1 Introduction

The European Union (EU) is living its Weimar moment. The growing number of crises we face – environmental and climate crisis, skyrocketing inequality, care crisis, housing crisis, migration crisis, and the return of war in geopolitics – has only been matched by the growing number of electoral successes of the far and extreme right in various EU member states (MSs).[1] Europe will not be able, however, to respond to these crises by rehearsing old neoliberal recipes: not only do they fail to offer credible solutions to the problems they have (often) themselves created, but their futility may further empower various extreme movements that embrace identitarian and anti-democratic platforms. At this turning point, we have to do better. That is what this book is about.

The gradual slide to tribalism and extremism that we are seeing today is a culmination of the era of the strange "non-death" of neoliberalism, post-2008 crisis.[2] Instead of starting a shift towards a different model of political economy in the aftermath of the great financial crisis, the EU and its MSs have doubled down on privatisation and austerity, making those worst off ultimately pay for the irresponsibility of the financial markets.[3] The resulting crisis of trust is then as much a consequence of the deteriorating material reality of the many, as of the accompanying narratives of recovery and economic growth, that were presented as a reality on the basis of often casually composed metrics.[4]

[1] The crisis has only grown more existential; see Agustín José Menéndez, 'The Existential Crisis of the European Union', *German Law Journal* 14, no. 5 (2013): 453–526.
[2] Colin Crouch, 'Privatised Keynesianism: An Unacknowledged Policy Regime', *The British Journal of Politics and International Relations* 11, no. 3 (August 2009): 382–99.
[3] Thomas Piketty, *Capital in the Twenty-First Century* (Harvard University Press, 2014).
[4] Andrew Haldane, 'Whose Recovery?', Speech at the Bank of England (2016), www.bankofengland.co.uk/speech/2016/whose-recovery, last accessed 13 January 2024.

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Today, following a short window of COVID-19 "public extravaganza" and energy crisis-induced largess towards both firms and residents, a new wave of austerity politics is on the table.[5] Not taxation or borrowing, but financial austerity is supposed to 'pay' for COVID-19 and energy crisis measures, through further cuts to public services and curtailing the capacity for public (green) investment.[6] The reasons for austerity seem to be purely ideological: at this point, even the most orthodox financial institutions suggest that, historically, lowering public spending at inopportune moments increases rather than decreases public debt.[7] The question that every European must ask is, however, can Europe afford another wave of austerity, mounted as I argue later on the already historic levels of poverty and inequality, and still hope to remain democratic?[8] If the response to this question is no, are there other alternatives to consider?

In this book, I argue that the only way to counter growing tribalism and a loss of trust in democratic institutions in Europe is to articulate and institute a new *imaginary of prosperity*.[9] Imaginaries of prosperity integrate societies around the promise of a prosperous future, placing the problems (and struggles) of political economy in the centre of the

[5] Wester Van Gaal, 'EU Agrees to Cut Spending for 2024, Despite Investment Needs', *EU Observer* (2023), https://euobserver.com/green-economy/157270?utm_source=euobs&utm_medium=email, last accessed 16 January 2024.

[6] European Court of Auditors, 'Special Report 18/2023: EU Climate and Energy Targets – 2020 Targets Achieved, but Little Indication that Actions to Reach the 2030 Targets Will Be Sufficient', *ECA* (2023), www.eca.europa.eu/en/publications/SR-2023-18, last accessed 16 January 2024.

[7] International Monetary Fund, 'World Economic Outlook: A Rocky Recovery', *IMF* (2023), www.imf.org/en/Publications/WEO/Issues/2023/04/11/world-economic-outlook-april-2023, last accessed 16 January 2024.

[8] Ricardo Duque Gabriel, Mathias Klein, and Ana Sofia Pessoa, 'The Political Costs of Austerity', *Review of Economics and Statistics* (2023): 1–45, https://direct.mit.edu/rest/article-abstract/doi/10.1162/rest_a_01373/117705/The-Political-Costs-of-Austerity?redirectedFrom=fulltext; Gregori Galofré-Vilà et al., 'Austerity and the Rise of the Nazi Party', *The Journal of Economic History* 81, no. 1 (2021): 81–113; Jacopo Ponticelli and Hans-Joachim Voth, 'Austerity and Anarchy: Budget Cuts and Social Unrest in Europe, 1919–2008', *Journal of Comparative Economics* 48, no. 1 (2020): 1–19; Gregori Galofré-Vilà et al., 'Austerity and the Rise of the Nazi Party', Working Paper, Working Paper Series (National Bureau of Economic Research, December 2017), https://doi.org/10.3386/w24106; Manuel Funke, Moritz Schularick, and Christoph Trebesch, 'Going to Extremes: Politics after Financial Crises, 1870–2014', *European Economic Review* 88 (2016): 227–60.

[9] I do not deal in this book with the important aspect of 'globalisations' of social consciousnesses, in which law also partakes. See Duncan Kennedy, 'Three Globalizations of Law and Legal Thought: 1850–2000', in *The New Law and Economic Development: A Critical Appraisal*, ed. Alvaro Santos and David M. Trubek (Cambridge University Press, 2006), 19–73.

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political. They stand and fall on delivering a mix of prosperity *today* and, perhaps even more importantly, the prospect of *future* prosperity.

