Genuine Fascist Theory or Non-Systematic Conceptualisations of the New Authoritarian Order?

Towards an Anatomy of Nikolaos Koumaros’s Anti-Parliamentarian Thought

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Abstract

This article analyses legal texts written by Nikolaos Koumaros that were foundational to the 4th of August regime in Greece. It demonstrates the regime possessed an ideology that did not differ substantially from other authoritarian regimes of the period. In particular, the choice of Koumaros as the central legal theorist of the regime can be explained by his familiarity with anti-liberal theories of the time. His engagement with these theories was linked with his studies in France and Italy during the interwar period, exposing him to fascist ideals. A detailed examination of the conceptual transfers that informed the main legal texts of the regime demonstrated their reasoning followed closely the theoretical developments of the time. Mussolini’s doctrine of fascism and a specific reading of Rousseau functioned as the basis for the legitimisation of a new, anti-liberal political order. These ideas became key analytical pillars of the legal texts that gave shape to the regime’s normative and political foundation, demonstrating that explicit fascist theories informed the political physiognomy of the regime.

Keywords

This article engages with intellectuals of the 4th of August regime, which was an authoritarian form of government established in Greece between 1936 and 1941 and which was headed by the retired General Ioannis Metaxas (1871–1941). Its main focus is the work of Nikolaos Koumaros (1902–1992), who was the central legal scholar of the regime. Despite the importance of this regime to the country’s subsequent political developments, Koumaros has been largely ignored by the historiographical literature both as a figure and in terms of his work. Thus, I aim to offer a first examination of his legal thought, how this evolved during the 1930s, and the role it played as theoretical apparatus of the Metaxas regime. In order to offer a better understanding of this intellectual, it is necessary to first offer some theoretical remarks on the political physiognomy of the regime using Dylan Riley’s work on the interwar fascist experience. Subsequently, the second part of this article will present the texts that preceded those written during the Metaxas era by demonstrating the continuities and discontinuities before and after his appointment as the key legal advisor of the 4th of August regime. Tracing his intellectual evolution from liberalism to fascism, I will refer to the supervisor of his PhD at the University of Bordeaux, Roger Bonnard, who followed a similar political trajectory, demonstrating that the Koumaros case was far from an exception. The third part will examine legal texts he wrote between 1936 and 1941 during the existence of Metaxas’s regime. I argue that intellectual and political decoding of his work during this period can be used as a guiding thread to allow a better understanding the political nature of the fascist experiment under the Metaxas leadership in Greece.

The 4th of August Regime: An Authoritarian Democracy?

Despite the importance of the 4th of August regime for the Greece’s subsequent political developments, Nikolaos Koumaros and his work have been largely ignored by the current historiographical literature. This raises the question of why this happened. To answer this question, one needs to explore how the current literature has conceived the regime. This literature adopts a very strict logic restricting the definition of a genuine fascist regime only to the ones that

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emerged from far-right movements with alliances to sections of the petit bourgeoisie and subsequently used the political organisation of a party as a vehicle to power.\textsuperscript{2} Anything deviating from this definition is considered by the existing literature as a pseudo-fascist or a para-fascist regime, and not as a genuinely fascist regime similar to the ones evident in interwar Europe. Given that it did not exhibit these features, the Metaxas regime is most often classified as an imitation of other genuine fascist regimes, like the ones of Italy and Germany. This helps explains why the intellectual developments that occurred under this regime are not taken seriously by the relevant historiography, and why they have only been seen as mimicking ideas that developed outside Greece that did not shape substantially its political physiognomy.

The most sophisticated argument regarding the nature of the Metaxas regime that is met in the existing literature comes from Aristotle Kallis.\textsuperscript{3} His assessment is one of the few, if not the only, that attempts to inscribe the Metaxas experiment within the wider historical context of the interwar period by explaining that, despite its non-revolutionary ideological character, the regime’s establishment ‘marked a fundamental departure from conventional conservative-authoritarian politics in a direction charted by the broader fascist experience in Europe’.\textsuperscript{4} Furthermore, Kallis correctly argues that it is crucial for historical analysis to step away from what the regime lacked, compared to other fascist examples that were more ideologically robust, and to start exploring what the 4th of August regime did in reality.\textsuperscript{5} Stemming from these diagnoses, this article attempts to understand what the Metaxas regime endeavoured to achieve in order to align itself politically with the anti-liberal order of the time, evolving an ideological physiognomy which did not differ substantially from those that were adopted by other authoritarian regimes.

The literature on interwar fascism and the relevance of Greece has generated a rich debate on these issues. Regarding the political developments of the period, a seminal study on the topic is the work of Spyros Marketos, \textit{How
I Kissed Mussolini! The First Steps of Greek Fascism (2006). In this work, the Greek historian examines thoroughly, as the title indicates, the first steps of fascism in Greece by examining both the fascist movements that emerged from below and the ways that the political establishment of the country received fascist ideas and realities during the interwar period. However, the study stops its analysis in 1932, before the deterioration of the parliamentary rule following several coups place that led to the establishment of the Metaxas regime. A study that continues from the historical point where Marchetos ends his analysis is the recent book by Manolis Koumas, 1936: The Imposition of the Metaxas Dictatorship (2022). Koumas analyses the historical context out which the regime emerged without examining the different stages it went through during the period of its existence, from 1936 until 1941. This gap is bridged by the work of Morgen Pelt. In a penetrative article Pelt offers the most accurate analysis on the different phases the regime passed through, arguing that the Metaxas reforms should be understood, among other things, as ‘an attempt to prepare Greece for a New Order in accordance with Hitler’s visions of a Europe under German leadership. This was especially true after Germany’s conquest of Central Europe in the autumn of 1938, at a time when it appeared impossible to contain Germany and far from preordained that it would be defeated, should war come’. However, Pelt does not present in a systematic way the ideological underpinnings of the Metaxas reforms and how they were influenced by authoritarian regimes of the period.

