AUSTERITY and its ALTERNATIVES

Alternatives to Constitutionalizing Austerity

Looking for common threads amongst capitalist states in the neoliberal era.

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ABOUT US

Austerity and its Alternatives is an international knowledge mobilization project committed to expanding discussions on alternatives to fiscal consolidation and complimentary policies among policy communities and the public. To learn more about our project, please visit www.altausterity.mcmaster.ca.

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Introduction

DRAFT PAPER

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Austerity, defined as fiscal consolidation, public sector structural reforms, and flexibilization of labour markets, presents a common thread amongst capitalist states in the neoliberal era. At times of crisis, such as that of 2007-8, it receives particular prominence.

Austerity, as defined above, is and has been a central component of neoliberalism (for general discussions see Harvey 2005; Cahill and Konings 2018) whether considered as an ideology, capital accumulation strategy or political program. Considered as a policy response to the 2007-8 financial crisis austerity has a number of dimensions extending to fiscal matters of budget balances and debt ceilings, repurposing and privatizing, or marketizing as much of the public sector as possible, and restructuring social and labour market policies. The language of balanced budgets and debt limits is presented as a contribution to sustainable public finance, as principles necessary to avoid governmental profligacy by preventing excessive spending. Restructuring the public service is presented as a means of enhancing efficiency and labour market reform as a means to competitiveness.

The merits of this approach continue to be debated. Yet it is clear that only one side of the debate is heard at the policy-making level. Promoters of austerity emphasize that government debt and deficits undermine investor confidence and, as a result, investment declines, leading to recession. Once balance is restored, investment will follow, leading to economic growth and job creation. Thus, the crisis was caused by a bloated public sector financed by debt, and the solution, fiscal consolidation, lies in getting it under control, through austerity measures. Critics respond that a crisis generated by the behaviour of the private sector has been offloaded onto the public sector and working class. In the context of the 2008 crisis, for example, it is argued that the "austerian" analysis is entirely a-historical, ignores the deeper roots of the crisis, and really rests upon a triumph of discourse that consists of shifting the blame for the crisis from the reckless behaviour of an under-regulated private sector to public or sovereign debt, for which the public authorities are responsible (Gough 2011:53-8). Blyth (2013) found that austerity did not lead to better fiscal health because public spending cuts increased unemployment which placed yet more fiscal pressure on government programs. Nor did austerity unleash economic growth. Components of the austerity case have been discredited. The arguments that public debt ceilings should not exceed 90 per cent of GDP (Rogoff and Reinhard 2010a, 2010b) were demolished (Herndon, Ash and Pollin 2013) and the case for 'expansionary fiscal contraction', used to legitimate budget cuts on the grounds that they could be good for economic growth, has been effectively debunked (Guajardo, Leigh, Pescatori 2011; Blyth 2013). However, the discussion continues as it clearly should if consideration of policy options and alternatives is to lead to better public policy. What is needed is the extension of the debate to the policy-making level rather than its closure.

Instead, the discussion and policy debate increasingly is by-passed by institutional measures intended to "depoliticize" debates on economic policy and render a variety of policies subject to the application of permanent and fixed rules. In the process democracy is diminished and a prerequisite of good policy undermined.

The rise of right-wing populism has raised concerns about the health of democratic governance but most commentary has focused on "illiberal democracies" which combine majority rule with intolerance of minorities and espouse strong forms of nationalism (Zakaria 2007). Less commented upon is the phenomenon of undemocratic (neo-) liberalism. The argument that neoliberalism needs to and is escaping its democratic shell has led to its conceptualization as "authoritarian neoliberalism" (Bruff 2014). Authoritarianism can come in various forms. This variant aims to achieve a "reconfiguring of state and institutional power in an attempt to insulate certain policies and institutional practices from social and political dissent." (Bruff 2014: 115). The authoritarian neoliberalism approach therefore connects to and usefully extends several literatures including those on de-politicization (Burnham 1999), authoritarian populism (Hall 1979, Jessop et al 1984), authoritarian statism (Poulantzas 1978), disciplinary neoliberalism (Gill 1996), and authoritarian constitutionalism (Oberndorfer 20144).

