



Nuovi Autoritarismi e Democrazie:
Diritto, Istituzioni, Società

Populism and *Katékon*. The Two Souls of the Schmittian State

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Abstract

In the past decade, populist movements have vindicated another form of democracy that, from the perspective of constitutional law, is rooted in the claim of identity rather than representation. This has also resulted in a general rejection of the political and legal forms that are at the basis of the liberal constitutional form of government. However, the state as a system of rules that enables order – a *nomos* – has not been questioned and it still performs its function of emancipator and restrainer. Carl Schmitt seems to have best synthesized these two concepts by resorting, on the one hand, to the concept of identitarian democracy, a type of democracy based on the identity between rulers and ruled, and, on the other hand, to the *Katékon*, the form of political power that prevents the eruption of chaos. It is where these two elements meet that a bi-dimensional framework for political action, based on time and space, emerges.

Keywords: Populism – Identity – Democracy – *Katékon* — State.

CONTENTS: 1. Introduction. 2. Clarifying the concept: the Populism. 3. Populism and Schmitt's Identitarian Democracy. 4. On Government of Men and Angels. 5. Approaching the *Katékon*. 6. The teleological horizon of the *Katékon*. 7. Conclusions.

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1. Introduction

This article aims to offer a constitutional law interpretation of the nature of populism and its counter-force, based on Carl Schmitt's elaboration on the matter. The vague nature of populism, its characteristics, critical points, and limits, might be better understood through the prism of his works on democracy and the state. Interestingly, Carl Schmitt might be considered both as the herald of populism, for coining the concept of identitarian democracy, and as the framer of the state capable of resisting populism, as drawing upon the notion of *Katékón*.

The first connection – Schmitt as a forerunner of populism – is, of course, rather obvious. Schmitt's conception of democracy, based on the identity rule between rulers and ruled, is well known, and stems from one of his most famous works¹. This identitarian conception of democracy has been held as a viable alternative democratic paradigm to that of liberal, pluralistic, constitutional, and parliamentary democracy². Its influence was felt far beyond the academic world³.

Together with other Schmittian legal categories – the state of exception, the friend/foe distinction, the geo-political space and the existential legal order –, be they inventions or re-elaborations, the concept of identitarian democracy has been acclaimed for his profundity but has nevertheless not been well received; particularly it has been held to be the evil twin of democracy itself⁴. Then, it comes as no surprise that, with the rise of populist movements in the 2010's, Schmitt's works saw a substantial revival and he is now considered one of the sinister fathers – be it the most sophisticated one – of this political trend⁵.

The second connection – Schmitt's elaboration on the *Katékón*, the force which prevents the fragmentation of the order – is, by contrast, much more controversial. The notion of the *Katékón* is pretty obscure, because of both the content of the notion itself, which is grounded in theology, and the author's interpretation, which is rather evanescent. Moreover, Schmitt addressed this legal concept in less known and more fragmented texts, and it has been generally labeled as shorthand for an amalgam of his anti-modernism and anti-positivism.

However, I do believe that this evasive concept could be utilized in order to gain a better understanding of the Schmittian concept of the legal order, and to find a better contextualization of the relationship between democracy and the state.

¹ C. Schmitt, *The Crisis of Parliamentary Democracy* (E. Kennedy ed. transl.), The MIT Press, Cambridge, 2000.

² C. Schmitt, *Political Theology. Four Chapters on the Concept of Sovereignty* (G. Schwab ed. transl.), The MIT Press, Cambridge, 2005; *Political Romanticism* (G. Oakes ed. transl.), The MIT Press, Cambridge, 1986; *Theory of Partisan* (G. Ulmen ed. transl.), Telos Press, New York, 2007.

³ As Muller puts it «thought on Schmitt was safely contained within the universities. Yet Schmittian thought was not». See J-W. Muller, *A Dangerous Mind: Carl Schmitt in Post-War European Thought*, Yale University Press, Yale, 2013, p. 206.

⁴ K. Kovacs, *Parliamentary Democracy by Default: Applying the European Convention on Human Rights to Presidential Elections and Referendums*, in *Ius Cogens*, No. 2, 2020.

⁵ D. Kelly, *Carl Schmitt's Political Theory of Dictatorship*, in J. Meierhenrich, O. Simons (eds.), *The Oxford Handbook of Carl Schmitt*, Oxford University Press, Oxford, 2017; L. Vinx, *The Incoherence of Strong Popular Sovereignty*, in *International Journal of Constitutional Law*, Vol. 11 No. 1, 2013.

The resulting framework forms part of the oscillation that Schmitt experienced between the radical impulses of identitarian democracy and the conservative structure of the *Katékón* in a restless movement in search of a synthesis⁶. The complexity of Schmitt's legal thought then appears as a viable tool for analyzing the current wave of populism in politics and, at the same time, the resilience of the notion of the state as emancipator and restrainer of powers⁷.

2. Clarifying the concept: The Populism

It must first be established what exactly constitutes the concept of populism. The literature, political and legal, on this topic has become overwhelming in just one decade⁸. My tentative definition relates to a constitutional law understanding of the term and to its connection with democracy and the state, both of which are at the core of this article.

