

Parties, Democracy, and the Ideal of Anti-factionalism: Past Anxieties and Present Challenges

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Political parties are today built into the standard definition of democracy as a method for the selection of the ruling class through electoral party competitions. This account emerged in the early 1940s¹ and became hegemonic in twentieth-century political and social science after World War II.

The link between parties and elections—almost a Pavlovian conditioning of the modern democratic imagination—has turned electoral, party competitions into a “ritual” tasked with two vital functions: they bestow legitimacy over the selected representatives and induce moderation in the practice of governmental power. It is no accident that even nondemocratic regimes routinely clothe themselves in the mantle of electoral legitimacy. The fiction of popular authorization, together with the façade of a party system and competitive elections, provides them with the smokescreen they need to conceal the reality of authoritarian, monoparty government.

In constitutional, liberal democracies based on multipartyism and the regular opportunity for citizens to freely choose *via* elections, parties serve as intermediary bodies between the people and the state, connecting public opinion with public policies and thus providing a mediation that is, at once, bidirectional and plenary. The bidirectionality of parties allows them to coalesce extrainstitutional claims around short-, mid-, and long-term agendas while also justifying proposed policies along a continuum of mutual responsiveness. The plenary character of parties

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Ethics & International Affairs, 36, no. 4 (2022), pp. 475–485.

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doi:10.1017/S089267942200051X

describes their distinctive ability to aggregate citizens' interests around a policy package that is broad enough to replicate governmental action (ranging across multiple domains of life), consider the well-being of the entire citizenry (rather than one portion alone), and embrace a time horizon that values the interests and rights of future generations. Well-functioning parties that serve democratic purposes help reduce information and transaction costs at four major levels: political participation, voters' information, policy packaging, and ally prediction. These help to "grease the wheels of representative democracy"² in ways that remain unrivaled.

This functional account of parties—as stylized and largely idealized—offers a helpful framework through which to study the reality of parties and thereby differentiate those that are constitutional and democratic from those that undermine liberal democracy.

However, parties are relative latecomers to the stage of politics. Before the advent of party democracy, the political space was long envisioned as a conglomeration of parts, harmoniously coming together in the pursuit of the common good. Throughout the history of political and constitutional thought, parts and parties were consistently conceptualized as being in opposition to factions. Properly capturing the difference between these three vectors in the past is key to understanding why revived forms of factionalism pose a major challenge to constitutional, liberal democracy in the present.

This essay will proceed as follows. I will first chart historical debates on the nature of political divisions and their implications for constitutional projects, from the ancients to the age of democratic constitutionalism. I will then recall the major shifts undergone by political parties throughout the history of representative government and the transformations of democracy, focusing on the challenges that such shifts have entailed for the theory and practice of democratic government. Finally, I will draw on recent discussions in constitutional and democratic theory to examine two revived forms of factionalism that confront liberal democracy in our present: authoritarianism and populism. Despite their many differences, they undermine the principles of democratic constitutionalism in similar ways and should thus drive us to reconsider the relationship between parties, party democracy, and intra-party democracy.

FACTIONS AND PARTIES: THE HISTORY OF A PREJUDICE

For centuries, the words *party* and *faction* were used almost interchangeably. Faction is the older term. From the Latin verb *facere* ("to do," "to act"), it

encapsulated the idea of groups of people acting with the purpose of accomplishing something harmful. The word party, in contrast, derived from the Latin verb *partire* (“to divide”) and entered the political lexicon only in the seventeenth century. Its longstanding predecessor, the term *sect*, has its etymological roots in the Latin verb *secare* (“to sever,” “to cut”). When party replaced sect, the latter acquired a specifically religious meaning (with reference to Protestant sectarianism), while the former took on the pejorative meaning typical of its semantic ancestor (that is, parties as secularized sects and schisms). Nevertheless, the word *party* always evoked a semantic ambiguity—as both dividing and partaking—which was, and remains, intrinsic to the notion of *part* itself (for instance, “partition,” “partial,” and “particular,” but also “participation,” “partaking,” and “partnership”). Voltaire captured this conceptual ambivalence in his “Faction” entry for the *Encyclopédie* (1756), where he described a faction as “a seditious party [*parti*]” that “does not rejoin [*partager*] the entire State.”³

