

RESEARCH NOTE

Toward a theory of multifunctional liberalism: Systems-theoretical reflections on the nature of statehood

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Funding information

No funding sources to declare.

Abstract

As neoliberalism is sinking into disrepute, states are responding to current crises by inroads on basic rights. This constellation adds urgency to the timeworn subject of statehood and its relationship to law and liberty. The paper addresses this subject by enhancing the neoliberal concept of an encased economy with James Coleman's concept of law as indicator of social change and Niklas Luhmann's functional differentiation. The resulting multifunctional liberalism associates liberties and rights with the autonomy of function systems—such as politics, economy or law—and envisions an ecosystem of multifunctional organizations able to navigate the full spectrum of functional differentiation.

KEYWORDS

economy, functional differentiation, law, neoliberalism, social systems theory

1 | INTRODUCTION

Grand challenges and sustainability problems of the modern world inevitably call for new reflections on the evolving meanings and functionalities of statehood. For example, the globalization process is widely seen to undermine 'the strict division of labour between private business and nation-state governance' (Scherer & Palazzo, 2011, p. 899), with governments being increasingly challenged by proliferating societal civilizational risks (Crane et al., 2019). Some of these challenges are believed to hold the potential for triggering the transformation of global capitalist systems which are widely criticized for their excessive focus on shareholder interests, generation of adverse side effects, undermining of the provision of collective goods and concentration of socio-economic power (Bjørnskov, 2015; Deakin & Meng, 2020; Lazzarini, 2021, p. 613; Henderson, 2020; Kaplan, 2019; Stahl, 2019a, 2019b; Tarko, 2021). Along these lines,

Schwab and Vanham (2021) promote the idea of stakeholder capitalism which is supposed to face up to global challenges by ensuring a balance of power between public, corporate and civil society stakeholders. Other authors tend to think that states can retain their capacity for resolute action only if capitalist systems give way to a socialist alternative (e.g., Adler, 2019), which seems to be reoccupying 'the ethical high ground, despite the poor record of self-declared socialist regimes in terms of human rights' (Hodgson, 2019, p. 5). This should be a worrying development for scholars who agree that it is 'only the weakness of democratic multiparty states can prevent them from becoming totalitarian' (Josselin & Marciano, 1997, p. 6).

As the debates over the future of capitalism are raging, it is increasingly clear that they are being invigorated by the ongoing crisis of neoliberal doctrines coupled with some genuine concerns about the prospects of human liberty in the coming decades. Informed observers note that

sound discussions about neoliberalism are almost impossible because it has become ‘a generic term of abuse’ (James, 2020, p. 486) and ‘a whipping boy in contemporary policy debates’ (James, 2020, p. 487; cf. Schwab & Vanham, 2021). According to Hodgson (2019, p. 16), the popular understanding of the term involves ‘an extreme form of individualism that eschews state regulation, promotes economic austerity and a minimal state, opposes trade unions and vaunts unrestrained markets as the solution to all major politico-economic problems’. Drawing on careful historical research, James (2020) documents an ironic, if not tragic, twist in the history of neoliberalism, which is castigated today for neglecting precisely those ideals which called this doctrine into life in 1930s. Back then, these ideals included ‘maintaining open and competitive markets, restricting disturbances following from financial cycles of globalization, limiting the destructive consequences of political lobbying, and combatting a narrow focus on *homo oeconomicus*’ (James, 2020, p. 486), against the backdrop of ‘increased nationalism, authoritarianism, and radical popular mobilization’ (James, 2020). Rather than giving a boost to hands-off public policies, the realization of these ideals was seen to require strong states and functional legal systems (James, 2020) which ‘encase’ the economy with a view to protecting it from extraneous influences (Slobodian, 2018, p. 13).

