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Emergency Europe after Covid-19

Europe entered the 2020s like it entered the 2010s, with authorities engaged in the politics of emergency. 'Extraordinary times require extraordinary action', declared ECB head Christine Lagarde in March 2020 when announcing a new purchasing policy.[1] It was time for a 'unique response to a unique situation', said German Chancellor Merkel when outlining a new European fund.[2] Like national lockdowns and border closures, such measures were announced as exceptional and temporary, though the duration of their application was often unclear. For an unspecified period of time, authorities found themselves governing in unscripted ways to fend off far-reaching threats. While similar patterns unfolded across much of the world, in Europe they followed a decade of emergency politics increasingly distinctive in form, centred on the structures of the European Union.

Emergency rule is an old idea. In one form or another, it has been enacted and theorised from the Roman Republic to the modern state. Thinkers as diverse as Machiavelli, Rousseau, Marx and Schmitt have approached it as a foundational political question, exploring how cities, republics and states might enact it. Many still build on their insights (Honig 2009; Lazar 2009; Manin 2008; Agamben 2005; Lemke 2018). But more recently emergency government has become cross-border in range, acquiring novel dynamics in the process. In Europe especially, the story of the 2010s, from the Euro crisis to migration politics, was the rise of a distinctively *transnational* politics of emergency. Whereas emergency rule has tended to be conceived as concentrating power in the hands of a unitary sovereign, here one saw the interplay of national governments with supranational agents of various kinds, working through the EU and around it. Decisions involved those spread across multiple institutions and territories, without a clear hierarchical relation. This was emergency rule without a defined sovereign, informally co-produced by the many.

While the handling of Covid-19 differs in ways from Europe's emergency politics of the preceding decade, the new template of exceptionalism shines through. This chapter revisits the study of 'Emergency Europe' (White 2015a, 2015b, 2019) in the light of recent developments, drawing out the characteristi-

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cally transnational forms of exceptionalism on display. It charts the transition over the course of the crisis from domestic exceptionalism to cross-border emergency politics, as governments started coordinating and building new collective arrangements, and as supranational authorities expanded their powers. It shows how these developments gave rise to some familiar democratic challenges to do with the concentration and informalisation of power, here involving a plurality of executive agents (cf. Scheuerman 2017). Additionally the chapter explores how these manoeuvres can engender a characteristic response, a form of *anti*-emergency politics that denounces this template while resembling it. Whether EU representatives should be granted more powers to act in an emergency is one of the questions examined in conclusion.

Rather than just adaptation to the force of necessity – 'crisis management', as it tends to be termed – the politics of this period reflects a distinct governing logic, beyond the specifics of any one crisis (Calhoun 2004; Head 2015; White 2019; Kreuder-Sonnen 2019). Far-reaching measures in extreme situations are employed to keep existing power relations broadly intact. EU representatives have moved fast in the name of recovery, but with innovations tending to reinforce a highly imperfect pre-Covid order and give actors more discretion to defend it in future. While crisis moments also present opportunities for more radical change, established authorities seem unlikely to lead this. For all the innovations and the talk of new beginnings, their actions are generally restorative in focus: more drastic change awaits its agents.

Transnational Emergency Politics: Origins and Forms

Unlike many recent crises, that of Covid-19 did not begin in the economic sphere. For many years prior, Europe's leaders had been invoking disease metaphors to describe the business of government – contagion on the markets, exposure to risk – but this time the language was literal. For all the apparent naturalness of its origins in disease, there is nothing more exogenous about the Corona story. Things become crises only in their encounter with human institutions and value-systems. But the relation between political and economic power has been distinctive in this instance. Whereas in the Euro crisis, financial markets, banks and major corporations lined up to support emergency interventions broadly in their favour, with Covid-19 one is reminded that (fractions of) these interests can be rather less enthusiastic towards emergency measures and keen to hasten their end. How far there is really a trade-off between disease con-

trol and corporate interests is doubtful, both in the sense that early lockdowns may be ultimately less disruptive, also given the market opportunities presented by a health crisis[3]. But emergency rule in the age of Covid-19 was not driven in the first instance by economics.

The EU governs crises as crises of markets, money or the movement of people, or it does not govern them at all. Founded on a core set of purposes to do with economic interdependence, it is best able to act when these goals are in question (Isiksel 2016; White 2019). With Covid-19 framed early from a public-health perspective, it took time for the EU apparatus to be involved. The handling of Covid-19 looked initially like an aggregate of national responses. Governments closed borders, sought to re-nationalise their economies, and adopted urgent measures of their own devising. This was emergency rule in the image of the sovereign state; the order for lockdowns was not going to come from Brussels. Yet in a variety of ways this has been the *transnational* politics of emergency, in its origins, conduct and likely legacy.

