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Gerhard Leibholz, Costantino Mortati and the ideological roots of postwar party democracy in Germany and Italy

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ABSTRACT

This article studies the ideological roots of the particular form of party democracy that was established in Germany and Italy after 1945. Given the deeply rooted tradition of anti-party politics and the previous failure to construct stable party democracies, it is remarkable that political parties evolved into the central actors of post-1945 democratic regimes in Germany and Italy. This article investigates how postwar reforms in this regard build on ideological assumptions put forward in the Interwar era. It centres on two thinkers who not only epitomized the historical continuity before and after the War, but also made a major impact on the reform of political institutions after 1945. Costantino Mortati and Gerhard Leibholz not only inspired political reformers with their writings, but also fostered party–state democracy during their tenures as constitutional court judges. As such, their views on political parties are of crucial importance in understanding why the postwar regimes took the shape of a ‘party–state democracy’.

1. Introduction: parties as ‘public utilities’ and the making of modern democracy

‘Parties have played a major role as the makers of government, more especially, they have been the makers of democratic government’, the great American political scientist Eric Schattschneider observed in 1942. Given their pivotal role in making democracy, it therefore greatly surprised him that ‘fundamental party arrangements are unknown to the law’.¹ Within a few years after Schattschneider wrote these lines, Germany and Italy’s political transformations from fascism to democracy seemed to prove him wrong. Political parties were not only the ‘makers’ of democratic government in both states, but the revised relationship between political parties and the state was central to their efforts. Parties were even enshrined in constitutional law. They were now formally recognized by the state as being the one of the pillars of the democratic order.

Given the deeply rooted tradition of anti-party politics and the previous failure to construct stable party democracies, it is remarkable that political parties evolved into the central actors of post-1945 democratic regimes in Germany and Italy. It is even more remarkable that this occurred in a way which seemed a radical departure from pre-1945 practices, namely by legally integrating parties into the state. Indeed, Germany and Italy

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were emphatically constructed as ‘party–state democracies’ to mark the difference with the totalitarian regimes and the flawed democracies of their recent histories.² Whereas political parties are traditionally considered to belong to the sphere of society,³ Italy and Germany pioneered in institutionalizing parties as ‘public utilities’, i.e. as a ‘service to democracy provided by the state’.⁴ This became visible in constitutional codification of parties, privileges at elections, and, later, direct state funding of their activities. Parties were also endorsed by the state with facilitating popular participation and political education, while (access to) the party system was controlled by the state, especially in Germany. As such, the postwar recognition of parties as ‘public utilities’ has been a key explanation for the stabilization of democracy in Italy and Germany after the upheavals of the first half of the twentieth century. It also provided a blueprint for the reform of party–state relations in many other post-authoritarian states from Spain to Eastern Europe.

The question what enabled this shift in party–state relations has preoccupied a prominent place in the study of regime change in Italy and Germany. In Italy, much emphasis has been laid on the role of the Italian resistance.⁵ The armed resistance against the Nazi occupation and the fascist puppet state in the final 2 years of the War was led by the major political parties that also, from the spring of 1944 onwards, formed the government of national unity in liberated Rome. After the War, these parties – Communist, Socialist and Christian democrat – continued their strained collaboration to guide the country during the initial period of postwar reconstruction and the writing of a new postwar constitution. In Germany, the Allies played a much larger role during the transition from the Nazi dictatorship to democracy in West Germany. They interfered in the nascent party system by licencing new parties, but also more generally promoted a system in which parties were the pivotal players in postwar democracy with an intimate relationship with the state.⁶

Even though crediting different actors, both these national explanations consider the making of ‘party–state democracy’ as a key example of political renewal that distinguished postwar from pre-1945 regimes. Yet, while, of course, the role of the resistance and the Allies in the making of postwar democracy was of key importance, the emphasis on 1945 as a *Stunde Null* in the history of party–state relations seems rather irreconcilable with the many personal, institutional, and ideological continuities that bridged the pre- and postwar order. Especially in moments of political turmoil, such as the aftermath of the Second World War, political actors fall back on established ideas to determine their strategy for institutional reform.⁷ Of crucial importance here are what Princeton scholar Jan-Werner Müller calls the ‘in-between figures’ of ‘statesmen-philosophers, public lawyers, constitutional advisors, and “bureaucrats with vision”’, who expressed their ideas between the world of high politics and academia and exerted a large influence on the (re-)making of political institutions in twentieth-century Europe.⁸

This article turns to two crucial ‘in between figures’ to reveal the ideological roots of the democratic party–state that was established in Germany and Italy after 1945. It centres on thinkers who not only epitomized the historical continuity before and after the War, but also made a major impact on the reform of political institutions: Costantino Mortati and Gerhard Leibholz. They not only inspired political reformers with their writings, but could also actively foster party–state democracy during their tenures as constitutional court judges.⁹ As such, they are widely credited as the intellectual fathers of

party-state democracy. Indeed, Mortati's theory of the party-state received 'an extraordinary successful reception' in post-1945 Italy,¹⁰ while Leibholz is recognized as the 'most important advocate of the party-state in the Federal Republic' who had a 'profound impact on the formation of postwar political life'.¹¹ As such, they are of crucial importance to understand why the postwar regimes took the shape of 'party-state democracy'.

Leibholz and Mortati drew inspiration from the same generation of conservative scholars, which explains the many similarities in their analyses of the ills of Interwar democracy and the solutions that they put forward.¹² Yet they did not frequently refer to each other's work and also came from strikingly different backgrounds. Leibholz was a German professor of Jewish descent who made a career as a legal scholar in the Weimar Republic, becoming a law professor at the age of 29. He was a pupil of the famous conservative scholar Heinrich Triepel. After the Nazis came to power, he was initially spared their anti-Semitic measures, because he had served on a Free Corps after World War I. Yet, ultimately, Leibholz was forced to retire from his academic position and fled into British exile, where he worked as a counsellor to a prominent Bishop.¹³ After the War, he returned to Germany. He served as member on the governmental commission that advised on the enactment of a party law and, from 1951 onwards, was a constitutional court judge for two decades. Mortati was born in Calabria. He made a career as a legal scholar under the wings of Sergio Panunzio, an important fascist theorist.¹⁴ He worked as a law professor and jurist at the universities of Messina and Naples in the 1930s and 1940s. It was only towards the end of the War and because of a deep personal crisis that he distanced himself from fascism.¹⁵ After 1945, he was elected to the Constituent Assembly for the Christian Democrat Party, where he was one of the members of the 'Commission of 75' that wrote the Italian republican constitution. In 1961 he became, like Leibholz, a constitutional court judge.

This article seeks to establish how this crucial aspect of the reform of postwar democracy was the outcome of a process in which these two intellectual fathers of 'party-state democracy' sought to reconcile the imperative of a pluralist democracy where parties were expressions of civil society on the one hand, with the deeply rooted illiberal notion that the state should 'integrate' society and foster political unity on the other. As such, it demonstrates that the recognition of parties as 'public utilities' after 1945 did not signal a 'dramatic shift' in the conception of party-state relationships.¹⁶ Rather, the post-1945 democratic 'party-state', presented as a radical form of postwar political renewal embodied by resistance heroes and Allied advisors, conspicuously built upon the ideas of the Interwar era that were not solely of liberal origin, but part of a long-standing conservative political thought tradition in both states.

The article proceeds by describing the political and intellectual context in which Leibholz and Mortati formulated their ideas: the increased power that parties acquired, especially in Germany, from the end of the nineteenth century, and the establishment of mass democracy in both states after the First World War. It demonstrates that the empowerment of mass parties which was a consequence of mass democratization failed to provoke a radical rethinking of the way parties and the state ought to relate to each other: liberal thinkers still considered parties legitimate actors, but only in the sphere of society, while anti-liberal thinkers disputed their legitimacy and clung to long-standing ideas on the importance of a strong and 'integrationist' state. The third section then demonstrates how Leibholz and Mortati constructed a theory of the 'party-state' in the

1920s and 1930s that bridged these two visions, partly based on their understanding of the fascist party as a ‘public utility’. The fourth section shows how these ideas fed into the institutional reforms of the post-1945 era, which took different directions in Italy and Germany. It reveals that both actors did not completely depart from their anti-liberal views during the postwar decades, despite their prominent positions in newly-founded democracies. The conclusion assesses whether their views still hold value in the crisis of party democracy today.

