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Title of article:

The other European post-war democratic settlement? Scandinavian intellectuals contemplating the fragility of democracy in the wake of the Second World War

Abstract:

It is often argued that the Scandinavian post-war period was marked by a democratic optimism that contrasts with the deep concerns for the inherent dangers of popular sovereignty and the thorough moral reconsideration that took place on the European continent in the wake of the Second World War. This article seeks to balance this view by exploring what Scandinavian intellectuals believed had caused the collapse of democracy in Europe in the 1930s and what they saw as the main threats to democracy in the emerging post-war societies. Focusing on the fears of socialist planning, concerns about the position of individual rights and freedoms in modern societies, and the anxieties concerning the secular total state, the article suggests that the Scandinavian post-war democratic settlement was indeed built around a different set of ideas from those evident in many other places in Europe, but that it was no less informed by recent historical experiences, or concerns for the fragility of democracy.

Keywords: Scandinavia, democracy, post-war, militant democracy, legal realism, welfare state, social democracy, Christian Democracy

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## The other European post-war democratic settlement? Scandinavian intellectuals contemplating the fragility of democracy in the wake of the Second World War

The Scandinavian countries are often portrayed as exceptions when it comes to conceptualisations of democracy in post-war Europe. Whereas the rise and fall of fascism on the European continent provoked a thorough moral reconsideration, a deep concern for the inherent dangers of popular sovereignty and the establishment of what Jan-Werner Müller has labelled a “constrained democracy” designed to protect democracy from itself and limit state authority over the individual,<sup>1</sup> the Scandinavian discussions remained confined to the ideas of the pre-war period, emphasising relativism over moralism, politics over law and majority will over individual rights.<sup>2</sup> Scandinavia did not share the negative experiences that would have provoked caution; instead, the lesson from the interwar era was that Nordic democracy had proven to be internally solid and that it had withstood the totalitarian challenge.

There is undoubtedly much that is plausible about this received view, but conspicuously enough, it is seldom substantiated by examining the post-war period itself. Instead, the literature that elaborates on the Nordic democratic *Sonderweg* tends to look further back in history and focus not only on the rise of social democratic parties to power in the 1930s and their revisionist-nationalist people’s home programme,<sup>3</sup> but also, for example, on the role of the free Nordic peasant as the basis for the egalitarian and “popular” Nordic conceptualisation of democracy; on the role of the reformation and Lutheranism in producing trust in administration and a strong state apparatus; on the role of associational life in forging a democratic culture from below; or, on the cultural homogeneity of the populations, which made Scandinavian societies more able to balance nationalism with democracy in the age of the masses.<sup>4</sup> Usually these accounts stop at the Second World War. The main ambition has been to explain why the Nordic countries preferred (social) democracy to fascism after the First World War and the Great Depression, and with the region

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<sup>1</sup> J-W. Müller, *Contesting Democracy. Political Ideas in Twentieth-Century Europe*, New York, London 2011.

<sup>2</sup> J. Nergelius, *Konstitutionellt rättighetsskydd. Svensk rätt i komparativt perspektiv*, Stockholm 1996; J. Östling, *Sweden after Nazism: Politics and Culture in the Wake of the Second World War*, New York, Oxford 2016; G. Skirbekk, “I refleksjonens mangel... – om vekslende intellektuelle elitar i norsk etterkrigstid”, in: *Nytt norsk tidsskrift* 1 (1984), 21-37.

<sup>3</sup> See, e.g., S. Berman, *The Primacy of Politics. Social Democracy and the Making of Europe’s Twentieth Century*, Cambridge 2006.

<sup>4</sup> See, e.g., J.P. Arnason / B. Wittrock (eds.), *Nordic Paths to Modernity*, New York, Oxford 2012; N. Kayser Nielsen, *Bonde, stat og hjem. Nordisk demokrati og nationalisme – fra pietismen til 2. verdenskrig*, Aarhus 2009; Ø. Sørensen / B. Stråth (eds.), *The Cultural Construction of Norden*, Oslo 1997; H. Stenius, “The Good Life is a Life of Conformity. The Impact of the Lutheran Tradition on Nordic Political Culture”, in: Ø. Sørensen / B. Stråth (eds.), *The Cultural Construction of Norden*, Oslo 1997, 161-171.

already set along a clear democratic path, the post-war years tend to be ignored as a period of insipid continuity. As a consequence, it is not surprising that the authoritative comparative accounts of European post-war democracy, such as Müller's *Contesting Democracy* (2011) or Tony Judt's *Postwar* (2005), explain the special case of Scandinavia by referring to the inter-war era rather than to the debates and choices made after the war.<sup>5</sup>

The purpose of this article is to challenge the view of the Scandinavian post-war period as a time of unreflective democratic optimism. By revisiting key intellectual debates on democracy during, roughly, the first decade after the Second World War, the aim is to draw attention to the central role of notions of democratic fragility in the three Scandinavian countries Denmark, Norway and Sweden.<sup>6</sup> The ambition is not to present a complete empirical overview of the vast and disparate post-war discussions on democracy, but rather to build upon a selection of central accounts and to study them as attempts to navigate in a complex political context where domestic traditions, experiences and expectations became entangled with European and international developments.<sup>7</sup> The article is written with the conviction that it is useful and important to study intellectuals, not so much because of their purported influence (the notorious question in intellectual history), but because they articulate ideas and positions that define their time. This argument, therefore, explores what Scandinavian intellectuals thought had caused the collapse of democracy in Europe in the 1930s and what they saw as the main threats to democracy in the emerging post-war societies.

In many ways, of course, the Scandinavian discussions echoed broader Western European themes: the anti-fascist perspective was successively replaced by a Cold War logic where communism emerged as the main threat (exhorting its own particular definition of democracy); stability and national consensus were key; economic progress was considered more important than political mobilisation or ideological political language; and policy making became, to an

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<sup>5</sup> T. Judt, *Postwar. A History of Europe Since 1945*, New York 2005, 363-369; Müller, *Contesting*, 65-68, and especially page 5.

<sup>6</sup> In this article, I follow the Nordic praxis of using the term "Scandinavia" for Denmark, Norway and Sweden and "Nordic Countries" when I also include Finland and Iceland. Due to their rather different experiences of the Second World War, and the implications of this for the post-war debates on democracy, Finland and Iceland are excluded from my discussion. Finland is comprehensively discussed in other articles in this special issue. For the post war period, see especially Johanna Rainio-Niemi's contribution.

<sup>7</sup> The approach is inspired by Kari Palonen's interpretation of Quentin Skinner's inversion of the study of political thought, from the analysis of ideas and principles applied on a separate sphere of politics to an analysis of thoughts and ideas as moves in the political world itself. See K. Palonen, *Quentin Skinner: History, Politics, Rhetoric*, Cambridge 2003, 173-180.

increasing extent, an issue for civil servants, technical experts and interest groups.<sup>8</sup> But, in some other significant respects, the recent narratives of European post-war democracy raise a number of interesting questions when considered from a Scandinavian perspective. First and most notably, the Scandinavian countries did not experience a “Christian Democratic moment” or a “centre-right political hegemony”,<sup>9</sup> but instead a fortification of the social democratic dominance since the 1930s. Secondly, if European (particularly German and Austrian) post-war democracy was marked by the constitutional ethos characteristic of the new “constrained”, “disciplined” or even “militant” democracies, many Scandinavian intellectuals remained convinced of the liberating role of the state. Most notably, perhaps, the dominating legal-theoretical school during the post-war period, Scandinavian Legal Realism, interpreted law as an instrument in the hands of elected politicians. Thirdly, if European post-war democracy often was framed as a return to Christian values and conservatism, the “ideas of 1945” have in Scandinavia become associated with secularism, relativism and progressive positivism.

The argument of this article, however, is that this Nordic *Sonderweg* should not be taken as evidence of a blind democratic optimism determined by the comparatively fortunate situation of the region in 1945. To the contrary, the Scandinavian discussion was deeply informed by recent events in Europe and concerns for the future of democracy, but in many ways the conclusions were markedly different than those drawn in, for example, Germany or Austria. Social democracy, legal realism and secular relativism formed key elements of what could be labelled “the other European post-war democratic settlement”.<sup>10</sup> Indeed, even the idea of a Nordic democratic continuity and exceptionality itself was construed against a background of anxiety about the fragility of democracy, a fragility of which the recent European past provided ample evidence, but which had been avoided in Scandinavia.

