



Symposium

Law, State, and Democracy

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6 Rue du Colonel Combes, Paris 75007

AUP | Center for Critical
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ABSTRACT

This Symposium seeks to bring together an interdisciplinary group of scholars working at the crossroads of law, the state and democracy. Within liberal democracy, rule of law is commonly treated as a pillar of liberal norms, while the relationship between law and democracy remains less clear. While we have found critical resources in the claim that we are living in an age of “illiberal democracy,” it is our contention that in most cases, “liberal non-democracy” would be a more appropriate framing of this phenomenon. Such a conception helps move away from increasingly zero-sum formulations in which greater attachment to rule of law, constitutionalism and the regulatory state means less popular control over government, less representation, and less democracy. Within these conceptualizations, the relationship between the regulatory state, administrative law and democracy has been particularly fraught, to the point that our current histories and theories of democracy leave us without a clear explanation as to why a move toward despotism would seek to destroy the administrative state and regulatory power first and foremost, under the heading of overthrowing the “deep state.” In this conception we are led to believe that destroying the administrative state means more democracy, not less.

And yet, the consequence is clearly the opposite. From racial justice to environmental degradation and education policy, destroying the administrative state and treating the courts, administration and administrative law as existing outside or even opposed to democracy has proven to be deeply contradictory and devastating. Our symposium seeks to address this challenge by considering the ways in which even as democracy may have an uneasy relation to formal notions of constitutional rule, rule of law and administration, it remains in fundamental ways built through administrative and legal practice. Specifically, we seek to build on recent work in the history of the state and administration that have begun to open new ways of understanding how a more democratic conception of law and administration contributed to institutionalizing popular power and “government for the people.” Similarly, alongside the classic stories of *rechstaat* and *polizeistaat*, recent work has highlighted a third narrative on the democratic origins of the modern administrative state and the role of administrative law in guaranteeing their perpetuation.

This symposium seeks to promote an interdisciplinary approach to these questions on law, state and democracy from jurists, the social sciences, philosophy, literature and social theory. Our aim is to begin a larger conversation that we plan to continue in an effort to shed new light on the interdependence, and indeed fundamental co-construction of law and democracy in promoting just and effective modes of government.

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