Beyond Max Weber: The Need for a Democratic (Not Aristocratic) Theory of the Modern State

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BEYOND MAX WEBER: THE NEED FOR A DEMOCRATIC (NOT ARISTOCRATIC) THEORY OF THE MODERN STATE

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“The State must always be rediscovered.”
John Dewey

I – INTRODUCTION: THE PROBLEM OF THE STATE

The State is a difficult concept. Listen to two of the foremost social theorists of our age articulate its historic elusiveness.

The further I advance in my own work on the state, the more convinced I am that, if we have a particular difficulty in conceiving this object, it is because it is ... almost unthinkable ... The state is a well-founded illusion; this place exists essentially because people believe that it exists. This illusory reality, collectively validated by consensus, is the site that you are headed toward when you go backward from a certain number of phenomena ... This mysterious reality exists through its effects. It is something that you cannot lay your hands on, or tackle in the way that people from the Marxist tradition do when they say “the state does this,” “the state does that”... That is a very dangerous fiction... All sentences that have the state as subject are theological sentences ... in as much as the state is a theological entity, that is, an entity that exists by way of belief.

You will, of course, put to me the question, or make the objection: Once again you do without a theory of the state. Well, I would reply, yes, I do, I want to, I must do without a theory of the state, as one can and must forgo an indigestible meal... The state does not have an essence. The state is not a universal nor in itself an autonomous source of power. The state is nothing else but the effect, the profile, the mobile shape of a perpetual statification (étatisation) or statifications, in the
sense of incessant transactions which modify, or move, or drastically change, or insidiously shift sources of finance, modes of investment, decision-making centers, forms and types of control, relationships between local powers, the central authority, and so on. In short, the state has no heart, as we well know, but not just in the sense that it has no feelings, either good or bad, but it has no heart in the sense that it has no interior.

The first quotation, of course, comes from the recent translation of Pierre Bourdieu’s lectures *Sur l’État* at the Collège de France on January 18, 1990. The second, almost as easily recognizable, comes from Michel Foucault’s posthumously published Collège de France lectures on Biopolitics eleven years before on January 31, 1979. No wonder comprehensive theoretical treatises on the State per se remain so scarce. No wonder some of our greatest interpreters of modern society, polity, and economy never completed systematic studies of the State.

Moreover, recognition of the inherent difficulty of the State concept is not just a recent discovery. In *The Public and Its Problems* (1927), the prolific American political philosopher John Dewey anticipated Bourdieu’s and Foucault’s troubled reflections by some fifty years:

The concept of the state, like most concepts which are introduced by ‘The,’ is both too rigid and too tied up with controversies to be of ready use. It is a concept which can be approached by a flank movement more easily than by a frontal attack. The moment we utter the words ‘The State,’ a score of intellectual ghosts rise to obscure our vision. Without our intention and without our notice, the notion of ‘The State,’ draws us imperceptibly into a consideration of the logical relationship of various ideas to one another, and away from facts of human activity.

For almost a hundred years, then, there has been a remarkable intellectual consensus among some of our greatest thinkers and theorists, that the concept of the State is difficult, thorny, murky, and frustratingly complex. During the very century in which the modern state took center stage in history – expanding, extending, and propagating often with the most extreme consequences for populations and competing jurisdictions – theorists have struggled to reckon with exactly what was entailed by this forceful new actor in the world theater. Strangely, the “state” as a subject of popular political debate continues unabated amid heated ideological charges of “statism” and counter-charges of “anti-statism,” just as higher
intellectual agreement about what the state or statism or anti-statism might actually mean fades into an expanding miasma of theoretical neologisms like “governmentality” or “statification” or “bureaucratic and juridical fields.” Together, these competing intellectual, cultural, and historical trends create the disturbing feeling that we seem not to know exactly what we are talking about with regard to one of the most talked about subjects of the most talked about centuries. Pierre Bourdieu perhaps captured this troubling state of affairs of state when he provocatively began his most recently published lectures “On the State” with the unsettling subtitle “An Unthinkable Object.”

And indeed, of late, the dominant trends with respect to thinking generally about the state have been essentially concessions to the state’s “unthinkability.” While studies of the state proliferate in the historical and social sciences, most restrict themselves to rearguard actions – stealthily sneaking up on the state through empirical and inductive investigations of “state effects.” Bourdieu actually endorsed something like the latter when he described the state as “the site that you are headed toward when you go backward from a certain number of phenomena – educational qualifications, professional qualifications or calendar. Proceeding step by step, you arrive at a site that is the foundation of all this.” Foucault recommended something similar when he criticized the deductive notion of starting from a state essence or political universal and then “deducing the status of the mad, the sick, children, delinquents, and so on.” Foucault turned the inquiry and genealogy on its head, focusing on “the effect, the profile, the mobile shape of a perpetual statification … in the sense of incessant transactions which modify, or move, or drastically change, or insidiously shift sources of finance, modes of investment, decision-making centers, forms and types of control, relationships between local powers, the central authority, and so on.” Studies pursued in this vein have contributed to a helpful and burgeoning accumulation of information on and thick descriptions of state institutions, state policies, state officials, state resistance, and other assorted state effects. But the hoped for grand achievement of an ultimately better appreciation of the abstract concept of the state itself has been ineluctably postponed.

Though Dewey, Bourdieu, and Foucault seemed to hold out the possibility of eventually working back to an abstract discussion of the concept of the state from more particular or genealogical studies of
state effects and the like, recent trends suggest something of the opposite tendency. First, the study of state effects has become so specialized and disciplinary as to become something of a cottage industry and a scholarly end in itself—no longer preoccupied in the least with moving back towards a reinterpretation of the more abstract concept. Ouroboros-like, the unthinking means swallows its allegedly unthinkable ends.

More problematically, the investigation of effects and policies and actors away from the state has led some scholars to endorse a more self-conscious move to eviscerate or evacuate the concept of the state from the discussion altogether. The death of the state thus joining an expanding list of refuted or refused concepts from another distant era: e.g., the death of the Subject, the end of Art, the decline of the Novel, the fall of Man. This intellectual position—sometimes referred to by expressions like moving or thinking “beyond the state” —can be somewhat illuminating in the hands of talented thinkers like Nikolas Rose and Peter Miller. But its more perilous and popular extremes are suggested by an influential American political historian who announced recently that he was “trying to wean himself from the State.” In its more unreflective strains, some recent attempts to move beyond the state display a rather naive and almost comedic anti-intellectualism—manifesting what Foucault talked about as an almost irrational state-phobia akin to 1950s aversion to the atom bomb.

We cannot wish (or think) away the modern state any more than the postwar generation could wish away atomic power. And we cannot ignore the state in our efforts to come to terms with modern economy and society any more than we can ignore equally difficult concepts like modern capitalism or modern law. Attempts to try to reckon with modernity in lieu of hard thinking about such abstract concepts will probably end up deploying some overdetermined and cartoonish causation of a mainly biographical or interest-group sort. Or, like libertarianism, neoliberalism, or other popular anti-statist credos, they will leave us with an embarrassingly thin set of unrealistic concepts, rules, and ideas with which to size up an unrelentingly complex—and increasingly dangerous—world.

II – THINKING THE STATE

No, the state is indeed a difficult concept, but we cannot run away from or easily move beyond it. Just as it loomed large in the 20th
It does not appear to be on its way out anytime soon in the 21st century. Moreover, despite the reservations of some noted social theorists, the state is not really “an unthinkable object.” It is less an object than a subject—a subject and a concept that can and must be distinctly conceived and conceptualized—or, more precisely, re-conceived and re-conceptualized. As John Dewey put it somewhat prophetically, “Since conditions of action and of inquiry and knowledge are always changing, the experiment must always be retried; the State must always be rediscovered… We have no idea what history may still bring forth.”

And though the state is a difficult concept, it is not especially or uniquely difficult. On the contrary, philosophy and social science are chock-full of equally abstract, obscure, and difficult concepts. Think, for example, of some of the definitional and theoretical difficulties posed by concepts like God, Truth, and Existence or Capitalism, Society, and Law. And yet, such concepts (in good, pragmatic, historicist, and Deweyean fashion) are constantly being reformulated and rediscovered.

In the field of law, the question “What is the law?” is abstract, difficult, and contested. But who would deny the intellectual progress made through the conceptual debates and theoretical rediscoveries of people like Blackstone and Bentham, Pound and Llewellyn, and Hart and Dworkin. Even subcategories of the law like Property, Contract, and Tort evade easy or precise definition. Listen to this wonderfully subversive definition of the first of these by the legal realist Walton Hamilton:

PROPERTY is a euphonious collocation of letters which serves as a general term for the miscellany of equities that persons hold in the commonwealth. A coin, a lance, a tapestry, a monastic vow, a yoke of oxen, a female slave, an award of alimony, a homestead, a first mortgage, a Railroad system, a preferred list and a right of contract are all to be discovered within the catholic category. Each of these terms, meaningless in itself, is a token or focus of a scheme of relationships; each has its support in sanction and repute; each is an aspect of an enveloping culture. A Maori claiming his share of the potato crop, a Semitic patriarch tending his flock, a devout abbot lording it vicariously over fertile acres, a Yankee captain homeward bound with black cargo, an adventurous speculator selling futures in a grain he has never seen and a commissar clothed with high office in a communistic state are all men of property. In fact, property is as heterogeneous as the societies within
which it is found; in idea, it is as cosmopolitan as the systems of thought by which it is explained.\textsuperscript{11}

In his work on the “juridical field,” Bourdieu drew attention to the peculiar power of law “to do things with words”—to make things happen by merely saying so.\textsuperscript{12} Hamilton noted the same quality in “property”: “An abstract term, indigenous to a way of thought, has meanings and compulsions of its own; the institution of property is inseparable from the verbal symbol through which the mind attempts to capture its actuality.”

So too, in economics, the concepts of “the market” and “capitalism” are difficult, complex, and also somewhat “mysterious.” Hernando de Soto is only the most recent in a long line of theorists to attempt to explain, pin-down, and concretize some of their elusive and illusive qualities.\textsuperscript{13} Adam Smith worked through long “Lectures” on jurisprudence, justice, and police before reckoning with the difficulties of “the market” in \textit{The Wealth of Nations}. Marx took numerous detailed volumes to sort through the mysteries of capital. With economics as with law, whole departments and schools have long been devoted to exploring these multiplying intricacies despite the genetic definitional difficulties both concepts share with “the state.” These are just some of the most notable tributes to the endless human task—both dialectical and dialogical—of making the inconceivable more conceivable, the unthinkable more thinkable. And in rendering modernity more conceivable and thinkable, concepts like “law,” “capitalism,” and “the state” are simply indispensable.