Moreover, it is also important to recognise the oppositional voices in the Scandinavian debates. The strong position of social democracy made Scandinavia fruitful soil for liberalistic arguments

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<sup>8</sup> M. Conway, “Democracy in Postwar Western Europe: The Triumph of a Political Model”, in: *European History Quarterly* 32 (2002) 1, 59-84; M. Conway “The Rise and Fall of Europe’s Democratic Age”, in: *Contemporary European History* 13 (2004) 1, 67-88; M. Conway, “Democracy in Western Europe after 1945”, in: J. Kurunmäki / J. Nevers / H. te Velde (eds.), *Democracy in Modern Europe*, Oxford 2018, 231-256; P. Corduener, “Democracy as a Contested Concept in Post-War Western Europe: A Comparative Study of Political Debates in France, West Germany, and Italy”, in: *The Historical Journal* 59 (2016) 1, 197-220; M. Mazower, *The Dark Continent. Europe’s Twentieth Century*, New York 1998, chapters 6, 7 and 9; Müller, *Contesting*, 125-170.

<sup>9</sup> Conway, “The Rise and Fall”, 80-82; Müller, *Contesting*, 130-134.

<sup>10</sup> I borrow the notion of the Nordic countries as “the other Europe” from the discussion of Nordic cooperation versus European integration. For example, B. Turner and G. Nordquist, *The Other European Community: Integration and Cooperation in Northern Europe*, Houndmills 1982. Or more recently, C. Howard Grøn / P. Nedergaard / A. Wivel, *The Nordic Countries and the European Union: Still the Other European Community*, Abingdon 2015.

that economic planning was “the road to serfdom” and that socialism was incompatible with democracy. Similarly, the legal realists were challenged by scholars and intellectuals who were concerned with the paternalistic tendencies of the modern welfare state and called for increased juridical protection of the individual. To be sure, Scandinavia also had its Christian conservatives, who warned that the secularisation of society was endangering the idea of human dignity upon which democracy rested.

The article begins with a discussion of the construction of Nordic democratic exceptionalism, before proceeding to an analysis of the Scandinavian intellectual debates on, first, the liberalistic concerns with planning, secondly, the liberal-conservative calls for the rights of the individual, and finally, the Christian conservative anxiety regarding the total state. The article will conclude with some speculations on the possible lessons that can be learned from revisiting these debates with regard to current challenges to democracy in Europe and beyond.

## 1. Nordic democracy: Fragility is elsewhere

Scandinavia had not been a central battlefield in the Second World War. Sweden managed to stay outside of military conflict altogether, balancing sympathies with its eastern neighbour Finland in its two wars against the Soviet Union (1939-40 & 1941-44) with loyalties to its western neighbours Denmark and Norway, who shared the experience of Nazi-German occupation (1940-1945). Whereas Denmark opted for a collaborationist policy that kept its most basic democratic and administrative functions intact, the Norwegian king and government went into exile in the United Kingdom with the Germans establishing a Reichskommissariat and a puppet government headed by Vidkun Quisling. These different experiences conditioned the way that the Scandinavians approached the post-war period. Most notably this was the case in the arena of security policy, as Denmark and Norway decided to become founding members of NATO in 1949, while Sweden continued to pursue its policy of neutrality into the Cold War, arguably thereby also making Finnish neutrality (and democracy) more credible despite Soviet pressure.

But there were also significant similarities in how the Scandinavian states approached the post-war period. The basic infrastructure of each country was intact, reconstruction swift and, in terms of electoral success, social democracy continued to be the dominant political force, usually polling between 40 and 50 per cent in parliamentary elections. Moreover, despite different

security policy choices and, particularly, Norwegian disappointment at the lack of Swedish support during the German occupation, the period was also a golden age for the idea of Nordic unity. The Nordic Council was established in 1952, a passport union was agreed upon in 1957 and the idea of the Nordic welfare state as a third way, or at least as a more “social” variation of Western democracy, grew in importance.<sup>11</sup> It was also a period when there was, at least to a certain extent, a common Scandinavian public sphere, not least because many Danes and Norwegians had followed Swedish radio during the war, or even spent parts of the war years in exile in Sweden. As a consequence, the political discussions during the post-war years, including those on the nature of democracy, were conducted within national frameworks with their own peculiarities, but which also shared many features and included a strong Nordic dimension.

Moreover, even if the German occupations certainly left a heavy mark on the discussions in Denmark and Norway, the interpretations of the collapse of European democracy in the 1930s and the challenges of democracy in the post-war world tended to converge around similar themes. Fascism and Nazism (as well as communism) were not seen as having been substantial domestic problems, but as movements that had plagued the European continent and, in the form of totalitarian regimes, had threatened Nordic democracy from abroad. The electoral success of the national socialist parties had been limited, and after the war these groups were denounced as traitors.<sup>12</sup> There was a general sense that Nordic democracy had withstood the totalitarian challenge, but there were competing accounts as to the reasons for this democratic solidity. Conservatives tended to emphasise the strong Nordic traditions of freedom. For example, the Swedish professor of law Nils Herlitz pointed to the history of local democracy and peasant freedom, arguing that democracy was part of the Swedish cultural legacy.<sup>13</sup> His Norwegian colleague, Frede Castberg, argued in similar terms, emphasising also the significance of the Eidsvoll constitution of 1814.<sup>14</sup> Social democrats, on the other hand, generally put more weight on the progressive social and economic policies initiated in the 1930s. This meant a strengthening of the idea, common already before the war, that the root cause for the rise of Nazism and

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<sup>11</sup> J. Strang, *Nordic Cooperation. A European Region in Transition*, Abingdon 2016; K. Petersen, “National, Nordic and trans-Nordic: transnational perspectives on the history of the Nordic welfare states”, in: P. Kettunen / K. Petersen (eds.), *Beyond Welfare State Models: Transnational Historical Perspectives on Social Policy*, Cheltenham 2011.

<sup>12</sup> In Denmark and Norway, the national socialists never gained more than approximately 2 per cent of the vote. Sweden had a larger assortment of national socialist parties, most of whom never gained more than 1 per cent of the vote. The largest of them was the Socialist Party, which received approximately 5 per cent of the vote, but that was before they adopted a pro-Nazi German stance in 1940. See L. Berggren, “Swedish Fascism – Why Bother?”, in: *Journal of Contemporary History* 37 (2002) 3, 295-417; J. Laurdisen, *Dansk Nazisme 1930-45 – og derefter*, København 2002; H. Breivik / I. Figueiredo, *Den norske fascismen. Nasjonal Samling 1933-1940*, Oslo 2002.

<sup>13</sup> N. Herlitz, *Svensk Frihet*, Stockholm 1943.

<sup>14</sup> F. Castberg, *Norsk livssyn og samfunnsliv*, Oslo 1949; P. Berg / F. Castberg / S. Steen, *Arven fra Eidsvoll: Norges Grunnlov*, Oslo 1945.

communism was the distress and destitution of the German and Russian peoples, and therefore that democracy was most successfully protected through a proactive or “prophylactic” social policy and an economic policy that prevented, or at least limited, the impact of economic crises.<sup>15</sup> The post-war programme of the Danish social democrats, *Fremtidens Danmark* (1945), explicitly identified social and economic inequality as the main threats to democracy: “if large parts of society are struck by permanent unemployment, or if democracy cannot solve the pressing social problems, then we need to be prepared that many people will be tempted to try different paths”.<sup>16</sup> Because democracy was fragile, it was imperative to continue with the policies that had saved Scandinavia in the 1930s.

But the social democrats were not adverse to patriotic narratives and more long-term histories. Already in the 1930s, they had employed the rhetorical notion of “Nordic democracy” to claim that the history of Nordic freedom was a “historical experience” against which they could launch their own social democratic programme as a “horizon of experience”, to use Reinhart Koselleck’s famous formula.<sup>17</sup> In the post-war context, “Nordic democracy” was quickly re-described into the Cold War logic, with the anti-fascist and anti-Bolshevik perspective being swiftly replaced with a “middle way” rhetoric. This was, for example, the purpose of the anthology *Nordisk Demokrati* (1949), edited by two of the key figures in the Danish post-war debates on democracy, the theologian Hal Koch and the professor of law Alf Ross. In this volume, Koch and Ross engaged with a number of leading Scandinavian intellectuals in a joint exposition of a “‘democracy of the middle’ that sought to unite respect for the individual and the political freedom of the West, with the ideals of economic and social levelling of the East”.<sup>18</sup> In his preface to the volume, the Danish Social Democratic Prime Minister, Hans Hedtoft, claimed that democracy had taken on its own particular form in the Scandinavian countries, signifying “not only the basic political rights and freedoms, but also a claim for a certain social equality, the right to an equal start”.<sup>19</sup>

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<sup>15</sup> H. Frisch, *Pest over Europa. Bolschevisme – fascisme – nazisme*, København 1933; G. Myrdal, “Maintaining Democracy in Sweden – Two Articles by Gunnar Myrdal reprinted from *Survey Graphic – Magazine for Social Interpretation*”, Stockholm 1938.