The notion was first used to describe the trend of late XIX century Russian intellectuals who were seeking a connection with the people and attempted better to understand their way of living⁹. The notion of populism had a nationalistic tone from its inception, since in Russia this movement had a clear pan-Slavic ethnic and religious connotation, as opposed to the socio-political trend that saw in approaching the Western world the ultimate destiny of the country¹⁰. Populism was therefore an intellectual and cultural movement. It was led by élites, who, different from other élites¹¹, were looking – or thought they were looking – at the real people. Those who were detached from artificial constructs such legislative assemblies and opinion circles, living with their authentic needs and customs. In the populists' view, such organic mass of human experience should have inspired the external and internal political action of the Russian Empire.

Modern populism, despite the different circumstances and the development over the past century of human institutions such as democracy, still has the same structure and

⁶ G. Balakrishnan, *The Enemy: An Intellectual Portrait of Carl Schmitt*, Verso Books, London, 2000, p. 221.

⁷ C. Schmitt, *Sound State and Strong Economy* (R. Cristi ed. transl.), in R. Cristi, *Carl Schmitt and Authoritarian Liberalism*, University of Wales Press, Cardiff, 1998.

⁸ Among the many: S. Hardt, A.W. Heringa, T. Nguyen, *Populism and Democracy*, Eleven International Publishing, De Haag, 2020; G. L. Neuman, *Human Rights in a Time of Populism*, Cambridge University Press, Cambridge, 2020; F. Bignami (ed.), *EU Law in Populist Times: Crises and Prospects*, Cambridge University Press, Cambridge, 2019; M. Revelli, *The New Populism*, Verso Books, New York, 2019; E. Roger, G. Matthew (eds.), *National Populism: The Revolt against Liberal Democracy*, Pelican, London, 2018; C. Mudde, C. R. Kaltwesser (eds.), *Populism: A Very Short Introduction*, Oxford University Press, Oxford, 2017; J-W. Müller, *What is Populism?*, University of Pennsylvania Press, Philadelphia, 2016; C. De La Torre, *The Promise and Perils of Populism: A Global Perspective*, University of Kentucky Press, Lexington, 2015; D. Albertazzi, D. McDonnell (eds.), *Twenty-First Century Populism. The Spectre of Western European Democracy*, London, Palgrave Macmillan, 2008; F. Panizza, *Populism and the Mirror of Democracy*, Verso Books, New York, 2005; P. Taggart, *Populism. Concepts in the Social Sciences*, Open University Press, London, 2000.

⁹ The original American populism emerged in the same years and, similarly, was centered around the discontent of American farmers in the West and in the South *vis-à-vis* the 'plutocrats' and 'aristocrats' in Washington and who looked for another type of government which might overcome the pitfalls of representative democracy, see N. Pollack, *The Populist Mind*, Bobbs-Merrill, Indianapolis, 1967, p. 337.

¹⁰ L. Canfora, *Gramsci in carcere e il fascismo*, Salerno Editore, Roma, 2012.

¹¹ L. Canfora, *Il mondo di Atene*, Editore Laterza, Roma, 2018.

objectives: culturally, to live organically with the people when they work, live and express themselves, taking distances from cultural élites.

For this reason, populism might be described as a moralized approach to politics that praises a homogeneous group of people against a corrupt elite and minorities that cannot be part of such an undifferentiated collectivity¹². From a legal-political perspective, populism has the aim of removing politicians and other intermediaries – élites again – who stand between the people and power, and of relying only on the will of the people in order to decide what course of action the state should take. The cultural perspective clearly has significant implications for the legal-political one, and the other way around. It is not negligible, for instance, that populism rejects the inclusive, but elitist, political language known as ‘political correctness’. By rejecting this specific political language, as opposed to the common one, populism appears as the political form that aims to bridge together rulers and ruled under the paradigm of identity. This seems to be the very core of the populist claim: that rulers and ruled are the same, that any distinction between them in terms of status (class, power, wealth, but also language, education, background) and actions (language again, but also values, lifestyle, feelings, behaviors) must be rejected¹³. Not surprisingly, this is the same claim, at large, of democracy¹⁴.

Populism, in fact, emanated from the promise of democracy itself: mainly, that is the people who should rule. Even in the most restrained and limited conceptions of democracy, and in their concrete applications, it is the people’s will who rules, or should rule, no matter how it might look¹⁵. But while democracy implies a relation between the rulers and the ruled in terms of identity, populism goes even further by interpreting this (necessary) identity in terms of immediate presence.

Generally, in a democracy, only conditioned powers are allowed to exist: the sovereign – that it is inevitably the people in a democratic regime – must always remain absent from the sphere of politics¹⁶.

Since sovereign power is not immanent to the political community but rather transcends it, it must be represented. According to populists, however, the people are a present, living constituent power, the only one that possesses sovereignty. Following this

¹² The hereby research on populism is theoretical and not empirical – and non-evaluative too –, and therefore it does not investigate whether the populist movement or regimes actually pursue the goals they believe in or claim to believe in. Regarding the opportunistic and power-grapping approach of populism see G. Halmai, *Populism, Authoritarianism and Constitutionalism*, in *German Law Journal*, Vol. 20 No. 3, 2019, p. 296; K.L. Scheppele, *The Opportunism of Populist and the Defense of Constitutional Liberalism*, in *German Law Journal*, Vol. 20 No. 3, 2019, p. 314.