Somewhat schematically, at this turning point of history, there are three different social imaginaries vying to (re)constitute neoliberal societies. The first imaginary continues to champion the privatised route to prosperity, as established in the latter decades of the twentieth century. While this imaginary takes on board some of the challenges we face today, such as the reality of climate crisis, it remains committed to preserving the primacy of private actors, (financial) markets, and market-driven technological innovation as the best vehicle to get us out of crises and into a prosperous future.

Ranged against this privatising, well-institutionalised but increasingly unstable imaginary of prosperity,[10] we find two contenders for change, each espousing a more *collective route* to a better future. On the one hand, we see the rise of what I will call *tribal imaginaries*:[11] that is nativist and conservative imaginaries emerging in response to grievances experienced by some groups due to economic and cultural changes over the past forty years.[12] This family of imaginaries combines nationalist, chauvinist, anti-immigrant, and sometimes racist discourses, making identity – rather than prosperity – the central axis of the political.[13] Above all, tribal imaginaries are contemptuous of democratic institutions, scientific knowledge, and the liberal rule of law[14] and bent on limiting the scope of these relics of modernity.[15]

[10] The imaginary of prosperity fails when it does not deliver on prosperity today and, even more importantly, cannot generate the trust that it will deliver in the future.

[11] David R. Samson, *Our Tribal Future: How to Channel Our Foundational Human Instincts into a Force for Good* (St. Martin's Press, 2023).

[12] Jan Willem Duyvendak and Josip Kesic, *The Return of the Native: Can Liberalism Safeguard Us against Nativism?* Oxford Studies in Culture and Politics (Oxford University Press, 2023).

[13] See also Yascha Mounk, *The Identity Trap: A Story of Ideas and Power in Our Time* (Penguin Press, 2023). Mounk is mainly concerned with the 'woke' identity politics and encroachments on free speech, which he criticises (to a certain degree justifiably) as not being a good strategy to pursue the very purposes of these movements. While I am open to the argument that the coincidence of the woke and extreme right identity politics is an expression of similar underlying social developments, the huge difference between these movements, and the reason why I do not see woke identity politics as tribalism in this book is that woke identity politics is (so far at least) not against democratic institutions, the rule of law, or aspiring to win elections in order to expel the foreign and impose its own reading of identity on the rest of society.

[14] Francis Fukuyama, 'Against Identity Politics: The New Tribalism and the Crisis of Democracy', *Foreign Affairs* 97 (2018): 90–114.

[15] In a recent anecdote, the whole convention of the German extreme right party AFD circled around discussing *deportations* of insufficiently German Germans, as the way to solve the

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On the other hand, we find a slowly emerging imaginary of *shared prosperity* in the EU and some of its MSs. In terms of its content, the nascent imaginary of prosperity shares some traits with the imaginary dominant in post-war Europe, building on the understanding that economy and markets are human-made, social institutions, and (increasingly) placing democratic and public bodies – rather than markets, businesses, or profit – in the driving seat of prosperity. The new imaginary of prosperity ought to articulate a novel understanding of prosperity that is both credible (in the face of the current challenges) and attractive (a world where people want to live). To successfully reconstitute society, it ought to institute not only a different mix of macroeconomic relations (a different role for tax, public spending, or welfare provision) but also a different set of microeconomic institutions,[16] including a new role for *corporations* in society, how and for whose benefit we govern *technology*, what role *industry* should play, or how to make *consumption* more sustainable in a long term. In fact, the very preservation of democratic institutions in Europe may depend on whether the EU, together with its MSs, in the short term succeeds in generating sufficient *trust* that they have the means to get all Europeans into a liveable, or even prosperous, future.

This book builds on three underlying arguments. The first argument is that after periods of prolonged privatisation, when imaginaries of privatised prosperity (such as neoliberalism or laissez-faire before) can no longer fulfil their socially integrative function – that is providing reasonably good outcomes today and a hope for a better future – the imaginary of prosperity must change. Such shifts require that democratic and collective institutions take greater control over the distributive outcomes of the economy, at least for the time being.[17] If society does not have the institutional channels to enable such transformation, we will see a loss of trust in its governing institutions and eventually authoritarian alternatives to democratic institutions being sought.

The second core argument is that the imaginaries of prosperity – be they privatised or shared – are co-constitutive with democracy. To start

most important German problems. Ashifa Kassam, 'Scholz Urges Unity against Far Right after Mass Deportation "Masterplan" Revealed', *The Guardian* (2024), www.theguardian.com/world/2024/jan/11/germany-far-right-mass-deportation-masterplan-meeting-olaf-scholz-condemns, last accessed 16 January 2024.

[16] On which I focus in this book.

[17] Until also this kind of political economy fails to deliver prosperity, and a shift occurs – similar to what happened at the end of the 1970s and the beginning of the 1980s.

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with the latter, democracy needs imaginaries of prosperity insofar as they create the *right kind* of social glue to hold pluralist democratic societies together. Making prosperity the anchor of the Political provides for an inclusive shared purpose, direction, and even vigour to democratic politics and collective action. But imaginaries of prosperity also need democratic institutions to maintain their (for lack of a better term) 'output legitimacy' and, ultimately, stability. Democratic institutions and processes, aided by scientific knowledge, are the most effective vehicles to uncover prosperity's constitutive outsides: that is problems, issues, grievances, and constituencies that have been left out of the definition of what prosperity means or how to get there. It is critical, however, that when these outsides are discovered, they are also genuinely incorporated via democratic process – otherwise, the imaginary of prosperity will cease to fulfil its integrative function and faith in democratic institutions will diminish.