In the field of intellectual history, Despina Papadimitriou’s From the Law-Abiding People to the Nationalist Nation (2006), is a seminal study on the examination of the conservative ideology as it was developed in Greece between 1922 and 1967. This study does not give special emphasis to the Metaxas regime and its intellectuals. The same limitation is met in Efi Gazi’s study, Motherland, Religion and Family, which explores the history of the homonym with its title

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6 Spyros Marketos, Πως φίλησα τον Μουσσολίνι! Τα πρώτα βήματα του ελληνικού φασισμού [How I kissed Mussolini! The first steps of Greek fascism] (Athens: Viviorama, 2006).
10 Despina Papadimitriou, Από το λαό των νομιφρόνων στο έθνος των εθνικοφρόνων [From the people of loyalists to the nation of the nation-minded] (Athens: Metaixmio, 2006).
slogan in Greece between 1880 and 1930, inscribing it to the wider historical context. A study that extends the historical frame of its analysis is Katerina Papari’s *Greekness and the Bourgeois Intellectuals in the Interwar Period* (2017). Despite providing a meticulous examination of the ideological atmosphere before the emergence of the Metaxas regime it ends its analysis in 1936. A study that overcomes this time limitation is *Ambivalent Modernism: Technology, Ideology of Science and the Politics of Interwar Greece (1922–1940)* compiled by Vasilis Bogiatzis. However, the focus on figures coming from the Metaxist era is sole to its leader, Ioannis Metaxas, therefore it does not examine how his ideas converged with or diverged from other key intellectual figures of the period. Analysis of a set of conservative ideas, without focusing thoroughly on specific intellectual figures, is offered by Spyridon Ploumidis’s work. This study examines exclusively the corporatist ideas, neglecting how other set of ideas could shape the form of the state.

Given these analytical limitations, I suggest that in order to achieve a better conceptualisation of the Metaxist phenomenon it is necessary to move beyond these formalistic definitions of fascism by bridging the gap between historical change and the realm of ideas. A theoretical suggestion that points to this direction is formulated by the historical sociologist Peter Wagner. He makes a plea for a sociology of capitalism and democracy (or authoritarianism) which makes language (and discourse) an integral part of its analysis. He also calls for a history of ideas that incorporates structural political change as an organic part of its account.

A theoretically robust and thematically relevant analysis that shares Wang-er’s epistemological sensitivities, and remedies some of these limitations, has been developed by historical sociologist Dylan Riley, in his study *The Civic Foundations of Fascism in Europe: Italy, Spain and Romania, 1870–1945*. Riley’s study examines the interwar societies of Romania, Spain and Italy and makes two

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main contributions regarding the way we can better construe the interwar fascist regimes. The first relates to the emergence of these regimes and the second one pertains to their political nature. With respect to the former, based on Antonio Gramsci’s work, Riley argues that a robust civil society does not necessarily lead to robust democratic regimes since the former is a necessary but not a sufficient condition for it. In addition to civil society, another necessary condition is the presence of hegemonic politics articulated by political parties that can successfully absorb demands from below. Whenever this condition was not met, the interwar fascist movements took advantage of this gap and rose to power. This is linked with the unwillingness or the inability of liberal political regimes of these countries to adequately satisfy the demands of the civil society that emerged in Europe after the end of the First World War. Being an emerging political force in interwar Europe, fascists took advantage of the political gap that was created and gained the necessary legitimacy as alternative political forces who could offer solutions to society’s problems.16

In the Greek case, even though social polarisation did not reach the same extent when compared to the societies examined by Riley, the political system of the country after the financial crisis of 1929 proved unable to successfully incorporate the social demands from below. This was because of its traditional character, which lacked both modern organisational forms that would facilitate the connection with different social groups and social policies that would mitigate the effects of economic crisis on them. Specifically, the two key political coalitions, the supporters of the Liberal Eleftherios Venizelos and the supporters of the King, were faced with an internal crisis that threatened the viability of the parties themselves. Their inability to gain a popular consensus for implemented policies led to the adoption of extra-institutional measures that in turn contributed to the rise of Metaxas.17 The shifts that had occurred in the spheres of economy, politics and society internally during the 1920s, along with the success of the fascists to rise in power in other European countries during the first


half of 1930s, persuaded Greek political elites that authoritarianism was the only viable option that would offer a solution to the impasses facing the country. In other words, violence and extra-institutional solutions were considered preferable to social policies and reforms as a response to new social inequalities and social conflicts. The Greece of the 1930s was substantially different from the 1920s. More than one million refugees had arrived after the defeat of the Greek army in Turkey in 1922, creating explosive social conditions. Contradiction that emerged between a capitalist economy and democratic politics were solved in favour of the former. The necessary concessions that the economic and political elites had to make in order satisfy the rising demands of the working people were considered a luxury. They were seen as allowing polarisations among different parties and social classes to evolve in an uncontrollable way, leading to a situation where fascism from above was the only solution for the continuation of the existing order of things.

Regarding Riley’s second contribution, the political nature of the fascist regimes, this focuses on the ways these regimes attempted to gain political legitimisation. Here, Riley uses the concept of political formula borrowed from the Italian political theorist Gaetano Mosca, who differentiates the institutional framework of democracy from the ways it is legitimised. In others words, Riley argues that we may call the interwar fascist regimes ‘authoritarian democracies’ to the extent that interwar fascists self-defined as democrats who questioned the democratic legitimacy of the parliaments of the period and substituted them with other institutions, which were allegedly more representative of the nation such as corporatist structures.18 This seemingly antinomic definition opens historical research to the examination of the ways these regimes attempted to legitimise themselves both discursively and institutionally. The Metaxas regime was not an exception with regards to this issue as it established a series of antiparliamentarian institutions that superseded the liberal political order and regulated the relationship between state and society. The incomplete fascistisation of Greek society that is evidenced by the moderate implementation of authoritarian reforms in the physiognomy of the previous liberal state should be interpreted more as an outcome of the structural limitations, both internal and external, that defined the regime rather than as lack of intention from Metaxas to proceed with the necessary institutional changes that would lead to such societal change. Besides efforts to regulate labour both in its industrial and agrarian form, the 4th of August regime established other organisations too, such as the National Youth Organisation (EON). EON was tied
to the school system and had a compulsory character for both sexes. It was the first organisation in Greek history that politicised the female population of the country to such a widespread extend by bringing women outside the private sphere and familiarising them with the values and politics of the 4th of August regime.  