<sup>16</sup> *Fremtidens Danmark. Socialdemokratiets politik*, København 1945. This and all translations from Danish, Swedish or Norwegian into English are mine.

<sup>17</sup> See J. Kurunmäki / J. Strang (eds.), *Rhetorics of Nordic Democracy*, Helsinki 2010.

<sup>18</sup> H. Koch / A. Ross, “Forord”, in: H. Koch / A. Ross (eds.), *Nordisk Demokrati*, København 1949, xv. Large sections of the book were later translated into English and published as J.A. Lauwerys (ed.), *Scandinavian Democracy. Development of Democratic Thought and Institutions in Denmark, Norway and Sweden*, Copenhagen 1958.

<sup>19</sup> H. Hedtoft, [preface], in: H. Koch / A. Ross (eds.), *Nordisk demokrati*, x.

Hedtoft's account was characteristic of how many Scandinavian social democrats, politicians as well as intellectuals defined democracy during the post-war period: they rallied around political democracy and parliamentarism, but they also included, to varying degrees, an emphasis on social equality, not merely as an instrument by which democracy had to defend itself from totalitarianism, but also as an essential ingredient to the concept of democracy itself. For some, such as Swedish Social Democratic Minister of Finance Ernst Wigforss (1925-6 & 1932-49), who also was recognised as a leading socialist theorist, the task was explicitly to expand democracy from the political to the social and economic spheres, a line of thinking that had been common among Scandinavian social democrats since the 1920s.<sup>20</sup>

Besides historical traditions and successful economic and social policies, the explanations for the success of democracy in Scandinavia, despite its obvious fragility elsewhere in Europe, also often included references to the social cohesion or even the cultural homogeneity of the Scandinavian nations. In his book *Demokratiens problem* (1945), the Swedish political scientist Herbert Tingsten famously defined democracy as a meta-ideology (*övideologi*) – “you are a democrat and at the same time a conservative, liberal or socialist”.<sup>21</sup> According to Tingsten, a well-functioning democracy requires that the citizens subscribe to these democratic principles, by which he meant that the minority is prepared to confine itself to the decisions of the majority. The idea that democracy is based upon some kind of fundamental agreement was not original, neither in the history of democratic theory nor among Tingsten's contemporaries. Tingsten himself ascribed the idea to both Rousseau and Mill as well as to Ernest Barker and Joseph Schumpeter.<sup>22</sup> But for Tingsten, the idea of shared values went beyond simple adherence to the rules of the democratic game. He repeatedly emphasised that the crisis of democracy on the European continent had been the result of rising economic and social conflicts that had “disturbed the community of shared values that democracy is ultimately based upon”, and he listed religious, national, social and economic conflicts as potentially hazardous.<sup>23</sup> In a 1955 article in the *Political Quarterly*, Tingsten explicitly stated that “[w]e do not envy the fragile democracies of France and Italy, where a strong Catholic Church and a strong Communist Party lend lustre and heat to the

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<sup>20</sup> E. Wigforss, *Ekonomisk demokrati*, Stockholm 1948. See A. Friberg, “Democracy in the Plural: The Concepts of Democracy in Swedish Parliamentary Debates during the Interwar Years”, in: *Contributions to the History of Concepts* 7 (2012) 1, 12-35.

<sup>21</sup> H. Tingsten, *Demokratiens problem*, Stockholm 1945, 57.

<sup>22</sup> Tingsten, *Demokratiens*, 65-83; E. Barker, *Reflections on Government*, London 1942, 63-9; J. Schumpeter, *Capitalism, Socialism, and Democracy*, London 1942, 295, 301.

<sup>23</sup> Tingsten, *Demokratiens*, 133-163. Quotation from H. Tingsten, “Nordisk demokrati”, *Nordens kalender* (1938), 41-50, 49.



debate; we are glad to be without the racial problems which in the United States inspire conservative prejudice and militant idealism".<sup>24</sup>

Social democrats also emphasised the importance of shared values, social cohesion and cultural homogeneity. For them, however, these attributes were not merely preconditions for a well-functioning democracy, but also had to be nursed and developed through active social and economic policies. Torolf Elster, for example, the Norwegian author and journalist at the Oslo-based labour party newspaper *Arbeiderbladet*, argued that a completely satisfying and solid democracy requires that the most intense conflicts of interest be eradicated.<sup>25</sup> For some, the zeal of eradicating potentially disintegrating differences went far beyond the economic and social spheres. The Swedish social democratic intellectual Alva Myrdal, for example, gladly credited the Swedish state's persistent efforts at "cultural equalization" through education as part of a defence of democracy.<sup>26</sup> But, when cultural homogeneity was seen as a precondition for democracy, the focus could also easily be turned towards less innocent mechanisms for inclusion and equalisation. This is where commentators rightly have noted more nasty aspects of the Nordic "völkish" conception of democracy and a "darker side" to the Nordic model, where "just beyond the use of the state to adjust incomes, expenditures, employment and information there lurked the temptation to tinker with individuals themselves".<sup>27</sup> For the protagonists themselves, however, it would have been bizarre to think that these policies had anything in common with totalitarianism or the eugenics programmes in Nazi Germany. After all, the aim of the homogenising policies was to strengthen democracy in a context where it was challenged by both fascism and communism.<sup>28</sup> Social cohesion was not simply a fortunate a priori condition for Scandinavian democracy, but something that could and should be fostered through state policies.

The idea of continuity was a crucial trope in post-war discussions in Scandinavia. It was based upon an urge to give both long- and short-term explanations for the success of Nordic democracy during its European crisis. If, to put it bluntly, the political discussion in many European countries was polarised between Christian democrats representing stability and a return to a democratic civilisation marked by Christian values on the one hand, and a socialist or

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<sup>24</sup> H. Tingsten, "Stability and Vitality in Swedish Democracy", in: *The Political Quarterly* 26 (1955) 2, 140-151.

<sup>25</sup> T. Elster, *Frihed og demokrati*, Oslo 1947, 39.

<sup>26</sup> A. Myrdal, *Nation and Family. The Swedish Experiment in Democratic Family and Population Policy*, London 1945, 12.

<sup>27</sup> Judt, *Postwar*, 368.

<sup>28</sup> It deserves to be stressed that racial homogeneity was abandoned as the explicit purpose of the eugenic policies in the 1920s and 30s (that is, roughly simultaneously with the rise to power of the social democratic parties). However, this does not exclude the fact that there were racial dimensions to the policies in a structural sense. See G. Broberg / N. Roll-Hansen, *Eugenics and the Welfare State: Norway, Sweden, Denmark, and Finland*, East Lansing, MI 1996.

communist left that represented a fresh start, social equality and social reforms on the other, the Scandinavian social democrats could appeal to both stability and reform at the same time. But it was important for them to emphasise that the success of democracy in Scandinavia was not simply the result of an advantageous geographical position on the periphery of Europe; instead, external and internal peace was based upon a long historical tradition that had been skilfully fostered by the social democratic governments. In this way, the idea of continuity from the 1930s, as well as the idea of the Scandinavian democratic exceptionalism, was actively constructed during the post-war period by the historical actors themselves. Social inequality and economic distress as well as aggravated national, religious and social conflicts were framed as the most active factors in the rise of fascism, and as such the social democratic politicians and intellectuals called for the continuation and development of the policies that they believed had so successfully countered fascism in the 1930s.

## 2. The hazard of planning

Not everyone agreed that the social democratic policies served to make democracy less fragile. As elsewhere in Europe, the communists had been the loudest critics of fascism and Nazi Germany, and in Denmark and Norway they had also constituted a vital and vocal part of the resistance movements. Even if electoral support for the communist parties remained somewhat marginal within a broader European context, barely reaching more than 10 per cent in the 1944-45 elections and dropping to around five per cent in subsequent elections, the communists undoubtedly comprised a loud voice in the debates on democracy. They agreed, of course, with the social democrats that economic equality and social reforms were crucial in order to prevent fascism, but they found the proposed policies hopelessly insufficient: for them, only a fundamental transformation of capitalist society could prevent fascism from rising again. In the debates on democracy, the communist strategy was often to emphasise the social and economic aspects of the concept so as to highlight the incomplete or even fraudulent nature of "liberal" or "bourgeois" democracy. For example, Jørgen Jørgensen, a professor of philosophy at the University of Copenhagen, argued that liberal and social democratic intellectuals tended to ignore the social, economic and cultural aspects of democracy: even if Western bourgeois states like Denmark were perhaps more advanced as "narrow democracies", the Soviet Union undoubtedly performed better as a "broad-based democracy".<sup>29</sup>

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<sup>29</sup> J. Jørgensen, *Det Demokratiske Samfund. Grundtræk af en Analyse*, København 1946.