But, of course, in using terms like “unthinkable,” “indigestible,” and “imperceptible” (interestingly, all “un,” “in,” or “im” words flirting with the “non” of state-denial), Bourdieu, Foucault, and Dewey are not in the least suggesting that we abandon the effort (despite the contentions of some of their less formidable interpreters). Rather, all three use such conceptions primarily to warn us against the bland and misguided deployment of simple, conventional, reductionist, and orthodox conceptions of “the state” that are perhaps even more obscurantist than the concept itself in the abstract. They are pointing somewhere new, even if they themselves do not entirely get there.

For Dewey, his realist, pragmatic, and decidedly anti-metaphysical way of approaching the state was an antidote to what he perceived to
be the excesses of his early hero Hegel. He decried the “unbridled
generalizing and fixating tendency of the mind which leads to a
monistic fixation … and produced a magnified idealization of The
State.” Dewey saw in the operationalization and normalization of
such conceptualizations the threat of orthodoxy and conservatism of
the kind Bourdieu outlined in *A Theory of Practice*: “Every established
order tends to produce (to very different degrees and with very
different means) the naturalization of its own arbitrariness… The
instruments of knowledge of the social world are in this case
(objectively) political instruments which contribute to the
reproduction of the social world by producing immediate adherence
to the world, seen as self-evident and undisputed, of which they are a
product.” At the turn of the twentieth century in philosophy and
law as well as politics, this tendency was particularly acute. Dewey
worried about the natural tendency “to place the state beyond
criticism” wherein “revolt against the state is then thought to be the
one unforgivable social sin.” Dewey noted that “sometimes the
deification proceeds from a special need of the time, as in the cases of
Spinoza and Hegel” and “sometimes it springs from a prior belief in
universal will and reason and a consequent need of finding some
empirical phenomena which may be identified with the
externalization of this absolute spirit.” For Dewey, thinking about
the state as spirit or as mystery or as majesty or as “brooding
omnipresence” brought all the dangers of metaphysical or essentially
teological thinking that he devoted his entire philosophical career to
deconstructing.

Dewey’s more pragmatic and democratic rendering of “the
public” was a conscious product of his attempt to avoid what he saw
as the noxious consequences attending the continued hold of
essentially 19th conceptions of “The State.” “The idea that there is a
model pattern which makes a state a good or true state,” he argued, “is
responsible for the effort to form constitutions offhand and impose
them ready-made on peoples.” Dewey well understood the damage
that was being done in the late 19th and early 20th centuries in the
name of “true,” “good,” or “advanced” states. The presumed
“existence of a single standard form which defines the state as the
essential and true article” continued through the “false analogy with
physical science” and its assumptions about “a uniformity of
process.” As Dewey noted, such theories “flattered the conceit of
those nations which, being politically ‘advanced,’ assumed that they
were so near the apex of evolution as to wear the crown of
statehood.” In contrast, Dewey’s alternative rendering of “the public
and its problems” advocated “a consistently empirical or historical
treatment of the changes in political forms and arrangements, free
from any overriding conceptual domination such as is inevitable
when a ‘true’ state is postulated, whether that be thought of as
deliberately made or as evolving by its own inner law.” Dewey’s
concept of “the public” anticipated an exploration of the state-society
nexus as well as a full account of the interactions of the “non-
political” with “the public,” e.g., “industrial and technological”
occurrences and seemingly “external events, borrowings, travel,
migrations, explorations, wars,” etc., which “modify the
consequences of preexisting associations.”

Like Dewey’s pragmatic reckoning with “the public,” Foucault’s
revolutionary conceptions of governmentality and biopolitics sprang
too out of frustration with the intellectual baggage accompanying
inherited conceptualizations of the State—what he termed the
“overvaluation of the problem of the state.” As he put it in his
Lectures on Security, Territory, Population: “We know the fascination
that the love or horror of the state exercises today; we know our
attachment to the birth of the state, to its history, advance, power,
and abuses.” While Dewey was primarily concerned with the
retrograde effects flowing from essentially positive idealizations of the
state, i.e., too much “love,” Foucault was just as concerned about
overdrawn negative idealizations – the magnified “horror” of the
state. He drew particular attention to the overblown negative
idolization of Nietzsche’s Zarathustra: “State? What is that? Well
then, lend me your ears, for now, for I shall say my words about the
death of peoples. State is the name of the coldest of all cold
monsters. It even lies coldly, and this lie crawls out of its mouth: ‘I,
the state, am the people.’” In contrast to the tragic lyricism of the
cold-monster idea, Foucault endorsed a distinctly more prosaic and
less imperial or regal approach. “The state is not a cold monster,” he
insisted, “The state is far from being a kind of natural-historical given
which develops through its own dynamism like a ‘cold monster’
whose seed having been sown at a given moment has gradually eaten
away at history.” In reaction to the continued power of a singular
and transcendent notion of the state “as an imperial structure”
representing “God’s theophany in the world, leading men to a finally united humanity on the threshold of the end of the world,” Foucault countered simply: “The state… does not have this unity, individuality, and rigorous functionality.” The state, he noted, “only exists in the plural.”

Foucault’s pivot to governmentality and to an investigation of the “governmentalization of the state” and his reconceptualization of the state as “the correlative of a particular way of governing” was aimed critically not only at the specters of Hegel and Nietzsche, but the reductive accounts of the state in orthodox Marxism. He criticized analyses “reducing the state to a number of functions like, for example, the development of the productive forces and the reproduction of the relations of production.” Such “reductive views,” he argued, functioned paradoxically only to overvalue the state as “the target to be attacked” or “the privileged position to be occupied.” They thus, perhaps unintentionally, only further inflated the state’s unified and functional importance. For Foucault, in contrast, “maybe the state is only a composite reality and a mythicized abstraction whose importance is much less than we think.” Maybe.

Much as Dewey moved from the state to the public and its problems and as Foucault moved from the state to governmentality and biopolitics, Pierre Bourdieu famously moved from the state to equally influential conceptions of the “bureaucratic” and “juridical” fields. In his recently translated lectures On the State, Bourdieu’s opening warnings about “prenotions” and “state thinking,” and his provisional definition of the state as “almost unthinkable,” echoed Dewey’s and Foucault’s concerns about our state inheritance. Indeed, his notion of the state as “this well-founded illusion” and as an “illusory” and “mysterious reality” directly reconjured Dewey’s “intellectual ghosts” and Foucault’s “mythicized abstraction.”

From Hegel to Nietzsche to Marx, Bourdieu extended this well-established line of critique against essentially monistic and transcendent renderings of state power, whether benevolent or malevolent—from too much love or too much horror. Importantly, Bourdieu’s “unthinkable object” took aim first at the classical liberal tradition’s optimistic notion of the state as a “neutral site.” Bourdieu saw this as “the initial definition of the state,” i.e., “the definition that states give themselves.” It was inherently justificatory and
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legitimationist. For Bourdieu, Hobbes and Locke perpetuated the initial orthodoxy that the state is “an institution designed to serve the common good” and that the government is “serving the good of the people.” This established “a point of view overlooking all points of view” that lies behind a “view of the state as a quasi-God.” Bourdieu’s critique worked against this liberal tradition and its spontaneous sociology of the state—“the discourse that agents of the state produce about the state” and its ideology of “public service” and “public good.”24

But in addition to distancing himself from the neutral and consensual categories of liberal ideology—what he terms an essentially “optimistic functionalism,” Bourdieu’s theory of the state also took equal aim at the “pessimistic functionalism” of the Marxist tradition’s mirror image of a “diabolical state.” From Marx to Gramsci to Althusser, Bourdieu took exception to the tendency to characterize the state simply by “what it does and by the people for whom it does what it does.” Whether rendered in the form of a simple economic and materialist reductionism or through the lens of “hegemony” or an “ideological state apparatus,” Marxist variants on the state simply reversed the preconceptions of the liberal model. Rather than consensus, emancipation, and the common good, the state in this antagonistic tradition was an instrument and apparatus of contest, constraint, and the interests of the dominant. And while the element of criticality brought an advance over the self-legitimation of the liberal state, the critics continued to “reduce the question of the state to the question of function.” They just substituted for the divine state of classical orthodoxy a diabolical state of critical orthodoxy—a diabolus in machina—forever in the “service of the dominant” interests.25

So, the critical notion of the state as unthinkable, indigestible, and imperceptible has done some important work. In shifting discussion away from some tired and inherited preconceptions of “The State” to new sites like “the public,” “governmentality,” and “the bureaucratic field,” Dewey, Foucault, and Bourdieu liberated an otherwise sclerotic and stale line of social-scientific and social-theoretic inquiry. Washing the state concept with their cynical acids, these modern theorists rebutted the confusions and simplifications that flowed from earlier thinking about the state in utopian, metaphysical, or mechanistic fashion. They successfully waged intellectual war (sociology as a
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But despite the success of this basically critical project of distancing state theory from some irksome ancestral debris, some fundamental issues remain. First, it is open to question whether this critique set its sights on the most currently significant of “intellectual ghosts.” For while the state preconceptions of Locke, Hobbes, Hegel, Nietzsche, Marx, and Althusser continue to resonate in discussions of early 21st century governance, largely because of formidable critiques like those outlined above, they no longer wholly persuade – at least in the ideal-typical forms criticized by Dewey, Foucault, and Bourdieu. The metaphysical state, the classical benevolent liberal state, and the diabolical cold monster state of 18th and 19th century law, philosophy, and economics have themselves been rendered rather toothless specters. In our thoroughly disenchanted, non-speculative, post-metaphysical world, it is an unlikely proposition that many will continue to fall prey to the illusion of thinking about the state as some kind of mysterious, magical, theological substance or “quasi-God.” No, that revolution (and this concern), seems to be over.

More importantly, as is frequently true of essentially critical rather than reconstructive projects, this wide-ranging critique of extant state theory was sometimes so successful, that it nearly evacuated the state concept from discussion altogether. As Michel Foucault commanded himself, “I must do without a theory of the state.” For many scholars, this was a wholly welcome refrain. And they eagerly embraced the de-centering of the state and the political as an opportunity to change the theoretical conversation as well as the site of social-scientific investigation. They wasted little time assembling new theories and assorted methodologies pertaining to matters allegedly beyond the state. Investigations of social power, new socio-cultural histories, and an increasingly society-centered social science essentially cornered the academic market in the exploration of the problem of power in modern societies.