Last but not least, a few days before his death, Metaxas charged Nikolaos Koumaros with the task of compiling a new constitution for the regime. The draft that exists in the Greek National Archives conveys a sense of Metaxas's political thought. It becomes clear from its analysis that Metaxas did not perceive the 4th of August as a short-lived political entity but rather as one that would last for decades to come. Its logic is fully consistent with the earlier analyses provided by Koumaros that were written as the legal pillars of Metaxas's regime.  

It is important to note in support of Riley's analysis that Koumaros, in his legal legitimisation of the 4th of August regime, identified it as a genuine democratic one. This tendency was far from an exception among the interwar authoritarian regimes.  

Refining further his argument, Riley offers a typology of fascist rule which is grounded in the ways that the authoritarian regimes of interwar period attempted to legitimise themselves. He argues that fascist regimes can be classified in three distinct categories. In the first category, in which Italy is included, he sees as crucial the role that the National Fascist Party played in the making of the Italian nation and that this was understood by the theoreticians of the regime as something that had to be crafted. As Riley points out regarding the first type of fascist regime: 'the nation was understood as a political project. The nation does not yet exist, or exists only in statu nascendi';  

In the second category, the state identifies with nation. Here, Romania is considered as a case that epitomises such a political process. In the last category, called by Riley the traditionalist model, the nation is represented by the institutions of church, family and monarchy. The 4th of August regime can be classified under the last category in which traditional institutions continued to play a significant role in the nation's formation.

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21 N.D. Koumaros and G. Mantzoufas, ‘Αι θεμελιώδεις συνταγματικοί αρχαι του νέου κράτους,’ To Νέον Κράτος [The New State], no. 11 (1938): 775.


23 Ibid., 19–20.
ideological and political role as part of the new, authoritarian state building. In the Greek case, the Greek Orthodox Church, the familial institution, and monarchy were central institutions through which the regime attempted to legitimise itself. Undoubtedly, the regime was also built around the personality of Metaxas himself. In other words, it was a leader-centred regime as were most of the authoritarian regimes of this period. However, the aims of the propaganda of the regime went far beyond the cult of the Metaxas leadership. They primarily focused on the making of new subjectivities, citizens that would endorse the new antiliberal institutional realities as the new political paradigm within which they would act. In this sense, the Metaxas regime was a biopolitical experiment that attempted through the discourses and the practices that it promoted to forge specific patterns of behaviour that would be compatible with the new anti-parliamentary political order.

Nikolaos Koumaros’s Academic Career

Examining Nikolaos Koumaros’s academic career and writings, it is easy to understand why he was chosen by Ioannis Metaxas as the key legal theorist of the regime. His shift from the liberal to the fascist camp was far from exceptional in this interwar political atmosphere. This was especially the case for intellectuals who had lost faith in the idea that political liberalism could offer viable solutions to European societies, which in the 1930s were deeply divided and suffered from intense social and class polarisations. In addition, after the global financial disaster of 1929, Greece experienced a deep political crisis with several coups d’état organised between 1931 and 1935 by military officers coming both from the Venizelist and Royalist camp, which were both destabilising and which lead to the final abolition of the parliamentarian system. These military initiatives also demonstrated the relative autonomy the army had gained from parliamentary rule, crucial to the configuration of the country’s political landscape. Metaxas was far from an exception to this phenomenon. Thus, when Koumaros found himself in Greece in the mid-1930 after almost a decade of living and studying abroad in key European countries, Metaxas had few hesitations for the implementation of authoritarian solutions as a way out of the ongoing political instability that had been dominant in Greece since 1931. By 1933, Metaxas had expressed publicly his ideas on the need for the implemen-

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tation of a dictatorship that would provide the necessary political stability that the country had lost in the meantime.

Koumaros’s family origins lie in a mountainous village in Corinth district, Mikros Valtos. After completing his secondary education, he moved to the capital city to undertake university studies and graduated from the Law School of the University of Athens. His next academic station was in France, at the University of Bordeaux where he continued his postgraduate studies and obtained a PhD in 1931 under the supervision of Roger Bonnard, entitled *Le rôle de la volonté dans l’acte juridique: Étude critique de la conception classique*. Before his permanent return to Greece, Koumaros visited Italy, attending lectures at the University of Rome; and Germany, joining intellectual activities at the Universities of Heidelberg and Freiburg; and the United Kingdom, attending courses at the University of London. Staying in these countries made him familiar with the Italian Fascist and Nazi legal theories of the period and enriched his knowledge beyond the French and Greek canon with which he acquainted himself while he was in Athens and Bordeaux.25

His first academic post in Greece was at the University of Thessaloniki in 1935. There, he held non-permanent positions in the field of Philosophy of Law. Four years later, he taught at the Panteion School of Political Sciences, a position he held for two years. Being a good friend of Metaxas’s son-in-law, Georgios Mantzoufas, and acting as an organic intellectual of the regime, he benefited from the dictator’s intervention with a King’s decree that led to his appointment first in 1939 as non-tenured, and then in 1940 a tenured, professor at the Law School of Athens. He held the chair of General Theory of State and the basic principles and developments of modern political systems.26 A few years later, in 1945 when his chair was cancelled, Koumaros was fired from the University of Athens.27

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27 Linardatos, [The 4th of August regime], 263.
A Digression: Roger Bonnard’s Shift from Liberalism to Fascism

Greece’s political predicament in the 1930s was by no means exceptional. France’s parliamentary life during the same period met similar problems with those described in the Greek case. The emergence of the global economic crisis of 1929 directly affected the political structures of the country leading to the proliferation of anti-parliamentary rhetoric in discursive terms and the multiplication of riots organised by right-wings groups and leagues. Specifically, for the first time in the history of the French Third Republic, in February 1934 the government fell because of pressures from below, a process that was crystallised by the substitution of the centre-left head of the government, led by Édouard Daladier, with a cabinet headed by the conservative Gaston Doumergue. Even if the successive coups that occurred in Greece during the same period were not observed in the French case, the political stability in the Third Republic was now just a memory of the past.