Third, if we do not see a *democratic transition* to a new imaginary of prosperity, we may expect a gradual dissolution of democratic societies due to the rise of tribal imaginaries, which aim at a very different mode of social integration. Such imaginaries rely on specific identity markers as social glue, making identity – rather than prosperity – the anchor of the Political.[18] Pluralism, democratic institutions, checks and balances, scientific knowledge, and critical media will be often seen as obstacles to such a form of social integration, because they *disrupt* what should hold society together, such as long-held values, traditions, family, common sense, or the authority of a leader. Tribal imaginaries also do not need democratic process (broadly understood) as a means to improve their 'output legitimacy', as the '*failure to deliver real benefits to one's community is forgivable so long as the other side is faring worse*'.[19] What is more, I fear, war as a tool of diversion and/or a growth strategy is a far more acceptable option in this type of imaginaries.

1.1 On Prosperity

But is prosperity really what we need to hold onto going forward? This may seem like a dubious suggestion given that our current conception of prosperity implies very unsustainable forms of material consumption.

[18] Sergei Guriev and Elias Papaioannou, 'The Political Economy of Populism', *Journal of Economic Literature* 60, no. 3 (1 September 2022): 753–832.

[19] Fintan O'Toole, 'Review of *Defying Tribalism*, by Susan Neiman', *The New York Review of Books* (2 November 2023), www.nybooks.com/articles/2023/11/02/defying-tribalism-left-is-not-woke-neiman/, last accessed 16 January 2024.

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I want to argue, however, that this is a historically specific and very narrow understanding of what prosperity has stood for, and still stands for, today. If anything, neoliberal imaginaries may have helped us forget that prosperity is more than (over)consumption.[20]

Prosperity, as 'the good that we hope for' (from the Latin *pro/sperare*),[21] has always been about more than just material affluence. While a certain degree of comfort and material affluence is important for a good quality of life, it is only a part of the story. Next to material goods, prosperity requires a plethora of social goods (such as healthy relations, social standing and recognition, having meaning and purpose, caring for others, and being cared for) as well as institutional goods (including personal security, a degree of autonomy and voice in collective matters, health and education, rewarding work and sufficient leisure, non-corrupt institutions, etc.). Fundamentally, more than any current level of such goods, prosperity is about collective *trust* that people have a prosperous future ahead, as society has both institutions and means to get there.

When 'millennials' complain today about the fact that they are 'worse off than their parents',[22] they don't ask for luxuries, but for the basic conditions for a meaningful social life being met, today and in the future. They demand a certain material basis for life (work, housing, healthcare, and transport), a certain social basis for life (conditions to start a family, healthy relations, and acceptance in a community), and an institutional basis (competent and trustworthy public institutions and services).[23] What seems less decisive for their discontent today is whether they are *actually* materially worse off than their parents were at the same age[24] and more that they seem to have lost faith that society has the means to secure a safe and prosperous future.[25]

[20] Robert D. Putnam, *Bowling Alone: The Collapse and Revival of American Community* (Simon & Schuster, 2000).

[21] Tim Jackson, *Prosperity without Growth: Foundations for the Economy of Tomorrow* (Taylor & Francis, 2016).

[22] Matthew Elliot, 'European Millennials Expect a Worse Life than Their Parents, Survey Shows', *Youth Time Magazine* (2018), https://youthtimemag.com/dashed-dreams-european-millennials-expect-a-worse-life-than-their-parents-survey-shows/, last accessed 30 December 2023.

[23] Kate Alexander Shaw, *Baby Boomers versus Millennials: Rhetorical Conflicts and Interest* (Sheffield Political Economy Research Institute (SPERI), 2018).

[24] Roula Khalaf, 'Millennials Are Not as Badly Off as They Think – But Success Is Bittersweet', *FT* (2023), www.ft.com/content/6f7d7522-42e9-43cb-bd73-36eee6681f3e, last accessed 30 December 2023.

[25] Jean Twenge, 'The Myth of the Broke Millennial: After a Rough Start, the Generation Is Thriving. Why Doesn't It Feel that Way?', *Atlantic* (2023), www.theatlantic.com/magazine/archive/2023/05/millennial-generation-financial-issues-income-homeowners/673485/, last accessed 23 June 2024.

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While the meaning – the expectations – as to what prosperity comprises may not have changed dramatically between different generations,[26] we have seen dramatic changes in *how* prosperity was to be realised over time. The most fundamental shift was in the understanding of how political economy works and which actors (public or private) were best placed to deliver prosperity. For instance, the post-war imaginary of prosperity can be tagged as 'public Keynesianism', with the state responsible for ensuring prosperity by safeguarding safe middle-class jobs and collectively delivering public services and social security. In contrast, the 'privatised Keynesianism' of the neoliberal era[27] aimed to deliver prosperity by reliance on private actors, markets, competition, and credit, which were meant to introduce dynamism in both the public and private sectors, while delivering an abundance of cheap consumer goods and services.

