich A. Hayek’.
———. 1999. *Carl Schmitt: The End of Law*. Rowman & Littlefield.
Schmitt, Carl. 2005. *Political Theology: Four Chapters on the Concept of Sovereignty*. University of Chicago Press.
Tortola, Pier Domenico. 2020. ‘Technocracy and Depoliticization’. In *The Technocratic Challenge to Democracy*, 61–74. Routledge.
Vinx, Lars. 2014. ‘Carl Schmitt’. In *Stanford Encyclopedia of Philosophy*.