

INTRODUCTION

REVOLUTIONARY CONSTITUTIONALISM: AN INTRODUCTION

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Bruce Ackerman's latest book *"Revolutionary Constitutions. Charismatic Leadership and the Rule of Law"* represents an important and timing contribution to the debate about the crisis of our contemporary constitutional democracies.

According to Ackerman "a deeper understanding of the past is especially important at this moment. With constitutional crises erupting throughout the world, it is tempting to believe that all of them are symptoms of the same disease, so-called populism - and can be cured in similar way. This is a mistake. Countries that have travelled down the three different paths to constitutionalism confront very different crises¹".

Ackerman starts from the assumption that the goal of his research itinerary is to explore "three different pathways through which constitutions have won legitimacy over the past century"². The first of these ideal types is the concept of "revolutionary constitutionalism".

Revolution is a controversial concept in the context of constitutional law studies, and it is even more so if a revolution is the origin of a new constitutional order.

In Ackerman's reconstruction, revolutionary moments were at the origin of the constitutional experiences in India, South Africa, Italy, France, Poland, Israel and Iran. The Author recognises the specific and heterogeneous social and economic contexts of these different countries, as well as their varied legal and political cultures; however, this awareness does not prevent him from

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¹ B. Ackerman, *Revolutionary Constitutions. Charismatic Leadership and the Rule of Law* (2019), 2.

² *Ibidem*, 1.

tracing a common thread that binds these experiences together, such that they ultimately represent “variants” of the same phenomenon: *“Revolution on a Human Scale”*.

Revolutions on a human scale must be distinguished by another type of modern revolutions, the “totalizing variants”. In the latter “the mobilized movement of the People aims for a root-and-branch reconstruction of all aspects of social and political life. This aspiration legitimates the worst pathologies of the twentieth century”³. On the contrary, revolutions on a human scale “do not attempt a total makeover of society. They focus on particular sphere(s) of social or political life, and mobilize activists to repudiate currently dominant beliefs and practices within the target of revolutionary concern while leaving intact prevailing mores in other spheres”⁴.

Central to the “revolutionary path” is another traditionally ambiguous notion: charismatic leader. The charismatic leaders - identified by the Author in Nehru, Mandela, De Gaulle, Walesa, De Gasperi - are fundamental actors in the process of legitimizing the newly established order. Ackerman distinguishes two types of charisma: organizational charisma and leadership charisma.

In the first case, a central role is played by the movement or by the party in whose struggle activists identify themselves, in the belief that the organization itself represents the means by which “their grassroots struggles can transform the State into an engine for legitimate social change”⁵. The second declination of charisma is personalistic: the leaders of the successful experiences of revolutionary constitutionalism “found themselves at the right place at the right time in the revolutionary struggle - and their decisive acts of sacrifice served as exemplars for the broader struggle for a “new beginning” in the political life of the nation”⁶.

As for the concrete declination of “revolutionary constitutionalism”, Ackerman identifies four phases in which the revolutionary path unfolds: the mobilization against the old regime (Time one), the foundation of the constitutional order (Time two), the crisis that opens up in the face of the loss of the original forces and charisma with the consequent creation of a “legitimacy

³ Ibidem, 28.

⁴ Ibidem, 28.

⁵ Ibidem, 35.

⁶ Ibidem, 35.

vacuum” (Time three), and, finally, the consolidation of power (Time four). Ackerman applies this scheme to the cases he analyzes in this volume: India, South-Africa, France, Italy, Poland, Israel and Iran, all variants of the same ideal type. They participate in a “common experience - in which revolutionary insurgents manage to sustain a struggle against the old order for years or decades before finally gaining political ascendancy⁷”.

Inexhaustible and heated could be the debate on the correspondence of the particular constitutional experiences with the ideal-type, but as Ackerman himself recognizes, by recalling the Weberian lesson, “no real-world polity perfectly expresses any ideal-type”⁸. There can be criticisms and doubts about the historical reconstruction of events and their reading within the conceptual schemes proposed by Ackerman⁹. Nonetheless, Ackerman’s volume offers a masterful and authoritative contribution to comparative law, the history and theory of constitutional law.

Like all great works, they measure themselves on the ability to shed light on the future, to open new horizons and research hypotheses, starting from a deep analysis of the events of the past and the theoretical reflections that the legal scholarship has given us.

Certainly Ackerman’s work has this important impact, especially in a context dominated by the effort to codify and understand the specific features and dynamics of our constitutional systems under pressure. Ackerman’s work has the great merit of inviting us to look at the phenomenon of constitutionalism in its evolution over time and space, beyond the unique characteristics of each constitutional experience: “My three ideal types will (...) enable a more discriminating form of transnational learning. If, as I suggest, the leading countries of Europe emerge from different constitutional pathways, these differences should be treated with respect if the European Union is to sustain itself as a vital force in the coming generation. I will also try to persuade you that my three

⁷ Ibidem, 3.

⁸ Ibidem, 23.

⁹ Among the first comments see A. K. Thiruvengadam, *Evaluating Bruce Ackerman’s “Pathways to Constitutionalism” and India as an exemplar of “revolutionary constitutionalism on a human scale”*, *International Journal of Constitutional Law*, Volume 17, Issue 2, 682-689 (2019); D. Tega, *The Constitution of the Italian Republic: Not revolution, but principled liberation*, *International Journal of Constitutional Law*, Volume 17, Issue 2, 690-694 (2019).

ideal types also open up powerful insights into the dilemmas confronting leading nations in Africa, Asia, the Middle East and South America - enabling comparative insights into common dilemmas that would otherwise escape the attention of national politicians transfixed by the seemingly unique features of their domestic crises"¹⁰.

¹⁰ B. Ackerman, cit. at 1, 2.