2. The breakthrough of mass parties in 1918 and contemporary reactions

There existed fundamental differences in the organization of party life in Italy and Germany around the turn of the century. In Germany, modern mass political parties started to develop from the last quarter of the nineteenth century onwards. The Social Democratic Party, founded in 1864, counts perhaps as the first modern mass party in the world.¹⁷ Yet Catholics (in the Centre Party) and liberals also assembled in parties that were increasingly professionally organized. Despite the fact that there existed a large mutual hostility between the Catholic and Socialist mass parties and the German state, they participated in elections and, as such, contributed to the slow democratization of the country.¹⁸ In Italy, by contrast, modern mass parties were formed relatively late. The Italian Socialist Party was formed only in 1892 and counts as the first true mass party on Italian soil.¹⁹ Italian liberals stood hostile to party organization, while the mutual hostility between the Church and the Italian state impeded the formation of a modern Catholic party – which was only formed in 1919.²⁰

Despite these important differences in party organization, imperial Germany and liberal Italy were both ‘conservative-liberal monarchies’,²¹ which aimed to shield the state from mass party political influence.²² In Germany, the Imperial regime ‘outlawed or harassed [mass parties] for almost twenty years’, while in Italy the setting-up of party organizations in parliament and on the ground was actively ‘discouraged’.²³ Even electoral reforms, such as the introduction of universal suffrage by Otto von Bismarck or the extension of suffrage by Giovanni Giolitti in Italy, were intended to secure power in the hands of liberal-conservative elites that stood hostile towards nascent mass parties. Instead, the pre-1918 system was, next to royal influence of course, at least formally based on the principles of ‘parliamentarianism’, where MPs engaged in a free discussion on the common good, and every representative was ‘free to vote according to his conscience and personal judgment’.²⁴ In other words, MPs were, at least in theory, not strictly tied to political parties, but made independent judgements. Yet, this system of ‘parliamentarianism’ was increasingly considered outdated, because it failed to facilitate ‘the full integration of the [masses] in the unitary and monarchic state’.²⁵ Parliament and other state institutions were not directly tied to the electorate and contemporary observers increasingly denounced the gap that existed between society and political representatives. As the prominent Catholic Italian legal scholar Gaspare Ambrosini asserted later, MPs ‘[acted] like representatives of themselves . . . as deputies without political directions and a sense of responsibility for the public good.’²⁶

The First World War acted as a catalyst for the advent of mass democracy across the European continent. Italy saw a major suffrage reform and in Germany the Weimar Republic with a progressive constitution was proclaimed. The establishment of mass

democracy called into question the neat separation between state and parties that had been cherished in political thought. Even though, as noted, especially in Germany, the large mass parties of Catholic and socialist signature had already become ever more professionally organized and attracted a growing membership base, they had been in the first place societal forces without a dominant role in the making and breaking of governments. Mass parties in both countries had moreover matured in opposition towards the state dominated by liberal-conservative elites. The empowerment of parties after 1918 consequently raised the major question how the objectives of political stability, first ostensibly guaranteed by isolating the state from party influence, could be reconciled with political reality in which parties, by nature prone to conflict and divisions, dominated state institutions.

For some, the state should be a political ‘unity’, neatly separate and shielded from society with its multiple divisions and lack of order expressed by parties.²⁷ This so-called ‘integrationist’ view of the state was put forward initially by the German thinker Rudolf Smend. It entailed that society was the sphere of divisions where a stable political will could never be built. Only the state could actively integrate individuals in the political process by expressing political values and nurturing a uniform political will of the people.²⁸ This was an influential view for many conservative thinkers. Heinrich Triepel, one of the foremost legal scholars of the day and Leibholz’s intellectual mentor, argued that the breakthrough of parties inevitably undermined this capacity of the state. Indeed, the breakthrough of parties after 1918 led to the ‘degrading’ of the state.²⁹ Because parties by nature signified the *part*, the *plural* they were allegedly unable not built a coherent common will, let alone translate it into state action.

The Austrian thinker and constitutional theorist Hans Kelsen rightly considered this vision ‘nothing but a badly concealed hostility against democracy’.³⁰ People like Kelsen and Max Weber saw that parties were actually legitimate actors in the political process, because they expressed the reality of a pluralist society. Max Weber, for instance, argued in *Politik als Beruf* that electoral democracy was only thinkable thanks to parties which acted as legitimate expressions of popular opinion. But because parties were societal actors, the state could not interfere in their internal affairs. Weber explicitly stated that ‘the fact that parties are formations based on free recruitment is an obstacle to their regulation’.³¹ The strongest defendant of political parties in the 1920s, Kelsen, also clung to long-standing ideas of parliamentarianism which saw parliament, rather than parties, as the centre-piece of political life.³² Although he argued that mass democracy was necessarily and inevitably a ‘*Parteienstaat*’,³³ and, other than Weber, pleaded for party regulation, Kelsen’s ultimate aim was saving ‘parliamentarianism’ from the attack it endured by anti-democratic forces. Indeed, Kelsen held that because modern democracy was ‘necessarily indirect democracy’, ‘the idea of parliamentarianism’ was ‘the most important’.³⁴

During the 1920s, first Italy and then Germany sank further into political chaos. Political parties were blamed by many at the time for being responsible for the political instability and polarization. Even firm proponents of parties such as Leibholz warned that the ‘dictatorship of party bureaucracies must be broken’.³⁵ Parties were, in the words of the foremost German thinker Sigmund Neumann, ‘interest parties’ rather than ‘state parties’ that put the interests of the party ahead of the general interest.³⁶ And while, first, this had been merely the reflection of their function as the spectre of societal divisions,

this now seemed to threaten the stability and unity of the state itself. Anti-democratic thinkers rode on a wave of anti-party sentiments fuelled by political instability in both countries, and pleaded for suppressing party pluralism by the state.³⁷ The German thinker Otto von Koellreutter, in this regard exemplary for many conservative thinkers in the Weimar Republic (he later became a Nazi ideologue), called Weimar democracy nothing but a ‘dictatorship of party leaders’, and argued in favour of a corporatist system or a strong executive to counter the power of party elites.³⁸ Only this could re-establish the ‘unity’ of the state that was, in his view, the precondition of a coherent popular will.

3. Bridging liberal and integrationist visions of party–state relations

A main question for political and legal thinkers in the Interwar era was, in other words, how the definite breakthrough of mass parties could be reconciled with the imperative of political stability. The contribution of Leibholz and Mortati to this dilemma lay in the fact that they united the new premise of the existence of mass parties as legitimate political actors with the traditional imperative of state stability. As former pupils of Heinrich Triepel and Sergio Panunzio, both Leibholz and Mortati clearly stood in the anti-liberal ‘integrationist’ tradition of their day. They agreed that the state’s will should be coherent and that only the state could foster societal unity.³⁹ Hence, in his *Habilitation* on political representation, Leibholz posited that representation was ‘the continuous reproduction and realization of the community united by the state’, clearly valuing the state’s role over that of society.⁴⁰ Yet, on the other hand, Mortati and Leibholz saw parties as legitimate expressions of the will of the people. For Leibholz, parties were the ‘mouthpiece’ of the people,⁴¹ and this meant that party democracy was *direct* democracy and as such it bridged the gap between state and society that troubled parliamentary regimes. Indeed, talking about Weimar Germany, Leibholz stated that ‘the current “party-state”, when closely observed, takes on the appearance of a *direct* democracy. There is no difference between when the active citizen takes political decisions by means of popular initiatives or referenda or whether [they do] by means of . . . party organizations.’⁴²