These “two opposite semantic pulls”⁴ were reflective of two different visions of the nature and role of partisanship in politics and have become integral to the notion of parties in contemporary discourse. Parties, it has recently been argued, are “partial-yet-communal associations” that “articulate the ‘universal interest’ from peripheral viewpoints,” substantiating partisan standpoints as “active manifestations of the general rather than appropriations of the general by a particular”; as such, they entail a vision of both politics and the state that is antithetical to patrimonialism.⁵ Political parties, it has also been suggested, are naturally “bilingual”: they inevitably speak two different languages precisely because they have two footings—one in civil society and the other in the realm of political institutions. Nancy Rosenblum and Russell Muirhead—the two authors who have initiated the rejuvenation of the study of parties and partisanship in historical and contemporary democratic theory—stress parties’ bilingualism when they write: “As shapers and articulators of public reason, parties speak to *all* citizens as citizens, not as socially situated in this or that social class or income group or as having a particular comprehensive doctrine. They refine and generalize particularist appeals by casting them in terms appropriate to public reason.” Unlike factions, in other words, parties “connect particular interests with general principles”⁶ and promise to govern the state accordingly.

In the history of political thought, the official distinction between factions and parties was the merit of Edmund Burke. His *Thoughts on the Cause of the Present Discontents*—a pamphlet penned in 1669 and published in 1770, which

immediately turned into a bestseller—endorsed parties as both inevitable and honorable. Unlike “cabals” and “factions,” parties are principled and “honorable connections”; they constitute “a body of men united for promoting by their joint endeavors the national interest upon some particular principle in which they are all agreed.”⁷

However, despite Burke and his influence over nineteenth-century theories on party government, the distaste for divisions continued to permeate political practice for a long time, with the prejudice against parties as factions in disguise travelling well into the twentieth century. In 1842, parties were banned in German principalities; only in 1901 did they acquire full legal legitimacy in France; and in several countries, it remained illegal until 1914 to even mention parties in parliamentary debates.⁸

PARTS AND PARTIES: CONSTITUTIONAL BEGINNINGS, ANTI-FACTIONAL ENDS

The aforementioned disdain toward parties represents the enduring legacy of a time-honored vision of politics. Ever since the ancient Greeks, in fact, constitutional and political thought had traditionally made parts (not parties) its basic units and championed two strategies—blending and balancing—to attain a mixture of the various components of the body politic. Doing so was seen as mostly conducive to peaceful political coexistence and, in turn, to institutional stability. Interestingly, this vision entailed mixed, not party, government. Not to be confused with the later theory of the separation of powers,⁹ mixed government rested on the firm belief that all major interests in society should jointly partake in political rule, to prevent any one of them from imposing its will over the whole.

In the late eighteenth century, when representative government and modern constitutionalism crossed paths on both sides of the North Atlantic, these debates informed the institutional vision of the revolutionaries. The American and French progenitors of these countries’ democratic systems envisioned their “republics” as antithetical and superior to ancient “democracies,” a term that they deliberately avoided, as it evoked memories of polities unraveled by factions.

The framers of the American Constitution in Philadelphia never resorted to party labels. None of them questioned that government would be based on periodic elections. Yet, the idea of selecting officeholders by means of competitions among parties was never contemplated. Rather, it was assumed that candidates

for office would stand out for their reputation, principled behavior, and impartial commitment to the public good.

As Richard Hofstadter wrote, the designers of the first American party system—both Federalists and Republicans—had “a keen terror” of party spirit (famously chastised by Washington in his 1796 Farewell Address) and looked upon parties “as sores on the body politic.” However, almost as soon as their national government was born, they found it necessary to establish parties.¹⁰ While *Federalist Papers No. 10* epitomized the Founders’ warning against factions and their pragmatic solution to the problem, the first presidents—Washington and then Adams—soon realized that political divisions were “sown in the nature of man” (in Madison’s words) and thus inevitable. Accordingly, the architects of the early American Republic put their best efforts into preventing the rise of a majority faction. The biparty system, an electoral framework based on single-member districts, an institutional design revolving around checks and balances, and the distinction between state and federal prerogatives, provided a carefully engineered mechanism to tame divisions as effectively as possible.