But contrary to great expectations, the old soldier did not simply fade away. Perhaps in testament to its obvious and unrelenting significance for the history of the 20th century, the state was inevitably brought back into the discussion. This much ballyhooed return of
the state took on a rather curious form, however. For the totality of
earlier critiques, from Dewey through Foucault, left in their
prodigious wake something of a void—an interpretive vacuum—for
reckoning with the state in the 20th century. And rather oddly and
momentously, into this intellectual vacuum stepped a late 19th century
class and concept. The character was Max Weber; the concept
was the bureaucratic state.

III—THE WEBER PROBLEM

Today the problem plaguing modern thinking about the state is no
longer the metaphysical one of thinking about the state as an entity
embodying the people, their spirit, their telos, and their public good.
Nor is it the classically liberal vision of a nightwatchman state—a
neutral and disinterested arbiter of fundamentally individual
freedoms. Nor does the problem inhere in an orthodox Marxist
rendering of the modern state as but an economically interested
committee—a visible hand—“managing the common affairs” on
behalf “of the whole bourgeoisie.” Rather, today, the conceptual
problem of the state suffers from a different tendency—one distinctly
more rational, social-scientific, positivist, and empirical.

For there is another powerful orthodoxy that haunts modern state
theory and that continues to frustrate a thorough conceptualization
and history. That orthodoxy is the product of the truly transformative
inquiries of Max Weber and the equally transformative proselytizing
of his latter-day disciples in the United States. Where theories of the
state rooted in religion, natural law, social contract, metaphysics,
ethics, and historical materialism have come and largely gone, Max
Weber’s conception of the state—defined most succinctly in “Politics
as a Vocation” as “a human community that (successfully) claims the
monopoly of the legitimate use of physical force within a given territory”—
continues to dominate and proliferate. To a great extent, the
modern study and theory of the state—even after the critical
achievements of dissenters like Dewey, Bourdieu, and Foucault—
continues to labor beneath the long and darkening shadow of Weber.

Indeed, even Pierre Bourdieu, who deftly and with some rhetorical
and intellectual bravado dispensed with so many conventional and
orthodox conceptions of the state, at first proposed a mere revision
to Weber’s aging conceptualization in Sur l’État. Bourdieu’s opening
definition of the “state” sounded in a distinctly Weberian register.
“If I had to give a provisional definition of what is called ‘the state,’” he lectured, “I would say that the sector of the field of power, which may be called ‘administrative field’ or ‘field of public office,’ this sector that we particularly have in mind when we speak of ‘state’ without further precision, is defined by possession of the monopoly of legitimate physical and symbolic violence.” Bourdieu’s innovation, in other words, primarily involved adding the words “and symbolic” to Weber’s conventional definition emphasizing the “monopoly of legitimate physical violence” alone. Of course, Bourdieu’s conception of “symbolic violence” was no mere tweaking of Weber. For he understood the monopoly of symbolic violence to underlie “Weber’s definition” as “the condition for possession of the exercise of physical violence.” Still, despite such an important innovation, what is striking is the continued hold exerted by a late 19th century theory of the state on a late 20th century critical theorist – a theorist reflecting on almost a century of state development (much of it well beyond the apprehension of Weber’s ideal types). How curious that one of the very latest publications on the concept of the state should remain so thoroughly under the spell of Weber. Despite Bourdieu’s swift and total critiques of unified, solitary, functional, and orthodox theories of the state—theories that he described as theological vestiges of thinking about the state as a quasi-God—Max Weber somehow escaped a similar level of critical scrutiny.

Weber’s clear and authoritative definition of the state in *Economy and Society* provides some clues to the powerful hold of a certain way of talking about the state. There Weber began his own discussion of the state with a thoroughly teleological statement: “Since the concept of the state has only in modern times reached its full development, it is best to define it in terms appropriate to the modern type of state.” He then proceeded to list the “primary formal characteristics” of the modern state in such “full development”:

- It possesses an administrative and legal order subject to change by legislation, to which the organized activities of the administrative staff, which are also controlled by regulations, are oriented. This system of order claims binding authority, not only over the members of the state, the citizens, most of whom have obtained membership by birth, but also to a very large extent over all action taking place in the area of its jurisdiction. It is thus a compulsory organization with a territorial basis. Furthermore, the use of force is regarded as legitimate only so far as it is either permitted by the state or prescribed by it... The claim of the
modern state to monopolize the use of force is as essential to it as its character of compulsory jurisdiction and of continuous operation.  

Note the language describing the dominant characteristics of the state: “an administrative order,” an “organized” and later, distinctly bureaucratic “staff,” regulation, a system, authority, jurisdiction, territory, organization, monopoly, compulsion, force, and “continuous operation.”

In his General Economic History, Weber continued a habit of almost being unable to talk about the state without direct reference to its underlying and determinative structure of officialdom. “The state in the sense of the rational state,” he noted there, “has existed only in the western world.” In turning to China for comparison, Weber turned immediately to its officials:

Under the old regime in China a thin stratum of so-called officials, the mandarins, existed… The mandarin is primarily a humanistically educated literatus in the possession of a benefice but not in the least trained for administration… In the way of political service, no importance is attached to him. Such an official performs no administrative work himself; administration lies rather in the hands of the chancery officials. A state with such officials is very different from the occidental state.

“Very different,” Weber argued, “is the rational state in which alone modern capitalism can flourish. Its basis is an expert officialdom and rational law.” The power and reception of Roman law in the West created a formal law “on the basis of which the trained official renders his decisions.” This formally rational legal system was the foundation for both the development of modern capitalism and the modern state. As Weber put it, “The creation of such a body of law was achieved through the alliance between the modern state and the jurists for the purpose of making good its claims to power.” In contrast to China, “the western world had at its disposal a formally organized legal system, the product of the Roman genius, and officials trained in this law were superior to all others as technical administrators.”

Such ideas about officialdom, administration, bureaucracy, and formal law continue to dominate much state-thinking today. Indeed, they are concepts and descriptions that still pervade Bourdieu’s narrative even as he worked himself out of so many other conventional understandings of the state: “the bureaucratic field,” “the
administrative field,” the state as an “object”—a “thing” that “penetrates”—a “sector” accessible via “sites” like public “space” or the public “office.” So many of Bourdieu’s illustrations or examples of state power involved the bureaucratic or quasi-administrative staff—the clerks, the officials, the commissions, the functionaries, the public school teacher, the inspector, the census takers, the tax collector, the authorized person, the salesman or real estate agent bargaining in the shadow of state law and regulation. Weber and Bourdieu are still bargaining with a state very much in the shadow of a distinctively Continental form of bureaucracy and droit administratif.

Of course, Weber and Bourdieu were hardly alone in this preoccupation. On the contrary, Weber’s much-heralded work on bureaucracy and the state was merely the sophisticated capstone of a rather momentous, century-long debate on the Continent centered around the rather peculiar historical characteristics of the fabled Prussian bureaucracy. In the wake of the French Revolution, this particular class of officialdom with its distinctive traditions of hierarchy, social status, public service, and professional training was lauded in Prussia for responsibly and safely stewarding state policy toward liberal reform while preserving military, aristocratic, and monarchical power and avoiding the perils of a more thoroughgoing social and democratic revolution. In the early 19th century, the vaunted Prussian civil servants amounted to what one historian dubbed “Plato’s guardian class,” forever held up as emblematic of the highest aspirations for public administration. For 19th century German thinkers, the Prussian bureaucracy was perhaps an irresistible place to quest for the essence of political things— “the disposition over weapons” or the “means of administration”—and to thereby conflate these things with harbingers of modernity and eternal reasons of state. As historian Walter L. Dorn prophetically captured the continued significance of this topic on the eve of World War II, “The uniqueness, the extraordinary strength but also the weakness, of modern Prussia lay in the fusion of the economic and military power of its nobility with the order, system and efficiency of its bureaucracy.” This most curious historical fusion continues to control much state thinking to this very day.

Though reflections on Prussian bureaucracy reached back well into the 18th century, Hegel’s extraordinary sanctification of the executive and its bureaucratic civil servants in his discussion of the
State in *Philosophy of Right* was the *locus classicus* that precipitated generations of stormy intellectual debate. In ten rather short paragraphs (§287–§297), Hegel articulated a conception of bureaucracy, administration, and the civil service—sounding in this distinctive Prussian tradition—as something of the *sine qua non* of the modern State per se. As Marx would later effectively criticize in his indispensable “Critique of Hegel’s Doctrine of the State,” by the time Hegel reached this point in his theory, his concept of the state was already theoretically constrained. Hegel had already evacuated much of the work of “police,” “the administration of justice,” and regulation of society through “corporations” (viewed by Hegel as essentially private bureaucracies—embodied in the self-administering guilds, professions, associations, communities, municipalities, and lesser jurisdictions that controlled so much of social and economic life) from the state to the interrelated realm of “civil society.” As Marx wryly noted, “nothing remains for the executive but their administration, which he treats in terms of bureaucracy.” Nonetheless, despite this already comparatively thin content and material in the executive, Hegel made the most of the idea of the civil servant in the public bureaucracy as the “pillar of the state.” As Hegel put it, “Civil servants and the members of the executive constitute the greater part of the *middle class*, the class in which the consciousness of right and the developed intelligence of the mass of the people is found.” The executive bureaucracy and administration was responsible for “the maintenance of the state’s universal interest, and of legality.” With respect to particular rights and civil society, the work of bringing such rights back to the universal required oversight, management, and administration—superintendence—“by holders of the executive power, by (a) executive civil servants and (b) the higher advisory officials.” For Hegel, these converged “in the supreme heads who are in direct contact with the monarch.”

In Max Weber’s mature conception of “Legal Authority with a Bureaucratic Administrative Staff,” he identified ten criteria that characterized “the purest type of exercise of legal authority.” Hegel’s discussion of the civil servant anticipated most of these ideal-typical, bureaucratic-administrative qualities. “The particular public functions which the monarch entrusts to officials constitute one part of the objective aspect of the sovereignty residing in the crown,” according to Hegel. This “service of the state” required a cadre of special
officials who “shall forgo the selfish and capricious satisfaction of their subjective ends,” and through this sacrifice “acquire the right to find their satisfaction in, but only in, the dutiful discharge of their public functions.” Such an educated, hierarchically-organized, and answerable (as well as “dispassionate, upright, and polite”) public bureaucracy and administration established “the link between universal and particular interests which constitutes both the concept of the state and its inner stability.”