On the other side of the political spectrum, the (social democratic) view that progressive economic and social policies were democracy's strongest line of defence was challenged by those who saw these policies as semi-totalitarian in nature or as a road to serfdom. The concerns of Christian conservatives regarding the "total state" will be discussed below, but in general terms Scandinavia did not experience a conservative resurgence after the war. Instead, it was the liberal political parties (the Folkpartiet in Sweden and Venstre and Radikale Venstre in Denmark) and liberal ideas within the conservative parties that posed the main challenge to social democracy in the 1940s and 1950s. To be sure, it was often a social liberalism, but faced with dominant social democratic parties that were self-confidently expanding the welfare state, many liberals and conservatives embraced arguments according to which socialist policies and economic planning would put democracy itself in peril. In this way, F.A. Hayek became quite central to post-war Scandinavian discussions on democracy.<sup>30</sup> *The Road to Serfdom* (1944) was translated into Swedish in 1944, into Danish in 1946 and into Norwegian in 1949, and its ideas were embraced by the leading non-socialist parties as well as by leading liberal intellectuals across the region, some of whom, such as Christian Gandil in Denmark and Trygve Hoff in Norway, were in direct contact with Hayek himself through the Mont-Pèlerin Society.<sup>31</sup>

Whereas Gandil has been described by Niklas Olsen as a "second-hand dealer of ideas" who focused only on disseminating neoliberal ideas in his native Denmark, Hoff combined his work with his business magazine *Farmand*, where he published columns by Hayek and Milton Friedman, with original contributions to the debates on democracy and economics.<sup>32</sup> His doctoral thesis from 1938 was a critique of planning and economic calculation in socialist societies, and in his book of 1945, *Fred og Fremtid*, Hoff analysed the reasons for the rise of totalitarianism and the Second World War.<sup>33</sup> Hoff devoted a large part of his book to refuting the idea that it had been a failure of liberalism that had caused the breakdown of democracy. For him, the crash of 1929 was part of the natural cycle of the economic system, which had been prolonged and exacerbated

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<sup>30</sup> The importance of Hayek in the Scandinavian debates on a planned economy has been emphasised by, e.g. L. Lewin, *Planhushållningsdebatten*, Uppsala 1967, 267-271; F. Sejerstedt, *Opposisjon og posisjon 1945-1982. Høyres historie 3*, Oslo 1984, 34.

<sup>31</sup> P. Mirowski / D. Plehwe (eds.), *The Road from Mont Pèlerin: the making of the neoliberal thought collective*, Cambridge 2009, 17-20.

<sup>32</sup> On Gandil, see N. Olsen, "A Second-Hand Dealer in Ideas. Christian Gandil and Scandinavian Configurations of European Neoliberalism, 1945-1970", in: H. Schultz-Forberg / N. Olsen (eds.), *Reinventing Western Civilisation. Transnational Reconstructions of Liberalism in Europe in the Twentieth Century*, 137-167. On Hoff, see B. Kjos Fonn, "'Approaching the Abyss': Liberalist Ideology in a Norwegian Cold War Business Paper", in: *Cogitatio. Media and Communication* 6 (2018) 1, 52-61; L. Mjøset, "Trygve J. B. Hoff", in: H. F. Nielsen / A. C. Smedshaug (eds.), *Troen på markedet*, Oslo 2011, 54-93.

<sup>33</sup> T. Hoff, *Fred og Fremtid. Liberokratiets vei*, Oslo 1945.

by ill-advised economic policies, especially by Roosevelt's New Deal. Interestingly, however, Hoff did not share an unconditional support for democracy. For him, "the liberal ideas" of individual rights and freedoms and rule of law were more important than the "democratic idea" of popular sovereignty. Indeed, according to Hoff one of the main flaws of democracy is that it confuses equality before the law with equality in all respects. In particular, democracy does not guarantee that the most competent people will be put in charge of society, and therefore he envisaged a "liberocracy" that would combine liberalism with aristocratic elements.<sup>34</sup> Hoff and Gandil were interesting Scandinavian representatives of a European liberal movement, one which (until the 1970s) largely failed to have an impact on a post-war economic discourse that was on the whole thoroughly Keynesian.

A considerably more influential Scandinavian liberal intellectual was the Swedish professor of political science Herbert Tingsten. His *Demokratiens problem* (1945) became one of the most widely read accounts of democracy in Scandinavia, and in the following years, especially the ones leading up to the 1948 elections, he established himself as one of the fiercest critics of social democracy as the editor-in-chief of the liberal daily *Dagens Nyheter* (1946-59). Tingsten focused less on economic arguments and more on the general question of planning as a threat to democracy. He had sympathised with social democracy in the 1930s, but had grown increasingly sceptical of it while writing an intellectual history of the Swedish Social Democratic Party, denouncing it for its reluctance to reject the Marxist and historicist ideological baggage.<sup>35</sup> Tingsten belonged to a growing group of post-war intellectuals who, like Karl Popper, pointed to Hegelian metaphysics as the spiritual root of totalitarianism, and for him, the Hayekian qualms over the compatibility of democracy and socialism were part of the same crusade. Tingsten criticised the rhetoric of "economic democracy" (as used by Ernst Wifgorss and Harold Laski) as an ill-disguised call for socialism. Whatever way you look at it, Tingsten argued, there is no necessary conceptual link between economic equality and political democracy.<sup>36</sup> As a second point of criticism, Tingsten cited Hayek's arguments against a planned economy, arguing that socialism would actually mean the end of democracy as such. It would, Tingsten argued, following Hayek, be impossible for an elected government to agree upon a detailed plan for a complex society, executive power would be delegated to expert committees and bureaucrats, and political representation would gradually become marginalised and dissolve.<sup>37</sup>

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<sup>34</sup> Hoff, Fred, 460-479.

<sup>35</sup> H- Tingsten, *Den svenska socialdemokratins idéutveckling 1-2*, Stockholm 1941.

<sup>36</sup> Tingsten, *Demokratiens*, 185-6.

<sup>37</sup> Tingsten, *Demokratiens*, 201-209.

The social democratic response was often to refute Tingsten's Hayekian arguments as abstract speculations that tried to force the social democrats to defend a fully socialised economy (or the Soviet Union), an ambition that they claimed to have abandoned long ago. But another important strategy was to argue that social democratic policies served to protect and strengthen democracy, rather than to endanger it. Torolf Elster, for example, pointed to the lack of empirical evidence indicating that the increased economic planning implemented by the Norwegian government had compromised political freedom. To the contrary, Elster argued, experience suggested that the more the Norwegian state had intervened in economic matters, the more stable Norwegian democracy had become.<sup>38</sup> Similarly, the Swedish economist and social scientist Gunnar Myrdal claimed that democracy in Scandinavia was vital, not despite, but because of, increased state planning of the economy.<sup>39</sup> Ernst Wigforss, in turn, was arguably the one who most explicitly tried to frame the debate on a planned economy as a disagreement regarding what Isaiah Berlin later conceptualised as positive and negative freedom. For him, economic planning did not threaten any political freedoms; on the contrary, the ambition was to make these freedoms available for those who had not enjoyed them in the past.<sup>40</sup>

But there were also those who sympathised with social democracy because of anti-communist concerns, and therefore sided with Tingsten's criticism of "economic democracy". The purpose of Alf Ross's pamphlet *Kommunismen og Demokratiet* (1945), as well as his influential book *Hvorfor Demokrati* (1946), was to define democracy in such a way that it countered both the communist challenge from the left and the liberal Hayekian challenges from the right. The communists were, according to Ross, "conceptually confused", as they did not distinguish between political form and political content. Whereas the opposite of democracy is autocracy, the opposite of socialism is capitalism, and these political philosophies can be combined in pairs as capitalist autocracy (Nazism and fascism, according to Ross), socialist autocracy (Russian communism), capitalist democracy (the Western world) and socialist democracy.<sup>41</sup> Ross admitted that "democracy probably works best together with liberalism" and that "a successful combination of socialism and democracy was yet to be found anywhere in the world". However, it was also clear that he sympathised with the aim of the Nordic social democrats to create precisely such a synthesis.<sup>42</sup>

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<sup>38</sup> Elster, *Frihed*, 54-55.

<sup>39</sup> G. Myrdal, "Utvecklingen mot planhushållningen", *Tiden* (1951), 134-150, 150.