These political developments did not leave the ideological sphere unaffected, leading many intellectuals to consider more radical solutions for overcoming the ongoing institutional crisis of the country. Roger Bonnard’s case illustrates this trend clearly. The scholar of public law and Koumaros’s doctoral supervisor was part of Leon Duguit’s milieu, a specialist in the public and constitutional law. Duguit was a central, if not the most central, figure of legal culture in France. Through his work he proposed a sociological objectivist positivist understanding of the Law. According to Carlos Miguel Herrera’s analysis of Duguit’s work, he argued that the objects of legal analysis ‘are not fictions or abstractions but concrete facts’.

Given this understanding, Duguit’s theory was structured around two epistemological pillars: a negative and a positive one. The negative one related to the metaphysical concepts such as the general and individual will that accompanied the legal world after the French revolution. This rejection had to do with the fact that these concepts have metaphysical residues that cannot account for the phenomena they aim to conceive. His positive counterproposal was a sociological understanding of law that had been directly influenced by Emile Durkheim, who argued that the social world in its totality is defined by soli-

28 Chris Millington and Brian Jenkins, France and Fascism: February 1934 and the Dynamics of the Political Crisis (London and New York: Routledge, 2015).
This idea does not exclude legal aspects. In this regard, the role of law is to secure and advance the solidarity that penetrates the whole social tissue and is a *sine qua non* precondition for its preservation. However, Duguit’s Durkheimian conception of law did not prevent him from recognising the importance of human rights and similar notions of eighteenth-century philosophical thought, an aspect that made his theory, in terms of its political implications, part of the liberal camp although with strong sociological reservations.

Leon Duguit died in 1928, one year before the 1929 stock market crash. Roger Bonnard remained one of his epistemological adherents and successors at the University of Bordeaux. In the same university, Bonnard completed his PhD dissertation entitled *De la répression disciplinaire des fautes commises par les fonctionnaires publics* [The disciplinary repression of faults committed by public officers] under the supervision of Leon Duguit. In this study, as well as in those that he compiled in subsequent years, Bonnard developed similar epistemological positions to Duguit’s interventionist, though not authoritarian, paradigm. He wrote a number of strictly legal studies focusing on different aspects of Public, Administrative and Constitutional Law, including: *Le contrôle juridictionnel de l’administration* [Judicial control of the administration]; *Précis élémentaire de droit administratif* [Elementary handbook of administrative law]; *Précis élémentaire de droit public* [Elementary handbook of public law]; and *Les règlements des assemblées législatives de la France depuis 1789* [The regulations of the legislative assemblies of France since 1789]. This is important to mention since Bonnard converted from a Duguit’s proponent to a legal theorist who searched for theoretical inspirations beyond France and for anti-liberal intellectuals who endorsed authoritarian solutions.

More precisely, from 1934 until his death in 1944 there is an explicit shift in his work both in terms of form and content. From this point onwards, his writings became conjunctural political interventions attempting to introduce the political solutions of fascism and Nazism, as these were implemented in Italy and Germany. In this way, he attempted to use these paradigms to offer...
an anti-parliamentary alternative to the political impasses of the French Third Republic. Additionally, Bonnard’s interventions from 1934 onwards were not limited to intellectual elaborations and suggestions for the overcoming of political liberalism, eventually propelling him to the role of an organic intellectual of the Vichy government.34

Bonnard’s studies that crystallise his later anti-liberal political and theoretical viewpoint, which he did not change until the end of his life, were: *Le droit et l’état dans la doctrine nationale-socialiste* [Law and state in the National Socialist doctrine]; *Syndicalisme, corporatisme et état corporatif* [Syndicalism, corporatism and the corporate state]; *La guerre de 1939–1940 et le droit public* [The 1939–1940 War and the Public Law]; and *Les actes constitutionnels de 1940* [The Constitutional Acts of 1940].35 As it becomes clear from their titles, these analyses elaborated state and legal counterproposals to the liberal order. The first book, *Le droit et l’état dans la doctrine nationale-socialiste*, examined the doctrine of German National Socialism and focused on the related works of the German Nazi legal scholars Reinhard Höhn and Ulrich Scheuner. Another study, *Syndicalisme, corporatisme et état corporatif*, presented the syndicalist and the corporatist dogmas and how these were implemented in terms of policies in the different countries of Europe. In his book, *La guerre de 1939–1940 et le droit public*, Bonnard examined the transformations that occurred in the realm of public law given the war conflicts between France and Germany, comparing it with respective situations that emerged during the First World War. In his analysis, Bonnard attempted to retain a value-neutral understanding of the changes that happened in the internal life of his country. However, this disposition radically changed after the fall of France and the rise of the Vichy Government. By the beginning of October 1940, Bonnard endorsed the authoritarian Vichy regime and criticised fiercely the Third Republic, declaring publicly at the Law Department of Bordeaux University in his inauguration of the new academic year that:

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34 Marc Olivier Baruch, ‘Charisma and Hybrid Legitimacy in Pétain’s “Étate français” (1940–1944);’ in Charisma and Fascism in Interwar Europe, eds. António Costa Pinto, Roger Eatwell and Stein Ugelvik Larsen (London and New York: Routledge, 2007), 79.
The changes will be major ones. They will affect the basic principles which have guided our public law since the Revolution of 1789, namely individual freedom, democracy and the separation of powers. . . . These principles will be discarded not because they have outlived their purpose, having been useful at a given point in time, but because they are fundamentally bad in themselves as destroyers of the State, and conflict with the idea of the State itself. They are absolute errors, both in theory and in practice.36

This change of political stance was confirmed by his last book that examined the French Constitutional Law of 1940, which practically abolished the Third Republic and granted all political power to Philippe Pétain.37

Where should one search for the causes of this shift in Bonnard’s writings and politics? Why did the French legal scholar examine theoretical alternatives beyond the political liberal tradition and why did he endorse the collaborationist government of General Pétain offering legal advice for its legitimisation? The answer can initially be sought in his position as an intellectual. From his position as an academic, his politics were an outcome of his epistemological beliefs and not vice versa. This means that Duguit’s epistemology that Bonnard endorsed until the mid-1930s presupposed the existence of an organised society that functioned more or less normally on the basis of solidarity without intense polarisations. This key hypothesis stopped being a reality given that liberal institutions experienced a crisis and social inequalities increased significantly. This had a practical impact on the wider epistemological paradigm upon which Bonnard’s work was based and that was unable to offer an adequate conception of the ongoing political and legal realities he aimed to understand. The February 1934 riots were just one example of the ongoing crisis that the Third Republic experienced during the 1930s.