¹³ It is not a random choice that exactly in populist movements is popular the ideal of binding instructions to the parliament by the electors (as well as other tools such as prohibition of more than two legislatures for parliament members, direct consultation with the people for taking political decisions, decrease of parliamentary salary, prohibition of party public financing and so on): they are all consequences of the paradigm of identity between rulers and ruled.

¹⁴ L. Corrias, *Populism in a Constitutional Key: Constituent Power, Popular Sovereignty and Constitutional Identity*, in *European Constitutional Law Review*, Vol. 12 No. 1, 2016, p. 6.

¹⁵ According to Bobbio populism arises from the broken promises of democracy: that the people truly never rule. See N. Bobbio, *Saggi sulla scienza politica in Italia*, Laterza, Bari, 1969.

¹⁶ E.W. Böckenförde, *The Constituent Power of the People. A Liminal Concept of Constitutional Law*, in M. Kunkler (ed.), *Ernst-Wolfgang Böckenförde, Constitutional and Political Theory. Selected Writings*, Oxford University Press, Oxford, 2017; A.J. Jacobson, B. Schlink (eds.), *Weimar. A Jurisprudence of Crisis*, University of California Press, Berkley, 2000.

populist line of thought, then, political institutions that mediate, dilute and fragment this conception of sovereignty should be removed. In fact, in the populist understanding, there are no institutions; there are only the people¹⁷.

Populism then institutionalizes the undetermined character of the people: not the people in general are sovereign, but the current people, who exist here and now. It is an immanentization of the ideal of popular sovereignty: the sovereign – the people – is contingent and immediate. This cult of immediacy conveys the omnipresence of the ruler whose power cannot be mediated by parliamentary deliberations, political agreements or media communications, which, as *mediators*, all breach the identity between rulers and ruled and therefore do not fit in the populist equation of the sovereign-the people¹⁸.

This explains why so many populists are inimical to, or at least skeptical of, human rights. Human rights prevent political groups from arrogating sovereignty by ensuring that the sovereign cannot be identified with any particular interest advocated in society: they embody the distinction between transcendence and immanence of political power. The human rights mediation determines a political community where the individual does not have to directly confront the generality, whereas for populists, the identity between the rulers and the ruled demands the full concentration of the generality *vis-à-vis* an individual¹⁹. For populists, minorities are not welcome either, since they do not fit the identity paradigm. In their view, they can still exist but they are not entitled to any particular legal entitlement or protection. Consequently, populist regimes have a tendency to repudiate norms of tolerance and openness, and attack institutional checks and balances that protect such minorities²⁰.

¹⁷ R. Howse, *Epilogue: In Defense of Disruptive Democracy. A Critique of Anti-populism*, in *International Journal of Constitutional Law*, Vol. 17 No. 2, 2019, p. 653.

¹⁸ There has been a significant proliferation of academic definitions of the populist claim to represent the people and then the only legitimate public power: *Constitutionalism Capture* (J.W. Muller); *Constitutional Regression* (T. Ginsburg); *Constitutional Populism* (G. Halmai); *Constitutional Riot* (J. Balkin); *Abusive Constitutionalism* (D. Landau); *Authoritarian Constitutionalism* (M. Tushnet); *Stealth Authoritarianism* (O. Varol); *Autocratic Legalism* (K.L. Scheppele); *Democratic Backsliding* (N. Bermeo); *Democracy Decay* (T. Daly). Despite their differences in names and contents, all these reflections point out that populist movements have a tendency to occupy the space above the law (the constitutional level) by presenting the people as a permanent constituent power; that their political action is mostly exercised in an authoritarian style, with little respect for legal and institutional rules; that their understanding of democracy is anti-pluralist and anti-liberal, in a world, identitarian.

¹⁹ M. Canovan, *Taking Politics to the People: Populism as the Ideology of Democracy*, in Y. Meny, Y. Surel (eds.), *Democracies and the Populist Challenge*, Palgrave, London, 2002, p. 25; P. Taggart, *Populism and the Pathology of Representative Politics*, in Y. Meny, Y. Surel (eds.), *Democracies and the Populist Challenge*, cit., p. 62; M. Canovan, *Trust the People! Populism and the Two Faces of Democracy*, in *Political Studies*, Vol. 47 No. 1, 1999, p. 2; N. Urbinati, *Democracy and Populism*, in *Constellations*, Vol. 5 No. 1, 1998, p. 110.

²⁰ In the wake of World War II liberal constitutionalism emerged as a default architectural choice for political systems across Europe and North America, and then spread out around the world. This type of government setting generally provides for a written constitution that enumerates individual rights, the existence of a rights-based judicial review, a high threshold for constitutional amendments, a commitment to periodic democratic elections, a system of checks and balances and fidelity to the rule of law. In a word dominated by limited-liberal democracy by a structural purview and constitutionalism-liberalism by a content purview, populism represents an illiberal democratic response to an undemocratic liberal framework. Populism is always anti-liberalism, as a moralized form of anti-liberalism: it rejects liberalism both in economic and political sense.

Populism, generally, does not demand the suppression of the whole system of separation of powers, but rather calls for their rebalancing: if legislation is *deliberare* and the executive is *agere*²¹, they generally favor the executive over the legislative branch of government, the latter of which they blame for its complex procedure but not for the function it expresses²². The branch of government that populists are most critical of is the judiciary. This is because of its adjudicative function, which may obstruct the legislative and executive branches in their functioning (then addressing both constitutional and ordinary courts). Another reason is the judiciary non-democratic nature, which does not fit with the sovereign-people equation²³.