These modes of pursuing prosperity are not without consequence. The privatising push of the neoliberal era has seen many material and immaterial goods on which prosperity depends (from housing to care and transport) commodified, privatised, and financialised. The ethics of competition and market, while perhaps introducing more dynamism at first, has over time exhausted many of the social, institutional, and infrastructural resources, making the *security* of well-being in the future (care, trust, community, and safety) seem available only to those who have the resources to buy it.[28] Even if some of the social and economic strains produced by these trends were relieved by reducing the cost of consumer goods, this was only a temporary fix – which in turn heightened both social and environmental extraction across the world, accelerating the environmental crisis.[29]

The evaporating promise of privatised prosperity has brought us to a crossroads, with two collective imaginaries competing: the ultimate question is whether we will manage to stay "in the corridor"[30] with some version of shared prosperity or whether we will slide towards

[26] This is not to say that there were no changes, however, as some critics have pointed out. Putnam, *Bowling Alone*.

[27] Crouch, 'Privatised Keynesianism'.

[28] Robert D. Putnam, *The Upswing: How America Came Together a Century Ago and How We Can Do It Again* (Simon & Schuster, 2020).

[29] Hoesung Lee et al., 'IPCC, 2023: Climate Change 2023: Synthesis Report, Summary for Policymakers. Contribution of Working Groups I, II and III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Core Writing Team, H. Lee and J. Romero (eds.)], IPCC, Geneva, Switzerland' (2023), https://mural.maynoothuniversity.ie/17886/.

[30] Daron Acemoglu and James A. Robinson, *Why Nations Fail: The Origins of Power, Prosperity, and Poverty* (Profile Books, 2012).

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tribalism, as the other collective imaginary holds – with the destination unknown. What will be decisive, I argue, is the role that the EU will play in the upcoming years and decades.

1.2 On the Role of the EU

The slide towards tribalism is in full course in Europe. In several European countries, far or extreme right parties are at present in power or in government. Where they are not, their electoral chances are considerable in any upcoming elections. They are also expected to become a significant force in the European Parliament in 2024,[31] all the while the EU is preparing for another round of austerity.[32] This constellation will remind many of the 1930s of the previous century.

But there is something different this time around. We have the EU. While certainly flawed, in terms of its democratic credentials,[33] constitutional asymmetry,[34] or overenthusiasm for the 'integration through law',[35] a perfect polity is not a serious expectation anyway.[36] The EU is, I would argue, well positioned to develop a new imaginary of prosperity

[31] The concerns about the outcomes of the 2024 elections are growing, especially given the electoral results over the past couple of years in Italy, Sweden, Finland, and most recently the Netherlands. This is not even to mention the polling lead of Marine Le Pen in France, of the growing popularity of the AFD in Germany.

[32] Gabriel et al., 'The Political Costs of Austerity'; Galofré-Vilà et al., *The Journal of Economic History*; Ponticelli and Voth, 'Austerity and Anarchy'; Galofré-Vilà et al., Working Paper; Funke et al., 'Going to Extremes'.

[33] Dieter Grimm, 'Does Europe Need a Constitution?', *European Law Journal* 1, no. 3 (November 1995): 282–302; Jürgen Habermas, 'Remarks on Dieter Grimm's "Does Europe Need a Constitution?"', *European Law Journal* 1, no. 3 (1995): 303–7; A. Føllesdal and S. Hix, 'Why There Is a Democratic Deficit in the EU: A Response to Majone and Moravcsik', *JCMS: Journal of Common Market Studies* 44, no. 3 (2006): 533–62; A. Moravcsik, 'The Myth of Europe's Democratic Deficit', *Intereconomics* 43, no. 6 (2008): 331–40; Marija Bartl, 'The Way We Do Europe: Subsidiarity and the Substantive Democratic Deficit', *European Law Journal* 21, no. 1 (2015): 23–43.

[34] F. W. Scharpf, 'The Asymmetry of European Integration, or Why the EU Cannot Be a "Social Market Economy"', *Socio-Economic Review* 8, no. 2 (2010): 211–50; Scharpf, 'Monetary Union, Fiscal Crisis and the Preemption of Democracy', LEQS Paper No. 36, 2011.

[35] Mauro Cappelletti, Monica Seccombe, and Joseph Weiler, *Integration through Law: Europe and the American Federal Experience* (De Gruyter, 1985); Daniel Augenstein, *Integration through Law Revisited: The Making of the European Polity* (Ashgate Publishing, 2012).

[36] Noam Chomsky, 'The Corporate Takeover of U.S. Democracy', PhilPapers (2010), https://philpapers.org/rec/CHOTCT; Jan Rosset, Nathalie Giger, and Julian Bernauer, 'More Money, Fewer Problems? Cross-Level Effects of Economic Deprivation on Political Representation', *West European Politics* 36, no. 4 (July 2013): 817–35; Sheldon Whitehouse, *Captured: The Corporate Infiltration of American Democracy* (The New Press, 2019).

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for several reasons: it is a deeply diverse and pluralist polity, with a layer of democratic and expert institutions that require a considerable degree of deliberation, negotiation, and consensus to act. The EU is also an entity *constitutionally committed* to having questions of prosperity at the centre of the Political.[37] At the same time, the EU is not able to muster a credible *tribal imaginary* that could become the anchor of its internal politics.[38]

Importantly, embracing *shared prosperity* may also be the EU's only alternative. If the EU continues the (modified) neoliberal path, it will only further exacerbate already existing problems, while strengthening the far and extreme right. And the far and extreme right has no real use for the EU. The second path could be to wait it out and let tribalism play out at the national level. But judging on historical experience, this is a risky path – not to mention that the EU was established in order to prevent the horrors that preceded its founding. Finally, the EU can still attempt to make serious strides to articulate and institute an imaginary of *shared prosperity*, which can offer responses to the many excesses of neoliberalism, start a new phase in integration, and ultimately set grounds for the protection and deepening of democratic institutions in Europe.