Given these developments, Bonnard lost faith in the parliamentary institutions as a viable solution that could guarantee social peace and progress for French society. Therefore, he examined contemporary theoretical and political paradigms that had offered alternative responses to these impasses abroad. His counter-position pointed to examples of authoritarian states that, in his view, could regulate the social conflict by abolishing the liberal order with violent means. Thus, the solidarity that could not be guaranteed by society

in these new conditions of crisis was secured by authoritarian states from above. The Vichy government incorporated the French version of an authoritarian solution to the liberal disorder of interwar Europe. This is why Petain’s regime was endorsed by Bonnard. The same framework can be used to interpret Koumaros’s shift to authoritarian political solutions which adopted Duguit’s analytical framework that seemed inappropriate after the collapse of political liberalism in Europe during the 1930s.

The Case of Nikolaos Koumaros

Nikolaos Koumaros’s thesis, Le Rôle de la volonté dans l’acte juridique: Étude critique de la conception classique, testifies in an exemplary way his intellectual affinity with the legal tradition of Leon Duguit. In this work Koumaros focused, in terms of both of method and content, on one of the key contributions of Duguit’s epistemology, his reconsideration ‘of the predominant idea that juridical acts were the result of assertions of the wills of the authors of the acts, or what was commonly called the Willenstheorie’.\(^\text{38}\) The thesis, as its title indicates, provided an examination of the role of will in the juridical act. More precisely, the first part of the books was a detailed examination of the intellectual history of the concept of the will in different traditions of philosophy of law. In the second part, Koumaros examined the ways in which this concept has been implemented in the juridical acts of public and private law. According to the words of his supervisor, written in the form of a preface, Koumaros’s thesis ‘shows us all the difficulties raised by this classic conception of the role of the will in both private and public law. Then moving on to public law, the author in a powerful shortcut exposes the difficulties raised there by the classical doctrine because it has forced the introduction of the concepts of personality and sovereignty of the state that are highly contested today’.\(^\text{39}\)

The thesis draws almost exclusively from the French canon in terms of references, with very few exceptions involving topics or philosophers from the German tradition. Changes in his viewpoint and thus his need for new theoretical references came up only after his interaction with the realities of German Nazism and Italian Fascism, when he visited the respective countries for the continuation of his studies in the field of Law.


\(^{39}\) Nikolaos Koumaros, ‘Le rôle de la volonté dans l’acte juridique: Étude critique de la conception classique’ (PhD diss., University of Bordeaux, Law School, 1931), ii.
His understanding of fascist dogma can be deduced, among others, from two of his later texts, where he examines intellectual developments of the theory and practice of Italian Fascism. The first was the pamphlet *Stato e Nazione nel regime fascista* [State and in nation in the Fascist regime] published by Pyrsos in 1934.40 In this booklet Koumaros presented some key ideas that informed the Italian Fascist state, especially concerning the relationship between the state and nation. More precisely, in this study he mentions theorists of the Italian fascist tradition such as Alfredo Rocco and Guido Bortolotto as well as the dictator, Benito Mussolini. This pamphlet commented specifically on the metaphysical conception of the nation that had been expressed by Mussolini and his philosophical adherent Giovanni Gentile, conceptualisations that Koumaros would later use in his own texts that legitimised the 4th of August regime, revising the anti-metaphysical epistemology that he had adhered to in his PhD thesis.

The second text was a book review of Giorgio Del Vecchio’s, *Saggi intorno allo Stato* [Essays regarding the state] published in the Greek philosophical journal *Archeion Philosophias kai Theorias ton Epistimon* [Archive of philosophy and theory of sciences] in 1936.41 In this essay, Koumaros assessed the work of the Institute of Philosophy of Law of the Royal University of Rome [Istituto di Filosofia del Diritto della R. Universita di Roma], the directorship of which had been assigned to the legal scholar Giorgio Del Vecchio. The Koumaros praised Vecchio’s lecturing talent for simplifying complicated legal issues and making them accessible to the non-specialist student audience. From this description one can deduce Koumaros’s personal experience with Vecchio’s way of teaching through the attendance of his courses while he was studying in Rome. Vecchio was an adherent of Mussolini’s regime, holding the positions of Rector (1925–1927) and Dean (1930–1938) at the University of Rome.42 The book Koumaros reviewed was the first publication of the Institute of Philosophy of Law of the Royal University of Rome. Koumaros argued that in this study Vecchio developed a philosophical understanding of law that was fully compatible with the fascist dogma. According to him, Vecchio had succeeded in offering a compromise between the individual and the state through the corporatist

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paradigm as well as a solution to the tension between law and ethics through the 'Ethical State'. What Koumaros suggested, however, did not consider the fact that Vecchio was not an adherent of Gentile’s approach to law and, concomitantly, of his systematisation of the concept of the ‘Ethical State’ to fit the fascist standards. More precisely, his anti-Gentilian stance on the nature of the state is developed in the exact same book Koumaros reviewed. More precisely, Vecchio argued in this study that:

The State is not ethical in the pseudo-idealistic sense used by certain schools of thought—as if every State, by definition, necessarily grasped what is good, and were necessarily custodians of right, a wise guardian of cultural heritage, and a staunch patron of development of the national character... to eliminate any possible doubt it is as well to reaffirm once more that no purported ethical mission on the part of the State can legitimise the slightest alteration in its juridical character, in the foremost sense of the terms.43

Vecchio adopted a position on the nature of the modern state and law that was based more clearly on theories of natural law rather than on neo-Hegelian idealism put forward by Gentile.