Analysis of the insulation of decisions from democratic input and the consequent depiction of growing authoritarianism has been conducted at three levels. First, there is the national/ international intersection in which international entities (remote from any form of democratic control) dictate, reinforce, or are used by national elites to legitimate priorities. Second, at both national and international scales, there is the conflict between democratic accountability and technocratic rule application in which institutions lacking popular accountability (such as executives, bureaucracies, central banks, and judiciaries), are seen as gaining strength compared to those more amenable to democratic input (such as legislatures). Third, class relations, need to be integrated into the discussion as the neoliberal content of institutionalized policies and practices is depicted as a class project designed to advantage capital over labour.

In each of these instances the term "authoritarianism" is used because the scope for democratic input is narrowed by way of either institutional or ideational lock-in, or by increased power differentials. Institutionally more and more decisions are being made by (increasingly undemocratic) "authorities". Deliberations are conditioned or controlled by constitutionally binding rules intended to eliminate certain policy options from consideration. Ideationally there is a connotation of a different type of authority (-arianism) derived from "knowledge" and the certainty that neoliberal prescriptions are "true" or the only ones that will work – hence they need protection from democratic impulses that could produce non-rational outcomes. And rising inequality and the power imbalance between capital and labour restricts the voice of subordinate social actors.

Yet it is almost axiomatic that liberal democracy is about choice (Macpherson 1965). Without the possibility of different policy choices being made, democracy has little to offer other than a somewhat empty competition between leaders where style may differ, but without significant differences in the content of what they do when in office.

In this sense efforts to constitutionalize austerity are the latest in a series of measures that hollow out democratic decision-making and lock in place asymmetrical relations between social classes. Policy areas far advanced along the path of being insulated from democratic pressures or control include key instruments of economic policy, such as monetary policy, trade and investment policy, and fiscal policy, with others like labour relations and labour market policies close behind (McBride 2016; McBride and Mitrea 2017). Significant components of these policies are consigned to a status of pre-arranged and, by design at least, permanent rules, and are rendered more remote and less accountable from the public and from democratic processes. Since the intellectual edifice of austerity policies has encountered significant challenge since 2010, and its record in practice is widely criticized, locking it in as a default policy through constitutionalization seems highly problematic.

Constitutionalization as an alternative to politics

Here the term constitution does not refer only to codified constitutional documents. Rather it refers to measures, institutions, and practices that fit an older, and broader concept of constitution, as applying to the entire governmental order involved in governing a polity. A variety of instruments – some formal and "hard"; others and informal and legally "softer"-- can serve the function of separating particular policy areas from the realm of normal politics and establish a higher threshold for contravening the rules or outcomes established. Using the term this way, several varieties of constitutionalization are identifiable.

First, nation-states can assume obligations, including observance of specified rules as part of binding and enforceable international treaties or by virtue of joining international organizations or regional entities. Examples include the institutions of global economic governance, such as the IMF, World Bank, and World Trade Organization, regional pacts such as NAFTA and its successor, and much more integrated entities such as the EU. Second, they may embed obligations and rules into their own national or subnational constitutions.[i] Third, ordinary legislation or regulations can be used to create obstacles to deviating from the obligations. Fourth, less formal measures, such as international consultations on, identification of, and "commitments" to "best practices" (including peer review and monitoring from organizations like the OECD or built into some of the procedures in the EU) also qualify. The first two types are the "hardest," and have stronger enforcement. Yet the "softer" third and fourth modes can also alter the decision-making playing field in important ways. Such measures can construct habitual and accepted practices with which there is general compliance. Moreover, the line between hard and soft forms of constitutionalization and legislation is becoming blurred, as with the monitoring and disciplinary procedures under the European semester.