For both Leibholz and Mortati, their interpretation of the fascist regime was crucial in arriving at a new theory of the party–state. It should be emphasized that their understanding of fascism not only misconceived the actual relationship between party and state under Mussolini, which has been the topic of ongoing historiographic discussion,⁴³ but also downplayed and ignored the regime’s malicious nature. Their perception of the regime allowed them, unlike many of their contemporaries, to formulate a new conception of party–state relations. Permitting just one single party to be politically active implied a special relationship between that single party and the state. It was exactly this special relationship, the ‘integration’ between the PNF and the state, that was hailed by fascist thinkers such as Sergio Panunzio, and, later in Nazi-Germany, by Carl Schmitt.⁴⁴ The fascist dictatorship made formal institutional changes to the relationship between party and state that overcame the neat separation between them. The PNF was constitutionalized, the party militia were given a formal state role, the role of party secretary (Mussolini) was equated with the role of prime minister, the party board (*Gran Consiglio*) became an official state organ, and the party symbol, the *littorio*, was made an official state symbol – just to give a few examples. A further constitutional amendment in 1932

stated that ‘the PNF is a civic militia, subordinate to the *Duce*, at the service of the fascist State’.

Leibholz and Mortati endorsed Mussolini’s dictatorship with ‘democratic’ qualities. Both mass democracy and fascism were allegedly equally based on a plebiscitary notion of politics. Mortati held that modern states *sui generis* were ‘in need of a consensus among the vast masses, on the conquering of public opinion’.⁴⁵ He argued that fascism, ‘even if based upon a different relationship between society and state than in democratic theory, does not negate [democratic theory], but, instead, tends to realize it ever more strongly in the organization of the state’.⁴⁶ Leibholz, who saw the Italian fascist regime as vivid and juvenile,⁴⁷ similarly claimed that the ‘authoritarian representation [in fascist Italy] is like any people’s representation based on plebiscitary elements . . . it is legitimized by the people’.⁴⁸ Shortly after Hitler came to power Leibholz still held that this ‘plebiscitary foundation’ of politics ‘unites democracy and authoritarian state’, and that ‘fascism aims to construct an anti-liberal yet democratic image of the state’.⁴⁹

The thinkers saw two ways in which the fascist party–state could serve as a model to stabilize and legitimize mass politics. First, they perceived the PNF as a pioneer in the trend towards people’s parties that overcame societal divisions. Leibholz claimed that the PNF had an ‘exemplary function’,⁵⁰ because it had been able to overcome political polarization and challenge what he called the ‘Bolshevik danger’ in post-1919 Italy.⁵¹ He positively evaluated the development towards people’s parties which he discerned everywhere, because this allowed parties to express the general interest. And he considered Mussolini’s regime to be leading this trend, as in fascist Italy ‘the realization of this transformation [of a party to *people’s* party] has been realized’.⁵² Mortati also considered the ‘dominant element’ of modern political parties ‘a general political idea, capable not only of uniting a group and distinguishing it from others, but above all of attracting new adherents and conquering the power of the state’.⁵³ The PNF was ahead of its times in this regard, as it ‘distinguishes itself from parties of other eras, which were deprived of a general content . . . [while the PNF] is able to unify the entire political community’.⁵⁴

Second, Leibholz and Mortati argued that the fascist party–state was both legitimate and stable, because it no longer considered the PNF as a societal organization, but as a semi-state organization. They both were hereby indebted to Panunzio’s conception of the relationship between party and state under Mussolini, arguing that party and state ‘merged’ under the regime and that this fostered the ‘integration’ of the masses with the state.⁵⁵ Leibholz posited that ‘notwithstanding the seeming independence of the party, fascism has the intention of identifying state and party with one another’. And he concluded that ‘Without this intention, the all-encompassing *integration system* of the fascist state would have been impossible’.⁵⁶ The ‘merge’ was for Leibholz visible in the adoption of the party symbol, the *littorio*, as the official symbol of the state, the recognition of the supreme party organ, the *Gran Consiglio*, as a constitutional organ of the state, and the dual function of Mussolini as party secretary and head of government. Yet it was also visible in state influence over the party: the party statute had to be approved by a royal decree and as such the party organization was subject to state control.

For Mortati, too, the fascist integration between party and state provided a possible solution for the challenges of mass politics.⁵⁷ The position of parties as state rather than societal organs formed the core of his theory of a ‘material constitution’, which he

published in 1940. It posited that that modern states, characterized by massive intervention in society and the imperative of popular legitimacy, could no longer be based on a constitution which merely described the separation of powers. Rather, 'the direction of the state ... must not come from particularistic impulses, but for the supreme organs of the state itself'.⁵⁸ For Mortati, only parties could be these 'supreme organs', which is why 'in the modern state, the party is the subject from which the fundamental constitution emanates'.⁵⁹ This idea was directly inspired on Panunzio's notion that the fascist party was a 'spiritual force' in public law that supported the fascist state. Indeed, Mortati held that the task of integration between state and society is 'the work of the National Fascist Party. As such, it has developed from the organ which has installed the new regime into a state institution'.⁶⁰ In a comment directly foreshadowing the post-1945 reforms, he wrote in 1931 that 'the fact that the PNF is a public utility is beyond doubt'.⁶¹

The reception of the fascist *Stato-partito* in Weimar Germany obviously raises the question how conceptions of the Italian fascist party-state in the 1920s related to those of Nazism in the 1930s. Yet German scholars were 'not particularly involved' in the question of party-state relations, even after 1933,⁶² despite the fact that also here institutional arrangements, most notably the *Gesetz zur Sicherung der Einheit von Partei und Staat*, aimed to provide a legal basis for one party rule under Hitler's dictatorship. And, like in Italy, the Nazi party aimed to expand its control over the state apparatus, an objective which was increasingly attained in the context of the Second World War.⁶³ At times contemporaries aimed to compare the two dictatorial dictatorships, for instance at a German-Italian conference on party-state relations in Milan in 1936 in which, among others, Carl Schmitt and Ambrosini participated. There was a consensus that the most characteristic similarity between the dictatorships was the role of the single party that had militarist features. However, the participants concluded that there were also serious differences between the one-party dictatorships in Germany and Italy: whereas in Italy the party remained, in their view, an organ 'subsidiary' to the state, an organ of 'public law' that ought to 'integrate' the people in the state,⁶⁴ Schmitt stated here that the Nazi party 'penetrates the entire state, like [it penetrates] the entire people, with coinciding and similar impulses and influxes',⁶⁵ with the aim of protecting 'the purity of the race and to 'conserve the substance of blood and soil'.⁶⁶

Even though the conceptions and practices of the Nazi and fascist party-state may have been different in the eyes of contemporary thinkers, obviously neither of them was a basis of liberal-democratic politics. Yet, unexpectedly, the interpretation of the elevation of the Italian fascist party into an instrument of 'public law', as it had entered German and Italian political thought in the Interwar era through Leibholz and Mortati, opened up new avenues on the position of parties in mass democracy that proved to be influential after 1945. During his exile in Britain in the late 1930s and early 1940s, Leibholz came to reconsider his earlier claim that also the fascist regime enjoyed certain 'democratic qualities' and moved more in a liberal-democratic direction.⁶⁷ Now, he claimed that 'the term democracy has been used with much inaccuracy',⁶⁸ and held that 'a parliamentary body which claims to represent the people as a whole cannot claim representative legitimacy without appealing to popular elections'.⁶⁹ Mortati as well, due to a deep personal crisis, reconsidered his prior endorsement of the fascist dictatorship in

the early 1940s. Yet neither Leibholz nor Mortati fundamentally revised their view on the necessity to integrate the party into the state to stabilize mass politics.