Emergency modes of rule, though often associated with dramatic displays of power, tend to arise from some form of weakness. Both in their rhetoric and context, they are a politics of last resort. In the Euro crisis of the early 2010s, that was the weakness of executive agents before the financial markets; in the migration politics of 2015/6, it was their weakness before far-Right movements turning mass publics against them. In the Corona-crisis, it has first and foremost been about the weakness of state capacity – underfunded, part-privatised and under-prepared health systems, and administrations where the voices of neoliberal economists still carry loudest. Generally speaking, the weaker the institutions and those in charge, the more extreme the response to hard times. Weak leaders find themselves pressed to do radical things to keep order. They are also pressed to do symbolic things – e.g. closing national borders, thereby suspending in Europe the Schengen regime – which, experts tell us,[4] add little in security terms but convey the impression of activity.

Could an emergency response to Covid-19 have been averted? The question is always central to the normative evaluation of such measures (Sorell 2013, p.5). Given the threat of a global pandemic was foreseeable and foreseen – it was 'SARS2', not something wholly unprecedented[5] – one may assume the weakness of state capacity could have been addressed. Countries going into the pandemic with relatively robust public services – e.g. South Korea, Japan, Germany – were

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3 https://jacobinmag.com/2020/05/neoliberals-response-pandemic-crisis

4 https://www.dw.com/en/will-more-mobility-in-europe-increase-coronavirus-spread/av-53624159

5 https://www.versobooks.com/blogs/4608-on-the-epidemic-situation

able to avoid the most extreme lockdown measures in spring 2020, while those with weaker systems – in central Europe and the Balkans – were amongst those to close down early. That countries varied in their response underlines that this was not just 'crisis management', understood as functionally-determined adaptation, but an emergency *politics* in which different courses of action were available. Were they, though, equally available to all? In a global system of financial capitalism, combined with regional constraints like those of the eurozone, it is easier for some countries than others to prepare for extreme circumstances. It is easier for some to borrow and invest, raise taxes, and avoid loans whose conditions require austerity budgets. The capacity for preparation is unevenly distributed. While recourse to emergency rule is always at some level a choice, it is guided by structural factors beyond the sovereignty of individual states.

Once some countries started to introduce emergency measures, the pressure increased on others to do likewise. In public discourse, the disease threat and the response were assessed comparatively from the beginning, with daily charts showing how countries fared against peers, also locating them in time (Italy as 'two weeks ahead' of Spain, etc.).[6] A mix of upward and downward transnational comparisons was central to the narrative in each country, a way to find orientation in the face of the unknown. Perhaps this accounts for some early decisions to pursue lockdowns, as governments sought to avoid falling out of step or cajoled their neighbours to stay aligned.[7] As the Swedish government learned, to do things differently is to announce your agency and attract critical assessment; to chart the same path as neighbours is to minimise the responsibility burden. The same dynamics of comparison explain the difficulties in discontinuing emergency measures: peer countries offer counterfactuals for the choices made, and each government has reason not to seem lax. Even in the most 'nationalised' phase of the pandemic, the cross-border frame was central.

As the economic dimensions of the crisis became more pronounced, executive activity in Europe became overtly transnational. From mid-March 2020, a series of initiatives, from ECB activism (PSPP, PEPP, its extension in early June) to new cross-national arrangements for loans and grants (the Recovery and Resilience Facility), were promoted to contend with threats to the eurozone both direct (speculation) and indirect (macro-economic divergence). With some notable variations, these measures extend the governing template seen in Europe's emergency politics of the 2010s. Actions at odds with how the EU is ex-

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6 https://www.ft.com/content/a26fbf7e-48f8-11ea-aeb3-955839e06441
7 https://www.independent.co.uk/news/uk/politics/coronavirus-france-travel-ban-british-boris-johnson-cases-a9408221.html#gsc.tab=0

pected to work are pursued in the name of exceptional circumstances, nominally for a temporary period but with potentially lasting effects, in a way that supports existing socio-economic relations and foregrounds executive power. These actions go beyond merely domestic forms of exceptionalism, and beyond unilateral departures from EU norms, to include exceptional measures by supranational authorities and state governments acting in concert.