Institutional economist Geoffrey Hodgson (2019) not only discerns that the neoliberal trends of deregulation and privatization themselves require new regulatory groundwork, but perhaps even more importantly, draws attention to the conceptual insufficiency of the traditional state-market dichotomy which underpins the debates around both the evolution of statehood and the perceptions of neoliberalism. The dichotomy is insufficient because the fullest realization of human potentials and liberties requires the flourishing of many spheres of social life that are simply too diverse to be adequately codifiable by political and economic categories. This point is indirectly but effectively demonstrated by the renewed capitalism-socialism debate (Hodgson, 2019; Roland, 2020). While proponents of capitalism point to the exorbitant costliness of the extensive use of democratic voting procedures, the defenders of socialism note the increasingly limited functionality of the price mechanism as a way of dealing with pressing societal problems. Taken separately, both of these positions are intrinsically appealing. But if so, it must follow that the very framing of the debate in terms of the contested relationship between the state and the market (Bjørnskov, 2016) may itself turn out to be a reductionist straitjacket that is possibly complicit not only in the deep legitimacy crisis of the neoliberal doctrine but also in the

apparently diminishing range of human liberty in the crisis-ridden world.

The contribution of the present paper is in stripping of this straitjacket by building on the notion of functional differentiation especially as elaborated in the voluminous work of Niklas Luhmann, a notable German sociologist of the twentieth century. Luhmann considered functional differentiation to be a key distinguishing feature of modern society which, is accordingly thought to be constituted by mutually incommensurable but highly interdependent and equally important functional systems. Thus, politics, economy, law, science, education, religion, health and other systems are conceptualized as ‘interdependent, coevolving sub-systems within the wider, functionally-differentiated orders characteristic of’ (Deakin, 2013, p. 340) modern society. Each of these systems observes and reproduces social life in terms of ‘unique and mutually incompatible codes which stand in the way of the meaningful communication and coordination’ (Valentinov, 2017, p. 1047) among them. In this vision of the modern society, according to Luhmann, the political system cannot be expected to possess any capacity to steer other systems, but it may irritate their internal communication dynamics as much as it is itself irritated by what is happening outside its own terms of reference. The evolution of functional differentiation in various parts of the world has recently been subject to discourse-analytic investigations which show the constellations of specific functional systems to be contingent and dynamic, yet marked by the persistent dominance of politics, especially in the twentieth century (Roth, Santonen, et al., 2019; Roth, Schwede, et al., 2020).

An important implication of these findings is that the contingency and dynamics implicit in the idea of functional differentiation provide little legitimacy for privileging the semantics of the political and economic (or any other) functional systems. Insofar as contemporary social science allows this privileging, it is led to underestimate the full diversity of a functionally differentiated society. Given that the realization of this diversity is directly related to the realization of human potentials and liberties, it does not seem far-fetched to think that the dominant scholarly understandings of liberalism have likely been skewed in favour of economy and politics, while falling short of more comprehensive and more balanced approaches. Hodgson’s (2019) call for extending the analysis of liberalism beyond the state-market dichotomy is an obvious case in point; just as the widespread condemnation of the neoliberal doctrine may originate from this doctrine’s no less obvious privileging of the political and economic semantics (cf. James, 2020). It seems that the research desiderata emerging from this state of affairs point to the need of overcoming the disproportionate

focus on politics and economy by a more comprehensive and balanced understanding of functional differentiation which may serve as a novel and yet unexplored guidepost in the evolving understanding of liberalism. Against this backdrop, the present paper will undertake precisely this line of exploration; namely, it will attempt to anchor the conceptualization of liberalism and statehood in the Luhmannian idea of functional differentiation. Toward that end, the following section reconstructs the Luhmannian interpretation of the notion of statehood. On that basis, the following sections develop a Luhmannian theory of how the notion liberalism may be recast in a multifunctional way.

2 | THE STATE OF SOCIAL SYSTEMS THEORY

According to common interpretations of social systems theory, the state is ‘the self-description of the political system’ (Luhmann, 1990, p. 122; Thyssen, 2007, p. 86; Willke, 1986, p. 461). Yet ‘reservations apply when it comes to the question of whether the self-description of the political system as “state” has any future prospects’ (Luhmann, 2000, p. 252f, *transl.*), as Luhmann (2000, p. 369) himself points to a historical sequence of alternative self-descriptions. But even if we abstract from the historical situatedness of the concept, a state can hardly be accurately identified with the totality of all political communication. There may be world politics without a world state, and even on so-called state territories, there are extra-state islands of political communication, not only in so-called parallel societies but also in every household, however gentle or genteel it may be.