The experience of the French Republic, too, exemplifies the congenital connection between constitutional beginnings and anti-factional ends. In the words of Nancy Rosenblum, “Like the era of constitutional founding in America, the French Revolution was the occasion for both constitutional creation and renewed anti-partyism.”¹¹ The French clergyman Emmanuel-Joseph Sieyès, whose writings laid the groundwork for the creation of the National Assembly, explicitly called for a representative system that could safely do without parties. The marquis de Condorcet echoed this position when advising the Girondins on their constitutional vision: he made it clear that, unlike the English system (based on parties), the French republic needed to have none.¹² However, unlike the American Founders, Sieyès did not call for a separation of powers. For him (and for the French revolutionaries), party spirit and the spirit of corporation were two sides of the same coin, equally undermining the unity of the nation and its assembly.

FROM REPRESENTATIVE GOVERNMENT TO DEMOCRACY: THE METAMORPHOSES OF PARTIES

Throughout their bicentennial history, ever since they *formally* escaped the “bad scent” of factions in the late eighteenth century, political parties have undergone profound—and at times radical—transformations. When charting the trajectory of

parties, political scientists highlight four main shifts. First, parliamentary parties (late nineteenth century) developed before parties in the electorate: they were associations of legislative officeholders, with no real presence in the extrainstitutional sphere. Second, mass electoral parties (early twentieth century) emerged and proliferated in the realm of civil society: party scholars distinguish between “internal” and “external” electoral parties, depending on their origin—whether inside or outside representative institutions. Third, catchall/big-tent parties (mid-twentieth century) superseded previous party organizations: revolving around candidates more than programs, they transcended traditional class cleavages in the pursuit of the broadest number of electors. Finally, the cartelization of political parties (starting in the 1990s) has inaugurated a “still unaccounted and undefined”¹³ chapter in the life and times of party politics. Both catchall and cartel parties emerged out of the long waning of mass parties and exemplify the most recent forms of party organization in advanced postindustrial societies, with far-reaching implications for the relationship both between parties and the state and between parties and leaders in liberal democratic systems.

In the early twenty-first century, in fact, political parties no longer perform representative and procedural functions to the extent they used to throughout the “golden age” of party democracy. Their representative ambitions are now increasingly pursued by social and political movements, while parties operate predominantly inside state institutions. “Parties without partisans,” they have become “the government’s representative in the society rather than the society’s bridgehead in the state.”¹⁴ Evidence of this transformation is the vanishing of the “party on the ground” (that is, the consolidated presence of parties among citizens) and the rise of the “party in public office” (that is, the parliamentary and governmental component of parties). Across the political spectrum, parties have withdrawn from civil society (as proved by the dwindling of membership numbers) and retreated into the enclave of the legislative and the executive. Furthermore, over the past two decades parties have increasingly become mouthpieces of their leaders, empty shells kept together by the personal charisma of their frontmen or frontwomen. By doing so, parties have mimicked the personalization of political and institutional life that has become pervasive across virtually all Western liberal democracies.

Democratic theorists largely agree with this reading. Bernard Manin has influentially argued that representative government, just like the parties, has morphed over the past two centuries—from mid-/late-nineteenth-century “liberal

parliamentarism” based on parties as groups of local notables, to the era of “party democracy” following World War II.¹⁵ Beginning in the 1990s, with the collapse of Cold War ideological divides, it has entered a new phase: “audience democracy.” This form of representative government is defined by three interconnected phenomena: (1) the primacy of leaders (and their spin doctors) in relation to parties; (2) the increasing role of executives (*vis-à-vis* legislatives); (3) and the emphasis on passive spectatorship (rather than active participation) in the way citizens experience public affairs. These transformations have accelerated the shift of party democracies toward a new horizon of “direct representation,” wherein leaders bypass intermediary bodies (parties, legislatives, the press) to communicate directly to electors and claim to represent the people without distortions.¹⁶

On the one hand, these developments in the morphology of party politics have been interpreted as further validating mainstream accounts of parties as teams of leaders that periodically compete for governmental power *via* elections. On the other, they have reignited deep-seated anxieties about the nature and goals of partisan action. Especially among political and constitutional theorists, who have protractedly delegated the study of parties to empirical political scientists, new efforts have been made over the past few years to nuance dominant accounts of partisanship, distinguish between democratic and undemocratic manifestations of party spirit, and thus understand when, and why, parties go wrong. The regression of parties into factions constitutes one of the most pressing challenges to constitutional party democracy in our present, as the next section will explain.