Transnational executive power was not channelled on this occasion through new 'de novo' bodies (Bickerton, Hodson & Puetter 2015). There has been no Troika equivalent, nor the country-specific targeting it enabled. The core EU institutions have been more prominent than at times in the 2010s. Possibly this is a lesson learned, or simply a quirk – setting up new bodies under lockdown is hard. Arguably it is also an effect of the pandemic being treated as hitting all states equally. Though its uneven course has been shaped by past policies – including a decade of Troika-mandated austerity in the European South – there has been a preference amongst EU authorities for treating this as a 'universal' shock for which blame should not be apportioned.[8] Once questions of culpability and moral hazard are removed, it becomes easier to govern through a general framework.

What remained constant though was the embrace of unscripted modes of rule. Existing forums offered plenty of scope for working around the norms of the core institutions. With the failure of the European Council to reach agreement on a common economic response in late March 2020, this task was transferred to the 'Eurogroup', the name given to informal gatherings of Eurozone finance ministers.[9] As in the Euro crisis, its uncodified character meant discretion could be exercised with fewer constraints and burdens of publicity. One can detect from the Eurogroup press release of 9th April the range of issues discussed in this way, from the SURE loan system to the conception of the Recovery Fund.[10] In addition to the Eurogroup, the European Stability Mechanism was another shadowy entity to enjoy second wind.[11] There was little need, it seems, to create new para-institutional formations, since those inherited from previous rounds of emergency politics could still play the role required.

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[8] https://www.ecb.europa.eu/press/blog/date/2020/html/ecb.blog200319~11f421e25e.en.html

[9] https://www.consilium.europa.eu/media/43076/26-vc-euco-statement-en.pdf

[10] https://www.consilium.europa.eu/en/press/press-releases/2020/04/09/report-on-the-comprehensive-economic-policy-response-to-the-covid-19-pandemic/

[11] https://www.esm.europa.eu/content/europe-response-corona-crisis

Hour of the Pluralised Executive

The use of unconventional arrangements in the name of emergency is one way executive power builds pre-eminence over other institutions and the wider public. This pattern has been pronounced at the state level during Covid-19, most clearly where governments have used open-ended emergency decrees (Hungary), also in the challenges posed by parliamentary suspensions and limits on gathering. But the use of informal contexts in transnational politics gives ample further scope for the ascendancy of the executive, here understood not as a unitary institution but the precarious coordination achieved by the elites of several.

Especially in a system without a sovereign centre, emergency rule encourages the concentration of power in the hands of individuals and their networks. Leaders retreat into inner circles and strengthen their ties *across* institutions at the expense of those within. It was said of Commission President Von der Leyen in this period that she 'surrounded herself with two or three people and is not listening to other people.'[12] The observation echoes things said of ECB head Draghi at the height of the Euro crisis – that he ran affairs through a 'kitchen cabinet' of loyalists.[13] Presidentialisation may be a secular trend, but it is in periods of emergency that it is accelerated and most easily rationalised. Fast-moving conditions offer a warrant for cutting out chains of delegation and reclaiming power in informal networks. The diffusion of power across many institutions – what Alexander Hamilton once called the 'plurality of the executive' (Hamilton et al, 1787 / 2008, no. 70) – creates an elaborate system inviting centralisation and de-institutionalisation in times of stress.

The concentration of executive power is paired with a recalibration of the kind of authority invoked. The technocratic principle has always been central to EU affairs, and never more so than when urgent problem-solving is the order of the day. Decisions improvised swiftly by leaders will typically be hard to legitimise by appeal to a democratic mandate: presenting them as responsive to expertise is logical, if only sometimes sincere. But the technocratic principle has to be rethought in the emergency context. Discretion comes to be emphasised over rules. 'COVID-19 represents a new form of economic shock that cannot

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12 https://www.ft.com/content/775c4db2-4e3d-426f-b937-243f0673cc14?segmentID=09cf3415-e461-2c4a-a8cc-80acc4846679; the *FT* piece here quotes an EU official; more generally it talks of her 'over-reliance on a small group of trusted advisers – some of whom came with her from Berlin – to lead a 32,000-strong bureaucracy.'
13 https://www.reuters.com/article/us-ecb-draghi-insight/draghi-leaves-lagarde-to-heal-rift-at-european-central-bank-idUSKBN1X80HC

be tackled using the textbooks of the past,' Lagarde observed in April 2020.[14] Officials recast themselves as practical, flexible, and independent-minded – possessors of the deeper insight that lies in knowing when to set aside yesterday's formulas. Eurozone policy rules were re-described as 'self-imposed limits,' revisable to preserve deeper goals of stability.[15] With Lagarde echoing Draghi's willingness to invoke 'broad discretion', this was technocracy as know-how, as a feel for the situation. Importantly, as discretion comes to the fore, the notion that technocrats are enacting defined, delegated tasks becomes hard to maintain. What expertise demands in an unfamiliar situation is inherently difficult to determine: it can be recruited to rationalise any number of actions, ranging from the more scientifically-informed to the less so. The boundary between technocracy and politics becomes more blurred, and the power of individuals more elastic.