But the likelihood of success will depend on the political courage among EU institutions and politicians, as well as the representatives of the EU MSs in the Council.[39] First, they will have to keep their "eyes on the ball", focusing on articulating and instituting the best route to prosperity, rather than letting identity themes become central. Second, the EU institutions will have to genuinely stand up for those pulling the short straw in the current economic constellation, be they peripheral EU MSs or less privileged groups in society. Third, the EU institutions will have to take the rule of law issues more seriously: the continuous degradation of democratic institutions and the rule of law in several MSs would make the EU increasingly unable to act.[40] This issue should

[37] Jiří Přibáň, *Constitutional Imaginaries: A Theory of European Societal Constitutionalism* (Routledge, 2021).

[38] The attempts to promote 'European way of life' have certainly fallen flat not only among its populace. At the same time, what can be mustered of tribalism externally can hardly become the anchor of internal politics, due to the degree of diversity and pluralism in the EU. See https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/promoting-our-european-way-life_en.

[39] I discuss the institutional and political economic 'lock-ins' that stand in the way of a new imaginary of prosperity in Section 2.3.4.

[40] For the overview of possible options, see Carlos Closa, Dimitry Kochenov, and Joseph H. H. Weiler, 'Reinforcing Rule of Law Oversight in the European Union', *Robert Schuman Centre for Advanced Studies Research Paper*, no. 2014/25 (2014).

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not be a question of political partisanship; all parties of the broad centre must see this as their political priority.

1.2.1 *Where Are We Now?*

The need to shift to a new imaginary of prosperity has not gone unnoticed in the EU. From 2018, we see first the proliferation of the language of "new deals" in the EU, including a 'New Deal for Consumers',[41] and then – more importantly – the 2019 European Green Deal (EGD).[42] The latter EGD sets out big goals: it aims to be a 'new growth strategy' that places environmental sustainability at the centre of *economic policy*. The EU thus aims to integrate one fundamental constitutive outside – nature – into how we think about political economy in the EU, requiring the transformation of the ways in which we both '*produce and consume*'.[43] Granted, the EGD still places a lot of trust in private actors and (financial) markets, as "partners" in the shift to a more sustainable future, while the more social aspects of sustainability remain too peripheral.[44] But what the implementation of the EGD did and still does is chip away at the neoliberal background understanding of political economy. The EU institutions have started to embrace a more institutionalist view of the economy, going beyond "win-win" politics of common interest, increasingly understanding the government (including themselves) as responsible also for distributive outcomes and using the normative power of law to reshape them.[45] And the EGD does not stand alone: the EU's response to the COVID-19 crisis and energy crisis related to the war in Ukraine was to put in place instruments based on solidarity between EU citizens and EU MSs (e.g. the Next Generation EU[46] or REPower EU[47]).

But these first 'gains' are anything but stable. The currently negotiated EU fiscal framework threatens to seriously undermine what still remains

[41] European Commission, A New Deal for Consumers, COM(2018) 0183 final.
[42] European Commission, The European Green Deal, COM(2019) 640 final.
[43] European Green Deal 2019, p. 4.
[44] See for both critiques 'EuroMemorandum 2020: A Green New Deal for Europe – Opportunities and Challenges', EuroMemo Group (2019), www.euromemo.eu/euromemorandum/euromemorandum_2020/index.html, last accessed 16 January 2024.
[45] The shift in such background assumptions appears in all empirical chapters, if to a different degree.
[46] European Commission, Europe's Moment: Repair and Prepare for the Next Generation, COM(2020) 456 final.
[47] European Commission, REPowerEU: Joint European Action for More Affordable, Secure, and Sustainable Energy, COM(2022) 108 final.

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of solidarity within and among MSs, possibly further pushing people into the embrace of the extreme right.[48] Also support for the EGD policies is weakening, with hollowed-out nature law[49] and measures to limit the use of pesticides being pushed entirely off the table.[50] So why, if at all, should we still be hopeful that the EU could help articulate and institute a new imaginary of prosperity?

Over the past years, European institutions have taken steps to reshape the micro foundations of the economy. These steps have gone beyond 'market regulation', attempting to reconstitute corporation, reshape industry, and encourage new ways of production and consumption. These are in no way insignificant efforts. First, at the level of the *imaginary*, these efforts rest on a different understanding of political economy than the neoliberal one. They take a more institutionalist view of the economy, go beyond politics of common interest, adopt a more interventionist understanding of law, and see EU institutions as co-responsible for distributive outcomes. Second, at the level of the *institution* of a new imaginary, the EU has proposed legislation and provided (some) public resources to reshape important microeconomic foundations, with the aim of shifting us towards more caring consumption, more responsible corporations, cleaner industries, or more sustainable products.[51] Creating new ways for acting in the world, individually and collectively, is a fundamental precondition to instituting a different kind of political economy.

The real concern that one should have is whether the EU has gone far enough, quickly enough, in creating building blocks, both imaginary and real, that can help usher a new imaginary of prosperity. Is the 'right to repair'[52] or the protection against greenwashing enough to shift our (over)consumption patterns? Can the due diligence legislation[53] really

[48] Simone Cremaschi et al., 'Geographies of Discontent: Public Service Deprivation and the Rise of the Far Right in Italy', Working Paper (2023).