Furthermore, unlike the state, the political system, has no address. The political system is therefore not an exception among the function systems: science does not do research, education does not teach us anything, and no Paypal payment has ever arrived at ‘the economy’. States, on the other hand, can do research, educate citizens or go bankrupt. And insofar as it hardly controversial to observe laboratories, schools and companies as organizations, it is reasonable to conclude that states represent some form of organization, too.

At the same time, these examples show that all of the above types of organizations may be affiliated with any functional systems; for example, research labs have bank accounts, institutions of higher education engage in research and companies train employees. Such multidimensional connections between organization and function, however, contradict a widely received idea of Luhmann (2013, p. 151, *emphasis added*), according to which ‘organizations have to form *in* the functional

systems’, though this assessment is almost completely relativized in Luhmann (2019, p. 333) organization-theoretical writings as ‘all organizations cost money. They must pay their members and refinance their expenditure. To this extent, all organizations operate in the economic system’.

If we take this relativization seriously, we may safely assume that even a state as an organization with a pronounced political orientation can also make economic, scientific, educational, legal and why not also religious or artistic decisions. Even if this enumeration does not yet give us the full list of function systems, it becomes apparent that states as much as other organizations can attribute varying degrees of importance to a broad spectrum of function systems. Moreover, organizations are not alone in this. Families, for example, also differ in functional profiles: This professor takes her family to the theatre on Sundays, while this lawyer takes his family to church. The difference is that organizations are decision-making systems (Arnold, 2022; Grothe-Hammer & la Cour, 2020; Kastberg, 2008; Luhmann, 2019, 2000), while there are other things at play in families. The fact that the dividing lines between decision-making and family communication are often hard to draw, and yet can never be ignored, is the main reason for the existence of academic discourses on family businesses and business families (Kleve, Köllner, et al., 2020; Kleve, Roth, et al., 2020).

The concept of decision is therefore decisive for organizations, and at the heart of Luhmann's concept of decision is von Foerster (1992) notorious postulate that we can only decide on ultimately undecidable questions. What is meant here is that the alternative options given in a concrete decision situation must be truly equivalent or incommensurable. For otherwise the decision for the best alternative would already have been predefined: Godliness or hellmouth, freedom or socialism, vaccination advocate or covidiot. This sort of moral framing, which was so typical of medieval stratified societies, leaves little room for decision (Clark, 2021; Ward, 2006, 2017).

Because a decision implies at least two alternatives, however, every decision made leads to an ‘exponential growth’ of possible alternatives, which in turn give rise to further need for decision. In the face of an ever-expanding horizon of decisions, individual decisions appear increasingly arbitrary. Beyond moral shortcuts, there is no solution for this fundamental problem of justification of decisions other than the use of past decisions as a guideline for future ones. This strategy turns former decisions into decision premises and, after only a few links between premises and decisions, establishes organization (Andersen & Pors, 2022; Grothe-Hammer & la Cour, 2020; Luhmann, 2019, 2000).

Regarding decision premises, Luhmann (2019, p. 181ff) distinguishes four basic types: (1) personnel, (2) communication channels, (3) decision programmes and (4) the somewhat enigmatic category of ‘undecidable decision premises’ commonly associated with organizational culture.

Particularly relevant to our context are the decision programmes, as these ‘define the conditions for the factual rightness of decisions’ (Luhmann, 2019, p. 210). This reference to the factual dimension of Luhmann’s theory then points to his theory of differentiation in general and to his theory of functional differentiation in particular. In fact, an apparent interface between organization and function emerges in the sense that both organizational decision programmes and function systems are binary coded (Luhmann, 2019, p. 192). Furthermore, we also speak of programmes in the context of functional systems: Theories or methods, for instance, are scientific programmes. Unlike functional systems, however, organizations are not subscribed to a single ‘source code’: whether true/false (science), sick/healthy (health system) or pay/do not pay (economy), decision programmes can in principle operate with all codes of functional systems. Mindful of their inescapable path dependency, decision systems can thus oscillate freely between the individual functional systems (Luhmann, 2019, p. 383f) and thus also reflect and help shape the sometimes dramatic change in meaning that function systems sometimes experience in the overall societal environment (Roth, Santonen, et al., 2019; Roth, Schwede, et al., 2019). In this sense, we view organizations as fundamentally multifunctional (see, e.g., Neisig, 2017; Plaza-Úbeda et al., 2020; Roth, Santonen, et al., 2019; Valentinov et al., 2019, 2021; Will et al., 2018).