Of course, discretionary power need not be arbitrary or self-serving, and one may grant that policy-makers act for the public interest as they see it. Theirs is, let us assume, a good-faith effort in a difficult situation. But even the best motivations are deployed to serve some ends rather than others. Emergency discretion leaves citizens few opportunities to clarify and contest the decisions made and why: it requires them to take authorities on trust. This holds especially in a transnational context where the constraints on executive power are traditionally weak. Even where executive dominance is not openly abused, it is an unwelcome condition nonetheless.

Emergency logic is slippery not just because much hangs on the discretion of those in power, but because they acquire a licence to be vague in how they plan to use it. When governing is approached as responding to necessity, decision-makers acquire great flexibility, for who can know what necessity will demand. Such a rationale allows the maintenance of a policy indefinitely or with serial extensions, while also preparing the possibility of its termination at whatever point normality is said to be restored, when 'recovery' is complete. This gives measures an ambiguous status. Emergency logic can be used to render potentially desirable moves temporary – e.g. the suspension of state aid rules that restrict public spending,[16] and new fiscal policies intended to support workers, business and states[17] – on the understanding they are suited only to exceptional times. It can also be used to render some questionable measures permanent – e.g. those

14 https://www.ecb.europa.eu/press/blog/date/2020/html/ecb.blog200409~3aa2815720.en.html

15 https://www.ecb.europa.eu/press/pr/date/2020/html/ecb.pr200318_1~3949d6f266.en.html

16 https://www.bbc.com/news/world-europe-52058742

17 https://www.ecb.europa.eu/press/pressconf/2020/html/ecb.is200604~b479b8cfff.en.html

built into the ESM that were first trialled as standalone, temporary arrangements – on the understanding they prevent a relapse. Emergency measures are aimed at solving specific problems: how they relate to general principles is always unclear. They can be withdrawn just as suddenly as they were introduced, and if necessity demands it then reintroduced again. Structurally, this can easily become a rationale for minimising democratic controls, including the influence of parliaments.

These patterns were evident in the Recovery and Resilience Facility agreed by the European Council in July 2020. Despite its supposed temporary status,[18] this has been widely interpreted as a new and promising departure in EU politics – the point at which principles of collective borrowing and common debt are introduced. That this fund may have a lasting legacy is very possible, but it may well be more mixed in character. A different way to read these developments is as ones that leave the basic, widely-criticised policy regime of the pre-Covid order intact, indeed create new resources for reinforcing it. Each country hoping to receive grants must draw up a 'recovery and resilience plan' detailing how it intends to reform its economy, to be scrutinised by the Commission and Council,[19] while an emergency brake (Art. 19) allows any national government to suspend the process should it have concerns about delivery of the reform agenda. The positive story is that there is now potentially a new tap of money flowing from which weaker states may draw. But access to it is conditional on commitment to the agenda of existing policy,[20] and the possibility of turning the tap off, even temporarily, becomes a significant way to enforce this agenda. Whereas the Troika enforced its demands directly as conditions for loans, here the mechanism is anticipatory compliance. Clinched in the name of emergency response, the arrangement amounts to a new means by which a pluralised set of executive agents – governments individually and collectively, alongside supranational authorities – can pressurise those that might chart a different course.

Executive discretion, the concentration of power, and innovations that bestow more options for the same in future – these are effects of emergency politics that run contrary to what is often considered the EU's character as a community of law and impersonal administration (Joerges and Kreuder-Sonnen 2017). If the making of modern authority was a project of regularising the exercise of power, transnational orders have often been seen as an extension of that project, even

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18 See Art. 4 of the Council Conclusions: https://www.consilium.europa.eu/media/45109/ 210720-euco-final-conclusions-en.pdf

19 Art. 18.

20 I.e. that anchored by the 'European Semester', as emphasised by Economy Commissioner Gentiloni: https://ec.europa.eu/commission/presscorner/detail/en/speech_20_960.

an effort to preserve it against currents that threaten it. The EU has been cast as thoroughly modern in its attachment to rules and procedures, sometimes to the point of excess. In the age of Covid-19, just as in the crisis politics of the previous decade, one sees a different face emerge in which informality and discretion are key. Even where decisions are taken by those with an electoral mandate, these bear little relation to the reasons for which they were elected, and are pursued in ways that make them hard to contest.