[49] Elena Sánchez Nicolás, 'Negotiators Finally Clinch Deal on Landmark Nature Restoration Law', *EU Observer* (2023), https://euobserver.com/green-economy/157677, last accessed 16 January 2024.

[50] Bartosz Brzeziński, 'Conservative Backlash Kills Off EU's Green Deal Push to Slash Pesticide Use', *Politico* (2023), www.politico.eu/article/european-parliament-kills-off-landmark-pesticide-reduction-bill/, last accessed 16 January 2024.

[51] I discuss those in the empirical chapters.

[52] European Commission, Proposal for a Directive of the European Parliament and of the Council on common rules promoting the repair of goods and amending Regulation (EU) 2017/2394, Directives (EU) 2019/771, and (EU) 2020/1828, COM(2023) 155 final.

[53] Proposal for a Directive of the European Parliament and of the Council on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937, COM(2022) 71 final.

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succeed in redesigning corporation, even if it does not engage with the fundamentals (power, ownership, and profit)? Can we develop a credible industrial policy in Europe, without making crucial choices about technological futures a subject of broader democratic debate? How much critical raw materials can we extract, and under what conditions, in order to make sure that the new imaginary of prosperity does not end up being just another form of "green" extractivism for those born outside EU borders?[54] And the million-dollar question, to what extent can the transformation of micro foundations in fact stand against major changes at the macro level, such as those concerning fiscal or monetary policies?

These questions have no easy answers. Clearly, these shifts are arguably too "fresh" to have entrenched more deeply a different imaginary of prosperity in the EU's political institutions and discourses, as various developments on the macro level (e.g. the currently renegotiated Stability and Growth Pact) make clear. They are also too shallow to have actually provided a basis for different microeconomic institutions to enable the emergence of a different political economy from the bottom up. But unless rolled back, they do create a springboard from which the EU can continue a democratic transition to shared prosperity. The rest will depend on the understanding of historical responsibility and political courage of the very institutions and actors that many have (often justifiably) grown distrustful of.

1.3 Conceptual Framework

Let me add a couple of words on my conceptual framework. This book relies on the concept of 'social imaginaries'. In one famous definition, social imaginaries denote '*the ways people imagine their social existence, how they fit together with others, how things go on between them and their fellows, the expectations that are normally met, and the deeper normative notions and images that underlie these expectations*'.[55] Social imaginaries are central to social integration, resting on cultural and institutional frameworks that enable understanding, cooperation, and collective action.[56] They integrate at the level of 'imaginary' (including stories, myths, ideas, theories, and

[54] Natacha Bruna, 'A Climate-Smart World and the Rise of Green Extractivism', *The Journal of Peasant Studies* 49, no. 4 (2022): 839–64.

[55] Charles Taylor, *Modern Social Imaginaries* (Duke University Press, 2004), p. 23.

[56] Paul Ricoeur, *Lectures on Ideology and Utopia*, ed. George H. Taylor, Reprint (Columbia University Press, 1986).

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utopias) and at the level of 'institution' (for instance, via laws, governmental bodies, institutional processes, or social practices – such as economic practices, family, or travelling).[57]

Over the past 150 years (at least), I argue that it was the social imaginaries of *prosperity* that have most often performed this socially integrative function, at least in the countries of the Global North. Imaginaries of prosperity have integrated around the promise of a prosperous future, placing the problems (and struggles) of political economy in the centre of the political. Importantly, the demand for prosperity has over time made democracy and its institutions (such as pluralism, critical media, scientific knowledge, and 'inclusive public sphere') functionally important for the social order instituted around prosperity. Democratic institutions (broadly understood) created various channels through which prosperity's *constitutive outsides* could reshape the *meaning* and the *route* to prosperity.[58] Democracy in this sense becomes not only "nice to have" but (and increasingly so over time) also fundamental for continuous integration around imaginaries of prosperity.[59]

Importantly, every historical incarnation of the imaginaries of prosperity will only be able to provide a *temporary* foundation for social integration in modern societies.[60] We have thus seen the oscillation between two (ideal) types of imaginaries of prosperity over the past 150 years – I will call them *privatised* and *shared* – returning in different incarnations in different historical periods. The two basic imaginaries of prosperity embrace the opposite understanding of the relationship between the economic and the political, or the state and the market. In imaginaries of *shared prosperity*, economy and markets are understood as (human-made) social institutions that need to be shaped politically – if prosperity is to be delivered to all. In contrast, in imaginaries of *privatised prosperity*, economy and markets are seen as self-regulating, nature-like systems and processes that in principle function optimally and need

[57] Ngai-Ling Sum and Bob Jessop, *Towards a Cultural Political Economy: Putting Culture in Its Place in Political Economy* (Edward Elgar Publishing, 2013).

[58] On the concerns about the continuous capacity of democratic institutions today to provide this function, see Jürgen Habermas, *A New Structural Transformation of the Public Sphere and Deliberative Politics* (John Wiley & Sons, 2023).

[59] For an extensive general treatment, see Robert A. Dahl, *On Democracy* (Yale University Press, 2020).

[60] Oliver Marchart, *Post-Foundational Political Thought: Political Difference in Nancy, Lefort, Badiou and Laclau* (Edinburgh University Press, 2007).