Before presenting Koumaros’s works that sought to legitimise directly the 4th of August regime it is necessary to briefly comment on an argument that he presented in his study On the Social Contract: Historical Overview of the Theories of Social Contract, published in 1936.44 In this study, the Greek legal scholar presented key developments in the theory of the social contract. In so doing, he argued that, in social contract theory that had crystallised in modern societies, one of the key tenets was that the dogma of the majority provided the ethical and legal foundation of all modern political institutions. To amplify this argument, he used the example of the abortive coup organised in 1933 by the Venizelist General Nikolaos Plastiras after the failure of Venizelos’s Liberal Party to win the elections that were held on 5 March of the same year. The Plastiras coup was swiftly discredited and did not gain the support of any significant political actor of the Liberal Party.45 He added that even in the dic-

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45 Koumaros, [On the social contract], 124.
tatorial regimes of Germany and Italy, this principle has not been sufficiently challenged to overcome claims of popular representation. Or, in his words:

The wider consensus is considered to be the natural way for the constitution of modern society and the expression of the values of the social and political institutions; hence, everybody instinctively refers to this consensus to the extent that it is the only feature that provides value to the institutions and renders them sacred. Common sense is so permeated by this principle that even the revolutions that have imposed themselves violently legitimise themselves arguing that their actions expressed the widespread popular will. In addition, after their establishment most of the times they resort to the popular will by organising elections or referendums. The social majority is considered so necessary that the revolutions that they want to succeed with any cost sometimes are supported by fake majorities gained through electoral fraud or by objective majorities in order to secure the spontaneous consensus of the citizens.\(^{46}\)

This type of reasoning demonstrates that Koumaros had come to understand that even the authoritarian regimes of his epoch pursued, albeit theoretical, legitimacy from the people. In other words, he insisted that all the modern political regimes since the founding moment of the French Revolution, including the dictatorial ones, should always refer to the majority when constructing their ideological self-representation. Going beyond the discursive implications, this principle would dictate an institutional apparatus capable of capturing and embodying this majoritarian will. Fascist regimes perceived the liberal political tradition and its ideals as the root of the civilisational crisis that Western societies were experiencing. Thus, authoritarian regimes of the interwar period had to come to terms with the fact that they had a need for political legitimisation, but its institutional expression had to be an anti-parliamentarian.

Koumaros’s reasoning, therefore, serves to highlight the seemingly contradictory nature of the fascist regimes that were anti-liberal but had at the same has a need for popular legitimacy from below. We can assume that this type of realisation was not unfamiliar to Metaxas himself, considering his constant reference of Greek people in his speeches and the institutional attempts in which his regime proceeded in order to establish anti-liberal institutions through which the popular will could be expressed. Given Metaxas’s theoretical and political formation, it is easy to understand why he would recruit Koumaros as the

\(^{46}\) Ibid., 125.
key legal scholar of the regime, to be responsible for the composure and publication of articles that would legitimise its anti-liberal political orientation.

**The New State**

The body of the work that Koumaros produced as official legitimisation of the 4th of August regime were published in the journal *To Neon Kratos* [The New State], of which he was an editorial board member along with Georgios Mantzoufas.47 *To Neon Kratos* was the theoretical journal responsible for the articulation of the ideological principles of the Metaxas regime. His first article published in *To Neon Kratos* was titled ‘The key constitutional principles of the New State’ and was indicative of the legal orientation of the Metaxas regime. The article, written together with Georgios Mantzoufas, had two aims: firstly, to elaborate the legal principles that informed Metaxas’s regime; and secondly, to challenge the standard conflation between the concept of the general will and that of the institution of parliamentary democracy in order to demonstrate that the latter distorts the former.

Mantzoufas and Koumaros begin their article with a reference to the constitution of the country. They claimed that King George II’s declaration that suspended several articles on 4 August, along with the dissolution of the parliament and the refusal to hold new elections within 45 days as article 37 dictated, were legitimate actions.48 It also legitimised the King’s decision to establish a new regime, a new political order with a constitution but without a parliament. This new political reality was legitimised *de facto* by the explicit support it claimed to have enjoyed from below.49 It was also legitimised in historical terms since it eradicated the old-fashioned institution of the parliament that was not compatible with needs of the conjuncture being unable to solve with a peaceful way the ongoing social and political crisis. The new regime attempted to cre-

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47 The articles that were written by Koumaros in *To Neon Kratos* are the following: together with Georgios Mantzoufas, ‘Αι θεμελιώδεις συνταγματικαί αρχαί του Νέου Κράτους;’ [The key constitutional principles of the New State] *To Neon Kratos*, no. 11 (July 1938): 761–818; ‘Η Περί Κράτους αντιλήψεις της μεταβολής της 4ης Αυγούστου;’ [The conception of the state in the regime change of 4th of August] *To Neon Kratos*, no. 18 (February 1939): 1573–1588; ‘Οι λόγοι του αρχηγού;’ [The Speeches of the leader] *To Neon Kratos*, no. 29 (January 1940): 283–289; ‘Το βαθύτερον νόημα της μεταβολής 4ης Αυγούστου;’ [The deeper meaning of regime change of 4th of August] *To Neon Kratos*, no. 34 (June 1940); ‘Το νόημα της ελευθερίας;’ [The meaning of freedom] *To Neon Kratos*, no. 41 (January 1941): 20–29.

48 Koumaros and Mantzoufas, ‘[The key constitutional principles of the New State],’ 762.

49 Ibid., 763.
ate a new political order using Greek culture as raw material, thus avoiding the emulation of foreign institutions in the country’s state apparatus, something that the previous liberal regimes had done. Albeit established by one man's initiative, the article celebrated the regime as the product of a popular revolution, one that was supported by and, indeed, embodied popular will.50

Criticisms of parliamentary democracy by Koumaros and Mantzoufas were largely drawn from Italian elite theory of the time. More precisely, the authors expanded on the idea that parliamentary democracy did not express the general will of the people but, instead, expressed the particular interests of the parties’ candidates. They considered that in representative democracies there was always an exclusively organised elite determining the will of the disorganised majority, and not the other way around. They radically contested the idea that political representation could adequately express popular will. For them, the choice of a member of parliament was independent of the free expression of electoral preference on the part of the individual voter. Such a choice was linked to the organisational capacity that a political force or an electoral committee could mobilise in order to assert themselves in the electoral market. The political sovereignty of the voter was therefore merely an illusion. Their freedom of choice was limited to a confined frame, as it was a priori configured by the organised minority that selected candidates not on the basis of criteria that represent the greatest representative capacity of the electorate, but rather according to the guarantees one offered for the consolidation of power of the same minority that has put him forward as a candidate. The sovereignty of the people in parliamentary systems lasted only one day, the day of the elections.51 From this position, one could conclude that there should not be an equation between individual freedom and political freedom and that democracy does not necessarily derive from universal suffrage and elections.52