Though undoubtedly more visible today, emergency politics has a place in the longer history of European integration. Some key features of its architecture were born first as a temporary fix. Consider the emergence of the European Council itself in the mid-1970s, a reconfiguration and informalisation of executive power aimed at protecting the core commitments of European integration. Jean Monnet, himself an advocate, cast it as a 'Provisional European Government' that could secure and consolidate integration under crisis conditions – the oil shock of autumn 1973, the international banking crisis of summer of 1974, and a wider economic recession. Rather than a permanent institution, he proposed an interim arrangement that would strengthen the leadership of Europe's executives. The EC's existing structures 'do not meet the need to move quickly and to decide.'[21] Decision-making had become 'too bureaucratic'. The creation of the European Council was an effort to escape procedural constraints and concentrate authority in leaders. From today's perspective, it is tempting to see its formation as part of the logical development of the EU's procedures (it would eventually be incorporated into the Union framework with the Lisbon Treaty). But at the point of its introduction it was extoled as an ad hoc arrangement, one of uncertain duration ('provisional'), and rationalised by appeal to circumstances jeopardising the achievements of European integration. It was an extension of executive discretion, sealed in a context of urgency.

Recent events are thus the continuation and radicalisation of an existing template. While the social and economic implications of Covid-19 are quite different from those of previous crises, the political response they give rise to is familiar. And it is a template in which some observers find positive appeal. There are those for whom executive activism is part of a welcome story to be told of crisis management and political consolidation. The rise of the unbound executive is admired as the rise of an agent that can get things done, more capably than legislatures and lower-tier bureaucracies. The EU's transformations over the 2010s

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21 Cit. in Pascal Fontaine (1979), 'Jean Monnet's role in the birth of the European Council', available at: https://www.cvce.eu/content/publication/2006/12/7/ad29595e-0b0a-49b7-ae65-c41c54344a41/publishable_en.pdf

have been endorsed as its coming of age – an 'emancipation of the executive' that augments its capacity and global standing (van Middelaar 2019, pp.175 – 6).

Yet in the EU, not only is executive power weakly constrained by a democratic process, but the executive forms emerging remain closely tied to defined policy goals, however emancipated from law or procedure they may be. The discretion displayed tends largely to reinforce the existing socio-economic order, with all its attendant inequalities. Existing debt structures are for the most part preserved, and innovations are intended to make them viable. If one is confident of the representative or technocratic capacity of institutions, improvised decisions from within a small circle of elites may be tolerable, but it is harder to defend if policy-making is predisposed to serve certain ends. Moreover, if decision-makers rely on an atmosphere of emergency to get things done, they promote an idea of rule as essentially reactive. The business of governing becomes about responding to demands – something that can influence how authority is met by the wider public.

Anti-Emergency Politics

Detached as executive power may become in these circumstances, it does not go undisturbed. Emergency rule can nourish anti-system politics. Executive exceptionalism fosters a counter-politics in its mirror image, one that builds on themes of collusion, necessity, and the right to disobedience *in extremis*. It is sometimes suggested the Covid-19 crisis has marginalised Europe's right-wing 'populists', depriving them of key messages on migration and welfare. That may be so in the short term, but it is worth observing certain tendencies that play in their favour. Here the links to the EU are currently less pronounced, given the public-health focus and the centrality of states to the most dramatic emergency measures, but it remains vulnerable nonetheless.

One aspect relates to informality. Far-right parties generally define themselves less by opposition to a socio-economic structure than by opposition to national and supranational elites, positioned as figureheads of a corrupted class. The concentration of power and use of unofficial channels in emergency times offers rich material for such accounts. It also cultivates the public desire they feed off to find agents responsible for the management of the crisis. In a context of centralised authorities taking extraordinary measures, there is a natural desire to know who is calling the shots – indeed, to know that someone *is* calling the shots, that even in extreme circumstances there are people in charge. Unmasking the face of power is a task that the EU's critics may be only too happy to take on, and not always to provide reliable answers.