4. Reformulating the 'party-state' after 1945

In the aftermath of the Second World War both Italy and Germany drew up new democratic constitutions. As the main embodiments of antifascist values, mass political parties enjoyed a high level of political legitimacy in both states, and almost naturally became the pillars of the postwar democratic order. In Italy, parties led the antifascist resistance, formed a government of national unity, and were 'the fathers of the constitution' – before the Cold War broke the cross-party coalition that created the postwar Italian republic.⁷⁰ In Germany, postwar political life was initially more tightly controlled by the Allies. The Allies entrusted party leaders of the Social Democratic Party and the new Christian Democrats with organizing political competition and control of the Parliamentary Council that wrote the West German Basic Law. In both states the party system of the post-1945 era contrasted sharply with that of the short-lived Interwar democracies. This was mostly due to the breakthrough of the Christian Democrat parties in both states which, for the first time, were able to unite various social and cultural constituencies in single parties – and were thus the first genuine 'catch-all parties' that had been missing in the Interwar era.⁷¹

Institutional reform was also a central aspect of the reform of the party-political landscape after the war. Its most poignant aspect was the constitutional recognition of parties, which made them actors of public law. Already at the Herrenchiemsee conference, which drafted the blueprint of the German Basic Law, the representatives concurred that the constitution should recognize parties as 'decisive elements of the life of the state' because they fostered 'the formation of the political will'.⁷² This made its way into the 21st article of the constitution, which stated that 'Parties shall aid in the formation of the political will'. Likewise, the Italian constitution of 1948 stated that 'citizens have the right to freely associate in political parties with the aim of determining national politics.' The Italian legal scholar Vezio Crisafulli even considered the Italian constitutionalization of parties more far-reaching than the German article in this regard, as it guaranteed citizens the 'right to permanent participation', but, in reality, 'this right of citizens will above all mean the right of political parties'.⁷³ Reflecting on the role of parties in contemporary democracy at a conference in 1963, another important theorist, the Socialist Lelio Basso, commented that the constitutionalization of parties 'was one of the most original conquests of our constitution in comparison with previous constitutions and ones that followed it [elsewhere], apart from the German one, which has adopted a similar norm'.⁷⁴ This praise of distinctiveness of the postwar order also made its way into historiography, especially in Germany, where it has been argued that the problem of Weimar democracy was that it failed to develop into a genuine *Parteienstaat*, and that the critical juncture in the development towards a party-state democracy was 1945.⁷⁵

Yet while both at the level of political legitimacy, that of the party system and that of institutional reform there were important contrasts between the post-1945 and the Interwar democracies, the reform of party-state relations in the 1940s explicitly built upon the ideological debates of the 1920s and 1930s. This also counted for the ideas

which Leibholz and Mortati had developed against the background of the relationship between party and state in fascist Italy. What allowed for the adoption of their theories in post-1945 Italy and Germany was that the 'integrative' role of the PNF that both thinkers praised could for them also be played by multiple parties. A 'party-state' was not necessarily a single-party regime: as long as parties were somehow integrated in the state, a multi-party democratic regime could also be both legitimate and stable. Indeed, Mortati left the possibility of multiple parties always deliberately open, thus paving the way for an adoption of his ideas in republican Italy.⁷⁶ He stated that parties could unite the various strands of a pluralistic society and forge them into a coherent political will that should guide state action. In other words, mass politics was not built on the separation between state and society but required the integration of society in the state – and parties were crucial. Indeed, Mortati stated that 'the requirement of this task of integration . . . foresees in spontaneous societal formations, the most important of these are parties'.⁷⁷ Leibholz also united his acceptance of party pluralism with his integrationist vision of the state. He argued that the will of the majority of the parties equated the popular will,⁷⁸ because 'the will of the majority of parties must by the people be identified with the *volonté générale*, the supra-party common will, to constitute the unity of the nation and the state'.⁷⁹ So because both were sceptical regarding the prospects of democracy in a liberal-parliamentary setting, they believed that parties were necessary to provide political legitimacy to regimes and that democracy did stand a chance if parties could somehow play the 'integrative' role assigned to them by the state.

Given the large ideological similarities between the ideas of Mortati and Leibholz, it may seem surprising that the institutional reforms of party-state relations in the mid-1940s in both countries took a different direction. In Germany, the constitutional article on political parties not only ascribed a positive role to them in terms of the integrative function that they could perform, as they could 'contribute to the formation of the political will of the people', but also foresaw in regulations that ought to guarantee their democratic qualities: they should be organized along democratic lines and have transparent party finances so that they could contribute to the development of democracy.⁸⁰ Leibholz personally played a role in the endorsement of these articles in subsequent decades, both as a constitutional court judge and member of a commission that advised the Interior Ministry on the formulation of a fully-fledged party law. The constitutional court's judgements literally reflected Leibholz's opinion that 'in a democracy only parties are able to unite voters'.⁸¹ It also echoed his view when it stated that 'democracy nowadays is necessarily a "party-state"', and that parties 'even though no "supreme state organs like state parliament and government", are 'state organs'.⁸² Two years later, in a ruling on the infringement of electoral rights of parties, the court ruled that parties could only seek to defend their rights in a so-called *Organstreit*, i.e. in their position as constitutional organs of the state just like the government or parliament – not as social organizations. party-state integration was further strengthened by the German party law of 1967, which established state funding of parties and further subjected them to state control.

To Mortati's disappointment, state control over individual parties and the party system was not so far-reaching in Italy. Mortati had, as Christian Democrat-member of the Constituent Assembly, pled in vain for far more far-reaching state control over the party system, claiming that democracy requires 'guarantees on the internal organizations

of parties in a democratic sense so that they can be effective instruments of political education'.⁸³ He told his fellow members of the Constituent Assembly that 'we have talked about the democratization of syndicates and private companies; we have even talked about the democratization of the army. It seems strange to me to omit the necessity of democratization of parties, which are the basis of the democratic state'.⁸⁴ While the Christian Democrats supported Mortati, the aim of democratization of party life faced opposition by the powerful Italian Communist Party, which feared for its own organizational model based on Leninist principles and its source of Soviet funding in case state control over the party system became part of institutional reform. Unlike in Germany, where the constitution empowered Federal Constitutional Court to outlaw parties that jeopardized the democratic system (which indeed occurred twice in the 1950s),⁸⁵ the Italian postwar constitution only foresaw limited control of the state on the party system: it only outlawed the re-establishment of the fascist party 'in whatever form'. Nonetheless, Mortati's influence was still very large. As in Germany, in Italy party-state integration gained another impetus in the postwar decades when direct state funding of parties was established in 1974. Mortati was explicitly invoked in parliament to underline the fact that only parties could mould the will of the masses into a coherent will of the people, because they had 'the capacity to organize, to direct, and to lead the large masses and to indicate [to them] the objectives'.⁸⁶

The considerable influence of Mortati and Leibholz over the fostering of party-state democracy in Germany and Italy after 1945 raises the question whether they revised their anti-liberal views during the postwar decades. This seems not to have been completely the case. Rather, they appeared to see the development of party-state democracy after 1945 at least as the partial realization of their ideals. Mortati still held that the state should recognize 'the public function and constitutional relevance' of political parties in 1945.⁸⁷ And just as he had referred to the PNF as a 'public utility' in 1931, he approvingly noticed a *trasformazione pubblicistica* of the parties in the postwar republic in 1949.⁸⁸ In 1967 he claimed that the democratic party-state 'forms an eminent part of what has been called "the material constitution"', that he had designed in 1940 in fascist Italy.⁸⁹ This is why it has been argued that his conception of the 'material constitution' 'is not a fascist concept of the State, but, rather a concept of the State that was applicable and applied to the fascist state'.⁹⁰

Similarly, just as Leibholz had approved the 'integration system' of fascism by means of the fascist party, he argued in 1950 that in the Federal Republic 'parties have been constitutionally recognized as politically and sociologically necessary instruments for the activation of the people ... Parties have been built into the state as legitimate political organizations'.⁹¹ There was for him no distinction between 'people' and 'party' in modern states, as only parties enabled the people to appear as a political entity and allowed them to interact with the state.⁹² Viewed from this perspective, 'the distinction between a total party-state and a Western-style democracy' was 'partly false', because 'the only difference is that a total state is a single-party state and a Western democracy is a multi-party state'.⁹³ The Basic Law recognized his conception of party-state relations put forward already in the 1920s, namely that the state should forge the will of the people into political unity, and that parties could be instruments of the state in achieving that aim.