Having deconstructed the myths concerning the supposed expression of the general will by parliamentary regimes, Koumaros and Mantzoufas proceeded to the presentation of the ‘genuine democratic principle under the 4th of August regime’.53 In order to prove their argument, they advanced a conceptual distinction between democracy and republic. They used the term democracy, Laokratia [rule of people], to denote the source of political power and not the institutions through which it is expressed. In other words, they did not equate the means of expression of the political will with the sources of

50 Ibid., 764.
51 Ibid., 773.
52 Ibid., 774.
53 Ibid., 775.
its legitimacy. They rejected the idea that the genuine expression of the democratic principle was reflected in the institution of the parliament. The main aim of a genuine democracy was to promote the nation’s interests, something that was not guaranteed in modern parliamentary systems. According to Koumaros and Mantzoufas, this happened because modern republics wrongly equated the democratic principle with its numeric power, meant as the voting majority of the people, something that they regarded as despotism.\footnote{Ibid., 776.}

For Koumaros and Mantzoufas, the idea of democracy had mainly a qualitative content, an idea that was expressed in, among other texts, Mussolini’s pamphlet *The Doctrine of Fascism*. Here, the Italian dictator gave a specific, qualitative meaning to the term of ‘democracy’, rejecting its majoritarian definition and arguing instead that: ‘Fascism is . . . opposed to that form of democracy which equates a nation to the majority, lowering it to the level of the largest number; but it is the purest form of democracy if the nation be considered as it should be from the point of view of quality rather than quantity’.\footnote{Benito Mussolini, ‘Fascism,’ in *Princeton Readings in Political Thought: Essential Texts from Plato to Populism*, ed. Mitchell Cohen (Princeton: Princeton University Press, 2018), 542.} Koumaros and Mantzoufas also cited the work of the Fascist theoretician Sergio Panunzio, *Popolo, Nazione, Stato*,\footnote{Sergio Panunzio, *Popolo, Nazione, Stato* (Firenze: La Nuova Italia, 1933).} as a reference endorsing their non-qualitative conceptualisation of their notion of ‘the people’. This understanding of the people, borrowed from an Italian Fascist theorist, was crucial for their argumentation as their aim was to construct a theoretical legitimisation for the new political reality that was not based on the idea of majoritarianism following the regime emerged after the Metaxas and King George’s coup. From this perspective, the rejection of the liberal, individualistic idea of the nation was to be found in foreign, illiberal theoretical paradigms that had contributed to the establishment of an anti-liberal political order. The Italian Fascist tradition proved the most rich and appealing theoretical source for this aim.

Koumaros’s epistemological choices showed the revision of his previous theoretical preferences. There was now an explicit adherence to an idealist approach to legitimising the Metaxas state, which represented a break from his prior, positivistic approach. This choice can be explained through his theoretical influences from the tradition of Italian Fascism. Additionally, after his organic involvement with the Metaxas regime, a modern dictatorship, the issue of legitimisation for any governmental scheme that had not emerged from the process of elections became ever more pressing concern. His previous reasoning that, even the new political realities that had emerged after extra-
institutional interventions had the need for discursive legitimisation endorsing that these acts were inspired by, and would express, the people's will has now become an immediate need for the 4th of August regime, which did not have the support of a movement from below. It was thus deemed reasonable that this framework would be revisited under the prism of the general will, a Rousseauian notion that had been rejected under Duguit’s influence as a metaphysical one. Koumaros had indeed provided detailed elaborations on Rousseau’s *The Social Contract* in his later study titled, *On the Social Contract: The Classical Theory of the Social Contract* that was published in 1960. In that study, Koumaros offered a specific reading of Rousseau’s theory of the social contract which set the ground for legitimising a form of politics that stands against liberal parliamentarianism. More precisely, he argued that Rousseau’s disjunction between the general will and those institutions that can express them, as well as the idea that governance is conducted by aristocracy, the interpretation of the general will as a will beyond that of the individual, its understanding as a quantitative rather than a qualitative concept, and its equitation with the nation, are all aspects that can easily be adjusted to a non-liberal understanding of politics.

In developing their philosophical reasoning, Koumaros and Mantzoufas argued that the national will is the categorical imperative that is the source of all powers and all the commitments of those governed and their governors. Using the aforementioned analytical clarifications, they made a new distinction between people and nation. The first concept referred to the amount of people living in a country in a specific historical moment, while the second also included those people who lived there in the past, those who live abroad, as well as the future generations. Thus, Article 21 of the constitution, which declared that all powers derived from the nation and, as such, served as the basis for the legitimacy of the regime, did not define the nation exclusively as those people who have the right to vote, but saw it as a wider community with qualitative features. Furthermore, he claims that Article 21, on which the 4th

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59 Koumaros and Mantzoufas, ‘[The key constitutional principles of the New State],’ 782.
60 Ibid., 783.
August dictatorial regime has been founded referred to the source of power, not to the institutional mediations of it.\textsuperscript{61} This type of relativism, informed to a large extent by a specific reading of Rousseau’s theory of social contract, paved the way for a direct challenge of parliamentarian democracy.

The logical consequence of this reasoning was that a government of one man was equally capable of democratically expressing the national general will. The will of the government did not have any value as the expression of the individual will of the government’s leader but only the will that aimed to serve the national interest.\textsuperscript{62} For that reason, Koumaros and Mantzoufas argued that:

The regime in its effort to implement this new type of society, materialises at the same time the genuine democratic principle. Drawing its legitimacy from the nation, it takes the claims of the masses very seriously and attempts to come into close contact with them. In that process the government realises that its policies have popular legitimacy through the rewards it receives. Its close contact with the Greek people and the acceptance it receives prove that it acts in accordance with the spirit of popular sovereignty.\textsuperscript{63}