A second aspect relates to how emergency politics is conducted as a politics of necessity, reactive to events as they arise. Authorities adopt far-reaching measures not so much on the grounds that they are intrinsically desirable as that they help ward off a threat (the spread of disease, economic breakdown, etc.). While emergency rule entails frenetic decision-making, its decisions are rationalised as unchosen and unavoidable in substance and timing – a variation of the 'TINA' logic (Seville 2017). It is characterised by heightened executive activity – what one may call *doing* – coupled with heightened disavowals of *agency*, i.e. the capacity to choose freely between options. It is against this reactive mode of governing that many contemporary political groups claiming the mantle of insurgency define themselves. They seek to offer, however dubiously, the promise of agency (White 2019, ch. 6).

An aversion to necessity and 'doing' is one way to understand the slow, dismissive reactions to the Corona-crisis of governments led by such figures as Johnson, Trump or Bolsonaro. They showed clear unwillingness to be forced into an emergency response by the World Health Organization (WHO). Partly one may assume this was materially motivated – a desire to keep economies running and to retain the support of those most invested in them – but it also seems to reflect a political outlook. This entails hostility to technocratic authorities determining for a population what counts as a threat and what actions are needed to counter it. At the personal level, it is expressed in individual reluctance to be told what to do, even outright denial of the threat. At the macro level, it is expressed in politicians and movements taking issue with a governing style they consider acquiescent. 'I want' has apparently been Johnson's verbal expression of choice in this period, in direct contrast to the preference of more centrist politicians for 'we need'.[22] To such leaders, embracing a merely reactive mode of politics would be a capitulation, an expression of weakness, fear, or lack of ambition. There is a democratic impulse here, but taken to a contrarian extreme, emerging as a form of voluntarism. Even where governments led by such figures have ended up imposing lockdowns and other emergency measures, those at the top have sought to convey that they were personally reluctant or opposed.[23]

This is also a way to understand anti-lockdown protests. Opposition to 'tyrannical lockdown'[24] in the name of freedom has been a theme of protests in many countries across Europe and beyond, ones with which far-Right parties

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22 http://www.sussex.ac.uk/broadcast/read/52112#.XtEk5 m7lIz4

23 https://edition.cnn.com/2020/03/23/uk/uk-coronavirus-lockdown-analysis-gbr-intl/index. html

24 https://www.independent.co.uk/news/uk/home-news/coronavirus-lockdown-protests-uk-london-hyde-park-5 g-conspiracy-theories-a9518506.html

have tended to align themselves (e.g. the German AFD[25]). These are not just the efforts of individuals to avoid the constraints imposed on them, but movements intended to dispute the governing response as a whole – on their own terms a form of 'resistance' (*Widerstand2020*) seeking the 'end of the emergency regime'.[26] They emerge from, but go beyond, the reasonable arguments to be had about which emergency measures are justified and for how long. They are the basis of a more general libertarian outlook ('*Anders denken ist kein Fehler, sondern Freiheit!*'), but one whose themes of strength and will give a bridge to fascist thought. The hostile reaction in Britain to the introduction of compulsory mask-wearing in shops was another expression of this attitude.[27] To reject the mask is not just to reject an inconvenience but a perceived emblem of acquiescence, 'mass panic' and emergency rule.[28]

Just as the Euro crisis provided opportunities for parties to emerge denouncing a politics of necessity and no-alternative – Brexit expressed this outlook – so Covid-19 has presented favourable conditions for those who likewise define themselves by their non-conformity. Indeed, when migration is not quite the rallying concern of before, and the role of protecting the nation's security can be claimed by almost any government fighting the pandemic, it is by developing a brand of *anti-emergency* politics that voices on the far Right can seek to maintain their relevance. When all politics is at least nominally about protecting 'the people', so-called populists have to reinvent themselves as champions of something else – of volition in contrast to necessity.

There are historical analogies for these currents. The emergence of libertarian ideas has often been associated with opposition to state-building efforts in response to emergency situations. Royal absolutism in seventeenth-century England and eighteenth-century France was typically pursued in the context of war or civil war and rationalised in terms of the provision of security, and it spawned counter-movements like the Levellers or the American revolutionaries who defined themselves by their opposition to expansions of prerogative. Negative liberty as an ideal emerged in these settings (Bailyn 1992). In the twentieth century, Roosevelt's New Deal – promoted in response to the economic state of emergen-