PARTY DEMOCRACY AND THE AUTHORITARIAN UNRAVELING

In constitutional, liberal democracies, wherein parties mediate between citizens and the state, parties walk a fine line between public and private. Depending on the angle from which one observes them, they resemble either private clubs, with consent-based membership and limited authority over their members, or public bodies, driven by the ambition to steer the state in the pursuit of the common good. Their hybrid nature—“insufficiently public” and “inadequately private”¹⁷—is tied to their structural and etymological ambivalence; that is, they are a source of *partitions* and a medium for *partnership*.

Despite their functional importance for democratic states, parties do not figure prominently in the realm of constitutional studies. They entered the boundaries of public law once continental Europe inaugurated the age of democratic

constitutions after World War II, but the scholarship that constitutional theorists have since then devoted to parties cannot compete with the oceanic literature on parties across the subfields of political science. Much louder in the Anglophone world, the “constitutional silence”¹⁸ on parties—especially in the context of written (“big-C”) constitutions—has overlooked but far-reaching implications for the rules of the democratic game. Amending constitutions, in fact, is possible only through broad agreements between the governing party/coalition and the opposition; this contrasts with alterations through (“small-c”) constitutional statutes, conventions, and judicial decisions that can be undertaken and imposed unilaterally. Making parties a matter of full constitutional attention is a challenge for both scholars and practitioners, alerting them to the danger of ignoring the interplay between institutional arrangements and party systems and thus working with a shortsighted vision of democratic government and its challenges. When constitutional democracies take parties for granted, they lay the groundwork for their own unraveling.

The undoing of liberal democracy can take multiple forms. The first one—and the easier to detect—happens through parties and movements that are explicit about their antidemocratic vocation. The principles of “militant democracy” protect against the threat posed by parties that *explicitly* reject the basic rules of the democratic game, and many constitutions written after World War II incorporated such protections into their own design. By erecting legal barriers and making antidemocratic parties unconstitutional, democratic constitutionalism has blocked a major venue for the assault on party democracy.¹⁹

However, illiberal populism aiming at regime change poses a different challenge to liberal democratic principles. Autocrats often conceal their authoritarian ambitions behind the mask of law-abiding participation in the electoral game. Despite their contrasting ideologies, the rises of Hugo Chávez in Venezuela and Viktor Orbán in Hungary were significantly enhanced by a crumbling party system that in both cases was unable to adjust to the shifting axis of a new political geography (globalists/nationalists rather than Left/Right).

As both the Venezuelan and Hungarian cases suggest, ignoring whether, and to what extent, a nominally democratic party embraces intraparty democracy is inevitably risky business for liberal constitutional democracies and can pave the way to potential authoritarian turns. Scholars have suggested that the extent to which a party applies democratic rules when it deals with its members is, in fact, a strong indicator of the extent to which it genuinely respects the ethics of liberal

democracy.²⁰ Liberal democracies should thus develop strategies to determine whether parties also align with the constitutional democratic order “backstage,” when their private side is not visible to electors. Failures to properly scrutinize the credentials of ostensibly democratic parties make citizens easy prey for wolves dressed in sheep’s clothing. As Kim Lane Scheppele has argued, resorting to constitutional courts and impartial electoral committees to examine how parties regulate their internal lives can help shield liberal democratic regimes from authoritarian factionalism in disguise.²¹

THE POPULIST CHALLENGE TO CONSTITUTIONAL DEMOCRACY

Illiberal populism, and the authoritarian turn it leads to, is not the only framework within which revived forms of factionalism can occur. As democratic theorists have explained, the populist challenge to constitutional democracy also often takes a milder, less disruptive form. To conceptualize its strategy and distinguish it from more radical forms of populism, scholars have written about a “mimetic” or a “parasitic” appropriation of constitutive notions of the liberal democratic universe—from “sovereignty” and “the people” to “representation” and “parties.” Both borrowed from the language of evolutionary biology, these two metaphors conceptualize two populist approaches to the constitutional imagination that differ significantly. While mimetic populism endeavors to camouflage itself as fully consistent with constitutionalism, parasitic populism thrives at the expense of its hosting “organism” (in this case, constitutional democracy) without necessarily killing it.²² In the former case, mimetic populist leaders embrace a selective reading of the constitution, deliberately emphasizing those elements that best align with their own intentions, while exploiting the ambivalence of other constitutional provisions. In the latter case, parasitic populist leaders magnify some core components of liberal democracy, thus intentionally altering the overall hierarchy among constitutional values—for instance, by amplifying the priority of majoritarianism over the countermajoritarian principle.