3. *Populism and Schmitt's Identitarian Democracy*

In this article, I argue that there are clear links between populism, as briefly described above, and Schmitt's notion of democracy. Even though he was not the strongest proponent of democracy, Schmitt did believe that after the First World War, democracy was the only legitimate source of power for a political entity. According to him, "the dominant concept of legitimacy is in fact democratic"²⁴.

For Schmitt, democracy has to be understood as an attempt to establish an identity between the rulers and the ruled, the government and the governed, and the state and the people in the search of homogeneity in and of the community²⁵. In his full acceptance of the democratic regime, he believed such an identitarian regime was more consistent and integral to the concept of democracy than the liberal-constitutional state that restricted the democratic power by enacting anti-majoritarian institutions.

In fact, Schmitt noted that two different forms of power might establish and maintain a state: representation and identity. To him, representation was a discursive, inter-subjective, fundamentally elective and artificial form of power. Against it, he expressed his preference for the identity form, which he considered more genuine; and where the full identity between the rulers and the ruled – such as in Ancient Athens – was not possible, the identification of the ruled with the rulers would have still been an acceptable form. This was connected to Schmitt's idea of a monolithic and not pluralistic democracy, with its people at its basis, idealized in one substantial each other's oneness called homogeneity. Since he imagined the people to be homogeneous and considered democratic power to be the only legitimate source of power, there could not be any representation, dilution or delegation of power, but only the pure expression of that power through acclamation and referenda. In particular, the people «can only engage in acts of acclamation, vote, say yes or no to questions» as posed to them from above²⁶. As such, the people «cannot counsel, deliberate, or discuss»²⁷.

²¹ S. Issacharoff, *The Corruption of Popular Sovereignty*, in *International Journal of Constitutional Law*, Vol 18 No. 4, 2020, p. 1109.

²² J.W. Muller, *The People must be Extracted from within The People*, in *Constellations*, Vol. 21 No. 4, 2014, p. 483.

²³ C. Mudde, C.R. Kaltwesser (eds.), *Populism: a Very Short Introduction*, Oxford University Press, Oxford, 2017, p. 116.

²⁴ C. Schmitt, *The Crisis of Parliamentary Democracy*, cit., p. 21.

²⁵ *Idem*, p. 24.

²⁶ C. Schmitt, *Constitutional Theory* (J. Seitzer ed. transl.), Duke University Press, Durham, 2008, p. 34.

²⁷ C. Schmitt, *Legality and Legitimacy* (J. Seitzer ed. transl.), Duke University Press, Durham, 2004, p. 93.

Schmitt's conception of democracy is therefore against the ideal of a deliberative parliament, where public opinion would be able to crystalize and guide state action. In fact, he questioned the whole ideal of a rational public opinion that should agree to the best or most truthful arguments rather than to power, will or interest-based demands. Schmitt rejected this: he argued, «the essence of political life is to be understood as a pure decision not based on reason and discussion [...] an absolute decision created out of nothingness»²⁸.

Therefore, tools for creating, debating, and circulating ideas are, in Schmitt's view, not essential, nor are the corollary rights of freedom of opinion, speech, press and manifestation. Such freedoms are not so important as they are in a representative democracy: the whole system of freedom of speech, assembly, the press, the public meeting, parliamentary immunities, and privileges presupposed a deliberative vision of parliamentary practice²⁹. Most of these rights were protected on the basis of their contribution to parliamentary debate that is not relevant in the Schmittian identitarian democracy. Because the people are homogeneous, there is no need for a melting pot of different opinions; since there are no delegated powers, there is no need for a free press which checks and controls abuses; there is no point for representation, because there is only will. Individuals do not need to form their own ideas because the people's own ideas are internal: paraphrasing St. Augustine, *in interiore populi habitat veritas*.

This political form may as well imply the necessity of marginalization of minorities that fall outside the identity paradigm on which democracy rests. In contrast to representative democracy, identitarian democracy embraces intense, life-threatening crises where minorities are expelled from the collective body of the people by making the people even truer to themselves and keeping their homogeneity intact³⁰.

4. On Government of Men and Angels

Populism nowadays finds in Schmitt's identitarian democracy a viable model: both populism and identitarian democracy aim at substituting the relationship of trust between rulers and ruled, which characterizes representative democracy, with the one of identity. In particular, they equally contrast the concept and implications of accountability that is at the basis of representative democracy. The emphasis on accountability values that is inherent to representative democracy emanates, more intimately, from the pessimistic conception of human nature.

Accordingly, men, especially politicians, are not angels and so they must be bound as much as possible³¹. It is on this pessimistic conception of human nature that the modern tradition of representative democracy was built on³².

²⁸ C. Schmitt, *Political Theology. Four Chapters on the Concept of Sovereignty*, cit., p. 28.

²⁹ B. Scheuerman, *Is Parliamentarism in Crisis? A Response to Carl Schmitt*, in *Theory and Society*, Vol. 24 No. 1, 1995; W.E. Scheuerman, *Carl Schmitt's Critique of Liberal Constitutionalism*, in *The Review of Politics*, Vol. 58 No. 2, 1996.

³⁰ C. Schmitt, *The Crisis of Parliamentary Democracy*, cit., p. 9.