As such, postwar ‘party–state democracy’ was able to unite party pluralism with a long-standing integrationist tradition in both states that saw the state as crucial in fostering stability and a strong political will. This means rather than a form of radical political renewal, postwar ‘party–state democracy’ displayed ideological features which concurred with the ‘integrationist’ tradition in which both countries stood. Mortati concluded that modern democracy ‘cannot be built on the foundation of the liberal state of the nineteenth century’ in 1946.⁹⁴ Similarly, Leibholz stated that ‘the modern *Parteienstaat* is a form of democracy that is not only technically but also in all important aspects essentially diametrically opposed to representative parliamentary democracy’ five years later.⁹⁵

5. Conclusion: the legacy of the ideology of the party–state for contemporary democracy

It is still a commonly shared assumption that ‘the distinction between democracy and dictatorship can be made best in terms of party politics.’⁹⁶ This classic observation of the American political scientist Eric Schattschneider seems nowhere more obvious than in twentieth-century Germany and Italy. In their short-lived and polarized Interwar democracies, mass parties stood often *opposite* the state, while the state still displayed a strong anti-party-political culture.⁹⁷ Hostility against party pluralism was obvious also a main feature of the fascist and Nazi dictatorships. The single party of the dictatorship was involved in a perpetual power struggle with the state,⁹⁸ and, even if a ‘party’ in name, left of course little room for civic participation, but was rather used as an instrument of propaganda, control and oppression.⁹⁹ Only after 1945, were Germany and Italy able to overcome this dichotomy and to stabilize their democracies by making parties ‘public utilities’ that stood in close relationship to the state.

Over the course of the past decades, historiography has nuanced the image that radical ruptures have necessarily and always separated the liberal-democratic and totalitarian regimes of the twentieth century.¹⁰⁰ Continuities between these regimes in terms of state personnel, and similarities in policies such as planning, eugenics, and the welfare state, have been the topic of numerous studies over the last decade or so.¹⁰¹ In recent years, also the differences between the political institutions most characteristic of these regimes have come under scrutiny and a complex picture of overlapping narratives and continuities between periods and regimes has emerged.¹⁰² This certainly counted for Italy, where scholars coming from different directions argue that there was no radical break between the fascist state and its republican successor.¹⁰³ More tentatively, it has been argued that there are also ‘arguments in favour of this continuity’ between pre- and post-1945 models of the ‘party–state’ in the other European country which epitomized both the totalitarian and democratic ‘party–state’: Germany.¹⁰⁴

This article has brought these two national histories together and has demonstrated that, though often presented as a distinctive innovation, some of the ideological origins of postwar party–state democracy lay in the Interwar era. Two crucial thinkers in these countries drew inspiration from the same ‘integrationist’ intellectual tradition in formulating their theory of the party–state in the 1920s and 1930s. Many conservative and fascist contemporaries entertained a negative view of political parties, because they allegedly jeopardized the unity of the state, while liberal thinkers of their age saw parties

solely as legitimate societal actors over which the state should not exert any influence. Gerhard Leibholz and Costantino Mortati argued that parties were legitimate societal actors but could only stabilize mass politics if they were used by the state to integrate the masses in the political process. This required state recognition of political parties as 'public utilities'. While their ideas were partly developed against the background of the role of the PNF in the fascist regime, they were reformulated in a pluralist fashion and as such played an important role in the institutional development and normative justification of party-state democracy after 1945.

This raises the question of the legacy of the reconceptualization in a democratic fashion of the notion of the 'party-state' today, which seems two-fold. On the one hand, the democratic reinvention of the party-state after 1945 seemed to be an adequate solution to the challenges of mass politics that had opened up in the aftermath of the First World War. In this sense, the 'party-state' in which political participation is partly fostered by the state – by means of mass parties that are institutionalized in the state as 'public utilities' – can be considered an aspect of the 'restrained democracy' that developed in the aftermath of the Second World War and was formulated as a solution to the crisis of mass politics in the Interwar era.¹⁰⁵ The leading role of political parties in the postwar German and Italian republics was evident due to their leading function in political renewal in the second half of the 1940s. After the defeat of fascism, they were the only domestic forces that enjoyed political legitimacy and successfully bridged the gap between society and state that had haunted Interwar democracies. Moreover, the idea that political parties as public utilities could stabilize mass politics spread gradually across the European continent after 1945. It found particularly fertile ground in other post-authoritarian democracies in the Mediterranean and in Central and Eastern Europe,¹⁰⁶ but constitutional recognition and state funding of parties are now common practice in many European democracies and in the European Union itself.

On the other hand, however, the 'integration' between parties and the state has received more mixed reviews, being blamed for the weakening of ties between parties and society. This critique came, of course, from anti-party forces in society, but also from constitutional theorists and political thinkers, who started seeing the integration between parties and the state as a democratic problem rather than a democratic asset, because it made parties 'dependent' on the state rather than on citizens.¹⁰⁷ Concerns over the integration between parties and the state are not new. The Italian legal scholar Carlo Lavagna warned already in 1950 that the 'institutionalization' of parties could 'jeopardise the separation of powers, deform the parliamentary system and corrupt and threaten democracy'.¹⁰⁸ Even the ideological fathers of the party-state warned not to see the state function of parties as a substitute for their societal role. Leibholz was concerned that parties were not the bridge between state and society that they could potentially be in the 1960s, because the formation of the political will of the people within parties did not sufficiently work 'bottom-up'.¹⁰⁹ Mortati similarly held that parties increasingly stood in the way between people and the state, rather than facilitating their mutual integration in the 1970s.¹¹⁰ Coming from the main defendants of the integration of parties in the state, such remarks were a powerful warning that the public function of parties was only legitimate if matched by their support at grass roots level.