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25 https://www.euractiv.com/section/coronavirus/news/anti-lockdown-protests-in-germany-in
filtrated-by-far-right-extremists/; https://www.politico.eu/article/german-coronavirus-deniers-protest-test-angela-merkel-government/
26 https://www.deutschlandfunk.de/covid-19-wie-widerstand-2020-die-corona-krise-in-frage.
1939.de.html?drn:news_id=1137796
27 https://www.telegraph.co.uk/opinion/2020/07/12/face-masks-should-not-made-compulsory/
28 https://www.deutschlandfunk.de/covid-19-wie-widerstand-2020-die-corona-krise-in-frage.
1939.de.html?drn:news_id=1137796

cy presented by the Great Depression – likewise encountered a libertarian critique. There can be a rational aspect to such critiques, corresponding to how crisis situations can be exploited by elites. But it is an attitude that easily becomes negativistic – an instinctive hostility to whatever is instituted in the name of necessity. In this sense it can be no less reactive than the emergency politics it denounces.

An obvious concern is that this voluntarist outlook is difficult to sate. Insofar as populists in power find themselves implementing the policies they had previously opposed, they create the conditions for second-wave movements more trenchant in their critique. For the left, the appropriate lesson cannot be to dismiss this outlook outright, but to try and harness it to a substantive programme. A progressive politics needs policies its adherents can defend on principled grounds rather than as responses to necessity; it needs its own promise of agency, more credible than that of the right. For the EU meanwhile, the lesson is cautionary. For as long as the emergency measures in focus are public-health ones, the EU may spared much of the critical attention – so far, the WHO is the main transnational entity to have been drawn into critique and conspiratorial thinking. But this is unlikely to remain true as the social and economic consequences of the pandemic start to loom larger than the disease itself.

Beyond Emergency Europe?

What then of the EU's future? There has been much optimism in this period about the prospect of a major advance in its functionality and legitimacy. The creation of new structures of emergency financing have been widely heralded as ways to alleviate the inequalities accentuated by the crisis, also to address disillusionment with the EU's initial response. There is the sense once more that the EU prospers in a crisis, indeed that this time especially it has risen to the occasion. After the abortive efforts of the early 2000s, the missed opportunities of the 2010s, and with the new opportunities afforded by Brexit, is the EU being forged anew in the shadow of Covid-19?

Given the uncertainty concerning how far into the pandemic we are, it is clearly too soon to know. But as a long-term observation, if one accepts the preceding remarks about *anti-emergency* politics, the EU's prospects would seem to depend on distancing it from this governing mode. Shifts in policy would be part of this, away from a socio-economic model that weakens political authority and leaves it resorting to emergency interventions in times of difficulty. But it would also be about changing the way decisions get made and justified. If supranational executive power is associated mainly with actions in the service of necessity,

the merits of particular policies will count for only so much. Here the current discourse is unpromising. One hears a lot about building 'resilience' and 'crisis preparedness',[29] but the concepts reproduce a reactive model of governing based on adapting to emergencies-to-come.

Giving the EU enhanced emergency powers to deal with future challenges clearly has an intuitive ring. Many may feel the lesson of recent events is that supranational and intergovernmental institutions need the capacity to act more decisively in exceptional moments (for a cautious defence after the Euro crisis: Tucker 2018). Such powers would presumably enable a quicker, more predictable response. But there are reasons to be wary, partly given the problems of accelerated decision-making generally (Scheuerman 2004), but also given the nature of the EU today. Since, as we have observed, EU authority is closely tied to predefined goals – notably the stability of the Eurozone and the single market – the discretion displayed by officials in crisis politics tends to be aligned with these things. Understandable as this may be given their mandate, it is not a desirable basis for expanded powers. Bolting these onto the EU in its present guise would simply entrench its existing priorities, given such powers would be deployed in their service. Value disagreements would be marginalised further, just when they need to be recognised. What counts as an emergency depends on what parts of the status quo one wants to preserve: these issues need to be contested. Until a democratisation of the process by which EU priorities are set and enacted, stronger emergency powers would most likely just lock in the existing settlement.