³¹ L. Miotto, *From Angels to Humans: Law, Coercion, and the Society of Angels Thought Experiment*, in *Law and Philosophy*, 2020, p. 2.

³² M. Oakshott, *The Politics of Faith and the Politics of Skepticism*, Yale University Press, New Haven, 1996, p. 21.

Accordingly, the existence of democracy and public power is nothing more than the second best – or the least worst – option in government of men. As stated by Madison³³, if men were angels, no government would be necessary (and therefore no democracy would be needed). Considering the human nature, however, a government must exist, because men are evil, and incapable of doing well by themselves. The least bad option is therefore to have a (democratic) government, whose powers have been constrained and slowed-down, and that is least intrusive as possible in human affairs. This because, following Madison, the government itself is the greatest of all reflections on and of human nature, and therefore, is evil per se³⁴. If we had to govern angels, neither external nor internal controls on government would be necessary. But because of men, there must be a government, and such a government must be bound, limited and representative.

Bound, in order to prevent the rulers to do excessive harm to the ruled by abusing the powers given to the former by the latter; limited, because it is still preferable to have the harm done by men in their individual capacity rather than through the means of government, or at least, this will reduce the harm done to property owners; and representative, because the better and wealthier men would be the most apt to use public power and resist its temptations. Populism might accept this pessimistic understanding of human nature, and even the necessity though not desirability of government, but it comes to different conclusions: because men are bad, especially politicians, it is better to extract them from the people, who instead are inherently good, every time it is not possible to have the people directly ruling themselves. The most natural and immediate way to make sure that rulers do not betray or neglect the ruled, populists argue, is the bring them under the paradigm of identity. The concept of identity imposes a form of accountability on politicians in terms of deprivation of a specific political language, a margin of political appreciation and any long-term strategy that could not be immediately appreciated and approved by the people.

5. *Approaching the Katékon*

As established thus far, Schmitt seems to be the most relevant constitutional law scholar in the field of populism; no other scholar has expressed so clearly, in terms of identitarian democracy, the aspirations and the structure of populism, and its anchorage to democracy itself.

However, Schmitt is also the legal thinker of a structured and complex state, based on legal rules, even if mostly of existentialistic type, that seems at odds with the populist idea³⁵. Moreover, Schmitt never adhered to a Soviet-style nihilistic conception of the law, nor to a *volkisch* palingenesis of the law in name of the people pure will³⁶. Certainly,

³³ A. Hamilton, J. Madison, J. Jay, *The Federalist Papers* (C. Rossiter, C. R. Kesler eds.), Signet Classics, New York, 2003, p. 322.

³⁴ Schmitt linked atheism and skepticism to the government “For [Dostoyevsky’s] basically anarchistic (and thereby, also, atheistic) instincts, every political power was something wicked and inhuman”, C. Schmitt, *Römischer Katholizismus und Politische Form*, Klett-Cotta, Köln, 1925, p. 54.

³⁵ Muller describes Schmitt’s constitutional theory as «a brilliant conservative effort in deconstructing and containing mass democracy». See J-W. Muller, *A Dangerous Mind: Carl Schmitt in Post-War European Thought*, cit., p. 31.

³⁶ R. Sharlet, *Stalinism and Soviet Legal Culture*, in R.C. Tucker (ed.), *Stalinism: Essays In Historical Interpretation*, Routledge, London, 1977, pp. 158-160.

Schmitt was never wholly detached from the German tradition of thinking about the legal nature of the state³⁷. For him, the state was inextricably linked to the law: it is an institution created and constituted by rules, which are the way to explicate sovereignty at its basis³⁸. The Schmittian state, therefore, is mostly a *nomos*.

What role has the state in the Schmittian identitarian democracy framework? It seems that the state has both emancipatory and restraining functions: liberating the energies of democracy by taking political-existential decisions, but also restraining its inherently disruptive force. As such, the Schmittian state is created through a decision, temporally contingent, and does not allow any other conflicting decision during its lifetime: there shall be no other state as long as there is such a state.

The state is therefore made of a continuous and internal democratic struggle: resorting to another Schmittian concept, it lives in a permanent state of exception. This perpetual tension, which Schmitt accepts as an inherent element of politics, especially in democracies, makes the state live in a peculiar condition: it cannot ever rest in peace. By never being at peace, the state prevents the *bellum omnium contra omnes*³⁹ by ensuring a form of political order wherein everyone gives back his original (unlimited) power on the world to the state, sublimating the inter-subjective conflicts into a higher, political dimension⁴⁰.

Because individuals living in it have to mediate with it, compromise with it and deal with it, the state takes up the role of the great mediator, where the continual democratic struggle takes place within its framework and boundaries. The state is therefore the creator and guardian of the mundane peace⁴¹. The political form of the state dilutes then the natural violence of democracy throughout the principle of representation of political instances, diverging from the populist principle of mere identity⁴².

To understand the nature of such a state and its function in Schmitt's thought, as well as its relationship with the ideal of identitarian democracy, it may be useful to refer to the theological concept of *Katékon*⁴³, the temporal power that withholds the appearance of the Antichrist⁴⁴. Schmitt has referred to and re-interpreted this concept from a constitutional law perspective, in line with the classic authors⁴⁵, describing the *Katékon*

³⁷ R. Howse, *Europe and the New World Order*, in *Leiden Journal of International Law*, Vol. 19 No. 1, 2006.