Insofar as states are decision-making systems, they are also multifunctional. States, too, do not necessarily make decisions solely based on *political* decision-making premises. Theocracies and technocracies are only two of the most common examples. Accordingly, the question arises as to what decidedly liberal premises of state decision-making could be. In this context, it is worth looking at history.

3 | LIBERALISM AND FUNCTION

From a differentiation-theoretical perspective, the history of liberalism is informed by the transition from a stratified to a functionally differentiated society (Van Assche et al., 2014, p. 659) as well as by shifts in the relative importance of individual function systems. In this context, observations of stratification and function intertwine in that the Middle Ages is often imagined as a

functionally not yet differentiated pyramid of estates, in which the individual estates roughly correspond to the later function systems of religion (clergy), politics (nobles) and economy (peasants or bourgeoisie). This order of estates, which assigned a certain rank to religion, politics and other functions, is itself conceived as a religiously justified political order. Within this order, precedence results from the guiding distinction between authority and subject, whereby one person’s ruler can be the vassal of another. The question as to who must play which role and when is answered by divine right in a largely conclusive manner.

The transition to modernity, however, is characterized by a shift in the significance of the increasingly systematically differentiated function systems, whereby the increasing differential accuracy is a function of the increasingly emancipated function system science.

This history has been told in many ways and yet mostly as a transition from a primarily religiously and politically dominated society to one increasingly shaped by science and economy. Particularly in liberal traditions of thought, this shift is typically observed against the backdrop of another function system, namely, law, while science defines the perspective for viewing this epochal transformation.

An example of this approach that is still particularly worth reading can be found in James Coleman’s work on ‘Power and the Structure of Society’, where he expressly refers to law as a ‘sensitive indicator’ of social change brought about by the emergence of ‘new actors’. Coleman (1974, p. 14) refers here to legal persons, that is, to

intangible entities which none of us natural persons has ever seen. They include what we commonly think of as corporations, along with many other entities: churches, certain clubs, trade associations, labor unions, professional associations, towns, and others.

A contemporary reading of these lines can hardly avoid the impression that Coleman is thinking of organizations when he speaks of these new actors. However, he is concerned less with the role of organizations as indispensable elements of modern societies than with tracing a history of their emergence, thus also asking to what problems we owe the existence of those actors that we may today regard as early forms of organization.

In our context, the most revealing examples of these early forms are the statesperson (body politic) and a term that has since taken on a different meaning: a trust.

Regarding the statesperson, Coleman discusses the case of a king who had sold land. This transaction led to a court case because the king had been only few years old

at the time of the transaction. The plaintiffs argued that a child cannot sell land. The king's side, however, successfully argued that a king is two persons in one: a natural person and a statesperson in the sense of a 'corporation sole'. The latter, as a legal person, knowing neither age nor death, cannot be underage. Here, Coleman observes the early phase of a development which has eventually resulted in states and governments leading lives of their own and becoming almost completely independent of concrete regents.

In the case of the trust, Coleman focuses on the following problem faced by wealthy Englishmen in the 14th century:

for personal property, that is, property other than land, men could make a testament, and dispose of their goods upon death through that testament, according to their own will. But the strict primogeniture of England made this impossible for land. Land must be passed to the first-born son, and in being so passed, was subject to taxes levied by the lord, or other kinds of levies, in some cases reverting wholly to the lord. (Coleman, 1974, p. 21)

According to Coleman, the solution to this problem was to transfer one's property not to a natural but to a legal person, a trust, whose members were precisely those landowners who had previously transferred their property to it. In return for giving up their property rights, the members received the right to dispose of their former property at will. The advantage is obvious: because the legal entity cannot die, there was no longer any inheritance tax. Thus, over the generations, the former owners could accumulate wealth, while former feudal lords were impoverished to the point where even titles of nobility turned into commodities. The contribution of this development to the upheaval of the medieval social structure is obvious, and one would almost like to think that the impoverished nobility retreated to the stronghold of the royal 'corporation sole' until the latter had matured into the modern state organization. But here, too, there was no state to be made without money: In Great Britain, for example, five out of six civil servants in the state administration, which was still of quite modest size at the beginning of the 19th century, were dedicated to generating state revenue (Muir, 2019, p. 171).