As Marx recognized, here was something of the apex or linchpin of Hegel’s state, his vision of the political, and his reconciliation of the private and the public, the particular and the universal: “The bureaucracy” is the ‘state formalism’ of civil society. It is the ‘state-consciousness,’ the ‘state will,’ the ‘state power’ in the form of a corporation, i.e., of a particular, self-contained society within the state. As Marx concluded, anticipating an immanent critique, “The state must be a corporation as long as the corporation wishes to be a state.”

For Charles Taylor, Hegel’s newfound embrace of bureaucracy—carrying on “the function of total immersion in the public,” marked Hegel’s letting go of a nostalgic yearning for ancient Greek Sittlichkeit. In the modern age (or at least the modern age represented by an emerging Prussian state), “the total identification with the life of the state, with public affairs,” was no longer the domain of all democratic citizens. This ancient ideal was replaced by the ideal of the German civil service—“representative monarchy served by a class of bureaucrats.”

Hegel’s elevation and, frankly, celebration of the civil servant, executive administration, and bureaucracy in his conception of the state marked the beginning of a largely unbroken and nearly hegemonic tradition in history and theory of equating “the state” with “bureaucracy” and “central administration.” But it is notable that this particular configuration of the state concept was subject to critique almost from its moment of inception. And indeed, some of the obvious limitations of Hegel’s depiction of bureaucracy drew the intense, critical wrath of a young Karl Marx. Marx wasted no time throwing down the gauntlet on such a bureaucracy-centered, executive-centered theory of the state, noting, “Hegel’s exposition of the ‘executive’ does not deserve the name of philosophical argument.” To the contrary, Marx suggested that Hegel’s pioneering treatise on these points read as if it consisted of paragraphs pulled largely from “the Prussian Legal Code”—an unabashed intellectual compromise with
the extant Prussian state with the form of “what is a Roman statesman compared to a Prussian civil servant!” As Lucio Colletti put it, for Marx, Hegel’s ideas were not so much the product of a “historical or scientific understanding of the institutions of the Prussian state, but an apologia for them.” Marx attacked the “state formalism” of Hegel’s bureaucratic theory: “‘Bureaucracy’ is a network of practical illusions or the ‘illusion of the state.’ The bureaucratic mind is a Jesuitic, theological mind through and through. The bureaucrats are the Jesuits and theologians of the state. The bureaucracy is the religious republic.” Marx countered Hegel’s portrait of the trained and dispassionate public-serving administrator, with a much more diabolical moral architecture:

The bureaucracy holds the state, the spiritual essence of society, in thrall as its private property. The universal spirit of bureaucracy is secrecy, it is mystery preserved within itself by means of the hierarchical structure and appearing to the outside world as a self-contained corporation… The principle of its knowledge is therefore authority, and its patriotism is the adulation of authority. Within itself, however, spiritualism degenerates into crass materialism, the materialism of passive obedience, the worship of authority, the mechanism of fixed, formal action, of rigid principles, views and traditions. As for the individual bureaucrat, the purpose of the state becomes his private purpose, a hunt for promotion, careerism.

Marx accused Hegel of simply taking a historical artifact and turning it into a universal essence—what Marx called the “subsumption’ of the particular.” In this case, Hegel simply rendered the “empirical instance of the Prussian or modern state (just as it is—lock, stock and barrel)” and generalized it out to a trans-historical category. Hegel should not be blamed for describing an extant state of affairs or for using it to get at the essence of a current historical state, but he was guilty of “identifying what is with the ‘essence of the state.’” For Marx, Hegel provided “his logic with a political body.” But he distinctly did not “provide us with the logic of the body politic.”

Marx’s “Critique of Hegel’s Doctrine of the State” was so thorough and so compelling that it is something of a puzzle how the civil servant, the bureaucracy, and the public administration—yet alone the Prussian civil service—ever made it back to the forefront of discussion of the nature of the modern state. After all, the 19th century Prussian civil service—with its peculiar historical mix of bureaucracy, nobility, monarchy, and military prowess was not exactly
an ideal template (or telos) for contemplating the future of modern states let alone modern democracies. As Leonard Krieger summed up the decidedly mixed record of this regime in The German Idea of Freedom, “The liberalization of Prussian institutions initiated under these joint auspices was the first step in ushering the old state and the old society into the new age: as aristocrats, these liberal leaders endowed the revolutionary idea of popular freedom with a hierarchical social context that they insisted was compatible with a strong, authoritarian state; as officials of the state, they limited this idea of freedom by considerations of raison d’État which could not countenance the smashing of the aristocratic order by society.”49 This particular bureaucratic theory and model of the state was thoroughly aristocratic and resolutely undemocratic.

But despite the forcefulness of some early critiques and despite relatively obvious normative implications, a fundamentally bureaucratic and administration conception of the state was brought back into the center of state debates. Marx himself, notably, continued to turn to bureaucracy in his own reflections on the state—jettisoning the transcendent normativity, inevitability, and idealism in Hegel’s description, but retaining its centrality. By the time of Marx’s pamphlet “The Eighteenth Brumaire of Louis Bonaparte,” Hegel’s pillar of the state—bureaucracy—had been transformed by Marx into a particularly “low and brutal” form of centralization featuring a now malevolent parasitical state machinery preying on civil society:

This executive power with its enormous bureaucratic and military organization, with its artificial state machinery embracing wide strata, with a host of officials numbering half a million, besides and army of another half million, this appalling parasitic growth, which enmeshes the body of French society like a net and chokes all its pores, sprang up in the days of the absolute monarchy, with the decay of the feudal system, which it helped to hasten.50

Marx’s early identification of centralization, militarization, and bureaucratization as key features in the growth of the state anticipated another century of variations on this administrative theme. As already noted, Pierre Bourdieu’s “bureaucratic field,” did not entirely escape its lure. Anthony Giddens was also entranced: “By definition, a ‘state’ presumes an administrative apparatus, a hierarchy of officials who specialize in administrative tasks (including the arts of war).”51 And even as much as Michel Foucault steered away from the state abstractly and theoretically, trained professionals—administrators,
scientists, psychiatrists, social workers, statisticians and technicians of various sorts continue to pervade his depictions of governmentality and biopolitics. Much of the current revival of interest in the specifically fiscal-military dimensions of the state remains true to this deep but not unproblematic tradition. 52

Much of this renaissance of interest in state bureaucracy is owed to the sophisticated theoretical rehabilitation of administration (public as well as private) as a paradigm site for modern rationalization in the work of Max Weber. For Weber, the complex and multi-faceted idea of the political struggle for rational bureaucracy was a useful foil to play off against Marx’s more uni-dimensional and deterministic concepts of economic materialism and class struggle. Weber managed to resuscitate a number of Hegel’s original concerns—including his keen interest in the corporation and private administration—but shorn of either Hegel’s positive or Marx’s negative normative appraisals. Weber’s analysis of bureaucratization was famously ambivalent, perhaps even Janus-faced. On the one hand, as Gerth and Mills put it, “He could not but recognize the inevitability of bureaucratic management in public administration, in large capitalist enterprises, and in politically efficient party machines.” For Weber, nothing was “more efficient and more precise than bureaucratic management.” 53 Yet his well-known reflections on secular rationalization, the “iron cage,” and the “disenchantment of the world” (as well as his concerns about the effects of bureaucratization on both individual freedom and national political leadership), made it clear that he was less confident in the ultimate effects of such processes than either of his great German predecessors.

Weber’s more objective social-scientific resuscitation of the theory of the bureaucratic and administrative state made it again a popular heuristic for conceptualizing the state on the Continent. But rather fatefully, the place where the aristocratic and Prussian model began to again face formidable challenges was in its application to patterns of Anglo-American governance. At first, this theory of the state met intellectual resistance when confronted with the “peculiarities of the English” and the “exceptionalism of the Americans.” But then, in a truth perhaps stranger than fiction, the Hegelian, Prussian, and Weberian preoccupation with bureaucracy came home again with a vengeance—perhaps re-establishing something of its 19th century intellectual preeminence in, of all places, 20th century America.
IV – COMING TO AMERICA

The study of the American state has had an interesting and varied history. For much of the nineteenth-century, given the categories of analysis being forged by influential European commentaries like those of Hegel and Marx, discussion of the state proceeded within an American exceptionalist tradition of state denial. The patron saint of that position was Alexis de Tocqueville. Working with a European comparative perspective, Tocqueville primarily saw in the United States distinctive qualities of individualism, associationalism, localism, and decentralization, but not many inklings of a modern state. “The federal government of the United States,” he mistakenly surmised, “is tending to get daily weaker; stage by stage it withdraws from public affairs, continually narrowing its sphere of action. Being naturally weak, it gives up even the appearance of strength.”54 Hegel went further and questioned whether America’s 19th century state was a “real State” at all. As he noted, “The general object of the existence of this State is not yet fixed and determined, and the necessity for a firm combination does not yet exist; for a real State and a real Government arise only after a distinction of classes has arisen.”55 Without the class dynamics of the old world, without a feudal aristocracy, without a military nobility or an elite corps of state civil servants, and without the reception of Roman law, what could one possibly be talking about by referring to an early American state?56

In the mid-20th century, beneath the shadow of totalitarianism, this frequently misleading Tocquevillian account of American “statelessness” would enjoy something of a surprising revival. But first, a burgeoning American social science would have much to say about the state in a modernizing America in the late 19th and early 20th centuries. From John W. Burgess and Woodrow Wilson to Charles Merriam and Talcott Parsons, the founding American social sciences were awash in powerful and provocative new theories and studies of American state power.57 Ernst Freund and Frank Goodnow built the field of modern American administrative law on a foundation of expanding state theories.58 In political economy, John Commons, Richard Ely, and a growing cadre of American institutionalists probed every conceivable corner of economics with an appreciation of the distinctive powers of the American state.59 The American pragmatists, the legal realists, and progressive reformers generally were supremely savvy about the explosive power and
political possibility latent in the American regime – and they eagerly tapped it. The first edition of the 15 volume *Encyclopedia of Social Sciences* was in many ways a capstone for this rich and thick empirical study of American policy and statecraft. By the late New Deal and in the shadow of the warfare state, the Social Science Research Council would fund the so-called “commonwealth studies”—sending historians like Oscar and Mary Handlin and political scientists like Louis Hartz back into the early 19th century to explicitly search for the roots and lineaments of the modern American state—back to the very site where Tocqueville and Hegel had come up so empty so much earlier.60