³⁸ N. Bhuta, *The Mystery of the State. State Concept, State Theory and State Making in Schmitt and Oakeshott*; M. Loughlin, *Nomos*; L. Vinx, *Carl Schmitt's Defence of Sovereignty*, in D. Dyzenhaus, T. Poole (eds.), *Law, Liberty and State: Oakeshott, Hayek and Schmitt on the Rule of Law*, Cambridge University Press, Cambridge, 2015.

³⁹ N. Bobbio, *Democracy and the International System*, in D. Archibugi, D. Held (eds.), *Cosmopolitan Democracy: An Agenda for a New World Order*, Polity, Cambridge, 1995, p. 17.

⁴⁰ Schmitt believes then that Hobbes wrote *Leviathan* as a form of political action in an attempt to counteract the anarchy brought about by the religious fanaticism and sectarianism that destroyed the Commonwealth during the Puritan Revolution.

⁴¹ C. Schmitt, *The Leviathan in the State Theory of Thomas Hobbes: Meaning and Failure of a Political Symbol* (G. Schwab, E. Hilfstein eds. transl.), University of Chicago Press, Chicago, 2008.

⁴² C. Schmitt, *The Leviathan in Political Theory of Thomas Hobbes* (G. Schwab ed. transl.), Greenwood Press, Westport, 1996.

⁴³ M. Cacciari, *Il Potere che frena*, Milano, Adelphi, 2013; M. Maraviglia, *La penultima guerra. Il Katékxon nella dottrina dell'ordine politico di Carl Schmitt*, Edizioni Universitarie, Napoli, 2006; M. Nicoletti, *Trascendenza e Potere. La teologia politica di Carl Schmitt*, Morcelliana, Brescia, 1990.

⁴⁴ 2 Ts 2, 1-12 (2,7)

⁴⁵ Tertullian, *Apology XXXII*, 1: "And it is this, that we are of opinion that the conflagration of the universe

as the political form that prevents the dissolution of the existing order. For him, the lawlessness and the absence of order represented the realm of the Antichrist: by contrast, a legal order was a concrete historical force that upheld the maintenance of truth through the tireless efforts of mankind.

The first appearance of the concept of *Katékon* dates back to two lesser-known works *Land und Meer* and *Beschleuniger wider Willen*⁴⁶. Both were written twenty years later the works on identity and democracy, in a very different context, where Schmitt's concern was no longer how to exploit the energies of the will of the people *vis-à-vis* the constraints imposed by alien forces – such as the Treaty of Versailles – but rather how to frame a restraint against the disruptive forces that wanted to annihilate and eradicate the past in the name of a new world order, such as the United States and the Soviet Union. Later, in *Nomos of the Earth* Schmitt comes back to the *Katékon*, giving it a full account within his political theology, as a historical concept that preserves the monolith of Christianity and holds back the end of history⁴⁷.

For him, the *Katékon* is indeed a given concrete political power acting in the world, which arrests the explosion of chaos and, as such, is a necessary element of Christian theology⁴⁸. Interestingly, Schmitt describes the *Katékon* not only as a restraining and preventing force, but also transformative power that safeguards what it destroys, enacting a new form of what was once old, like the German-Roman Empire and the Catholic Church did in the Middle Ages with regard to the former Roman and Pagan traditions. The *Katékon*, therefore, beyond refraining and preventing, means also preserving and re-comprehending.

The Schmittian *Katékon* is therefore very similar to the Hobbesian Leviathan: it is a god, but mortal⁴⁹. It means that it strives for perpetuity but is not eternal. The *Katékon* occupies a certain space and time, exercising a containing force that prevents and restrains any internal element that trespasses its boundaries, being delirious and compromising its political form. It might expand and enlarge its boundaries, as a result of political struggle and of decisions taken within, but it does need boundaries.

Thus, the Schmittian state might be described as a *Katékon* to the identity claims that populism fosters. The concept of a *Katékon* is at odds with the principle of identity between rulers and ruled, since there cannot be any restraint when the restrainer is identical to the restrained.

However, the *Katékon* is by no means merely a keeper of the order. By preventing and refraining the chaos, the *Katékon* owns it, so that the chaos shall not fully manifest itself:

which is now at hand, and is likely to flame out in the conclusion of this century, and to be such a horrid scene of misery, is retarded by this interposition of the Roman prosperity; and therefore we desire not to be spectators of dissolving nature; and while we pray for it to be deferred, we pray for the subsistence of the Roman Empire”.

⁴⁶ C. Schmitt, *Beschleuniger wider Willen oder: Problematik der westlichen Hemisphäre*, in *Das Reich*, 19 April 1942, now in C. Schmitt, *Staat, Großraum, Nomos. Arbeiten aus den Jahren 1916-1969* (G. Maschke ed.), Duncker & Humblot, Berlin, 1995; however, Schmitt himself vindicated that the first elaboration of the theory of *Katékon* dates back to a letter of him to Pierre Linn in 1932. C. Schmitt, *Glossarium* (P. Dal Santo ed. transl.), Giuffrè, Milano, 2001.

⁴⁷ C. Schmitt, *The Nomos of the Earth in the International Law of the Jus Publicum Europaeum* (G.L. Ulmen ed. transl.), Telos Press, New York, 2003, pp. 13; 40.

⁴⁸ *Idem*, p. 49.