In both cases, populist parties appropriate the theory and practice of constitutional partisanship that is foundational to party democracy and remold it according to their vision of the political space—a vision that does not consist of equally legitimate parts creating a pluralistic whole but rather of parts driven by a quasi-holistic ambition. Populist holism is the philosophical-political stance of “populist constitutionalism”:²³ It entails the claim that winning a procedural majority legitimizes the governing party to claim exclusive monopoly over popular

sovereignty.²⁴ While speaking for and in the interest of all is the task of any democratically elected government, populist leaders in power weaponize their electoral success to handle institutions and constitutions as if they were their own private possession. Accordingly, populism challenges constitutional democracy twice: both as a revived form of factionalism and as a revamped kind of patrimonialism. The examples of Matteo Salvini's Northern League over the past few years, Silvio Berlusconi in the late 1990s and early 2000s, and Donald Trump during his presidential term vividly exemplify the implications of populist holism in a framework that remains democratic and constitutional but also distorts the principles of legitimate opposition, genuine pluralism, respect for minority rights, and adversarial ethics that lay at the core of party democracy.

A PROVISIONAL CONCLUSION

Traditionally the “orphans” of political philosophers and the “darlings” of political scientists, political parties—and their possible regressions—now command the full attention of both democratic theorists and legal and constitutional scholars. Practitioners working across these fields agree on the urgency of bringing parties under sharper constitutional focus. As I have tried to show in these few pages, the concern with factions and the different manifestations of party spirit does not belong to a bygone age; it is very much alive in our present. Accordingly, this concern should lie at the core of a vigorous and interdisciplinary research agenda, bringing together the expertise of different disciplines to envision mechanisms and solutions that can leverage the lessons of history. To do so, it is vital to reenergize our constitutional imagination and place parties firmly at its core. While we should not task parties (not even the healthiest ones) with the salvation of constitutional democracy, we discount their roles at our—and democracy's—peril.

NOTES

- ¹ See Elmer E. Schattschneider, *Party Government* (New York: Holt, Rinehart, and Winston, 1942).
- ² Tarunabh Khaitan, “Political Parties in Constitutional Theory,” *Current Legal Problems* 73, no. 1 (December 2020), pp. 89–125, at p. 103.
- ³ Voltaire, quoted in Giovanni Sartori, *Parties and Party Systems: A Framework for Analysis* (New York: Cambridge University Press, 1984), p. 3.
- ⁴ *Ibid.*, p. 4.
- ⁵ Nadia Urbinati, *Representative Democracy: Principles and Genealogy* (Chicago: The University of Chicago Press, 2006), pp. 36–37.
- ⁶ Nancy L. Rosenblum and Russell Muirhead, “The Partisan Connection,” *California Law Review* 3 (March 2012), pp. 99–112, at p. 104. See also Matteo Bonotti, *Partisanship and Political Liberalism in Diverse Societies* (New York: Oxford University Press, 2017).
- ⁷ Edmund Burke, *Thoughts on the Cause of the Present Discontents* (1770), in Susan E. Scarrow, ed., *Perspectives on Political Parties: Classic Readings* (New York: Palgrave, 2002), pp. 37–43: 40–1.