<sup>40</sup> Wigforss, *Ekonomisk demokrati*, chapters 3 and 5; Lewin, *Planhushållningsdebatten*, 284-307.

<sup>41</sup> A. Ross, *Kommunismen og Demokratiet*, København 1945, 11-18 and 31; A. Ross, *Hvorfor Demokrati?*, København 1946, 230-236.

<sup>42</sup> For a discussion of Ross's political sentiments, see J. Evald, *Alf Ross – et liv*, København 2010, 174-179.

Going against Hayek, Ross argued that the master plan that Hayek claimed was impossible to reach agreement upon did not have to be a philosophically motivated system of values, but instead something that could be established through the “usual democratic majority principle”, wherein “the manifold evaluations, wishes and consideration which actually live traditionally and assert themselves in a community” would be weighed against each other.<sup>43</sup> It was important, however, that a socialist majority did not proceed too quickly in their reforms. One of the greatest dangers for democracy at the present time was, according to Ross, that the community of shared values would be disrupted by a polarisation of society into two fundamentally opposed positions on socialisation. For Ross, it was therefore crucial that the necessary (socialist) reforms of society be introduced in a piecemeal manner, so that the conservative elements in society would have time to adapt.<sup>44</sup>

According to Tony Judt, liberalism was, as a political and economic programme in post-war Europe, largely considered to be myopic and anachronistic, and Jan-Werner Müller similarly claims that Hayek became somewhat lost in an intellectual wasteland, having failed in his audacious attempts to challenge the Keynesian consensus.<sup>45</sup> Against this background, it is probably fair to say that liberalism in general and Hayek in particular formed a more important part of post-war discussions on democracy in Scandinavia. To be sure, the Scandinavian governments continued to pursue policies that were the opposite of Hayek’s recommendations, but in the intellectual debates critics as well as advocates of social democracy took the idea that economic planning threatened democracy very seriously indeed.

### 3. Constraining Nordic Democracy?

In the recent literature regarding European debates on democracy during the post-war period, it has been argued that the experience of totalitarianism and war gave rise to scepticism against not only centralisation and the expansion of state power, but also against mass participation and popular and parliamentary sovereignty. The lesson of the 1930s and 1940s was that the masses were dangerous and that democracy was fragile because the same masses could work to overturn it. This was the background to Karl Löwenstein’s notion of “militant democracy” as well as of

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<sup>43</sup> Ross, *Hvorfor*, 276.

<sup>44</sup> A. Ross, “Ordet eller Sværdet? [1946]”, in: S. Hein Rasmussen / N. Kayser Nielsen (eds.), *Strid om demokratiet. Artikler fra en dansk debat 1945-46*, Aarhus 2003, 156-162, 162.

<sup>45</sup> Judt, *Postwar*, 537; Müller, *Contesting*, 150-154.

the particular constitutionalist ethos that marked many European countries as well as European cooperation after 1945. The idea was to constrain democracy through rigid constitutions protected by constitutional courts that were given the task of guarding individual citizens from the potential dangers of “parliamentary absolutism” and “the tyranny of the majority”.<sup>46</sup>

If, as stated above, the general lesson from the recent past was that Nordic democracy had been challenged and, in some cases, overturned by foreign armies rather than by domestic political forces, the inner fragility of parliamentary sovereignty – the fear that democracy could be used to overturn itself – was not a primary concern. In fact, it was actually the communists who most actively called for militant measures – not merely in order to overthrow the “false” bourgeois democracy and introduce a communist society, but also to defend political democracy against fascism. The democracy debate of 1945-46 in Denmark, which later was canonised as fundamental in forging a Danish conception of democracy, started off with the professor of philosophy Jørgen Jørgensen calling for a ban on right-wing political activity in an article called “Democracy has the right to defend itself”. According to Jørgensen, who as a communist had spent part of the Nazi occupation of Denmark in jail, democracies needed to be prepared to fight their opponents, even if, in doing so, they violated their own principles: “If the democracies in their external relations are prepared to fight fire with fire, they should not hesitate to do so against their internal enemies”.<sup>47</sup> In the debate that followed, Jørgensen was supported by, for example, Mogens Fog, a communist resistance activist and minister of the liberation government,<sup>48</sup> who argued that “liberalistic formalism” had been the weakness that in the 1930s had allowed Nazism to grow strong in Germany.<sup>49</sup> But most of the participants in the discussion distanced themselves from Jørgensen, arguing that freedom of speech was a fundamental democratic value that could not be given up without compromising democracy itself. Poul Henningsen, the famous designer who, despite having become an outspoken anti-communist after the Second World War, belonged politically to the far left, also pointed to the fact that such laws could serve as a precedent for banning the communists, which of course turned out to be the case in Germany in 1956.<sup>50</sup> Alf Ross, a legal realist professor of law, in turn did not think that

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<sup>46</sup> Conway, “The Rise and Fall”, 77; Müller, *Contesting*, 128; J.-W. Müller, “Militant Democracy”, in: M. Rosenfeld / A. Sajo (eds.), *The Oxford Handbook of Comparative Law*, Oxford 2012.

<sup>47</sup> J. Jørgensen, “Demokratiet har Ret til at forsvare sig [1945]”, in: Rasmussen / Nielsen (eds.), *Strid om demokratiet*, 18-26.

<sup>48</sup> The national unity government that ruled during the first months after the liberation.

<sup>49</sup> M. Fog, “Nazismens arv [1945]”, in: Rasmussen / Nielsen (eds.), *Strid om demokratiet*, 33-42.

<sup>50</sup> P. Henningsen, “Frihed med eller uden rabat? [1945]”, in: Rasmussen / Nielsen (eds.), *Strid om demokratiet*, 57-64.

it was possible to defend democracy by elevating its fundamental principles beyond discussion. For him, violence should be met with violence and opinions with opinions.<sup>51</sup>

On the whole, however, the Danish democracy debate focused more on the extent to which the democratic state was allowed to compromise individual rights and particularly freedom of speech in order to protect itself, rather than on the extent to which individuals could be in need of protection from the potentially oppressive state. Neither constitutional courts nor judicial review were central to the debate. Similarly in the broader Scandinavian discussions, there were few who pointed positively to the German Grundgesetz or to the American Supreme Court and their role in protecting the rights of the individual. One such example was the Norwegian legal theoretician Frede Castberg, who argued that modern states had to an increasing extent become dominated by the legislative and executive powers, therefore suggesting that the Norwegian courts should more frequently exercise their right to overturn unconstitutional legislation.<sup>52</sup> However, when constitutional courts were discussed on the left side of the political spectrum, it was usually done with reference to President Roosevelt's struggles to get his New Deal passed by the Supreme Court in the 1930s.<sup>53</sup> The fear was that a conservative judiciary would protect the privileges of the economic and social elites, and that the Scandinavian (social democratic) governments would run into similar problems if the power of the courts was increased. Ultimately, this was a disagreement between different understandings of democracy. One side emphasised a separation of power, calling for a strengthening of the judiciary in order to balance and constrain the power of the government and the parliament, thereby ensuring that the state would not be able to violate the rights of the individual. The other side stressed popular sovereignty and argued that constraining democracy would make it more difficult for the government to pursue the progressive social and economic policies that were necessary in order to protect and strengthen democracy.

It was, however, the latter view that prevailed both politically and in the debates. It was also well suited to the ideological undercurrent of Scandinavian Legal Realism – the legal theoretical school associated with the Swedish philosopher Axel Hägerström and the Danish legal scholar Alf Ross and their pupils, which during the 1930s and 1940s established itself as the leading intellectual

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<sup>51</sup> A. Ross, *Grundlovsrevision. Hvorfor? Hvorledes?*, København 1948, 19-21.

<sup>52</sup> F. Castberg, *Norsk livssyn*, 89-90.