In reviewing the connection between organization and function against this backdrop, it becomes understandable why, apart from studies in secularization, social science and history have been primarily concerned with the relationship between the economy on the one

hand and the state, politics or society on the other. As a result, there is a proliferation of intellectual short circuits that conceptually obliterate the differences between state, politics and society to such an extent that it appears as if a state encompasses all forms of politics on a given territory and as if the boundaries of a political territory also mark the boundaries of a society. The most prominent result of these mergers is then the notorious 'Economy and Society' (Weber, 1978 [1921]) perspective, whose guiding distinction acts as demarcation line in intellectual trench warfare, in which everyone is expected to choose their side (Roth, Valentinov, et al., 2020). This perspective has outlasted the 20th century and recently inspired aggravated variants such as 'profit, people, planet', 'economy, society, ecology' and other triads of sustainability (Roth & Valentinov, 2020).

Twentieth century 'neoliberalism', too, was primarily interpreted as economic liberalism and positioned as an antisocial ideology. However, neoliberals such as Friedrich August von Hayek were less concerned with liberating the economy than with *encasing* it (Slobodian, 2018, p. 13) in an institutional—and mainly *legal* institutional (Stahl, 2019b; Tarko, 2021)—structure that would cushion overly direct attempts at economic planning and steering on the part of 'politics'. In this sense, proponents and opponents of neoliberalism alike argued for decades over a target or problem description that, in systems-theoretical terms, is the basic condition of a functionally differentiated society: the fundamental autonomy or 'autopoiesis' of both politics and economy. Accordingly, where the parties in the traditional dispute demand or seek to avert political intervention in the economy (Kolev & Köhler, 2022), a liberalism informed by systems theory would emphasize that politics cannot intervene in the economy, and that a state can only do so if it does not confuse itself with politics or society, but rather conceives of itself as only one (though sometimes particularly powerful) organization among others.

Unlike its predecessors, a liberalism informed by systems theory would, therefore, not observe tensions between a politically defined public sphere (empire) and a private sphere reduced to economy (dominium), but rather ecosystems of organizations in which dominant organizations called states play a not always undisputed leading part. The idea of such ecosystems also challenges traditional concepts of subordination, according to which a political state is composed of a multitude of economically conceived households. Above all, such a multifunctional-liberal perspective does not overidentify society with politics and its problem with the economy but unlocks the entire spectrum of functional differentiation.

Rudiments of at least the latter extension of perspective were already present in classical neoliberalism insofar its proponents envisioned the desired institutional encasement of the economy in terms of *legal* frameworks and buttressed their arguments through scientific theories and methods. In this sense, a multifunctional liberalism can be regarded as a ‘critical’ update for the neoliberal programme.

4 | STATE AND MULTIFUNCTIONAL LIBERALISM

The challenge of defining multifunctional-liberal concept of statehood draws our attention back to the concept of decision premises, among which we shall focus on decision programmes as well as on nondecidable decision premises aka organizational culture.

Regarding organizational culture, it is safe to assume that states have a default bias to political decisions. From a multifunctional perspective, however, this bias appears neither as an invariable feature nor as a normative target. First, we can think of forms of state and government in which decisions are based primarily on non-political criteria (theocracy, plutocracy). Second, it is evident that an increase in political decision-making is neither good nor better per se than an increase in economic, religious, scientific, legal or artistic decision-making. This is particularly evident if we consider the broader social-historical context as recent big data research (Roth, Santonen, et al., 2019) shows that the 20th century was less a century dominated by economy than by politics. Although this result is somewhat at odds with the common self-description of a capitalist society, it is consistent with the idea of the 20th century as the century marked by totalitarian ideologies.

Against the backdrop of the disastrous consequences of totalitarian attempts at expansions of political decision criteria to all aspects of social life, classical neoliberalism considered less to be more. Ironically, it shares this attitude with the contemporary degrowth or post-growth movement, albeit with the crucial difference that the liberal political programme prescribes the shrinkage cure to its own rather than to another function system.