The expression of the popular will under the regime of August 4th materialised in transparent terms, doing away with the secret ballot of parliamentarian democracy. The two theoreticians of the regime deduced its political legitimacy not from the existence of support from below, but from the absence of opposition to the government’s policies.\textsuperscript{64} Given the fact that, at the time that these articles were published there had not yet been an overall plan for the re-organisation of Greek society’s representation on a corporatist basis, the two concluded by introducing such a possibility. More specifically, in their words: ‘Regarding the issue of popular representation it is difficult to make forecasts about how it will be organised in the future. The existing tendencies have shown that there will be a representation of the people according to the criterion of their class . . . If the state will be transformed to a corporatist one it is not clear. It is sure that the form of the regime will be an outcome of the needs of the conjuncture.’\textsuperscript{65}

\textsuperscript{61} Ibid., 784.
\textsuperscript{62} Ibid., 800.
\textsuperscript{63} Ibid., 802.
\textsuperscript{64} Ibid., 805.
\textsuperscript{65} Ibid., 818.
This argumentation demonstrated the 4th of August regime was anticipating the specific political decisions to be made by its political leadership. In other words, theory could not be developed without further political actions. The rapid global geopolitical shifts, along with the multiplication of internal and international conflicts in Europe more widely, led the Metaxas regime to turn its focus to efforts to prepare Greece for a possible war rather than on its anti-liberal political transformation. This did not mean that these types of changes did not concern the dictator, Ioannis Metaxas. One case that demonstrates this concern was the Metaxas constitution, discussed in the last part of this article.

The Metaxas Constitution

Notwithstanding that two years intervened between the forecast of Koumaros and Mantzouf as on the political direction of the regime and the draft of Metaxas's constitution that included a corporatist organisation for Greek society similar to Italy, this text can be read as a guide to a dictator's vision for a political organisation moving towards an anti-liberal direction. It was meant to be a complementary text to the existing Constitution of 1911, clarifying the ways in which the political participation of the people would be organised. In this sense, it is a useful, albeit underestimated, text because it demonstrates that Metaxas did not consider his regime as transitional, but rather as a permanent one and so it illustrates his non-static understanding of its political nature. Therefore, it should be more closely scrutinised, alongside the legal articles that Koumaros and Mantzouf as produced to provide juridical legitimation for the 4th of August regime, to help unravel ways in which certain aspects of this reasoning obtained a crystallised, even if non-implemented, institutional form.

The constitution started with clarification of the origins of political power in post-1936 Greece. It explained that, although the polity was a constitutional monarchy as power derived from the King, the King would never act by himself and would do so only through a government that was appointed by him. The governmental unity of this regime implied that the Prime Minister was only appointed by the King's decision, while the rest of the government would be appointed by a decree of the Prime Minister of the country. The King would have also the right to appoint as Prime Minister a candidate that had not gained a majority of votes.66

66 Ibid., 19.
As a result, legislative, judicial and executive power then would derive from the position of Prime Minster. In turn, Metaxas clarified the role of the people in the new constitution as ‘advisory’. He claimed that the popular will would be expressed in two ways. The first was through the conduct of frequent referendums and secondly, through representatives. However, the second procedure would not involve political parties as these could not represent the totality of the nation in a genuine way. The foundation of political parties was to be legally forbidden. The political system would be constituted by three powers that would be separated in practice, but all would derive from the King. The three distinct powers would be embodied in three councils: one for the legislative power, one for the executive, and a third one for the judicial power. The council for legislative functions would have an advisory role focusing exclusively on laws that would be proposed by the government. The council with executive powers would deal with the administration. The remaining tasks would be related to the judiciary. The legislative body would be constituted by eighty people, the executive body by sixty people, and the judicial body by forty people. These representatives would be elected through a secret, universal vote. The elections for each council would take place in different periods but with a time distance of no more than twelve months. The term for those elected would last for three years. The three councils together would constitute the constitutional power but only the government would have the right to propose laws. Another tool for the expression of the popular will would be referenda when it was impossible to find solutions through the other means. As in the case of the election of the three councils, voting in referenda would be on the basis of universal suffrage involving both men and women. This was the first time that a Greek constitution included women’s suffrage in national elections, a feature indicative of the populist physiognomy of the regime. What the liberal parliamentary systems had failed to do was attempted by a fascist regime. Women would have the right to be elected as well. However, this constitution was never actioned as Metaxas died shortly after its writing.

67 [Report on the future constitution], 5.
68 Ibid., 15.
69 Ibid., 7.
70 Ibid., 13.
71 Ibid., 6.
72 Ibid., 8.
73 Ibid., 16.
7 Conclusion

This article offers a complicated narration of the formation of the ideology of Metaxas’s regime. The focus on the work of Nikolaos Koumaros exemplifies how an important theorist, one that Metaxas chose as a central legal scholar of the regime, was familiar with the anti-liberal political traditions of his time. It also demonstrates that Metaxas’s regime did not lack an ideology. Rather, it had a robust ideology which was formed through interactions with other theoretical developments that emerged within other authoritarian regimes of the period. This proves that, far from being an exception, the 4th of August regime was an institutional and ideological amalgam of the processes of exchange and interaction between different political ideologies of different states and respective institutions. In that way, it demonstrates that the Metaxas regime was indeed part of the fascist panorama of the European interwar period, itself formed through international interaction with the most important authoritarian regimes of the period.

I also attempted to show that Koumaros’s case demonstrates that the regime was not an exception to the canon of the interwar period where the authoritarian states formed through a process of mutual interaction, even if asymmetrical. Koumaros was the translator of foreign notions and theoretical systems that had been developed in other interwar authoritarian states and the Metaxas regime deployed these for its legitimisation. This reality helps us to deconstruct the ideological self-representation of the Metaxas regime as one that refuted communication with other contemporary authoritarian states. Koumaros played a de facto significant role in the forging of regime’s ideological physiognomy, and he used a theoretical toolbox that was shaped during his studies abroad when he engaged in the writing of legitimising legal texts of the Metaxas authoritarian experiment. It can also be seen that Koumaros exercised a degree of influence on Metaxas himself, to the extent that he gave shape through his interventions to the intellectual self-representation of the regime and provided the systematic analytical specificities that there were necessary in order to legitimise a posteriori its establishment and development. Finally, this case study is also a stimulus for further research focused on the intellectual, as well as the institutional and economic, exchanges between the Metaxas regime and other authoritarian cases of the interwar period demonstrating how such exchanges helped forge its physiognomy and so were decisive to its evolution.