There are common tendencies that the concept captures and that are helpful in analyzing trends within contemporary governance. First, it identifies key powers that are located increasingly in ways that are remote from popular, or even governmental influence. Once remote institutional homes are established, there is little further accountability. This does not imply imposition by global actors on the state. States are entirely complicit in the shaping of these external constraints. Second, the rules themselves reflect neo-liberal policy preferences and seem designed to protect these against future change. They are intended, therefore, to "lock-in" one set of policy outcomes.

A number of examples in monetary, fiscal and labour restructuring policies can illustrate the point. In monetary policy central banks, often by normal legislative or regulatory change, have been made more independent of governments[ii] and hence, even if indirectly, of the public. In Europe central bank independence was accomplished by international agreements or treaties. Thus within the Eurozone, the European Central Bank (ECB) has been assigned the primary goal of maintaining price stability[iii] and its independence in pursuing it has been given constitutional status in the European System of Central Banks statute and in the European Community Treaty itself.[iv] There is long-standing literature suggesting that autonomous central banks will favour austerity and financial orthodoxy over policies of stimulus (Kurzer 1988). Its other effect is that it converts political debates about appropriate monetary policy into technical issues beyond the scope of public scrutiny (Hay 2007: 116-7)

In the fiscal policy area a 2009 IMF study reported that the number of countries using fiscal rules had increased dramatically from seven countries in 1990 to 80 in 2009 (cited in Tapp 2010: 3). The European Union has been in the forefront of experimenting with limiting governments' ability to pursue expansionary fiscal policies, but the same trends are visible elsewhere – for example, the use of balanced budget legislation in many subnational jurisdictions in North America.

Thresholds have been imposed that, if exceeded, result automatically in austerity measures. The intention has been to establish rules beyond the reach of politics and thereby to constrain the state and insulate it from democratic pressures that tend in an expansionary direction. In Europe examples include the *Maastricht Treaty* (see Buti and Giudice 2002), the *Stability and Growth Pact* (Balassone and

Franco 2000; Buti, Franco and Ongena 1998; De Haan et al. 2004; Heipertz and Verdun 2004; Schuknecht 2005), and the *Fiscal Compact*, 2012.

In 2012, the *Fiscal Compact* was designed to strengthen the earlier pact by providing that: "the budgetary position of the general government of a Contracting Party shall be balanced or in surplus" subject to temporary deviations with a correction mechanism, "triggered automatically", for "significant observed deviations". The Compact goes on to state that:" [these] rules…shall take effect in the national law of the Contracting Parties…through provisions of binding force and permanent character, preferably constitutional, or otherwise guaranteed to be fully respected and adhered to through national budgetary processes. The Contracting Parties shall put in place at national level the correction mechanism…" German chancellor Angela Merkel's comment about the European Fiscal Pact is revealing: "The Fiscal Pact is about inserting debt brakes permanently in the national legal systems. They shall possess a binding and eternal validity" [v]. Here again, aspiration does not mean outcomes are pre-determined. But the constitutional apparatus is designed as a hurdle which alternatives must clear with more difficulty than would be the case in its absence.

The intended effect of the combination of treaties and rules on monetary and fiscal policy is to rule out currency devaluation and the use of budget deficits, both of which could play a role in pro-employment or anti-austerity policies. Ruling out external devaluation through currency adjustments means that internal devaluation, compressed wages and unemployment, must the chief adjustment mechanism to deal with imbalances.These reforms provide supranational institutions with a great deal of political authority to alter the behaviour of national governments through 1) the obligation of member states to internalize a set of general principles 2) large sanctions for dissenting members and 3) a variety of procedures designed to better monitor and publicly shame deviant countries. This does not mean that the new mechanism is watertight (Burret and Schnellenbach, 2014: 12); however, the intention is a tightening of previous efforts in this area.