<sup>53</sup> See, e.g. B. Ahlander, "Domarmakten och den politiska utvecklingen i USA", *Tiden* (1949), 454-461; R. Sterner, "Demokratisk förvaltningskontroll – eller odemokratisk?", *Tiden* (1954), 456-463. See also R. Helgadottir, *The influence of American Theories of Judicial Review on Nordic Constitutional Law*, Leiden 2006; A. Kierulf, *Judicial Review in Norway: a bicentennial debate*, Cambridge 2018.



trend, not only in the philosophical and juridical departments at universities, but also in broader intellectual life.<sup>54</sup> Highly critical of natural law, the legal realists insisted on the primacy of politics over law; that the judiciary should assist rather than constrain the popular will. According to Alf Ross, the task of the lawyer is to act as a “rational technician” in the service of democratically elected politicians.<sup>55</sup> In political terms, Hägerström’s criticism of an absolute morality and natural law had already before the war been used as part of a progressive and often social democratic argument in favour of social and political reform. Economists such as Gunnar Myrdal had used Hägerström’s ideas in order to refute liberal economics, while legal scholars like Vilhelm Lundstedt and Alf Ross had criticised natural law in order to pave the way for a more instrumental conception of law, one adapted to the purposes of social engineering.<sup>56</sup> It is, of course, difficult to estimate the influence of Hägerström or Scandinavian Legal Realism, but they were certainly articulating and refining ideas and positions that were topical at the time. The constitutional reform in Denmark in 1953, for example, introduced a single chamber parliament, lowered the voting age and introduced the possibility of popular referenda – reforms that hardly can be said to have been made out of fear of popular sovereignty or of democracy being overturned.

But where many Scandinavian intellectuals, particularly those sympathising with the social democrats, believed that the Scandinavian countries were particularly stable democracies as a result of their long and strong democratic traditions as well as the success of their recent egalitarian and progressive social policies, there were also those who made the opposite point: that the fortunate experiences made the Scandinavians, and specifically the Swedes, naive and especially susceptible to the danger of democracy being in the wrong. One of the more amusing displays of the concerns about social democratic omnipotence, bureaucratisation and the emergence of a brave new semi-totalitarian welfare state was the Swedish author Vilhelm Moberg’s satirical novel *Det gamla riket* (The Old Kingdom, 1953), which described the imaginary country of Idyllia, where one third of the population was employed by the government as public officials or civil servants loyally upholding an ever expanding bureaucracy.<sup>57</sup> The first-person narrator in Moberg’s book was a Swedish public notary who travelled to Idyllia in order to study

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<sup>54</sup> See R. Cotterrell, “The Politics of Jurisprudence Revisited: A Swedish Realist in Historical Context”, *Ratio Juris* 28 (2015) 1, 1-14; S. Källström, *Den goda nihilismen: Axel Hägerström och striderna kring uppsalafilosofin*, Stockholm 1986; P. Mindus, *A Real Mind: The life and work of Axel Hägerström*, Dordrecht 2009; J. Strang, *History, Transfer, Politics: Five Studies on the Legacy of Uppsala Philosophy*, Helsinki 2010.

<sup>55</sup> A. Ross, *Om Ret og Retfærdighed. En indførelse i den analytiske retsfilosofi*, København 1953, 472.

<sup>56</sup> G. Myrdal, *The Political Element in the Development of Economic Theory*, Cambridge 1955; Ross, *Om Ret og Retfærdighed*. See Strang, *History, Transfer, Politics*.

<sup>57</sup> V. Moberg, *Det gamla riket. Roman*. Stockholm 1953.

the judicial system and administration, but who quickly found himself ensnared in endless queues at various departments and government offices. It turned out that the whole system was based upon an intricate system of nepotism and corruption, to which the apologetic guest, as a consequence of his personal relations with the ruling elite, remained naively blind. The subtext of the novel was not difficult to grasp. Idyllia had for decades been governed by social democrats; its judiciary was educated according to a legal-democratic philosophy that considered individual rights to be secondary to the public good (legal realism); and owing to its “wise policy of neutrality”, Idyllia had succeeded in remaining outside the recent great struggle for democracy, thereby deserving the label “Europe’s conscience”. In this way, Moberg explicitly explained Swedish democratic naivety by reference to lessons not learned during the Second World War.

Moberg was a controversial figure and a fierce critic of corruption and abuse of power in social democratic Sweden. But like in his novel, the question of the position of the individual in modern society was often, and across party divisions, addressed in relation to the threat of bureaucratisation. The massive growth of administration was perhaps an inevitable part of the modern state, and the problem of bureaucratisation had already been identified in Great Britain as a “new despotism” in the interwar period.<sup>58</sup> However, there was a fear among conservatives that the problem would become more urgent in the emerging post-war democracies, which explicitly aimed at taking greater responsibility for the welfare of their citizens. Conservative legal theoreticians like Nils Herlitz were concerned that the arbitrariness of decision-making would increase as a growing number of matters concerning the lives of ordinary citizens were delegated to different administrative departments and agencies. It was impossible for the courts to monitor and oversee the increasing complexity of decision-making, and thus the *Rechtstaat* was being replaced by an administration state, Herlitz argued.<sup>59</sup> Social democrats and legal realists also recognised the problem of bureaucratisation. In his book *Hvorfor Demokrati*, Alf Ross addressed the problem that in modern society individuals might be left at the mercy of the administration; but instead of suggesting a strengthening of the judiciary, he proposed a judicial ombudsman modelled after the Swedish example, a parliamentary committee that would monitor the administration and increase transparency.<sup>60</sup> From a legal realist perspective, the problem seemed more to be one of how the people could exercise their democratic control over the

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<sup>58</sup> Lord Hewart of Bury, *The New Despotism*, London 1929. The book was reprinted in 1945.

<sup>59</sup> N. Herlitz, “Drag ur svenskt statsliv under krigsåren”, *Svensk Tidskrift* (1946), 503-517, 517.

<sup>60</sup> Ross, *Hvorfor*, 329-337. Some of these proposals were realised in the constitution of 1953. See S. Jensen, “Evolving Internationalism: Denmark and Human Rights Politics, 1948-1968”, in: *Nordic Journal of Human Rights* 36 (2018) 3, 252-270.

administration and civil servants than one of how the individual citizen should be protected from the state; democracy was measured in terms of popular sovereignty rather than individual rights.

Great attention was also given to the question of democratic participation; modern democracy was perceived as being fragile as it distanced itself from individual citizens. For example, according to Torolf Elster it is a crucial task for democracy to find a way of combining the demands for a highly industrialised society based on centralised planning with the active participation of the individual. Like many others, Elster saw a solution in Nordic traditions of associational life, in the “democratically founded interest organisations – professional as well as cultural”.<sup>61</sup> The Danish theologian Hal Koch went so far as to argue that the associations were schools of democracy and thus comprised an essential ingredient of democratic society. For him, the essence of democracy is based on discussion, dialogue or conversation (*samtale*), and he criticised the obsession of democratic theory with, on the one hand, constitutions and on the other the ballot. For Koch, democracy might thrive without a constitution, but not without a people that subscribe to the democratic spirit. Merely voting between two opposing viewpoints does not capture the essence of democracy either, according to Koch, because in a democracy the opposing parties need to listen to each other and take each other seriously. As such, Koch argued that the strong Nordic tradition of associational life and people’s movements were a key reason as to why the Nordic countries had escaped fascism in the 1930s.<sup>62</sup> From the conservative side, the issue was more complicated, especially given the prominent role of labour unions in domestic politics. Nils Herlitz complained that “the struggle between organised interests is incautiously praised as a promising new form of democracy”, and he called for regulating the relationship between the unions and the state.<sup>63</sup>

The concept of a “constrained democracy” is undoubtedly rather uneasily applied to post-war Scandinavia. Instead Jeppe Nevers and Jesper Lundsby Skov propose the term “popular constitutionalism” and Anine Kierulf “Social Democratic Constitutionalism” to describe this Nordic post-war democratic settlement.<sup>64</sup> To be sure, this settlement rested upon the idea of the strong historical democratic traditions of Scandinavia, and its leading idea was to enable popular sovereignty rather than constrain it. But crucially, it was not a settlement that was reached without concerns for democracy’s fragility. To the contrary, the social democratic and legal realist

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<sup>61</sup> Elster, *Frihet*, 92.

<sup>62</sup> H. Koch, *Hvad er Demokrati?*, København 1945, 33-42.

<sup>63</sup> N. Herlitz, “*Drag ur*”, 517.

<sup>64</sup> See the article by Jeppe Nevers and Jesper Lundsby Skov in this special issue; Kierulf, *Judicial Review in Norway*.

reading was that constraining democracy would be a treacherous path, as it would prevent the governments from making the necessary reforms.