Notes

1. E.E. Schattschneider, *Party Government* (New York: Rinehart Publishers, 1942), pp. 1, 6.
2. E. Holtmann, *Der Parteienstaat in Deutschland. Erklärungen, Entwicklungen, Erscheinungsbilder* (Bonn: Bundeszentrale für politische Bildung, 2012); M.W. Richter, 'The German Party State. A Reassessment', in C.S. Allen (Ed.), *Transformation of the German Political Party System* (New York and Oxford: Berghahn Books, 1999), pp. 62–98; P. Scoppola, *La repubblica dei partiti. Evoluzione e crisi di un Sistema politico (1945-1996)* (Bologna: Il Mulino, 1997); L. Musella, *Il Potere della Politica. Partiti e Stato in Italia (1945-2015)* (Rome: Carocci, 2015); P. Ignazi, 'The Three Ages of Party Politics in Postwar Italy', in K. Lawson (Ed.) *Political Parties and Democracy. Vol. II Europe* (Oxford: Praeger, 2010), pp. 47–69.
3. H.-J. Puhle, 'Still the age of catch-allism? Volksparteien and Parteienstaat in Crisis and Re-equilibration', in R. Gunter, J.R. Montero, and J.J. Linz (Eds) *Political Parties, Old Concepts and New Challenges* (New York: Oxford University Press), pp. 58–83: 71; G. Sartori, *Parties and Party Systems. A framework for analysis* (Cambridge: CUP, 1976), p. 14.
4. I. van Biezen, 'Political Parties as Public Utilities', *Party Politics*, 10, 6, (2004), pp. 701–22 at p. 706.
5. This counts in particular for the individual party histories in Italian historiography: A. Giovagnoli, *Il partito italiano. La Democrazia Cristiana, 1942–1994* (Bari: Laterza, 1996); A. Vittoria, *Storia del PCI* (Rome: Carocci, 2006); Z. Ciuffoletti, M. Degli'Innocenti, G. Sabbatucci, *Storia del PSI. Dal Dopoguerra ad Oggi* (Bari: Laterza, 1993).
6. D. Rogers, *Politics After Hitler: The Western Allies and the West German Party System* (Basingstoke: Palgrave MacMillan, 1995).
7. G. Capocchia and D. Ziblatt, 'The Historical Turn in Democratization Studies. A Research Agenda for Europe and Beyond', *Comparative Political Studies*, 43, 8/9 (2010), pp. 931–68, esp. pp. 947–49.
8. J.W. Müller, 'The Triumph of What (if anything)? Rethinking political ideologies and political institutions in twentieth-century Europe', *Journal of Political Ideologies*, 14, 2 (2009), pp. 211–235: p. 215. See more generally J.W. Müller, *Contesting Democracy. Political Ideas in Twentieth Century Europe* (New Haven: Yale University Press, 2011).
9. Richter, 'The German Party State', *op. cit.*, Ref. 2, pp. 73–4; M. Fioravanti, *Costituzione e popolo sovrano. La Costituzione italiana nella storia del costituzionalismo moderno* (Bologna: Il Mulino, 1998), pp. 73–5.
10. M. La Torre, 'The German Impact on Fascist Public Law Doctrine – Costantino Mortati's 'Material Constitution'', in C. Joerges and N.S. Ghaleigh (Eds) *Darker Legacies of Law in Europe. The Shadow of National Socialism and Fascism over Europe and its Legal Traditions* (Oxford and Portland: Hart Publishing, 2003), pp. 307–320 at p. 317.
11. M. H. Wiegandt, 'Von der Weimarer zur Bonner Republik: Gerhard Leibholz (1901–1982)', in: J. Lege (Ed.) *Greifswald – Spiegel der deutschen Rechtswissenschaft 1815 bis 1945* (Mohr Siebeck, 2009), pp. 373–397 at p. 395.
12. S. Benöhr, *Das faschistische Verfassungsrecht Italiens aus der Sicht von Gerhard Leibholz. Zu den Ursprüngen der Parteienstaatslehre* (Baden Baden: Nomos Verlag Gesellschaft, 1999), p. 134.
13. M. H. Wiegandt, 'Antiliberal Foundations, Democratic Convictions. The Methodological and Political Position of Gerhard Leibholz in the Weimar Republic', in P.C. Caldwell and W. E. Scheuerman (Eds), *Liberal Democracy to Fascism* (Boston/Leiden/Cologne: Humanities Press Inc., 2000), pp. 108–35.
14. La Torre, 'The German Impact', *op. cit.*, Ref. 10, p. 309.
15. P. Pombeni, *La questione costituzionale in Italia* (Bologna: Il Mulino, 2017), p. 75.
16. Richter, 'The German Party State', *op. cit.*, Ref. 2, pp. 73–4; Van Biezen, 'Political Parties', *op. cit.*, Ref. 4, p. 704.
17. J. Retallack, *Red Saxony. Electoral Battles and the Spectre of Democracy* (Oxford: Oxford University Press, 2017).

18. M. L. Anderson, *Practicing Democracy. Elections and Political Culture in Imperial Germany* (New Jersey: Princeton University Press, 2000).
19. M. Ridolfi, *Il PSI e la nascita del partito di massa. 1892–1922* (Bari: Laterza, 1992).
20. G. De Rosa, *Il partito popolare italiano* (Bari: Laterza, 1988).
21. A. von Klimó, 'Politiker und Beamte in Italien und Deutschland (1860–1930). Vergleichende Überlegungen', in D. Dowe, J. Kocka, H.A. Winkler (Eds) *Parteien im Wandel vom Kaiserreich zur Weimarer Republik* (Munich: Oldenbourg Wissenschafts Verlag, 1999), pp. 341–62 at p. 343.
22. T. Kühne, 'Political culture and democratization', in: J. Retallack (Ed.), *Imperial Germany 1871–1918* (Oxford: Oxford University Press, 2008), pp. 174–95 at p. 182; W.J. Mommsen, *Der autoritäre Nationalstaat. Verfassung, Gesellschaft, und Kultur im deutschen Kaiserreich* (Frankfurt am Main: Fischer, 1990), p. 289; S. Rogari, *Alle origini del trasformismo. Partito e Sistema politico nell'Italia liberale* (Bari: Laterza, 1998), pp. 214–5.
23. P. Ignazi, *Party and Democracy. The Uneven Road to Party Legitimacy* (Oxford: Oxford University Press, 2017), pp. 75–77.
24. B. Manin, *The Principles of Representative Government* (Cambridge: Cambridge University Press, 1997), p. 203.
25. Rogari, *Alle origini*, op. cit., Ref. 22, p. 89.
26. G. Ambrosini, *Partiti Politici e Gruppi Parlamentari dopo la Proporzionale* (Firenze: La Voce, 1921), pp. 38–9.
27. J. Caplan, 'Recreating the Civil Service: Issues and Ideas in the Nazi Regime', in A. McElligot (Ed.) *Weimar Germany* (Oxford: Oxford University Press, 2009), pp. 34–56 at p. 40. See also S. Grüner, 'Probleme des Weimarer Parteiensystems im Vergleich', in A. Wirsching (Ed.) *Herausforderungen der parlamentarischen Demokratie* (Munich: Oldenbourg, 2007), pp. 111–128; M-L. Sergio, *Dall'antipartito al partito unico. La crisi della politica in Italia agli inizi del '900* (Rome: Edizioni Studium, 2002).
28. U.F.H. Rühl, 'Nationale Demokratie und Parteienstaat', in C. Gusy (Eds.) *Demokratisches Denken in der Weimarer Republik* (Baden-Baden: Nomos Verlagsgesellschaft, 2007), pp. 469–504 at p. 483; D. Richers, 'Die Verfassung der Verfassung: Rudolf Smend (1882–1975)', in J. Lege (Ed.) *Greifswald. Spiegel der deutschen Rechtswissenschaft 1815 bis 1945* (Mohr Siebeck, 2009), pp. 271–83.
29. H. Triepel, *Die Staatsverfassung der politischen Parteien. Rede bei der Feier der Erinnerung an den Stifter der Berliner Universität König Friedrich Wilhelm III in der alten Aula am 3. August 1927* (Berlin, 1927), p. 29. All translations in this article are my own.
30. H. Kelsen, *Von Wesen und Wert der Demokratie* (Aalen: Scientia Verlag, 1963 ([1929])), p. 20.
31. M. Weber, 'Parliament and Government in Germany under a New Order', in *Political Writings* (Cambridge: Cambridge University Press, 1994), pp. 130–271 at pp. 151–2.
32. S-Y. Song, *Politische Parteien und Verbände in der Verfassungsrechtslehre der Weimarer Republik* (Berlin: Duncker & Humblot, 1996), p. 157.
33. Kelsen, *Von Wesen und Wert*, op. cit., Ref. 30, p. 20.
34. H. Kelsen, *Das Problem des Parlamentarismus* (Leipzig: Wilhlem Braumüller, 1926), pp. 24–5.
35. G. Leibholz, 'Die Grundlagen des modernen Wahlrechts. Zugleich eine Betrachtung zur Wahlreform', in G. Leibholz, *Strukturprobleme der modernen Demokratie* (Karlsruhe: Verlag C.F. Müller, 1967) [1931], pp. 9–40 at p. 35.
36. S. Neumann, *Die Parteien der Weimarer Republik* (original title *Die politischen Parteien in Deutschland*) (W. Kohlhammer GmbH: Stuttgart, 1965 [1931]).
37. D. Kelly, 'Carl Schmitt's Political Theory of Dictatorship', in J. Meierhenrich and O. Jones (Eds), *The Oxford Handbook of Carl Schmitt* (Oxford: Oxford University Press, 2017), pp. 217–44.
38. O. Koellreutter, *Die politische Parteien im modernen Staate* (Ferdinand Hirt in Breslau, 1926), pp. 86–7.