In the sphere of labour restructuring the mechanisms may fall to the institutionally "softer" end of constitutional mechanisms but their direction is clear and they are nested in the "harder" context provided by monetary and fiscal constitutionalization.

Various authors have described a 'new model' of European politics as 'new European Interventionism' which is characterized by three features; 1. An increasingly authoritarian top-down approach, as the European level directly determines national-level policies. Most readily apparent in fiscal policy, the model is extending to areas such as wages and collective bargaining (despite the EU having no formal competences in this); 2. The strengthening of the European executive organs (the Commission and European Council) as compared to parliaments at the European and national levels; 3. A one-sided focus on fiscal austerity and cost competitiveness, which understands downward wage flexibility or internal devaluation as the main adjustment mechanism for macroeconomic imbalances (-Schulten and Mueller. 2015: 331;Leschke et al. 2015:295; Degryse 2012; Cacciatore, Natalini and Wagemann 2015; Natali and Stamati 2014; European Commission 2016a).

The European Central Bank (ECB), European Commission, and European Council directly intervene in national-level policy trajectories and strategies, including pensions, healthcare, and collective bargaining arrangements by pushing for wage cuts, freezes, and the decentralization of wage setting mechanisms (Schulten and Muller 2015:331; Leschke et al. 2015:296; Degryse 2012; Cacciatore, Natalini and Wagemann 2015; Greer 2014; European Commission 2016a). This increases direct EU level political intervention in national bargaining procedures and outcomes.[vi]

With the arrival of *The Euro Plus Pact*, adopted in March 2011, the constitutionalization of labour market and labour relations policies became more explicit. The Euro Plus Pact defined wages as "the main economic adjustment variable for overcoming economic imbalances and fostering competitiveness" (Schulten and Muller 2015:334; ETUI 2014; Ioannou et al. 2015). The other agreements had primarily provided an inhospitable context for the pursuit of labour's aims. Conversely, the Euro Plus Pact was envisioned as a 'competitiveness' agreement focused on labour market and fiscal policy and extending the policy goals of structural reform programs for periphery countries to the EU as a whole (Degryse 2012:44; Schulten and Muller 2015:335; Leschke et al. 2015; Maris and Sklias 2016; European Commission 2016a). While the policy mix to achieve these goals would be open to each state, the objectives would be measured against performance indicators in competitiveness, employment, financial stability, and public finances compatible with previous agreements and monitored through the European Semester (Degryse 2012:46). The architecture of the pact itself is in line with (and perhaps less explicitly restrictive as) previous agreements, but its content – which we examine in the next section – is what sets it apart.

On the labour market side, states must converge in policies which align wages with productivity (opening up private and public protected sectors to competition) and which "make work more attractive" (Degryse 2012:45; Heyes andLewis 2014). The labour market and fiscal policy objectives of the Euro Plus Pact are explicitly oriented toward limiting the capacity of the state to provide welfare and increasing labour market participation while decreasing labour cost, which limits the income of labour and its ability to constrain its supply, ultimately benefitting capital

The result, unsurprisingly, is pressure towards achieving lower wages and a poorer set of employment conditions. The main distinction between different EU instruments has been that Country Specific Recommendations (CSRs) are not legally binding, although missing their targets may incur financial penalties. Conversely, Memoranda of Understanding (MOUs) and 'Stand-by Arrangements' (SBAs) are contractual agreements to implement certain policy measures in return for financial support, and so this channel is typically utilized for 'crisis' cases, has more direct policy impacts, and is more binding (Degryse 2012; ETUI 2014; Leschke et al. 2015; Chardas 2014).

MOUs with countries vary in the details but follow the same general line which conforms to the EU's approach to post-crisis labour market policy. Although expressed in terms of flexicurity[vii], the combination of working time adjustments, decreased employment protection, and decentralization of collective bargaining add up to a policy mixture of labour market flexibilization. Some examples exist of voluntarily negotiated moves in this direction but for the majority of EU members this shift in policy is the result of the coercive MOUs or the less, but still somewhat coercive CSRs emanating from the new system of European governance (see Marginson and Welz 2015; Clauwaert and Schomann 2013).