#### 4. Scandinavian Christian democracy?

Recent literature has emphasised that European post-war democracy was not founded upon idealistic liberal language. To the contrary, the lesson learned from the 1930s was that it had been the naivety of liberalism that had opened the door to the totalitarian nightmares, and the post-war intellectuals sought to provide solid political and moral foundations as opposed to the relativism, if not outright nihilism, which had marked the 1930s.<sup>65</sup> In this way, it has been argued that the new constitutional language of post-war Europe was grounded in references to “natural law” or to some absolute values, often with explicit Christian connotations. Political conservatism and Christian values served as an antidote to the radicalism of the previous decades. As part of this discussion, Samuel Moyn has identified a particular “Christian constitutionalism”, one inspired by the idea of humanity and the sanctity of the person in general and the personalist philosophy of neo-Thomist philosophers such as Jacques Maritain in particular.<sup>66</sup> It was a time of moral resurrection, and the only alternative beyond Christian values on the one hand and communism on the other seemed to be the hopelessness of existentialism.<sup>67</sup>

In Scandinavia, it was only Norway that saw the rise of a Christian political party, Kristelig Folkeparti, but its support remained around ten per cent, and in general it would be difficult to claim that the Scandinavian post-war period saw a revival of Christianity.<sup>68</sup> But the criticism of relativism and calls for a moral resurrection were certainly not absent from Scandinavian discussions on democracy. One major voice in this respect was the Norwegian bishop Eivind Berggrav (1884-1959), who had been a leading figure in the Church’s public resistance to the Nazi occupation and who had been placed under house arrest by the occupying forces.<sup>69</sup> During this time, Berggrav wrote a book called *Staten og Mennesket* (The State and the Human Being), in which he analysed Nazism as part of a more general cultural crisis of the Western world. From his perspective, the total state was not merely a German, Italian or Russian problem, but

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<sup>65</sup> Müller, *Contesting*, 129.

<sup>66</sup> S. Moyn, *Christian Human Rights*, Philadelphia 2015.

<sup>67</sup> Müller, *Contesting*, 127; T. Judt, *Past Imperfect. French Intellectuals 1944-1956*, Berkeley 1992; S. Collini, *Absent Minds. Intellectuals in Britain*, Oxford 2006.

<sup>68</sup> M. Peipponen, *Ecumenical Action in World Politics. The Creation of the Commission of the Churches on International Affairs (CCIA), 1945-1949*, Jyväskylä 2012.

<sup>69</sup> A. Hassing, *Church resistance to Nazism in Norway, 1940-1945*, Seattle 2014.

something that continued to threaten the whole of the (Western) world, including, and perhaps particularly, Scandinavia. The total state, in Berggrav's analysis, was the result of a historical development wherein the state had successively replaced God and declared itself sovereign in law and morality.<sup>70</sup> A similar point was made by, for example, Yngve Brilioth, who in his pastoral letter as the newly appointed Swedish archbishop in 1950 argued that while Nazism, fascism and communism had thus far been the most blatant expressions of the total state, its shadow loomed dangerously over Swedish society as well. "The hypertrophy of the state", its tendency to grow exponentially and to recognise no limitations on its activities, was a threat to society even if the state allegedly had included individual liberty in its programme, Brilioth argued. In democratic disguise, the total state might speak with a leaner tongue, but it is no less treacherous for the autonomy of the individual person.<sup>71</sup>

Berggrav and Brilioth exemplify the European conservative post-war tendency that Marco Duranti has identified as a romantic quest for a lost Christian civilisation.<sup>72</sup> For them, democracy was based upon the Christian idea of human dignity (*människovärde*) and personality, and the modern total state was framed as their opposite, whether it appeared in the form of fascism, as in the 1930s, or in the form of American capitalism or Soviet communism, as in the new Cold War constellation. Christianity was the humanistic and democratic alternative to these equally materialistic viewpoints. But neither did Christian conservatives conceive of the social democratic welfare policies as a viable solution to the fragility of democracy. To the contrary, they were also susceptible to inverting society, to transforming it into a form of totalitarianism.<sup>73</sup> Indeed, for intellectuals such as Brilioth and Berggrav the gradual secularisation of welfare and the exclusion of the Church from its previous philanthropic responsibilities robbed care and welfare of its human qualities, thereby paving the way for the total state.<sup>74</sup> The same argument was made even more explicitly by Brilioth's colleague, Bishop John Cullberg, in a 1947 article entitled "The Church and the demonisation of the state":

Democracy in its Western meaning rests upon a view of the human being which originates in Christianity. This is where the idea of human dignity and personal inviolability has its strongest

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<sup>70</sup> E. Berggrav, *Staten eller Mennesket. Oppgjør og framblikk*, Oslo 1945, 13-18, 45-52.

<sup>71</sup> Y. Brilioth, *Herdabrev till Uppsala ärkestift*, Stockholm 1950, 33-47; Y. Brilioth, "Kyrkan och samhället", *Svensk tidskrift* (1947), 298-307.

<sup>72</sup> M. Duranti, *The Conservative Human Rights Revolution: European identity, transnational politics and the origins of the European Convention*, Oxford 2017.

<sup>73</sup> K. Petersen and J. H. Petersen, "The Good, the Bad, or the Goodless Society?: Danish 'Church People' and the Modern Welfare State", in: *Journal of Church History* 82 (2013) 4, 904-940.

<sup>74</sup> Brilioth, *Herdabrev*, 105.

support. When democracy is secularised it will by necessity slide over to the idea of the totalitarian state. It might start with religiously innocuous things like increased control over the economy, but it will continue with a state monopolisation of social care and education, and end up with full state control over the press and radio, aiming at a uniformity of thought that means the end for true democracy as well as for the Christian idea of a personality.<sup>75</sup>

A key element in this Christian Conservative analysis was to connect the emergence of the total state with the secularisation of society and the relativisation of morality and law. Some interpreted the Second World War as a conflict between Christian democracy, on the one hand, and Nietzschean relativism on the other.<sup>76</sup> Others were concerned that the strong domestic position of moral relativism in academia, public debate, pedagogy and especially law would have detrimental consequences for Scandinavian democracy.<sup>77</sup> Berggrav, for example, devoted much of his book *Staten og Mennesket* to refuting “modern legal theory”. For him, the Catholic Church had for centuries made sure that the state was a guardian of a type of justice founded upon a more eternal perspective, natural law. But with the gradual process of liberalisation, secularisation and relativisation, this eternal perspective had vanished and the state no longer recognised any authority beyond itself. In particular, Berggrav referred to “a leading school in modern legal theory”, which in honouring exact science had begun to interpret law as a physical phenomenon. To be sure, Berggrav admitted, most of these intellectuals were not opponents of democracy, but they were naïve in believing that law, society and civilisation could be preserved without the notion of an objective morality. Without the eternal perspective, the obvious conclusion is that might is right, because without power law is nothing but empty words. In this way, Berggrav argued, by eliminating all constraints on the state “modern legal theory had been Hitler’s prophet”.<sup>78</sup>

In blaming secularisation, moral relativism and legal positivism for the rise of Nazism and totalitarianism, Berggrav and Brilioth drew similar conclusions as many intellectuals elsewhere in Europe. The domestic Scandinavian target of their criticism was undoubtedly the legal realist tradition pioneered by Axel Hägerström and Alf Ross, which in the immediate aftermath of the Second World War had a vocal presence in the intellectual debates.<sup>79</sup> To be sure, moral relativism and legal positivism were not uniquely Scandinavian phenomena, but whereas the experience of totalitarianism and the Holocaust prompted many continental and particularly German scholars

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<sup>75</sup> J. Cullberg, “Kyrkan och statsmaktens demonisering”, *Svensk tidskrift* (1947), 415-425, 421.

<sup>76</sup> S Holm, *Demokrati og Diktatur. Politisk og Ideologiske Betragtninger*, Kjøbenhavn 1946, 14.

<sup>77</sup> Brilioth, *Herdabrev*, 46.

<sup>78</sup> Berggrav, *Staten*, 36.