⁴⁹ *Idem*, p. 59.

the *Katékon* is the prison of the chaos. The *Katékon* is then inhabited by impulses and disorders of the civil war. However, since it permits to such a disorder to live within, by giving a limited time and space to the chaos emersion, it actually prevents its apocalyptic manifestation. Therefore, the *Katékon* contrasts the chaos, but in doing so it must endorse part of its nature too⁵⁰. Thus, by refraining populism, the state-*Katékon* also contains and comprehends it – popular sovereignty is an essential part of the state authority. As the mortal god that contains and equalizes all individuals, it represents them by containing them.

In what way, then, the state-*Katékon* is different from the liberal state? Could it be that Schmitt, after thirty years of complex legal and political thinking, simply revisited his original anti-parliamentarian ideas and concluded that, in the end, a representative-liberal state was the only viable option for political entities? No, not every state – and, surely, not the liberal state – is a *Katékon*. In order to qualify as a *Katékon*, the state has to be an empire (a *Reich*): a political entity capable of exercising a significant force in both the crucial dimensions of time (*Epoch*, as a temporal arch for human interactions) and space (*Raum*, as a territorial basis for its political orientation). For being a *Katékon*, such a state has to move further its boundaries, to have a growing authority in order to not lose its imperial authority (*autorictas* derives from *augere*, to expand and increment). Its imperial authority is therefore connected to its proactive energy: it has to increment its energy because its essence is production and conservation altogether⁵¹.

Therefore, the state-*Katékon* must have *potestas* and *autorictas*. Without the latter, its power would be exclusively an executive power, as it was in the XIX century liberal state: a *Staat* and not a *Reich*, and therefore not a *Katékon*. The task of the state-*Katékon* is to hold back the advance of universalism, to delay the realization of world unity, which for Schmitt is the negation of the political action, and therefore of the human condition. Without a teleological horizon, the state and its public power would be lost, meaningless, errant, in a word, delirious.

For Schmitt the only remedy to such a meaningless, non-political world (the realm of the Antichrist) is the recognition of, and unequivocal obedience to, the *Katékon*: and that is why there must be a teleological horizon for such power.

6. On the Teleological Horizon of the *Katékon*

Despite its crucial role in history, the *Katékon*, in the form of the state or another political form, does not have any divine authority. According to Schmitt, the *nomos* of the *Katékon* is not the eternal Truth, whose not even an iota should fall down.

The *Katékon* cannot claim any true authority in the theological sense: it may *regere* (to reign) but cannot *imperare* (to lead) towards a final goal. Its power is ultimately temporal. Accordingly, the *Katékon* is a mortal and temporary political form, and one should be able to name the *Katékon* for every circumstance. Schmitt believed in the

⁵⁰ M. Cacciari, *Dell'Inizio*, Adelphi, Milano, 1990, p. 624.

⁵¹ R. Cavallo, *Il Katékon nella teologia politica di Carl Schmitt: forza che frena o forza che trasforma?*, in *Democrazia e Diritto*, No. 3, 2008.

uninterrupted succession of historical *Katékon*: it is possible, then, that the *Katékon* in the past was not the state and will not be the state in the future either, but will instead take an entirely different form⁵².

A political form, however, might vest the role of *Katékon* insofar as its *potestas* is sustained by *autorictas*, meaning that the *Katékon* can perform its function only if it has a credible, teleological horizon. In the *Nomos of the Earth*⁵³ Schmitt points out that the *Katékon* teleological horizon prevents and restrains, on this earth, the eruption of chaos and disorder, in order to protect something of value. This might have been, in the past, the Catholic Church or the German-Roman Empire, which have ensured the continuity between the ancient world and the Middle Ages, so that the legacy of the Classic and Christian world would not be lost in the advent of new times.

Sometimes even minor institutions or characters can fulfill the role of the *Katékon*, like the Habsburg Emperors Franz Joseph, who prevented, through his efforts and long life, the dissolution of the Austrian-Hungarian Empire, a bulwark of the XIX century European order, or Rudolph II who, because of his flamboyant and accommodating character, managed to delay the outbreak of the Thirty Years War, and so the division of Germany⁵⁴. In any case, the *Katékon* – better, each *Katékon*⁵⁵ for each crucial time and space⁵⁶ – has always the aim of preventing the eruption of chaos.

However, exactly because of Schmitt's adherence to Christian theology, the *Katékon* too has to fall in the end and let the disorder emerge. Schmitt equates then the realm of the Antichrist on earth to a hubristic period of peace in which all meaningful difference is eliminated⁵⁷. The Christian conception of history does not accept the myth of the eternal and cyclical return: it is rather teleological. From a Christian theological perspective of human history, once the disorder has emerged, for a given time the *Katékon* will contain it. The Antichrist will therefore prevail on the *Katékon*, which will brutally dismissed, but in the end, Christ will return and conclude human history.

Therefore, ultimately the fall of the *Katékon* is not only inevitable but also necessary for the achievement of human salvation. By preventing the advent of disorder, the *Katékon* also prevents the *Eschaton*, the end of all the things and the coming of the Truth. That is why, once its restraining function has been performed, the *Katékon* has to

⁵² Schmitt admitted that Europe, as a political entity, could have been in the future a *Katékon* against the dominion of the technique imposed by the United States and the Soviet Union. C. Schmitt, *The Nomos of the Earth in the International Law of the Jus Publicum Europaeum*, cit., p. 317.