In contrast to classical neoliberalism, however, a multifunctional programme would argue that too narrow a focus on the tensions between politics, economy and law cannot but provide distorted images of social conditions and that the resulting blind spots, for example, with regard to health, make the liberal project as such vulnerable to ideological attacks. Regarding matters of governmental attention management and organization design,

too, we find that most governments worldwide are primarily concerned with political and economic issues (Roth, Schwede, et al., 2019). This ‘politico-economic’ reductionism, however, is less a result of a supposed intellectual hegemony of neoliberalism than of a tacit agreement of both neoliberal and interventionist approaches. Even the ostensibly antineoliberal ideas of the World Economic Forum, for example, are based on the time-honoured distinction between empire and dominium and regard public-private partnerships primarily as bridges between politics and business. Accordingly, the now much-vaunted stakeholder approaches remain largely biased to the most ‘salient’ interest groups and hence typically again those from the worlds of politics and economy. Yet this reductionism is only consequential as states and companies lack the tools and concepts to systematically navigate a broader spectrum of stakeholders. As a result, the functional ‘biodiversity’ of state and corporate stakeholder ecosystems is as limited as both players’ ability to resonate with their broader social environment.

This is where multifunctional decision-making tools and programmes can make a decisive difference, not only by representing a broader spectrum of societal interests but also by keeping an eye on problems of translations and tensions between the individual functional perspectives.

As an example, consider the problem area of interfunctional corruption and separation of powers. Corruption both in the common sense of the word and in terms of legal institutionalism (Deakin et al., 2017) refers to legally significant cases in which political decisions were all too obviously influenced by economic means. In this sense, we are hence fascinated once again by the mutual influence of the function systems that constitute the classic triad of politics, economy and law. As harmonious as this classic definition of corruption may sound, from a multifunctional perspective, it is also more than obvious that problematic influences can, in principle, be identified between all function systems. In fact, there is also ‘the threat of the legal system becoming overloaded with policy demands’ (Cotterrell, 1995, p. 355). Or in the context of the 2020 coronavirus crisis, for example, we might observe interactions between politics and health that raise questions as to whether one system is corrupting the other.

In this sense, a multifunctional concept of statehood also suggests a systematic expansion of the concept of the separation of powers. To this end, we need to do hardly more than to think through ideas such as those of the mass media as a fourth power and, in doing so, to factor in those function systems that have been neglected so far.

A multifunctional-liberal concept of statehood would then be one that positions politics as guarantor of a such an enhanced concept of the separation of powers. As a result, both liberalism and concepts of statehood would programmatically adjust to the necessary and inescapable condition of a functionally differentiated society: the autonomy of all function systems. The corresponding intellectual encasement of all function systems would then not only preclude necessarily unsuccessful attempts at direct political interventions, but also act as a resistor preventing politics from intellectual short circuits originating from other function systems. Thus, the state in multifunctional liberalism does not resort to much-maligned 'neoliberal' killer phrases such as 'the markets demand it', and it cannot be blackmailed by the forms of health emergency rhetoric that prevailed, for example, in the context of the 2020 coronavirus crisis (Clausen, 2022; Harste & Laursen, 2022; Kolev & Dekker, 2021; Morales, 2021; Žažar, 2022; Zinn, 2020).

Not least against the backdrop of this crisis, we might be interested in political organizations that are designed such that they can absorb shock waves from other function systems in more sovereign ways than has been the case during the coronavirus crisis.

A multifunctional liberalism, therefore, provides the vision of another 'new normality', that is, a 'next society' in which states neither engage in hectic crisis hopping from one function system to another (financial crisis, health crisis, etc.) nor attempt to master the complexity of pluralistic societies (Kastberg, 2008; Olesen, 2019) by means of planned or unplanned biases to one or a few functional systems. As we know at least since the interwar period, such strategies of unplanned/planned biases lead to the well-known *Road to Serfdom*, that is, the roads taken by those who do not want to or cannot see the forks to other function systems.

If multifunctional liberalism is allowed to inform the assessment of the current crisis impact (and the future ones), it would recommend eschewing the privileging of the perspective of any one function system. Instead of grounding impact assessment on a function-system-by-function-system basis, the outlook of multifunctional liberalism would rather address issues of intersystemic translation and trade-offs. At the end of all these assessment procedures, we will find that answers to the question of whether health, economic, legal, scientific or educational harms outweigh one another are likely to vary from person to person and organization to organization. The political consequences that are to be drawn from this realization are still waiting to be fully appreciated by many politicians and scholars alike.