- ⁸ See Adam Przeworski, “Consensus, Conflict, and Compromise in Western Thought on Representative Government,” *Procedia—Social and Behavioral Sciences* 2, no. 5 (2010), pp. 7042–55, at pp. 7048, 7054.
- ⁹ See M. J. C. Vile, *Constitutionalism and the Separation of Powers* (Oxford: Clarendon Press, 1967).
- ¹⁰ Richard Hofstadter, *The Idea of a Party System: The Rise of Legitimate Opposition in the United States, 1780–1840* (Berkeley: University of California Press, 1960), p. 69.
- ¹¹ Nancy L. Rosenblum, *On the Side of the Angels: An Appreciation of Parties and Partisanship* (Princeton, N.J.: Princeton University Press, 2008), p. 94.
- ¹² Sartori, *Parties and Party Systems*, p. 11.
- ¹³ Piero Ignazi, *Party and Democracy: The Uneven Road to Party Legitimacy* (New York: Oxford University Press, 2017), p. 126.
- ¹⁴ Rudy Andeweg, “Political recruitment and party government,” in Jean Blondel and Maurizio Cotta, eds., *The Nature of Party Government: A Comparative European Perspective* (Basingstoke: Palgrave), pp. 38–55: 40.
- ¹⁵ Bernard Manin, *The Principles of Representative Government* (New York: Cambridge University Press, 1997).
- ¹⁶ See Nadia Urbinati, *Me the People: How Populism Transforms Democracy* (Cambridge, Mass.: Harvard University Press, 2019).
- ¹⁷ Khaitan, “Political Parties in Constitutional Theory,” p. 91. See also N. W. Barber, *The Principles of Constitutionalism* (Oxford: Oxford University Press, 2018), pp. 167–85.
- ¹⁸ Khaitan, “Political Parties in Constitutional Theory,” p. 90.
- ¹⁹ For an in-depth discussion of “militant democracy,” see Alexander S. Kirshner, *A Theory of Militant Democracy: The Ethics of Combatting Political Extremism* (New Haven, Conn.: Yale University Press, 2014); Carlo Invernizzi Accetti and Ian Zuckerman, “What Is Wrong with Militant Democracy?,” *Political Studies* 65, no. 1 (2017), pp. 182–99; and Anthonia Malkopoulou and Alexander Kirshner, *Militant Democracy and Its Critics: Populism, Parties, Extremism* (Edinburgh: Edinburgh University Press, 2021).
- ²⁰ See, for example, Kim Lane Scheppele, “The Party’s Over,” in Mark A. Graber, Sanford Levinson, Mark Tushnet, eds., *Constitutional Democracy in Crisis?* (New York: Oxford University Press, 2018), pp. 495–513: 510–13.
- ²¹ *Ibid.*
- ²² For a brilliant discussion, see Giuseppe Martinico, *Filtering Populist Claims to Fight Populism: The Italian Case in a Comparative Perspective* (New York: Cambridge University Press, 2022), pp. 16–20.
- ²³ See Paul Blokker, “Populist Constitutionalism,” in Carlos de la Torre, ed., *Routledge Handbook of Global Populism* (London: Routledge, 2019), pp. 113–28, and Paul Blokker, Bojan Bugarcic, Gábor Halmay, eds., “Populist Constitutionalism: Varieties, Complexities, and Contradictions,” special issue, *German Law Journal* 20 (April 2019).
- ²⁴ On this note, see Andrew Arato and Jean L. Cohen, *Populism and Civil Society: The Challenge to Constitutional Democracy* (New York: Oxford University Press, 2022), pp. 89–106.

Abstract: This essay weaves together the history of political and legal thought, contemporary democratic theory, and recent debates in legal scholarship to examine the ambivalent relationship between political parties and democracy. Celebrated as a structural necessity for the mechanics of democratic government, political parties are also handled with suspicion for their hybrid nature—neither entirely public nor completely private—and for their always-possible regression into factions. Anti-factionalism, I show, has been a powerful ideal driving constitutional imagination and practice over the centuries, from antiquity (with its emphasis on parts and its horror over factions), to the age of democratic revolutions (with its signature anxieties about divisions), up through the present. However, this long historical process has not extinguished the long-lived concern with the nature and implications of party spirit, nor has it made party democracy completely safe from revamped forms of factionalism. Two manifestations of factional politics stand out in the contemporary political landscape: authoritarian regime changes and populist constitutionalism. While the former is easy to diagnose but hard to prevent, the latter exemplifies a torsion of the constitutional and democratic imagination from within. Despite their differences, both scenarios remind us that constitutions need to envision mechanisms to prevent parties from undermining the liberal democratic order they have been designed to serve. At the same time, they call for renewed attention to the study of parties in the domains of democratic theory and constitutional scholarship.

Keywords: Political parties, factions, party democracy, constitutions, constitutionalism, populism