A more fundamental refoundation – an EU *constitutional moment* – would seem an important prelude to any bolstering of its crisis capacities. For all the talk in summer 2020 of a 'Hamiltonian moment'[30] that sees economic resources pooled at a European level, such a step does little to address the political questions key to the EU's future – the contestability of the policies it is committed to, and the structure of its decision-making. On the latter, it is Hamilton the constitutional thinker who is the more relevant guide. For him, the key challenge in a federation was to simplify institutional arrangements so as to constrain executive power without neutering its capacity to act. '[T]he plurality of the executive tends to deprive the people of the two greatest securities they can have for the faithful exercise of any delegated power, *first*, the restraints of public opinion, which lose their efficacy, as well on account of the division of the censure attendant on bad measures among a number as on account of the uncertainty on whom

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29 https://ec.europa.eu/commission/presscorner/detail/en/ip_20_940
30 https://www.zeit.de/2020/22/olaf-scholz-europaeische-union-reform-vereinigte-staaten

it ought to fall; and, *second*, the opportunity of discovering with facility and clearness the misconduct of the persons they trust, in order either to their removal from office or to the actual punishment in cases which admit of it' (Hamilton et al, 1787 / 2008). Important was to create orderly hierarchies of authority so that power was not claimed chaotically and opaquely in times of crisis.

Such arguments seem all the more pertinent transnationally, given the range of executive agents spanning the national and supranational spheres. Even if, as modern democrats, we may be more sceptical than Hamilton towards placing executive power in the hands of the few, there would seem great merit in institutional simplification and codification. A more integrated transnational executive embedded in institutions of transnational democracy has much to recommend it. It would be less prone to informality and the ad hoc concentration of power. It would be better equipped to change its economic priorities in line with changing circumstances and public opinion, inviting a more organised contestation of the direction of policy. Less dependence on state-based legitimacy claims would mean less reliance on convoluted and opaque negotiations. To the extent that a transnational executive still lapsed into arbitrary or unresponsive methods, it would be a more visible target of critique. As Hamilton argued, the attribution of responsibility would be improved.

It would be too pessimistic to exclude genuine reform as an outcome of the present, but clearly these are difficult outcomes to achieve. Even the smallest first step – tying for instance the composition of the Commission more closely to European-Parliamentary elections (Lacey 2017, pp.221–3) – currently seems a challenging prospect, and one for which there is little support. There is a basic transition problem to contend with. On the one hand, crisis moments are when the need for change can seem strongest. They represent opportunities for constitutional overhaul, since there is typically greater will to innovate. On the other hand, it is exactly in such moments that new initiatives should be viewed with caution. Actions taken in extreme situations carry something like an 'original sin'. Measures are chosen for their effectiveness against the problems of the moment, which will often mean excluding procedural constraints as things that might derail them or retard their success. They are advanced by executive power at the moment when it is most detached from democratic controls. Moreover, when emergency measures are advanced on a transnational scale, they are especially hard for publics to scrutinise in real time, and hard to reverse afterwards given the many actors involved. Here the challenges of exceptionalism are writ large.

If the EU is to be meaningfully remade, it is more likely to be by those at the political margins than those who held power as the crisis erupted. The EU's latest round of emergency politics should not be mistaken for a constitutional ad-

vance, but perhaps it will foster the agency that can press for one. One thing states of emergency reveal is the malleability of the political order. Even temporary measures and suspensions show that things could be different, that arrangements are not set in stone. Just as it can spark reactionary mobilisations, might the present situation spark a left-wing internationalism? No movement of stature has so far emerged, but the conditions are not wholly unsuited. We do not know where in the story we are; the 2020s are only beginning.

Conclusion

Faced with the remarkable events set off by Covid-19, it is tempting to emphasise the uniqueness of the situation. As Adam Tooze put it in summer 2020, 'my impulse isn't to tell you that we've seen all this before; it's to say we ain't seen nothing yet.'[31] History as a chain of extraordinary occurrences, each singular and resistant to comparison – 'one unbelievable, intellectually indigestible shock after another', in his words – is one way to picture the recent past, and perhaps the perspective most alert to what is new in each crisis episode. Europe's unfolding experiences can plausibly be told in these terms, giving March 2020 the status of a watershed.

But equally there are important continuities in the logic and practice of rule from the 2010s through to the present. While the challenges faced have been markedly different, some key tendencies in governance and its critique have consolidated. A transnational form of emergency politics has taken shape in Europe, combining some of the familiar patterns and problems of domestic exceptionalism with others distinctive to this setting. To be sure, the social effects of COVID-19 threaten to dwarf those of the preceding years, occurring as they do against the backdrop of an existing crisis of western capitalism. Big change is surely coming. But in the way that it has been governed so far, this crisis resembles much that has recently gone before, while much done in its name aims to bolster the pre-crisis order. How far that will be possible remains to be seen.

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31 https://nymag.com/intelligencer/2020/08/adam-tooze-how-will-the-covid-19-pandemic-change-world-history.html

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