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little steering to deliver prosperity to all.[61] The *route* to prosperity then, in either of these imaginaries, requires *empowering* different sets of actors (be it private actors and capital on the one hand or democratic institutions on the other) to drive us to prosperity. Such choices have important implications on a procedural level (what role is assigned to democratic institutions and law) and on a material level (the relation to economic outcomes and particular groups and actors (e.g. workers, financial capital, and trade unions)).

An instituted imaginary of prosperity has thus its "life cycle" so to say, which operates at the level of the *imaginary* and the level of the *instituted*.[62] At the height of its life cycle, an instituted imaginary of prosperity has a quasi-hegemony, mustering large social consensus around its route to prosperity, while engendering optimism and hope in a better future among broad swaths of society.[63] At this point, its institution in various laws, bodies, and practices have already progressed enough to give people a sense that their social institutions know how, and are able to, deliver prosperity. If it so wishes, in these periods the government will be able to undertake massive transformations with significant social support.

Every such hegemony has, however, a limited lifespan. At a certain point, the aspects of reality that were left unattended by any particular imaginary of prosperity will rear their head. At such a point in time, the established imaginary of prosperity will slowly run out of steam if from within its understanding of political economy, no effective solutions to the emergent problems can be found, gradually eroding the trust in its route to prosperity.[64] Increasingly thus, the imaginary of prosperity will not be able to fulfil its socially integrative function. In these crucial moments, democratic institutions have to do their work, reinventing

[61] Such as limiting 'information asymmetries' or removing (rather selectively) 'market failures'.

[62] This operation at the level of the imaginary (stories, ideas, and utopias) and at the level of instituted (laws, bodies, discourse, and practices) may operate within a different time horizon, with the latter 'slowing down' the former. See Chapter 6.

[63] Neoliberalism is best understood as the last instituted 'imaginary of prosperity', a historically specific synthesis of how political economy *works together* and *should work together* in order to deliver prosperity. To institute a neoliberal society, neoliberalism provided a story that made the new interpretation of the political (economy, politics, law, and government) cogent, replacing the understandings present before. Neoliberalism became hegemonic in the EU at the end of the 1990s; it reached a major blow with the great financial crisis in 2008.

[64] See Section 6.3.

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and gradually instituting a *new, credible, imaginary of prosperity*.[65] If this does not happen, for the reasons of capture, for instance,[66] prosperity will cease to be able to ensure social integration, and societies will increasingly experience signs of *societal disintegration:* as we see perhaps most glaringly in the US,[67] but increasingly also in Europe and the rest of the world.[68] Eventually, we may see reintegration around some sort of tribal identity shared by the majority – with grim consequences for minorities, pluralism, inclusion, 'human rights', critical media, knowledge governance, and ultimately democratic institutions.

1.4 Structure and Choices

When writing a book such as this one, one has to make many choices, and even more concessions. In what follows, I will first outline the set-up of the book and then articulate some of the parameters and limits of the account presented. Chapter 2 presents the conceptual framework of the book. I start by discussing the main concept on which I rely, namely 'social imaginaries', trying to unpack when social imaginaries are vulnerable to change (Section 2.2). I turn then to discuss the imaginaries of *prosperity*, setting out the limits of the contemporary reading of prosperity, the dialectics between privatised and shared prosperity, and tribalism as the prosperity's *Other* (Section 2.3). The chapter concludes by discussing the kind of *constitutive outsides* that have reared their head as crises at the present moment and which will need to be integrated into the new imaginary of prosperity if it is to provide a credible prospect of a liveable future (Section 2.4).

After setting the scene, the book turns to study how the imaginaries of prosperity have been changing in the EU, as well as the contours that any new imaginary may be taking. In Chapter 3, I explore the transformations of EU imaginaries of consumption. I study systematically the changes in EU consumer policy, that is how the background understandings of the role of economy, law, government, and politics have changed from 1975 to the present day. The chapter allows us to observe a deep epistemic and ontological shift, from a more institutionalist understanding of consumption that typified the welfare state imaginaries of

[65] Such a conception of prosperity will have to start, however, from a different articulation of the relations between the state and the market, between politics and the economy.
[66] See Footnote 32. [67] Ezra Klein, *Why We're Polarized* (Simon & Schuster, 2020).
[68] Polarisation is perhaps one of the most used words in the Dutch parliament.

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prosperity to a more individualised, depoliticised, and naturalised[69] understanding that is typical of imaginaries of privatised prosperity. Theoretically, the chapter also allows us to appreciate what it takes to institutionalise a new imaginary of prosperity. It requires years for the new imaginary to reshape the background understandings of all the aspects of social order. But once such understandings become sufficiently dominant and settled, one can observe a qualitative shift in the narrative, which becomes both elegant and confident – as it needs to no longer pay lip service to normative concerns that were important under the previous paradigm.

Chapters 4–6 take up other important microeconomic foundations, that is technology (ecodesign), industry, and corporation. The chapters mostly focus on the transformations in the EU's laws and policies after the 2008 great financial crisis. We can observe that until long into the 2010s, the EU remained vested in the neoliberal imaginary of prosperity, but with ever less conviction and compass as the time passed by. This would change after the 2019 EGD and the COVID-19 crisis. The changes seem to have been driven mostly by the growing realisation that our consumption and production patterns are (foremost environmentally) unsustainable. Thus, the EU increasingly aims to steer production towards the principles of circularity, through clear public guidance on how products should be designed (Chapter 4). Equally, safe technological and climate futures cannot be delivered by market alone; therefore governmental and legal intervention and support are necessary to get industry into the twenty-first century (Chapter 5). Finally, the realisation that corporations are systematically pushed towards short-termism rather than a long-term perspective demanded intervention – not only in the interest of the public but also in corporations' own interest (Chapter 6). The conclusion looks back on the main findings and tries to both summarise the background shifts in understandings and values and distil some basic building blocks of the new imaginary of prosperity in the EU. The conclusion also presents the road ahead – outlining what it would mean for the EU institutions to take their historical responsibility at this point seriously.