By 2015, 19 out of 28 EU member states had been affected by at least some of the EU initiatives (see Schulten and Muller 2015: Table 1) via the two main mechanisms which vary in disciplinary power, either country-specific recommendations issued through the European Semester or "quid pro quo of reforms for financial support" under Memoranda of Understanding between the Troika or IMF and states (Schulten and Muller 2015:337; ETUI 2014:74). The areas covered include: decentralisation of collective bargaining, reform or abolition of wage indexation, moderation of minimum wage development, linking wages to productivity growth, restrictions on extension of collective bargaining agreements, reduction or freezing of minimum wages and/or public sector wages, and wage freezes in the private sector.

Politics as an Alternative to Constitutionalization

By "depoliticizing" crucial spheres of policy making that used to be – however imperfectly - in the hands of the public, the scope for the exercise of democratic politics is diminished, the technical application of rules replaces debate about and choice between alternatives, and the overall health of democracy is limited (Offe 2013; Hay 2007; Macpherson 1965; Schafer and Streeck, 2013:1)[viii]. Indeed, the constitutionalization of neoliberal economic policy in terms of austerity and internal devaluation is highly authoritarian and reinforces the power of capitalist elites at the expense of labour (Myant et al. 2016; Koukiadaki et al. 2016). Structural reforms increase inequality and precarity, weaken unions, and decrease wages, employment, and labour market participation (Heyes and Lewis 2014). These shifts increase the power of capital in relation to workers as the latter have fewer resourses for survival beyond accepting market conditions. However, seeking to remove these issues behind a depoliticized wall of rule application is not necessarily a sign of strength. It may reflect a fragility which apparent institutional rigidity tries to disguise.

In the short-term, however, diminished democracy means those favouring alternatives face additional major hurdles. Reducing the impediments to change is a major priority in imagining policy shifts such as abandoning austerity and replacing with more expansionary and, above all, redistributive economic policy.

One precondition, at the ideational level, is that the privileging of orthodox economics analyses and prescriptions in policy processes and, even more in quasi-constitutional documents needs to be ended. Like other disciplines the contributions of orthodox economics are worthy of consideration. But in any rational universe, there are enough failures attributable to that discipline -- of omission (eg not predicting the crisis),and commission (austerity as a solution to it) to preclude it being privileged or embedded as the default policy. Substantially reformed institutional variants of Councils of Economic Advisers, or Fiscal (Social Impact) Councils could play some role in opening up the policy process.

Second, if constitutionalization and other measures have depoliticized decision-making then the solution is to repoliticize it. Theoretically this could be accomplished at either international or national scales, or by rebalancing the relations between the two. But it cannot be accomplished if important areas of decision making are simply removed and replaced by automatically or technocratically applied rules.

Often the options are posed in terms either of democratizing or reforming international institutions to serve social ends rather than narrow economic orthodoxy as represented by the austerity response to economic crisis, versus the populist demand to return control to the nation-state level. In a year-end review in 2016, BBC journalist Gavin Hewitt (2016) looked ahead to 2017 as the year which would see a "battle of ideas" between nationalism and internationalism. Would solutions to the on-going crisis of neoliberal globalization be found through further internationalization, or through attempting to rebalance the international system by returning greater power or autonomy to nation-states?

Posing the issue in this way may not be the most helpful entry into the debate. Rather, it might be posed as a choice between popular sovereignty and the rule of capital; or between democratic accountability and bureaucratic and technocratic governance by "experts".