With such propitious beginnings in this truly extraordinary output of social science research, the question of what happened to the study of the American state in the post-World War II era remains something of an intellectual conundrum. On the one hand, as American historians and legal scholars maintained steadily throughout the era, the study of the American state continued to only deepen and expand. A rough and ready list of state scholars reflects almost three generations of fairly continuous work on this important subject: e.g., Brian Balogh, Richard Bensel, Ed Berkowitz, Alan Brinkley, Elliot Brownlee, Margot Canaday, Daniel Carpenter, Lis Clemens, Michele Landis Dauber, Martha Derthick, Max Edling, Dan Ernst, Gary Gerstle, Otis Graham, Joanna Grisinger, Ellis Hawley, Sam Hays, Christopher Howard, Barry Karl, Michael Katz, Ira Katznelson, Morton Keller, Des King, Jen Klein, Robert Lieberman, Ted Lowi, David Mayhew, Tom McCraw, Ajay Mehrotra, Sid Milkis, Kimberly Morgan, David Moss, Karen Orren, Gautham Rao, Steve Sawyer, Harry Scheiber, Theda Skocpol, Stephen Skowronek, Bat Sparrow, Jim Sparrow, Mark Wilson—the list goes on and on.61

On the other hand, there is little doubt that, conceptually and interpretively, the state concept was to some extent evacuated as a major factor explaining America to itself in the immediate postwar period. The cults of Tocqueville and Locke, the rise of American studies and American exceptionalism, the obsession with voluntarism and civil society, the return of natural law and classical liberalism, the genius of American politics as the lack of theory, and the predominance of society-centered social theories combined to all but read the state out of the American experience writ large. As J. P. Nettl lamented in 1968, “The concept of the state is not much in
Beyond Max Weber: The need for a democratic theory of the modern state

vogue in the social sciences right now." Theda Skocpol’s formative essay “Bringing the State Back In” fleshed out the complaint: “Society-centered ways of explaining politics and governmental activities were especially characteristic of the pluralist and structure-functionalist perspectives predominant in political science and sociology in the United States during the 1950s and 1960s. In these perspectives, the state was considered to be an old-fashioned concept, associated with dry and dusty legal-formalist studies of nationally particular constitutional principles.” Now, of course, “legal-formalist studies of nationally particular constitutional principles” had been out of fashion in the United States since at least 1897 (the date of Oliver Wendell Holmes’s “Path of the Law”). But nonetheless, Skocpol correctly diagnosed a relative turn away from the state concept that characterized the period between the onset of the Cold War and the ideological struggles that culminated in 1968. Thus as late as 1986, even such a stalwart student of the American state as Morton Keller could echo Nettl’s and Skocpol’s basic critique: “To say that ‘there is much still to be learned about the nature of the State in America’ is … a major understatement. There is close to everything to be learned about the State.”

Into this most curious state of American affairs—featuring an interpretive elision of the concept of the state amid a continued proliferation of state studies—strode the ghost of Max Weber. Nettl set the stage for this reappearance in 1968 when he argued that, amid the relative scholarly neglect, the state “retains a skeletal, ghostly existence largely because, for all the changes in emphasis and interest of research, the thing exists and no amount of conceptual restructuring can dissolve it.” And so the thing returned or, rather, through the séance-like medium of Harvard social studies—it was brought back in.

Despite the rich literature on state and society generated by an indigenous social science at the turn of the 20th century (e.g., Wilson, Ward, Dewey, Cooley, Mead, etc.), the self-conscious American social-scientific effort to “bring the state back in” curiously turned again to 19th century Continental Europe. Attempting to re-establish the interpretive high-ground for the study of the state and politics amid a proliferation of society-centered viewpoints, a veritable renaissance of interest in the state in the 1970s, 80s, and 90s was built directly upon a conscious reclamation and rehabilitation of primarily
19th century Continental concepts and concerns. Theda Skocpol was quite explicit about this retrenchment: “Now that comparative social scientists are again emphasizing the importance of states, it is perhaps not surprising that many researchers are relying anew … on the basic understanding of ‘the state’ passed down to contemporary scholarship through the widely known writings of such major German scholars as Max Weber and Otto Hintze.” Rather than challenge the sharp state/society distinction that permeated the society-centered explorations of the 50s and 60s, new students of the American state boldly reasserted it. Only this time around, the state would be at the center of the analysis rather than on the periphery— the independent rather than dependent variable. That was the basic thrust of Skocpol’s clarion call for polity-centered analysis: “State formation, political institutions, and political processes (understood in non-economically determinist ways) must move from the penumbra or margins of analysis and toward the center.”

In this much-hyped methodological reshuffling of priorities, the state that was ultimately brought back in was essentially Weberian in both form and content. Theda Skocpol explicitly began the resurrection with Weber’s classic treatment of the state in *Economy and Society*: “Max Weber argued that states are compulsory associations claiming control over territories and the people within them.” This fundamentally “Weberian view of the state”—i.e., thinking about “states as organizations controlling territories”—in Skocpol’s view, properly placed emphasis on the “administrative, legal, extractive, and coercive organizations” that she contended were “the core of any state.” Alfred Stepan reinforced this perspective. For Stepan, “the continuous administrative, legal, bureaucratic and coercive systems” were the heart of the state that structured not only relationships “between civil society and public authority” but also structured “many crucial relationships within civil society as well.” From just such a conception of states conceived primarily as bureaucratic “organizations claiming control over territories and people,” Skocpol derived the concomitant notion of “state autonomy” wherein states “formulate and pursue goals that are not simply reflective of the demands or interests of social groups, classes, or society.”

From Parsons to Skocpol and beyond, this turn back to Weber undergirded an entire new subfield of inquiry interested in the history of American political development. And it turned on a theory of the state and the
political centered primarily on legal rationalization and an organizational and bureaucratic rendering of modern statecraft.  

No scholar was more important in bringing this 19th century European perspective directly to bear on historical analysis of the American state than Stephen Skowronek. In Skowronek’s formative history of American political development Building a New American State, the “comparative perspectives of Tocqueville, Hegel, and Marx” set up the main interpretive and “developmental” problematic – i.e., America’s “sense of statelessness.” Skowronek relied explicitly on such Continental perspectives to craft his influential portrait of the early American state as but a “state of courts and parties”—“a highly developed democratic politics without a concentrated governing capacity.” Skowronek used Tocqueville, Hegel, and Marx primarily to establish a comparative baseline concerning the “exceptional character of the early American state.” After establishing that original position in the first thirty pages or so, Tocqueville, Hegel, and Marx had done their main interpretive work, and they were dismissed from the narrative. Skowronek did not follow further Tocqueville’s more complex explorations of the interrelationship of democracy, state, and society. Nor did he take up the myriad of political, ideological, or normative implications that flowed from Marx’s original critique of Hegel’s focus on elite bureaucratic institutionalism. Rather, continuing a story of the inevitable “modernization” of America’s exceptional state, Skowronek pivoted uninterrupted to Max Weber.

Like Skocpol, Skowronek explicitly distanced his interpretation of American statebuilding from Marxist and neo-Marxist renderings. He did so chiefly by reconstructing Max Weber’s rehabilitation of Hegel’s focus on the bureaucracy: organization, centralization, specialization, and, ultimately, the elite control of coercion in a given territory in moments of social crisis and economic conflict. “Short of revolutionary change,” Skowronek argued, “state building is most basically an exercise in reconstructing an already established organization of state power. Success hinges on recasting official power relationships within governmental institutions and on altering ongoing relations between state and society.” Following Weber, Skowronek resurrected the idea of the essentially organizational and institutional character of the state. Though the American case was exceptional, at base, it “maintained an integrated organization of
institutions, procedures, and human talents whose specific purpose was to control the use of coercion within the national territory.”

Skowronek’s appropriation of a Weberian conception of the state was explicit and thorough-going. He argued, in fact, that any state could be described along four essential organizational dimensions:

1. The concentration of authority at the national center of government.
2. The penetration of institutional controls from the governmental center throughout the territory.
3. The centralization of authority within the national government.
4. The specialization of institutional tasks and individual roles within the government.

Such definitional preconditions rested upon a rigid conceptual separation of state from society and a fairly linear technology of social causation and state effects. As Skowronek put it, “Environmental stimuli, official responses, and new forms of government are the basic elements of the state-building process.” Indeed, three kinds of external or “environmental” stimuli were particularly important to Skowronek’s theory of historical change: “crisis, class conflict, and complexity.” The key to his analysis was how “officials respond.” “The intervention of government officials” was for Skowronek “the critical factor in the state-building process.” “As managers of the state apparatus,” these quintessential Weberian figures—bureaucratic officials—asserted “the state’s claim to control the use of coercion within the territory” in reaction and response to external, “environmental disruptions.”

With just such formative reformulations and formal categorizations, an ideal-typical Weberian concept of the state made its way back to the center of American historical and social science inquiry. The state was indeed brought back in as the methodological and theoretical re-orientations of Skocpol and Skowronek and company launched a renewed spate of interest in the history of the American state. And the intellectual and empirical benefits of this scholarly renaissance have proven substantial and invigorating. But there have been some costs as well. Some of those costs are bound up with the very idea of bringing something “back in”—returning a former priority, reclaiming a lost agenda, rescuing a neglected concept. There is something strangely discomfiting about returning
to Weber to sort through the lineaments of our contemporary state—returning to a late 19th century state theory to reckon with the rapidly transforming character of 20th and 21st century American politics. While John Dewey directed our attention to the future ("the state must always be rediscovered"), the state brought back into American history all too frequently reified the past (a Prussian and Germanic past at that).

And without taking anything away from the important contributions made in the social science effort to bring the state back in, it is important to acknowledge the limitations of an essentially Weberian perspective on the state—limitations already anticipated to some extent in the revisions of Dewey, Foucault, and Bourdieu.

V – ARISTOCRATIC STATE THEORY: FIVE FEATURES AND PROBLEMS

From Hegel to Weber to Parsons, the classic theories of the state were very much products of their specific times and places. Much as they might aspire to capture transcendent qualities of “stateness” per se, they were ineluctably historical creations. And perhaps just as inevitably, despite claims to theoretical or social-scientific neutrality or objectivity, they also betrayed a distinctive politics. Marx’s original critique of Hegel took note of and exception to the political ramifications of Hegel’s reification and “mystification” of the Prussian state and bureaucracy. Similarly, the particular political contexts that generated Max Weber’s rehabilitation of the rational bureaucratic state—nationalism, imperialism, high capitalism, and German bourgeois political ascendancy—have been frequently noted by admirers and critics alike. Without delving into these historical particularities, it is important to note the degree to which the Hegelian/Weberian legacy in thinking about the state remains tethered to an essentially aristocratic rendering of statecraft—a state concept focused on the particular traits of elites at the center of power. It is a concept that tells the story of the state through a focus on the rulers rather than the ruled, the government rather than the governed, the few rather than the many. And it is a concept, through time, all too often motivated by the nightmare specter of the revolutionary alternative—the people, the mob, or the Terror—democracy unchained, unleashed, or unrestrained. Again, Marx intuited the basic aporia in all such state theories written, as he put it, “as if the actual state were not the people.” Hegel started the trend
by suggesting that it was a “confused notion” to oppose “the sovereignty of the people” to the “sovereignty of the monarch.” For Hegel, this was a mere “wild idea of the ‘people.’” Marx countered famously: “The ‘confused notions’ and the ‘wild idea’ are to be found here solely in Hegel.” For “the state is an abstraction” and “the people is a concrete reality.”