Now to parameters and limits. While this book aims to discern certain patterns of change, it cannot predict the future. After doing the empirical research, I hold no doubt that the shifts and policy changes that we

[69] By *naturalising*, I mean seeing social phenomena as given (by God or (human) nature), and thus also stable, and perhaps even intrinsically good. See Section 2.2.

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have seen over the past couple of years indeed start from a different synthesis of political economy, a different imaginary of prosperity. But one cannot conclude on this basis a) how broadly this new imaginary is shared and whether it can last in the face of the growing influence of the extreme right, b) how far the changes already instituted will enable a different type of private action, and finally c) whether the EU will take additional steps, even if just by addressing the low-hanging fruit I outline, that would help to render more viable the new imaginary of prosperity.

Second, this is a book written by a lawyer. This will usually mean that law and policy will serve as a very important heuristic tool. But this is also a book about law, I want to suggest, even if not on its face. Law – in the sense of the 'democratic rule of law' – is a central element of 'modern social imaginary'.[70] The three competing imaginaries that I discuss throughout the book have very different relations to law. Imaginaries of prosperity – privatised and shared – build on the modern conception of the democratic rule of law, but at the same time they give rise to very different legalities that are co-constitutive of different routes to prosperity. Tribal imaginaries, in contrast, do not share the same commitment to the democratic rule of law, which is often seen as an unnecessary impediment to the rule of (whatever sized) majority. Overall, law is seen in this book as central both at the level of the *imaginary*, allowing us to interpret the dominant social imaginaries, and at the level of the *institution*, being one of the most important tools that shapes how we (can) go about our lives.

In terms of the selection of empirical chapters, many more micro- or meso economic foundations could have been added. Just consider the centrality of finance, work, or trade and investment for the issues I discuss in this book. I have attempted to integrate some of the important considerations related to these fields in the chapters on industry (Chapter 5) and corporation (Chapter 6), but clearly a separate reflection on the changing imaginaries of prosperity in these fields would have added granularity to our understanding of the contours of the emergent imaginary of prosperity. Equally, choosing to focus on micro- and meso (in the case of industry) economic foundations of the economy, instead of on the macro level of political economy, is a limit, as the more 'political' or 'inter-governmental' aspects of the EU (such as the recently renewed

[70] Taylor, *Modern Social Imaginaries*.

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regressive fiscal pact[71]) could undo many of the gains that have been made thus far. Finally, the discussion of tribal imaginaries is based mostly on secondary literature (theoretical and empirical), as the EUs focus in the selected fields does not easily allow for the study of tribal imaginaries empirically. Such limits of scope are, I would hope, excusable as inherent in any intellectual attempt that tries to make a theoretical and empirical contribution at the same time.

There are also other possible concerns with the choices I have made. For instance, I study in this book various policy fields. But clearly one could dispute whether certain policy fields themselves should be part of the new imaginary of prosperity. Just consider consumer law and policy – isn't the rights-based consumer law exactly the problem? And yet, as this book is trying to map the "actually existing" ways of doing things, and how they change, it cannot start from any ideal normative conclusions. As societies, we have to move from a rights-based consumer law and policy, for instance, to a different way of thinking about consumption – and this is, I am glad to report, exactly what we are starting to observe in the context of EU consumer policy.

Also, lawyers may object that law and legal institutions do not receive sufficient credit at times. For instance, if in Chapter 3 on consumption I already acknowledge that the Court of Justice of the EU has never fully *bought into* the Commission's attempts to neoliberalise EU consumer law, why give such prominence to policy rather than law and to the Commission instead of the Court? For two reasons, at least. First, given the Commission's lack of formal legislative power beyond agenda-setting powers, the Commission must tread carefully in order to convince the European legislator (Council of Ministers and the European Parliament), and numerous other stakeholders, of both what plays in society and what should be done about it. This means that when developing its policy ideas, the Commission is always trying to sway the greatest number of 'stakeholders', articulating therefore carefully what it sees as shared. Second, by focusing in one chapter on a single type of document, produced by the same actor, for the same purpose, over a long period of time, I could also study more systematically the core changes in the conceptions of economy, law, politics, government, subjects, or society in the EU, thus being able to identify trends and important turning points in the institution of neoliberal imaginary of prosperity. The focus

[71] Wester Van Gaal, 'EU Secures Last-minute Deal on New fiscal Rules', *EU Observer* (2023), https://euobserver.com/green-economy/157867, last accessed 16 January 2024.

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on the Court would not allow for such an approach, as it comes into play much later and with regard to a limited number of issues, all the while being subject to selection bias problems of its own.[72]

Finally, as most books that aim to make a more general argument, this book may leave the reader with more questions than answers. My sincere hope is, that those will be the right questions.

[72] Deborah L. Rhode, 'Access to Justice', *Fordham Law Review* 69 (2000): 1785.

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