⁵³ C. Schmitt, *Political Theology. Four Chapters on the Concept of Sovereignty*, cit., p. 44.

⁵⁴ C. Schmitt, *The Grossraum Order of International Law with a Ban on Intervention for Spatially Foreign Powers: A Contribution to the Concept of Reich in International Law*, in *Writings on War* (M. Nunan ed. transl.), Polity Press, Cambridge, 2011, p. 75.

⁵⁵ Interesting examples noted by Schmitt are the Byzantine Empire, which prevented the Islam to conquer Southern Europe for almost thousand years; Marshal Pilsudski, which retarded the umpteenth division of Poland during his rule; and President Masaryk, who anchored the Czechoslovakia to Western Europe after the First World War. See M. Ojakangas, *A Philosophy of Concrete Life: Carl Schmitt and the Political Thought of Late Modernity*, Peter Lang, Bern, 2006, p. 35.

⁵⁶ A *Katékon* might then have a different size and role according to the time and space that it intervenes it, from centuries to few years, from enormous continental space to single territory. C. Schmitt, *Glossarium*, cit., p. 91.

⁵⁷ J. Meierhenrich, O. Simons, H. Oliver, *A Fanatic of Order in an Epoch of Confusing Turmoil: The Political, Legal, and Cultural Thought of Carl Schmitt*, in J. Meierhenrich, O. Simons (eds.), *The Oxford Handbook of Carl Schmitt*, cit.

disappear, to be dismissed⁵⁸. Interestingly, the *Eschaton* begins with the triumph of the forces of disorder and culminates with the appearance of the Antichrist⁵⁹, whose treacherous capacity is exactly to manifest himself as Christ without actually being Him. The Antichrist is indeed a (false) substitute for Christ, but not His opposite: he is a living false truth⁶⁰. Thus, returning to our Schmittian interpretation of populism and *Katékon*, the self-decision of populism that makes immanent what should be transcendent, namely sovereignty, it is false truth of self-assertion.

Here populism actually acts like the Antichrist: a living sovereign, a perpetual constituent power, which aims to manifest itself as the truth. Populism therefore wants to exist as a pure form of political power without any mediation, representation, or boundaries, as they have been all settled by the state-*Katékon*, which instead tries to retard, infinitely but unsuccessfully, the moment when the current immanent people coincide with the sovereign people.

7. Conclusions

The concluding remarks open the door to another question, namely *if* the state, as we have understood it for the last two centuries, still has a teleological horizon, if it still is a plausible *Katékon* vis-à-vis the forces of different natures, which aims to get rid of the current legal order.

The answer to this question goes beyond the scope of this contribution. This article had the more limited ambition of casting a light on the character of the political trend labeled ‘populism’ and of assessing the resistance and durability of the limits – in the sense of boundaries – to such a political attitude, which have been found in the Schmittian concept of *Katékon*.

Nowadays, what appears relevant in the *Katékon* concept, more than who embodies it, is the function it expresses in political-legal terms: by retarding the end of all the things, it enables a time – to be intended as the temporal endurance of a certain set of shared understanding of human interactions – and a space – intended as a large space with sufficient cultural hegemony where a political idea might irradiate and unify – that is eminently political, allowing men to decide on their existential basic conditions of living together: *Katékon* and identitarian democracy then, might go together⁶¹.

⁵⁸ 2 Ts 2, 1-12 (2,8).

⁵⁹ The enemy to which 2 Ts 2 refers and, whom the Messiah will eliminate, is not called the evil but rather than *a-nomos*. W. Horbury, *Antichrist among Jews and Gentiles*, in M. Goodman (ed.), *Jews in a Graeco-Roman World*, Clarendon Press, Oxford, 1998, p. 117.

⁶⁰ What were for Schmitt the forces of chaos? The neutral and de-politicizing notions of liberalism, Marxism, globalization, and pacifism: they actually appeared to him as demoniac entities, self-proclaiming values good once for all, which do not know distinction or differentiation, and enacting a World State with ‘power over each race, people, language and nation’ (Ap 13,7). Such forces seem to be – in the Schmittian thought – the Antichrist, whose function is the world pacification and whose structure is *a-nomic*, deprived of a *nomos* which it is always partition of the earth. Schmitt was clearly concerned for ‘the end of history’ in the aftermath of World War II. See C. Schmitt, *Ex Captivitate Salus*, Greven Verlag, Köln, 1950, p. 90. Still, he believed that the course of history was not yet ended. See E. De Vries (ed.), *Alexandre Kojève - Carl Schmitt Correspondence*, in *Interpretations*, Vol. 29 No. 1, 2001, p. 91.

⁶¹ M. Nicoletti, *Il Katéchon (2Ts 2,6-7) e l'Anticristo*, in *Politica e Religione*, 2008/2009, p. 15.

Schmitt's famous assertion that «the concept of the state presupposes the concept of political»⁶² also works the other way round: the political exists in the framework of the state; but while the *political* is a permanent condition of human life, the state is only a temporary framework for politics, just like the *Katékon*. The fact that in the same author, it is possible to find both the most classic claim of populism and the most lucid interpretation of the function of the state proves once more the richness and complexity of Carl Schmitt's legacy.

⁶² C. Schmitt, *The Concept of Political* (G. Schwab ed. transl.), Chicago University Press, Chicago, 1996, p. 19.