Now, an aristocratic theory of the state might have been useful in sizing up what was distinctive and important in 19th century state developments in central Europe—i.e., the very developments that prompted such intellectual and theoretical justifications in the first place. But surely, in so completely eliding problems like democracy and popular sovereignty, such frameworks make it difficult to take account of the nature of power in contemporary democratic states. Indeed, the Weberian conception of the state—especially as adopted and articulated by a diverse range of American social scientists at the end of the twentieth century—suffers from at least five primary and overlapping defects that flow from its oddly aristocratic pedigree:

a) European exceptionalism
b) Objectification of the state
c) Bureaucracy fetish
d) State autonomy
e) Aristocratic politics

Taken together, these interpretive problems and limitations suggest that it might be time to move beyond the model of Weber—at least in future attempts to take the full measure of the American democratic state.

*European exceptionalism.* To say that the Weberian conception of the state is Eurocentric is something of an understatement. Though Weber’s abstract definitions of the state bespoke a surface formal neutrality that could be applied to a range of political systems and organizational behaviors, they ultimately betrayed their 19th century Continental roots. Indeed, a certain teleology was built directly into Weber’s conceptualizations whereby he viewed the evolution of European state development from the origins of the Westphalian system to the more recent emergence of rationalized administrative and regulatory bureaucracy to have culminated in fin-de-siècle France and Germany in something akin to the apex of the State idea or ideal.
As he noted explicitly, “The concept of the state has only in modern times reached its full development.” Weber conflated the essence a modern state in general, in other words, with the particular historical form that happened to rise to prominence in his own place and time. He defined “the modern type of state” in terms that he acknowledged “abstract from the values of the present day.” In returning to some Hegelian priorities in the wake of Marxist critique, Weber resuscitated the original problem that Marx called “subsumption”—the process of turning (through the power of abstract, conceptual, and theoretical thought) a quite temporal and historical particular into a transhistorical generality.

In addition to his famously over-wrought distinction between the Occident and the Orient—the West and the East—Weber’s subsumption of the Franco-Prussian state made it difficult to reckon even with western regimes that did not wholly conform to Continental patterns of development. Weber’s ideal typical state—especially when adapted by lesser acolytes—too frequently forced alternative and newly emerging state configurations of legal, political, and social power into problematic and increasingly false categorizations involving ubiquitous state adjectives like “weak,” “backward,” “laggard,” “underdeveloped,” or “incomplete.” Such developmental logic underwrote a veritable cottage industry of state studies where too frequently the only interpretive value of the work rested on an explicit or implicit comparison to the 19th century Franco-Germanic epitome of statecraft. In the United States, such comparisons yielded a litany of narratives of exceptionalism, non-conformity, and the special case. In consequence, myths of an allegedly “weak” American state left scholars woefully underequipped to reckon theoretically with the new forms of penal, executive, emergency, economic, and international power that characterized recent United States history. The fact that the Weberian theory of the state returned in the U.S. on the eve of two global wars and amid the emergence of new forms of empire and internationalization, the ebbing of European hegemony, and the formidable emergence of American economic and political power is all the more incredible. Given its ancient pedigree and its European exceptionalism, it is simply difficult to account for the continued salience of Weber’s rendering of the nature of modern states per se. Or at least, while it might still struggle to account for some of the past, it certainly should
no longer be relied on to take the measure of the present or the future. The 19th century continental European state can no longer provide the template for understanding or evaluating the rapidly changing power dynamics of 21st century politics, economy, and society – any more than a labor theory of value or Herbert Spencer’s *Social Statics*.

Objectification of the state. One unfortunate byproduct of the American reception of Weberian theory is the continued tendency to conceptualize the state fundamentally as an “object”—as a discrete and concrete “thing.” Jim Sparrow has characterized this interpretive tendency as thinking about the state as if it were something like “a Prussian tank” or a very large “filing cabinet.” Now, at the end of the 19th century, it must have made perfect sense for many to increasingly view the state as an object or to associate it closely, perhaps identically, with the new kinds of persons (e.g., administrators, regulators, police), places (e.g., capital cities, offices, territories), and things (e.g., armies, monies, bureaus), that seemed everywhere ascendant in modern public life. Indeed, simultaneously, a similar effort was underway to reconceptualize the corporation in this period as more of a unitary and corporeal entity—as if defining the corporation as a thing (rather than a complex set of legal and economic relations) would allow the people to better grasp and control its power and influence. The objectification of the state reinforced a tendency to reify the basic political relationship as ruler: ruled or king: subject bearing traces of the kind of relation Martin Buber referred to as essentially I: It. From exactly this perspective, Herbert Spencer penned his famous indictment *Man Versus the State*. And from this perspective flows an ever rising contemporary current of naive anti-statism and libertarian reaction.

As Pierre Rosanvallon lamented in his extraordinary introduction to *L’État en France*, “The state is too often seen as a block—which is mentioned in the singular—as if it were a unified structure, a ‘thing’ coherent.” Like John Dewey and Michel Foucault, Rosanvallon feared the multiple dangers involved in too great an objectification of the state. First, such objectification underwrote a pervasive tendency to anthropomorphize the state—to treat it like a living, breathing person and to analogize its structures and functions to things like minds, eyes, ears, and hands. While such ubiquitous metaphors and analogies might be entertaining to entertain, they stand little chance
of illuminating the actual operations of a modern state. They are usually rather empty, if creative, rhetorical or symbolic gestures. Biological metaphors are always slippery—if not dangerous—ways to try to account for the operations of modern politics. And they frequently bring an evolutionary—if not normative—language of growth and development that obscures as much as illuminates. There is a latent essentialism in such objectification and anthropomorphism—a residuum of the humanistic idea that there is some kind of soul-like essence to “state-ness” that defines the authentic article, guides its development, and, in the end, sizes up its achievements and shortcomings. John Dewey criticized this tendency to portray the state as singular organic essence rather than pluralistic man-made artifice where “growth signified an evolution through regular stages to a predetermined end because of some intrinsic nisus or principle.” Artifice has a human history that invites constant investigation and critique; essence does not.

Second, the objectification of the state underwrites the persistent attempt to take account of the state by simply measuring it—by counting something (seemingly, almost anything). Again if the state were indeed “some thing coherent,” this technique would be invaluable. It is helpful when assessing “things” in the world to use weights and measures—to get some basic account of how much room they take up within the spatial plane of the physical world. But though the state is clearly not such a simple, single, physical thing (with weight or height or circumference), the penchant to quantify it continues unabated. The question of analyzing the problem and nature of the state is subsumed by the priority given to measurement and quantification—as if the “thing” will be ultimately revealed in the numbers. Such is the lure of the metric over verstehen. History is displaced by empirics as study after study proceeds statistically—measuring public income and expenditure, tallying public employees and governmental units, polling opinions, scoring elections, listing administrative agencies, and counting statutes or pages of regulations—as if the state could be grasped only after meticulously filling in all of the numerical columns and boxes of a modern spreadsheet. The turn to quantification certainly avoids the pitfalls of abstract conceptualism, but only by mistaking doing a sum for understanding.
Finally, and perhaps most importantly, such objectification perpetuates a certain singularity that creeps into most discussions of the state. The state is associated with a single, coherent entity as opposed to the pluralistic and varied relations encompassed by it. As Jeremy Waldron has suggested, politically, such a perspective is essentially monarchical—ever in search of the oracular law-giver—the one, the king, the lord, the quasi-God. As Marx warned in his critique of Hegel’s treatment of the executive, such objectification of the state usually takes on forms suitable to the investigation of lordship or kingship—i.e., the king and his court, presidents and their administrations. This was Michel Foucault’s concern in 1976 when he contended: “In political analysis, we have still not cut off the king’s head.” For investigations of democratic politics in a modern age, this is an especially fatal flaw.

Bureaucracy fetish. But undoubtedly, the most significant example of the objectification of the state—and the most important legacy of the Weberian model of statecraft—is the ubiquitous tendency to associate “the state” pure and simple with “bureaucracy.” Despite Marx’s heroic effort to take issue with this particular fetishization in Hegel’s theory of the state over 150 years ago, bureaucracy itself continues to be the sole focus of innumerable histories of “the state.” The combination of 19th century European exceptionalism with the tendency toward objectification yielded a conception of the state attached firmly to the Prussian bureaucracy and/or the French droit administratif. Weber himself placed at the center of his story of modern rationalization in both private as well as public spheres “the basic fact of the irresistible advance of bureaucratization.” Like Hegel, Weber explicitly linked the development of the modern corporation and the modern state. “In both cases,” he noted, power moved through “the bureaucratic apparatus (of judges, officials, officers, supervisors, clerks, and non-commissioned officers),” concentrating the “means of operation.” The “progress” toward “bureaucratic officialdom” and the “bureaucratic state”—consisting of “formal employment, salary, pension, promotion, specialized training and functional division of labor, well-defined areas of jurisdiction, documentary procedures, hierarchical sub-and super-ordination”—was the “unambiguous yardstick” for the modernization of the private as well as public sectors. For the modern state, the actual ruler was “necessarily and unavoidably the bureaucracy” through its
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“routines of administration,” “adjudicating and administering according to rationally established law and regulation.”

This almost obsessive attention to bureaucracy in Weber’s theories was only exacerbated through an American reception that went further still. Weber’s writings on bureaucracy were among the first translated and widely distributed of his texts – most notably the essay on “Bureaucracy” in Gerth and Mills. Talcott Parsons’s influential *The Structure of Social Action* devoted very few pages to discussion of “the state” in the abstract, but Weber’s conception of bureaucracy—“by far the most efficient known method of organization of large numbers of persons for the performance of complicated tasks of administration”—was absolutely central. As Parsons boldly concluded, “Roughly, for Weber, bureaucracy plays the part that the class struggle played for Marx.”