<sup>79</sup> J. Strang, “Two Generations of Legal Realists”, in: *Retfærd* 12 (2009) 1, 61-82; Strang, *History, Transfer, Politics*.

to turn away from their previous doctrines, there was no Gustav Radbruch-like conversion from Hägerström to natural law in Scandinavia.<sup>80</sup> According to the legal realists, it was not the indifference encouraged by moral relativism that had put democracy in peril. To the contrary, for them the Second World War had been a battle between totalitarian absolutism and democratic relativism, and thus it is natural law, not moral relativism or legal realism, that constitutes a threat to democracy. It is marked by the same tendency to absolutism as fascism or Nazism.<sup>81</sup>

In this way, “the ideas of 1945” have in Scandinavia become associated not with a conservative moral resurrection, but with secularism, rationalism and progressivism.<sup>82</sup> Emphatically democratic and anti-totalitarian, and to a varying degree liberal and socialist, this group of post-war intellectuals advocated the rational, pragmatic and secularised ideals of the welfare state. They were no less concerned with the fragility of democracy than those who advocated natural law, but their conclusions were more along the lines of the positivist anti-idealism of, for example, Karl Popper. This also prompted many of them to vehemently attack intellectuals and movements that they thought were marked by “the mentality of a dictatorship”.<sup>83</sup> The young philosophers who, in going against the background of Hägerström’s legacy, established analytic hegemony in Scandinavian thought identified neo-Thomism and Marxism as unscientific philosophies that were popular on the European continent only because of the support they received from the Catholic Church and the Communist Party. Existentialism, in turn, was refuted as a psychological reaction to the horrors of the war.<sup>84</sup> One of the most hotly debated books in Sweden during the post-war period was the philosopher Ingemar Hedenius’s frontal attack on the Church and religion, *Tro och vetande* (1948), which debunked Christianity on the basis of the “intellectual moral maxim” that “you should never believe in something that there are no rational reasons to believe

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<sup>80</sup> G. Radbruch, “Fünf Minuten Rechtsphilosophie”, *Rhein-Neckar-Zeitung* 1945, (translated as “Five minutes of legal philosophy”), *Oxford Journal of Legal Studies* 26 (2006) 1, 13-15; G. Radbruch, “Gesetzliches Unrecht und übergesetzliches Recht”, in: *Süddeutsche Juristenzeitung* 1 (1946), 105-108. See J. Strang, “Scandinavian Legal Realism and Human Rights: Axel Hägerström, Alf Ross and the Persistent Critique of Natural Law”, in: *Nordic Journal of Human Rights* 36 (2018) 3, 202-218; Östling, Sweden, 169-175.

<sup>81</sup> A. Ross, “Naturret kontra retspositivisme [1963]”, in: A. Ross (ed.), *Ret som teknik kunst og videnskab*, København 1999, 228-260, 232. For a discussion of the Scandinavian facets of this Kelsenian idea of a connection between relativism and democracy, see J. Strang, “Why Nordic Democracy”, in: J. Kurunmäki / J. Strang (eds.), *Rhetorics of Nordic Democracy*, Helsinki 2010.

<sup>82</sup> Östling, Sweden, 214-220.

<sup>83</sup> “The mentality of a dictatorship” was how Alf Ross refuted his older colleague Frederik Vinding Kruse in a review characteristically entitled “A Legal Theory from the 19<sup>th</sup> century”: A. Ross, “En Retslære fra det 19. Aarhundre”, *Tidsskrift for Rettsvitenskap*, 1946, 273-292.

<sup>84</sup> I. Hedenius, “Om praktisk filosofi [1948]”, in: I. Hedenius (ed.), *Om människans moraliska villkor*, Göteborg 1972, 17-33; K. Marc-Wogau, *Att studera filosofi*, Stockholm 1961, 1-24; See Strang, *History, Transfer, Politics*, 85-89.

in".<sup>85</sup> The book received much attention in the media, not least in *Dagens Nyheter*, where Hedenius was given a positive accolade by the editor-in-chief, Herbert Tingsten.<sup>86</sup>

However, it would not be correct to describe the Scandinavian post-war debates on Christianity and democracy as taking place between two juxtaposed extremes. There were many intermediate positions, attempts to reconcile moral relativism and legal realism with the demands for moral restoration or traditional values. For example, despite lamenting the reactionary role of the Church and its history of opposition against "the principles of democracy", Alf Ross did not hesitate to credit the Christian gospel for its role in promoting a moral belief in the dignity of the human being, which he considered to be a pillar in the humanistic tradition from which democratic ideals draw their validity.<sup>87</sup> Similarly, it should also be emphasised that the theological perspective was not only or even primarily represented by conservatives like Berggrav or Brilioth. Existentialism, in its more spiritual forms, found advocates particularly among young intellectuals interested in literature, for example those associated with the journal *Heretica* in Denmark.<sup>88</sup> Likewise, as indicated above, the theologian and professor of Church history Hal Koch was one of the leading figures in the Danish democracy debate. His book *Hvad er Demokrati?* (1945) traced the roots of democracy back to the Christian tradition, arguing that humanity is threatened by the total state on the one hand and Americanism on the other.<sup>89</sup> But unlike the more conservative voices, Koch did not call for a moral resurrection or view the welfare state as a threat to the individual person, nor did he question the tenets of legal realism. Instead, he argued that legal realism is compatible with a Christian view because Christianity is concerned with the moral sphere, which is separate from the scientific one. The Nazi crimes against the Jews violated something deeper and more fundamental than human law; they violated the Word, the respect for the human being, which, according to Koch, is the foundation of democracy.<sup>90</sup> Indeed, Koch and Ross have sometimes been presented as the main adversaries in the Danish post-war democracy debate, but in many significant respects they stood together against not only communist but also Christian conservative positions in the debate.

## 5. Conclusions: a Scandinavian post-war democratic settlement?

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<sup>85</sup> I. Hedenius, *Tro och vetande*, Stockholm 1948.

<sup>86</sup> S. Nordin, *Ingemar Hedenius. En filosof och hans tid*, Stockholm 2004.

<sup>87</sup> Ross, *Hvorfor*, 369. See Strang, "Scandinavian Legal Realism and Human Rights".

<sup>88</sup> See H. Fonsmark, *Historien om den danske utopi. En idepolitisk essay om danskernes velfærdsdemokrati*, København 1990, 242-250; T. Stenström, *Existentialismen i Sverige. Mottagande och inflytande 1900-1950*, Uppsala 1984.

<sup>89</sup> Koch, *Hvad*, 78.

<sup>90</sup> Koch, *Hvad*, 69-73.



The purpose of this article has been to reflect upon the intellectual debates on democracy in Scandinavia in the wake of the Second World War against the background of the recent discussions on European post-war democracy as a Christian democratic, constrained and morally conservative construction. The point has been not so much to question the idea of Nordic exceptionalism, but rather to challenge the idea of the Scandinavian discussions as having been unmarked by the crisis and collapse of European democracy in the 1930s and the Second World War.

To be sure, Scandinavia in 1945 was in many ways in a much more fortunate position than many other areas of Europe, but this did not automatically translate into a democratic optimism. The Scandinavian intellectuals were deeply concerned with the fragility of democracy, and the discussions involved similar arguments as elsewhere, sometimes with direct references to foreign debates. Often, however, the dominant interpretation differed from that in countries like Germany, Italy or France. In Scandinavia, the calls for a moral resurrection in opposition to the relativism of the past was weaker, and the concerns for the inherent dangers of popular sovereignty and the urge to cement liberal principles in constitutions and institutions beyond the control of the people were likewise significantly weaker. In trusting in the primacy of parliament, the Nordic debates shared elements with discussions on democracy in Great Britain, while in other respects, for example when it came to underlining the beneficial experiences of welfare reforms in the 1930s or emphasising the role of associational life and public participation, it is perhaps more difficult to find comparable examples. At times, constructing a Nordic democratic exceptionalism and continuity since the 1930s (and beyond) was emphatically the point. But it is important to recognise that there were many different voices in the debates, and that the dominant interpretations were formed in dialogue with more critical voices. The Scandinavian deviation from the European post-war democratic settlement was not predetermined, but instead a result of intense political deliberation during the post-war years.

However, by way of conclusion it might be worth considering whether there is anything to learn from the Scandinavian post-war debates on democracy when it comes to contemporary discussions on the fragility of democracy. A common diagnosis for the rise of populism is that the post-war European liberal democratic settlement has gradually evolved into an “undemocratic liberalism” that honours rule of law and individual rights but neglects public participation and popular sovereignty. This has then, following the diagnosis, provoked the populist calls for an

“illiberal democracy”.<sup>91</sup> It seems to me that the reflex of the liberal left today, in Scandinavia as elsewhere, is to assert the universality of the liberal principles cemented in the national constitutions and institutions of the European Union. The leading narrative, in other words, seems to be that of the European post-war democratic settlement. However, the question is how effective this response is in combating the sources for the discontent or in persuading populists who claim to represent the true will of the people. From this perspective, “the other European post-war democratic settlement” might provide us with alternative and often forgotten ideas of how to combat the fragility of democracy in general and to regain the balance between liberalism and democracy in particular. To be sure, there is no turning back to notions of cultural homogeneity and paternalistic social engineering. But it might be worthwhile to recall how the Scandinavian post-war discussions did not focus on a militant defence of democracy, cementing liberal principles in a constitution or claiming the absolute validity of some moral doctrines, but rather placed the emphasis solidly on social policy, popular sovereignty and moral relativism – on constraining liberalism rather than democracy.

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<sup>91</sup> While “illiberal democracy” is associated with the Hungarian Prime Minister Viktor Orban, the analysis is shared by scholars and intellectuals on the far left (Ernesto Laclau and Chantal Mouffe) and in the centre (Yascha Mounk or Jan-Werner Müller).