39. Benöhr, *Das faschistische Verfassungsrecht*, *op. cit.*, Ref. 12, p. 134; Wiegandt, 'Antiliberal Foundations', *op. cit.*, Ref. 13, p. 128; La Torre, 'The German Impact', *op. cit.*, Ref. 10, p. 309; D. Schefold, 'Die Parteiinstitution in Italien', in D.Th. Tsatsos (Ed.) *30 Jahre Parteiengesetz in Deutschland. Die Parteiinstitution im internationalen Vergleich* (Baden-Baden, Nomos Verlagsgesellschaft, 2002), pp. 132–145 at p. 135.
40. G. Leibholz, *Das Wesen der Repräsentation unter besonderer Berücksichtigung der Repräsentativsystems. Ein Betrag zur allgemeine Staats- und Verfassungslehre* (Berlin and Leipzig: Walter de Gruyter and Co, 1929), p. 58.
41. Wiegandt, 'Von der Weimarer zur Bonner Republik', *op. cit.*, Ref. 11, p. 378.
42. Leibholz, *Das Wesen*, *op. cit.*, Ref. 40, p. 118.
43. For a recent example see E. Gentile, P. Corner and C. Duggan, 'Two New Books on Fascism. A Review, the Author's Responses, and the Reviewer's Comments', *Journal of Modern Italian Studies*, 19, 5 (2014), pp. 665–83.
44. Ignazi, *Party and Democracy*, *op. cit.*, Ref. 23, pp. 100–102.
45. C. Mortati, *La Costituzione in senso materiale* (Ristampa inalterata con una premessa di Gustavo Zagrebelsky, Milano Giuffrè editore, 1998 [1940]), p. 71.
46. C. Mortati, *L'ordinamento del governo nel nuovo diritto pubblico italiano* (Rome, 1931), p. 156.
47. Wiegandt, 'Antiliberal Foundations', *op. cit.*, Ref. 13, p. 127.
48. G. Leibholz, *Zu den Problemen des faschistischen Verfassungsrechts. Akademische Antrittsvorlesung* (Berlin, Walter de Gruyter, 1928), pp. 22–3.
49. G. Leibholz, *Die Auflösung der liberalen Demokratie in Deutschland und das autoritäre Staatsbild* (Munich: Dunker & Humblot, 1933), p. 79.
50. Benöhr, *Das faschistische Verfassungsrecht*, *op. cit.*, Ref. 12, p. 134.
51. Leibholz, *Das faschistischen Verfassungsrechts*, *op. cit.*, Ref. 48, p. 8.
52. Leibholz, *Ibid.*, p. 37.
53. Mortati, *La costituzione in senso materiale*, *op. cit.*, Ref. 45, p. 71.
54. Mortati, *Ibid.*
55. Benöhr, *Das faschistischen Verfassungsrecht*, *op. cit.*, Ref. 12, p. 134.
56. Leibholz, *Das faschistischen Verfassungsrechts*, *op. cit.*, Ref. 48, p. 37. My emphasis.
57. G. Della Cananea, 'Mortati and the Science of Public Law: A Comment on La Torre', in Joerges and Ghaleigh (Eds). *Darker Legacies*, *op. cit.*, Ref. 10, pp. 323–335 at p. 333.
58. Mortati, *L'ordinamento*, *op. cit.*, Ref. 46, p. 156.
59. Mortati, *op. cit.*, Ref. 45, p. 74.
60. Mortati, *L'ordinamento*, *op. cit.*, Ref. 46, p. 157.
61. *Ibid.*, p. 159.
62. Ignazi, *Party and Democracy*, *op. cit.*, Ref. 23, p. 100.
63. A. Nolzel, 'Charismatic Legitimation and Bureaucratic Rule. The NSDAP in the Third Reich', *German History*, 23, 4 (2005), pp. 494–518.
64. O. Ranalletti, 'Il Partito Nazionale Fascia nello Stato Italiano', in Circolo Giuridico di Milano, *Gli Stati Europei a Partito Politico Unico. Per i professori: Carlo Schmitt, Gaspare Ambrosini, Oreste Ranalletti* (Milano, Casa Editrice Italiana, 1936), pp. 17–35.
65. C. Schmitt, 'I caratteri essenziali dello Stato nazionalsocialista', in Circolo Giuridico di Milano, *Gli Stati Europei a Partito Politico Unico. Per i professori: Carlo Schmitt, Gaspare Ambrosini, Oreste Ranalletti* (Milano, Casa Editrice Italiana, 1936), pp. 37–52 at p. 43.
66. C. Schmitt, *Ibid.*, p. 49.
67. F. Günther, "'Eine in jede Richtung veränderte Wirklichkeit". Gerhard Leibholz und die antiliberalen Bewegung', in A-B. Kaiser (Ed.) *Der Parteienstaat. Zum Staatsverständnis von Gerhard Leibholz* (Baden-Baden: Nomos, 2013), pp. 23–44.
68. G. Leibholz, 'Two Types of Democracy' (1945), in G. Leibholz, *Politics and Law* (Leiden: Sythoff, 1965), pp. 37–48.
69. G. Leibholz, 'Democracy, Representation and the Electoral Issue' (1943), in G. Leibholz, *Politics and Law, Ibid.*, pp. 49–63 at p. 50.