The same holds true for Robert K. Merton whose *Social Theory and Social Structure* contains no index entry for “state,” but seventeen separate entries for various discussions of “bureaucracy” and “bureaucratization.” Merton’s treatment is classically and elaborately Weberian featuring a “formal, rationally organized social structure” and rational organizations integrating “a series of offices, of hierarchized statuses, in which inhere a number of obligations and privileges closely defined by limited and specific rules.” The “ideal type” of such formal organization, Merton notes, is “bureaucracy.” By the time one gets to the achievements of Skocpol, Skowronek, and American Political Development, the tendency to look for the state primarily through its bureaucratic manifestations – offices and officers, civil administration, the army, economic regulatory agencies, and poor law and social welfare administration – had become almost hegemonic.

While the emergence of bureaucratic rationalization and administrative law and science are undoubtedly important developments that nicely characterize a significant era in the history of modern states, we should not essentialize them nor confuse them with a conception of “the state” per se. Indeed, there is something distinctly limiting in the conventional habit of talking about the state exclusively by talking about so-called state actors or state-builders or state officials—administrators, bureaucrats, tax collectors, public school teachers, clerks, licensed agents, or regulated professionals. The field of the state is so much broader than the bureaucratic yet alone the juridical. In the United States, the allegedly slow
development of a centralized bureaucracy was one of the reasons so many scholars discounted early American history as essentially “stateless” or as lacking the essential characteristics of Hegel’s “real State.” Recently, however, scholars like Jerry Mashaw and Nick Parrillo have discovered a surfeit of early American central state activity that confounds our ideal-typical renderings of modern bureaucratic and administrative science. Even more significantly, the bureaucracy fetish yielded a certain obsession with the special development of the fiscal-military components of the modern state—e.g., war and money, blood and treasure, tax and spend. This fiscal-military fetish has also been recently called out for some intense historical criticism. Both Hegel and Weber drew attention to the connections between the corporation and the state. And at one point in time, it probably made eminent sense to reify the bureaucratic corporation as an engine of capitalism and a harbinger of modernity. Alfred Chandler for one made a strong historical case for the significance of the “managerial hierarchies” at the core of the 1st large-scale American business corporations. But in the 21st century, we no longer see such vertically and horizontally integrated bureaucratic corporations as the “essence” of corporations in general, yet alone the institutional embodiment of our economic present and modern future. For similar reasons, a reassessment of the centrality of bureaucracy to the modern state is also in order.

State autonomy. One of the most important ideas flowing from the fetishization of bureaucracy was the notion of state autonomy. Indeed, in both the private as well as the public sphere, the idea of bureaucracy was the institutional mechanism through which scholars and theorists separated out and isolated certain aspects political and economic life—i.e., the state and the corporation—from the more general workings and considerations of society as a whole. The explicit separation of state from society was central to the recent effort to bring the state back into American studies. It was foundational to Theda Skocpol’s rendering of the state “as an actor”—“a set of organizations through which collectivities of officials may be able to formulate distinctive strategies or policies” independent of and autonomous from the larger demands, interests, and/or needs of the society more generally. Here the “meanings of public life” originate not in “societies alone, but at the meeting point of states and societies.” But the isolation and identification of some kind of
relatively autonomous space—some kind of buffer or borderland or safety valve—at the nexus of society and state has a long lineage in political theory. Its modern roots extend back at least to Hegel’s formative discussion of the mediating and policing roles of “civil society.” And even Jürgen Habermas placed a double-lined barrier in his famous diagram of the bourgeois public sphere in *The Structural Transformation of the Public Sphere*—scrupulously demarcating the separation of the private realm of civil society from the sphere of public authority concerned with statecraft and police.99 But as both a normative as well as empirical matter, the theoretical notion of “state autonomy” intent on defining and policing the borderland of state/society relations is fraught with difficulties.

On normative side, at least since the French Revolution, the preoccupation with articulating certain autonomous qualities and characteristics of elite state actors has gone hand-in-glove with attempts to rein-in democratic excess and reassert certain controls over societies and peoples. From the critiques of Hegel/ Marx to the exchanges of Lippmann/Dewey,100 this theme has resonated throughout the history of Western political thought. Aldo Schiavone has described “The Invention of Law in the West” in exactly such terms as a move away from a Greek emphasis on politics, democracy, and legislation to a Roman emphasis on abstract, oracular, and formal legal categories — categories increasingly controlled and policed by the expert and elite jurists responsible for the administration of law.101 The establishment of the bureaucracy as a universal class specially concerned with the autonomous interests of the state and of legal administration was part of Hegel’s original attempt to mediate between revolution and despotism through an idealization of an expert Prussian civil service. Emphasis was again placed on special qualities that separated elite state actors from the masses: e.g., “a dispassionate, upright, and polite demeanour,” “consciousness of right,” “developed intelligence,” the sublimation of “selfish and capricious satisfaction of their subjective ends.”102 The legitimacy of the power of such elites was rooted precisely in the persuasiveness of just such descriptions of independence, autonomy, and expertise. From Roman law to Hegel’s state, the groundwork for Weber’s mature conceptions of bureaucratic autonomy and Lippmann’s paean to scientific administrative expertise was established in some worrisome intellectual motivations.
But the problem with the state autonomy concept is as much empirical as normative. For while the autonomy of formal state actors (so-called “state-builders”) and state institutions (the “administrative, legal, bureaucratic, and coercive organizations” that Skocpol and others dubbed “the core of any state”) is frequently asserted, it is maddeningly difficult to demonstrate or describe. Brian Balogh, for example, translated this move for American historians this way: “The state … was a central actor in its own right… It was an autonomous force, and one that had to be reckoned with in writing the nation’s history.” But unpacking the meaning of such an assertion is fraught. For on the one hand, the objectification of the state as a central actor raises the usual issues of what exactly “it” is (a thing? a group? an institution? a set of policies?) that harbors this special quality of autonomy. On the other hand, the essentially anthropomorphic idea of “autonomy” – consisting of the conjunction of “auto” and “nomos”, as in “self-governing” or “self-ruling”—is only problematically applied to the American constitutional or political system, especially when set up distinctly against the people or the society or the democracy. Such “state autonomy” would seem to violate the basic thrust of the American idea of “popular sovereignty” as well as the underpinnings of the republican form of government. Indeed the entirety of American administrative law is predicated upon the denial of exactly such “autonomy”—checks and balances, separation of powers, distribution of authority, overlapping jurisdiction, dual federalism, reserved powers, etc. The American state does not and cannot govern itself. So while in the short run, the state autonomy idea might have been an effective scholarly rallying cry. In the long run, rather than clarify or advance discussion of the already thorny concept of “the state,” it seems to add another level of murk. After all, what exactly is “autonomy” in complex and increasingly interdependent modern economies, societies, and polities?

Aristocratic politics. All of these particular problems with the conventional Weberian typology of the state—especially as applied by a couple generations of American political and historical researchers—have come together in an essentially aristocratic rendering of the state. Here, the American state is approached through the study of its elites and its elite institutions and organizations at the center. This essentially aristocratic vision of the state is anti-democratic—separating the state from society and its
people and re-separating the popular from the sovereignty. This evacuation of democracy from recent discussions of the American state is troubling. And its neglect has left us with a cramped understanding of statecraft unsuited to taking the full measure of the extraordinary public powers of the modern American democratic state.

The autonomous polity-centered approach to the state was rooted in a troubling reliance on 19th-century Prussian models of state development—an almost continuous focus on formal law, military power, and bureaucratic expertise and administration—so some of these interpretive limitations should not be wholly surprising. Indeed, there was always something strangely atavistic in the “bringing the state back in” formula—something unsatisfying about returning to 19th-century priorities to take the measure of 20th-century states. In the end, rather than transform understandings of state/society relations or upset traditional conceptions of politics, much of this literature only reinforced or returned conventional categories and practices in political history. Too much scholarly interest in the state has reverted back to canonical sites of traditional political action: e.g., elections, political elites, and the formal institutional apparatus of public policymaking.

Now, of course, there is nothing inherently wrong with the traditional study of political elites and institutions. Elites and institutions simply do matter, guaranteeing traditional political analysis a place at the table whenever reckoning with a problem like the state. As William Leuchtenburg wisely counseled, “If, in fact, elites have played a disproportionate role, historians do not diminish that reality by ignoring it.”104

Nonetheless, there is something profoundly unsatisfying about restricting the study of the modern state to more traditional aspects of political investigation—something of the unsettling, antidemocratic specter of what G. R. Elton described as “the old-fashioned political historian, on his knees before the thrones of kings.” More recently, Tony Judt amplified this critique, decrying a “traditional political history” that “continues on its untroubled way describing the behaviour of the ruling classes … Divorced from social history, this remains, as ever, a form of historical writing adapted to the preservation of the status quo; it concerns itself with
activities peculiar to the ruling group, activities of an apparently rational and self-justifying nature.” Elton himself admitted the limitations of histories of public affairs as histories of “great men”—the happy few: “Whether it concerns itself with kings and popes, or with political parties and politbureaus, it chronicles the specialized existence of special people, and the charge that it confines itself to a very limited part of the human experience must therefore be admitted to be essentially true.”

Now at some point in the distant past, it might have made sense to conceptualize “the political” or “the state” as involving “a very limited part of the human experience” and remain content with the rudimentary toolkit of traditional political history and a stark separation of powers concerning the study of state and society. But after the extraordinary experiences of the twentieth century, it is difficult to find comfort in such a primitive division of labor. For as theorists as diverse as Carl Schmitt and Hannah Arendt have argued at some length, a defining characteristic of recent history and a hallmark of our own modern times is the increasing interpenetration of state and society, the political and the social. As Schmitt put it succinctly:

The equation state = politics becomes erroneous and deceptive at exactly the moment when state and society penetrate each other. What had been up to that point affairs of state become thereby social matters, and vice versa, what had been purely social matters become affairs of state— as must necessarily occur in a democratically organized unit. Heretofore ostensibly neutral domains— religion, culture, education, the economy— then cease to be neutral in the sense that they do not pertain to state and to politics… In such a state, therefore, everything is at least potentially political, and in referring to the state it is no longer possible to assert for it a specifically political character.

Though one could, indeed should, contest Schmitt’s own alternative conception of the political, here he aptly captures the modern sense that traditional notions of politics no longer adequately capture contemporary configurations of state and society. They no longer explain our present.