5 | CONCLUSIONS

One of the arguably most profound impacts of the ongoing pandemic on today's Western societies is in sensitizing many observers to how far novel regulatory initiatives may impinge on what appeared to be, in a not so distant past, secure human rights and liberties. Even though the pandemic presents by no means the only grand challenge to have this effect, contemporary social science scholarship does not yet seem to have come up with theoretical frameworks that would have been sufficiently updated to address the issue at hand. Two things, however, seem to be clear. First, even if the neoliberal doctrine is deemed capable to offer valuable insights into ways of preserving human rights and liberties, it currently suffers from so much disrepute that it can hardly offer any more useful guidance. Second, the project of preserving human rights and liberties has indeed seen much better times, so that we might legitimately ask for a reassessment not only of the relationship between statehood and liberty, but even of the idea of statehood itself. This reassessment has long been of interest to institutional economists who considered the viable socio-economic systems to exhibit mixtures of clearly different institutional structures (Hodgson, 2019). The current crisis-ridden state of the Western world adds renewed urgency to the issue of what it is exactly that needs to be mixed and in what proportions.

The contribution of the present paper is in suggesting that the type of the organizational arrangements consistent with the preservation of human liberty goes back to Niklas Luhmann's concept of functional differentiation which implies the concurrent operation of incommensurable yet equally important function systems. Economy and politics are crucial examples of these systems, but the core idea of function differentiation is that they are not the only ones, and must remain open to interacting with other function systems on equal terms. Within the regime of function differentiation, the state is not an ultimate sovereign taking the pandemic bull by the horns but one multifunctional organization among many others, with the autonomy of individual function systems serving as the foundation of human liberty. This conceptual vision affords considerable space for unpredictable and contingent pulsation of function systems with the unlimited number of their possible constellations. In fact, the above-mentioned big data research does suggest that the relative importance of the function systems of modern society is subject to profound changes over time and across different macro social systems (Roth et al., 2017; Roth, Santonen, et al., 2019). Yet what turns out to be challenging in this vision is the capacity to register this evolutionary pulsation without falling prey to the habit of

privileging specific function systems such as economy or politics, that is, a habit particularly noticed not least among most governments worldwide whose decision programmes are geared mainly toward political and economic decisions (Roth, Santonen, et al., 2019). It therefore appears as though governments worldwide imply that preference for political and economic communication yields a 'value bonus' (Heidingsfelder, 2020). This hard-to-overcome implication, however, might be out of synch with the current state of world society, many segments of which seem to put higher value on science than on economy (Roth, Santonen, et al., 2019; Roth, Schwede, et al., 2019), not to speak of a probably dramatic increase in the importance of the mass media system, and even more recently health, in the post-millennium period, for which data are, however, unavailable so far.

Relying on Luhmann's legacy, we therefore consider this privileging of a political-economic perspective to be the main cultural ailment of contemporary Western societies, which—like any of unchallenged absolutization of a particular perspective or goal—bears the risk of a push-back into premodern stratificatory regimes. What is needed for unmasking and overcoming this privileging is a theory of multifunctional liberalism, which would describe the modern society as an ecosystem of multifunctional organizations equally open to the observational perspectives of all function systems. If this ecosystem succeeds in maintaining the full spectrum of functional perspectives, it will promote the capacity of function systems to absorb each other's irritations (Kampourakis, 2021) while resonating with the ecosystem's irritations on their own autonomous term. To the individual person, this ecosystem would then appear as a multifunctional decision-making infrastructure rather than an institutional cage without exit option. Though the function systems of modern society do feature an expansionist drift and *claim* for total inclusion of every individual person (Teubner, 2021; Verschraegen, 2011; Weaver, 2021, 2022), the universal organized access to the function systems via procedures such as health treatments or universal suffrage typically remains an option rather than obligation in a liberal society. This lack of an imperative for total inclusion precisely is the difference between a liberal society of organizations and an organized society of any kind.

CONFLICT OF INTEREST

The authors have no conflicts of interest to declare.

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How to cite this article: Roth, S., & Valentinov, V. (2022). Toward a theory of multifunctional liberalism: Systems-theoretical reflections on the nature of statehood. *Systems Research and Behavioral Science*, 1–10. <https://doi.org/10.1002/sres.2925>