70. V. Crisafulli, 'I partiti nella costituzione', in *Studi per il ventesimo anniversario dell'assemblea costituente* (Florence, Valecchi editore, 1969), Vol. 2, *Le Libertà civili e politiche*, pp. 105–143; p. 110–120; P. Corduener, 'Institutionalizing the democratic party-state: political parties as 'public utilities in Italy and West Germany, 1945–1975', *European Review of History/Revue européenne d'histoire*, 25, 1 (2018), 101–120.
71. F. Bösch, *Die Adenauer-CDU. Gründung, Aufstieg und Krise einer Erfolgspartei 1945–1969* (Munich: Deutsche Verlags-Anstalt, 2001); F. Malgeri, *L'italia democristiana. Uomini e idee dal cattolicesimo democratico nell'Italia repubblicana (1943–1993)* (Rome: Gangemi Editore, 2004). See also: O. Kircheimer, 'The Transformation of the Western European Party System', in O. Kircheimer, *Politics, Law, and Social Change. Selected essays of Otto Kircheimer* (New York: Columbia University Press, 1969), pp. 346–371.
72. Der Parlamentarische Rat 1948–1949. Akten und Protokolle, Band 2. Der Verfassungskonvent auf Herrenchiemsee, bearbeitet von Peter Bucher (Boppard am Rhein: Harald Boldt Verlag, 1981), p. 221.
73. Crisafulli, 'I partiti nella costituzione', *op. cit.*, Ref. 70, pp. 105–143 at p. 115.
74. *Il finanziamento dei partiti. Prima "Tavola Rotonda" organizzata dal Movimento Gaetano Salvemini domenica 20 ottobre 1963 al "Ridotto" dell'Eliseo, in Roma* (estratto dalla rivista Montecitorio, no 10–11, 1963), p. 49.
75. Holtmann, *Der Parteienstaat in Deutschland*, *op. cit.*, Ref. 2.
76. Della Cananea, 'Mortati', *op. cit.*, Ref. 57, pp. 333–4.
77. Mortati, *L'ordinamento*, *op. cit.*, Ref. 46, p. 155.
78. Song, *Politische Parteien*, *op. cit.*, Ref. 32, p. 205.
79. Leibholz, *Das Wesen*, *op. cit.*, Ref. 40, pp. 118–9.
80. P. Lösche, 'Parteienstaat Bonn – Parteienstaat Weimar? Über die Rolle von Parteien in der parlamentarischen Demokratie', in E. Kolb and W. Mülhausen (Eds), *Demokratie in der Krise. Parteien im Verfassungssystem der Weimarer Republik* (Munich: Oldenbour Verlag, 1997), pp. 141–164.
81. G. Leibholz, *Der Strukturwandel der modernen Demokratie. Vortrag gehalten in der Juristischen Studiengesellschaft in Karlsruhe am. 30 April 1952* (Karlsruhe, Verlag C.F. Müller, 1952), p. 15.
82. BVerfGE 1, 208 (1952).
83. Mortati, *La Costituente*, *op. cit.*, Ref. 45, pp. 145–6.
84. Assemblea Costituente, Commissione per la Costituzione, Discussioni in Assemblea Plenaria, 22 Maggio 1947, 4160.
85. Richter, 'The German Party State', *op. cit.*, Ref. 2, pp. 73–4.
86. Atti Parlamentari Camera dei Deputati, VI Legislatura Discussioni, Seduta del 9 Aprile 1974, 14 186–7.
87. C. Mortati, *La Costituente. La teoria. La storia, Il problema italiano* (Rome: Darsena 1945), p. 115.
88. C. Mortati, *Concetto e funzione dei partiti politici*, Quaderni di ricerca, no. 1 (1949), 1–27.
89. C. Mortati, *Istituzioni di diritto pubblico II* (Padova: Cedam 1967), p. 726.
90. G. Zagrebelsky, 'Premessa a C. Mortati', in C. Mortati (Ed.) *La costituzione in senso materiale* (Ristampa inalterata con una premessa di Gustavo Zagrebelsky, Milano Giuffrè editore, 1998).
91. G. Leibholz, 'Volk und Partei im neuen deutschen Verfassungsrecht [1950]', in G. Leibholz, *Strukturprobleme der modernen Demokratie* (Karlsruhe: Verlag C.F. Müller, 1967), pp. 71–77.
92. G. Leibholz, *Ibid.*, p. 77.
93. G. Leibholz, *Strukturprobleme der modernen Demokratie* (Karlsruhe: Verlag C.F. Müller, 1958), p. 75.
94. C. Mortati, *La costituzione di Weimar* (Florence: Sansoni editore, 1946).
95. Gerhard Leibholz, 'Der Parteienstaat des Bonner Grundgesetzes', in H. Wandersleb (Ed.), *Recht, Staat, Wirtschaft* (1951), pp. 99–125: p. 105.
96. Schattschneider, *Party Government*, *op. cit.*, Ref. 1.

97. Sergio, *Dall'antipartito al partito unico*, op. cit., Ref. 27; Lösche, 'Parteienstaat Bonn – Parteienstaat Weimar?', op cit., Ref. 80; H. Mommsen, 'Die Krise der parlamentarischen Demokratie im Europa der Zwischenkriegszeit', in A. Wirsching, *Herausforderungen der parlamentarischen Demokratie. Die Weimarer Republik im europäischen Vergleich* (Munich: R. Oldenbourg Verlag, 2007), pp. 21–35.
98. G. Melis, *La macchina imperfetta. Imagine e realtà dello stato fascista* (Bologna: Il Mulino, 2018); J. Noakes, 'Leaders of the People? The Nazi Party and German Society', *Journal of Contemporary History*, 39, 2 (2004), pp. 189–212.
99. R.J. Evans, *The Coming of the Third Reich* (New York: Penguin Press, 2004), pp. 353–88; Sergio, *Dall'antipartito al partito unico*, op. cit., Ref. 27.
100. M. Mazower, *Dark Continent. Europe's Twentieth Century* (London: Allen Lane, 1998); M. Conway and P. Romijn (Eds) *The War for Legitimacy in Politics and Culture, 1936–1946* (Oxford: Berg, 2008).
101. D. Crew, 'The Ambiguities of Modernity: Welfare and the German State from Wilhelm to Hitler', in G. Eley, *Society, Culture and the State in Germany 1870–1930* (Ann Arbor: University of Michigan Press, 1996), pp. 319–44; B. Gausemeier, 'Genetics as a Modernization Program: Biological Research at the Kaiser Wilhelm Institutes and the Political Economy of the Nazi State', *Historical Studies in Natural Sciences*, 40, 4 (2010), pp. 429–56; M. Renneberg and M. Walker (Eds) *Scientists, Engineers, and National Socialism* (Cambridge: Cambridge University Press, 1994); M. Roseman, 'National Socialism and Modernization', in R. Bessel (Ed.) *Fascist Italy and Nazi Germany* (Cambridge: Cambridge University Press, 1996), pp. 197–229.
102. M. Conway, 'Introduction', in T. Buchanan and M. Conway (Eds) *Political Catholicism in Europe 1918–1965* (Oxford: Clarendon Press, 1996), pp. 1–33; P. Pombeni, 'Political Models and Political Transfer in the Shaping of Europe', *European Review of History: Revue européenne d'histoire*, 12, 2 (2005), pp. 223–238; R. Bessel, 'The Nazi Capture of Power', *Journal of Contemporary History*, vol. 39, no. 2 (2004), pp. 169–188; M.S. Piretti, 'Continuità e rottura alla nascita del sistema dei partiti', in C. Franceschini, S. Guerrieri and G. Monina (Eds), *Le idee costituzionali della resistenza. Atti del Convegno di studi Roma 19, 20 e 21 ottobre 1995* (Rome: Presidenza del Consiglio dei ministri, 1995), pp. 206–12.
103. C. Duggan, 'Italy in the Cold War Years and the Legacy of Fascism', in C. Duggan and C. Wagstaff (Eds) *Italy in the Cold War. Culture, Politics, Society, 1948–1958* (Oxford: Berg, 1995), pp. 2–23; C. Pavone, *Alle Origini della Repubblica. Scritti su fascismo, antifascismo e continuità dello Stato* (Torino: Vollati Boringhieri editore, 1995); C. Levy, 'From Fascism to "Post-Fascists": Italian Roads to Modernity', in R. Bessel (Ed.) *Fascist Italy and Nazi Germany*, pp. 165–96; M. Fioravanti, 'Giuristi e dottrine del partito politico: gli anni trenta e quaranta', in Franceschini, Guerrieri and Monina (Eds), *Le idee costituzionali*, op. cit., 193–205; M. Gregorio, 'Costituzione, forma di governo e partiti politici', in P. L. Ballini and S. Guerrieri and A. Varsori (Eds) *Le istituzioni repubblicane dal centrismo al centro-sinistra (1953–1968)* (Rome: Carocci, 2006), pp. 109–23; G. Orsina, *Il berlusconismo nella storia d'Italia* (Venice: Marsilio, 2013).
104. Schefold, 'Die Parteiinstitution in Italien', op. cit., Ref. 39, p. 136.
105. The phrase 'restrained democracy' is from J.W. Müller, *Contesting Democracy. Political Ideas in Twentieth Century Europe* (New Haven: Yale University Press, 2011).
106. I. van Biezen, *Political Parties in New Democracies. Party Organization in Southern and East-Central Europe* (Basingstoke: Palgrave MacMillan, 2003).
107. I. van Biezen and P. Kopecký, 'The cartel-party and the state: party-state linkages in European democracies', *Party Politics*, 20, 2, (2014), pp. 170–182; P. Mair, *Ruling the Void. The Hollowing of Western Democracy* (London: Verso, 2013).
108. C. Lavagna, *Considerazioni sulla istituzionalizzazione dei partiti* (Padova: CEDAM, 1950), p. 4.
109. G. Leibholz, *Das Wesen der Repräsentation und der Gestaltwandel der Demokratie im 20. Jahrhundert* (Berlin: Walter de Gruyter, 1960), p. 243.

110. M. Fioravanti, 'La trasformazione del modello costituzionale', *Studi Storici*, 42, 4, (2001), pp. 813–825 at p. 814.

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