VI – CONCLUSION: TOWARD A DEMOCRATIC STATE THEORY

Throughout history, theories of the modern state have had a tortured relationship to democracy. And the dominant tendency from Hegel to Weber to Parsons to Skocpol/Skowronek has been to
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isolate those aspects of the state separate from the people and counterposed to democracy. Emphases on expertise, formal law, bureaucracy, organization, and administration as the “core” of any state distance the political from the social, the state from society, and the elites from the masses. With that separation comes a certain analytic and intellectual clarity in talking about the state per se. And in periods featuring the ascendancy of bureaucratic organization, administrative centralization, and elite control over governance, it might have made sense to fetishize these qualities of stateness. But just as the late 19th century national form of managerial corporate capitalism no longer fully captures the most important variegations and dynamics of the 21st century globalized and financialized economy, the bureaucratic state of ideal-typical theory is no longer an adequate cutting edge for probing contemporary forms of political power.

Moreover, the flaws in a fundamentally bureaucratic conception of statecraft have been apparent for some time. Again, Marx’s close deconstruction of Hegel’s concept of the state is the locus classicus of an immanent critique. The conscious elision of democracy, Marx contended, was key to the whole Hegelian (and Prussian) state project. Hegel noted that explicitly: “If by ‘sovereignty of the people’ is understood a republican form of government, or to speak more specifically … a democratic form, then … such a notion cannot be further discussed in face of the Idea of the state in its full development.” Marx countered, “This is perfectly correct as long as we have only ‘such a notion’ rather than ‘a fully developed Idea of democracy.’” Monarchy and bureaucracy were not the “truth of democracy.” For Marx, monarchy and bureaucracy were but bad variants on the constitution, wherein “a part determines the character of the whole” and the constitution “must adapt itself to the one fixed point”—forms that falsify the content. In contrast, democracy was both form and content— “the generic constitution.” The very early Marx contra Hegel viewed democracy as “the solution to the riddle of every constitution,” for “in it we find the constitution founded on its true ground: real human beings and the real people; not merely implicitly and in essence, but in existence and in reality. The constitution is thus posited as the people’s own creation … the free creation of man.” Whereas Hegel proceeded “from the state and conceives of man as the subjectivized state,” democracy proceeded “from man.” The
“fundamental distinguishing feature of democracy,” for Marx was that “man does not exist for the sake of the law, but the law exists for the sake of man, it is human existence” rather than “legal existence.” Monarchy and bureaucracy might be the past and the present, but Marx understood democracy as the future. As he concluded, “Democracy relates to all other forms of state as its Old Testament.”

Now, of course, Marx soon enough left behind such early preoccupation with political forms and popular sovereignty and democracy and republicanism. From his early critiques of politics and conceptions of state, he turned to his important and more frequently discussed critiques of political economy. Still, there is a germ of truth and a gem of truly lasting insight in Marx’s early political indictment of concepts of the state shorn of democracy. Marx saw too clearly through the political uses of the Hegelian concept of monarchical and bureaucratic state power. In the wake of the French Revolution and Napoleon, the urge to find a middle ground in a state elite or state apparatus – between the people and the autocrat, between terror and despotism, between monarchy and democracy – was all too apparent. In the 20th century United States, these primal fears and elite concerns about the people, the social, and agonistic democracy never completely abated. In place of Hegel, many commentators—from Lippmann to Parsons and beyond—drew governmental and political comfort in something similar to Max Weber’s idea of formal legal authority administered by a bureaucratic staff.

But both normatively and empirically, this essentially Weberian conception of traditional political, administrative, and bureaucratic statecraft no longer compels. And in many ways, the novel theoretical reformulations of Pierre Bourdieu and Michel Foucault at the outset of this essay testify to the level of intellectual dissatisfaction with extant renderings of the nature of state power too rigidly severed from cultural and social power and the power of a people. John Dewey was thus perhaps an early pragmatic prophet warning against the dangers of eliding democracy and the social in theories and histories of the American state. In the study of law, the return of the centrality of democracy in the work of scholars like John Hart Ely on judicial review, Larry Kramer on popular constitutionalism, Jeremy Waldron on legislation, and Bill Eskridge on statutory interpretation
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has galvanized a prolific scholarship revising traditional conceptions of law and formalistic apologies for judicial power. In the study of the state, it is clearly time to also move beyond aristocracy, beyond bureaucracy, and beyond Weber. It is well past time to heed Dewey's sage advice and to try again to rediscover the state. In that process of rediscovery, it is important to finally re-center a more democratic understanding of the nature and extent (for good and for ill) of modern state power.

NOTES

[8] Of the Groucho-Marxist variety. The idea of “weaning” oneself from the state, of course, has ubiquitous popular resonances from the American Tea Party to the Anarchist Pogo Party of Germany.
[9] As Foucault put this: “I am sure you all heard of the art historian, Berenson. He was almost one hundred years old, approaching death, when he said something like: ‘God knows I fear the destruction of the world by the atomic bomb, but there is at least one thing I fear as much, and that is the invasion of humanity by the state.’ I think this is the purest, clearest, expression of a state-phobia one of the most constant features of which is its coupling with fear of the atomic bomb. The state and the atomic bomb, or rather the bomb than the state, or the state is no better than the bomb, or the state entails the bomb, or the bomb entails and necessarily calls for the state.” Foucault, Biopolitics, 75-76.
[26] Foucault, Birth of Biopolitics, 76.
[28] Max Weber, “Politics as a Vocation,” in H. H. Gerth and C. Wright Mills, eds., From Max Weber: Essays in Sociology (New York: Oxford University Press, 1946): 77-129, 78. Weber goes on in this definition to underscore both territoriality, violence, and the distribution of power among states and groups: “Note that ‘territory’ is one of the characteristics of the state. Specifically, at the present time, the right to use physical force is ascribed to other institutions or to individuals only to the extent to which the state permits it. The state is considered the sole source of the ‘right’ to use violence. Hence ‘politics’ for us means
striving to share power or striving to influence the distribution of power, either among states or among groups within a state."

[29] Weber is the first scholar mentioned in *Sur l’État*, and he is by far the most frequently discussed (with Durkheim, Marx, and Elias following behind).

[30] As I hope not to be misinterpreted here, it is crucial to note an important caveat. For it will no doubt strike many historical sociologists and social theorists strange indeed to first invoke the "shadow of Weber" rather than the "shadow of Durkheim" when reckoning with the work of Pierre Bourdieu. Obviously, Durkheim casts a much longer influence. And from that perspective, it might make more sense and might potentially yield a more positive intellectual contribution to attempt to reconstruct Durkheim’s sociology of the state and its impact on Bourdieu’s *Sur l’État* rather than to start with and risk re-fetishizing Weber. Especially from a legal or juridical perspective, Durkheim's influence on a French socio-legal tradition that includes the important work of Léon Duguit and Maurice Hauriou created an important (and outside of France, much too neglected) line of studies that has great potential for rethinking our general approach to the subject of the state in the early 21st century (an era in which the legal lineaments of the state are only too transparent and important). See for example, Emile Durkheim, “The Concept of the State,” in Anthony Giddens, ed. Durkheim on Politics and the State (Stanford: Stanford University Press, 1986); Léon Duguit, Law in the Modern State, trans. Frida and Harold Laski (New York: B.W. Huebsch, 1919); H. Stuart Jones, *The French State in Question: Public Law and Political Argument in the Third Republic* (Cambridge: Cambridge University Press, 1993). See the use of this tradition to important effect in the work of Pierre Rosanvallon, especially *Democratic Legitimacy: Impartiality, Reflexivity, Proximity*, trans. Arthur Goldhammer (Princeton: Princeton University Press, 2011).


[37] The turn to the “disposition over weapons” and the “means of administration” are two ways that H.H. Gerth and C. Wright Mills characterized Weber’s project of supplementing Marx’s economic materialism with a “political and military materialism.” Gerth and Mills, “Introduction: The Man and His Work,” in *From Max Weber*, 47.


[41] Hegel, Philosophy of Right, 189.

[42] Weber, Economy and Society, i: 220-221. “(1) They are personally free and subject to authority only with respect to their impersonal obligations. (2) They are organized in a clearly defined hierarchy of offices. (3) Each office has a clearly defined sphere of competence in the legal sense. (4) The office is filled by a free contractual relationship. Thus, in principle, there is free selection. (5) Candidates are selected on the basis of technical qualifications. In the most rational case, this is tested by examination or guaranteed by diplomas certifying technical training, or both. They are appointed, not elected. (6) They are remunerated by fixed salaries in money, for the most part with a right to pensions... The salary scale is graded according to rank in the hierarchy... (7) The office is treated as the sole, or at least the primary, occupation of the incumbent. (8) It constitutes a career. There is a system of 'promotion' according to seniority or to achievement, or both. Promotion is dependent on the judgment of superiors. (9) The official works entirely separated from ownership of the means of administration and without appropriation of his position. (10) He is subject to strict and systematic discipline and control in the conduct of the office.”


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[56] As I argue at length in The People’s Welfare: Law and Regulation in Nineteenth-Century America (Chapel Hill: University of North Carolina Press, 1996), of course, there was plenty to talk about if one simply looked toward another set of reference points – from early American police regulations to the distinctive practices of antebellum law and administration.


[59] See for example, John R. Commons, Legal Foundations of Capitalism (New York: Macmillan, 1924); Richard T. Ely, Property and Contract in their Relations to the Distribution of Wealth (New York: Macmillan, 1914);


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[73] Skowronek’s reliance on a basically exceptionalist framework is further amplified when he takes issue with Daniel Bell’s “The End of American Exceptionalism”: “The question of America’s contemporary status as a state appears in a new light. Did this break with the old order lead to ‘the end of American exceptionalism’? Clearly, the United States is now one of several states that supports an electoral democracy, a private economy, and a powerful central bureaucracy … But simply treating America as a typical example of the ‘Western system of power’ or a symptom of ‘the crisis of the modern Western state’ can obscure as much as it clarifies.” Skowronek, New American State, 9.

[74] Skowronek, New American State, ix.

[75] Skowronek, 5.

[76] Skowronek, 20.

[77] Skowronek, 12.


[81] I elaborate this theme at some length in Novák, “The Myth of the ‘Weak’ American State.”


[86] Again, Pierre Rosanvallon has a definitive discussion of this problem of statistics and measurement under the heading “L’impératif de déglobalisation” in L’État en France, 11-13.


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[98] Skocpol, “Bringing the State Back In,” 9, 20-21, 27.
Novak, “Political History after the Cultural Turn,” American Historical Review Perspectives (May, 2011).
[109] Ibid., 87-88.