If left as a national versus international choice then most liberals and those on the political left would prefer an internationalist solution. More international decision-making and coordination is sometimes seen as necessary to steer the global economy. Partly this is driven by the argument that international capital can no longer be controlled by any nation-state (though many of the people making this argument do not, in truth, favour controlling international capital anyway). Partly it is driven by the ugliness of the revived nationalism on display in parts of the European Union and in the United States.

But equally obviously, most on the internationalist side of the debate, not to mention the (neo)-liberal elites of all political affiliations seem unable to comprehend any rationality lying behind the rejection of neoliberal globalization and its policies and institutions (like the EU). In recent years large numbers of people have indicated their alienation from the existing economic and political system. At some level they consider, correctly, that they have been left behind economically and their views and opinions are ignored politically. In some way, not always clearly articulated, and often expressed unattractively, they attribute this situation to globalization and the remote and cosmopolitan elites in charge. Invited, honestly or not, to vote to "take back control of the country" or to "make America great again", large numbers of people accepted the invitation. In doing so they delivered a verdict that poses a widely-recognised challenge to the certainties of neoliberal globalization. They have noticed that the neoliberal emperor has no clothes.

The politics surrounding globalization are therefore much more fluid than formerly. Opportunities may exist to challenge components of the neoliberal consensus and devise and implement progressive alternatives that are quite different from the inchoate expressions of rage represented by right wing populism.

Yet the history of creating international institutions shows little evidence of controlling capital. Rather the purpose of most actually existing international institutions has been to liberate capital from controls and confer greater rights upon it. As income and wealth inequality statistics show, the result has been the further enrichment of the already rich. Democratic accountability through national governments has been sacrificed and there are virtually no supranational accountability mechanisms.

So the issue of at which spatial level challenges to the prevailing orthodoxy are likely to emerge or be successful cannot be avoided. Neither the evolution of the gloal economic governance architecture, nor the post-crisis posture of the European Union, with its on-going efforts to constitutionalize neoliberal principles in its institutions (McBride 2016) offer any reason to expect anything except more of the same from further internationalization. None of the established elites – economic, political or media – would consider changing these characteristics which are seen as natural, valid, and beyond dispute. For those favouring greater equality, and greater security, the international reform option seems hardly promising.

That leaves the national level; or an international system that leaves more scope for national level political preferences to emerge and be implemented. Of course, much the same criticism leveled at international elites can be said of national elites – they are as firmly committed to the prevailing economic, social and political order as their international counterparts. But the prospects of counter hegemonic mobilization may be higher at the national level, And there is no necessary correlation between expressions of popular (national) sovereignty and the sort of right nationalist/ populist protests that we have seen.

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[i] Mexico, for example, made 30 amendments to its constitution to ensure compatibility with NAFTA; and Spain in 2011 entrenched the concept of "budget stability" while introducing the absolute priority of debt and interest repayment.

[ii] Over the 1989-2010 period there was a steady movement toward central bank independence (CBI) (Polillo and Guillen 2005; Dincer and Eichengreen 2014).

[iii] The focus on anti-inflationary policy fits the interests of finance capital in an era of deregulated financial markets and capital mobility and the credibility of states in this area is enhanced by deflationary policies of fiscal austerity (Burnham 1999).

[iv] The ECB's own account shows its independence to be extremely robust and its accountability to consist of little more that transparency and explaining its actions (see http://www.centralbank.ie/about-us/documents/ecb_facts_presentation.pdf).

[v] as quoted in Oberndorfer 2012.

[vi] Schulten and Muller (2015) provide a history of the development of the new system of economic governance and how the EU central bodies have steadily secured their influence over collective bargaining.

[vii] Flexicurity refers to achieving labour market flexibility for employers combined with measures to provide security (of job or more often employment of some kind) for employees. Crouch 2014 argues that fiscal and policies imposed on debtor nations remove most of the security possibilities; and, more generally, see Hastings and Heyes, 2016).

[viii] These trends are exacerbated by "network governance" in which lines of responsibility and accountability are quite blurred.