The Ventotene Papers

EUROPEAN DEMOCRACY AND COSMOPOLITAN DEMOCRACY

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THE ALTIERO SPINELLI INSTITUTE
FOR FEDERALIST STUDIES

CONTENTS

Foreword

The third European seminar on the *Future of the European Union*, organised in Ventotene on August 28-29th 2010 by the Altiero Spinelli Institute for Federalist Studies, in collaboration with the James Madison Trust, was devoted to "European democracy and cosmopolitan democracy".

The seminar gathered people engaged in the political struggle for a European Federal Union and people involved in university research on the topic of Cosmopolitan democracy. Considering the quality of the discussion and the number of papers presented, the organizers decided to publish a new *Ventotene Paper* in order to give a larger public access to some reference works for further reflections and studies.

The topic of the seminar and its structure require some explanations. Usually the Ventotene seminars are organized by federalists to discuss the main political issues concerning the construction of the European federation with young people. Of course, the federalists usually also invite members of national and European parties to take part in round tables, during the seminar, in order to foster European political actions. But a seminar on "European democracy and cosmopolitan democracy" required a different model. The organizers were convinced that it was necessary to invite social science researchers.

Usually, politicians and academic people do not sit around the same table to talk. The reason for this is clearly explained by Karl Jaspers when he says: "Truthfulness, universally convincing everybody, is something completely different from persuasion, which is our incidental truth, in which we live. … Scientific knowledge is radically different from fighting on the intellectual field among conflicting forces."* Politics is mainly an activity aiming at obtaining the power to do something: in democracy power depends on consensus, especially the consensus of the majority.

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* Karl Jaspers, *Kleine Schule der philosophischen Denken*, München, R. Piper & Co. Verlag, 1965, Ch. 7. The reference text concerning the distinction between scientific research and politics is, of course, Max Weber, *Politik als Beruf, Wissenschaft als Beruf*, Berlin, Dunker & Humblot, 1921.

The ability of a leader to persuade people and to gain their confidence is obviously the condition for an effective political action. This is true not only for a politician engaged in a national party, but also for a federalist engaged in a struggle to overcome national sovereignty. Of course, the activity of an academic researcher does not require the consensus of a majority for its success. On the contrary, the scientific community has set up precise rules – the so-called methodology to ascertain the truth of a certain proposition, a certain theorem, a certain discovery, etc. – to allow an individual scientist to demonstrate the validity of his/her research even if the great majority of his/her colleagues support a different point of view.

Nevertheless, we should also admit that a link between science and politics does exist. In the modern age, the theoretical pillars of political science were built by men directly engaged in political struggles, such as Machiavelli, Hobbes, Locke, Hamilton, Madison, Marx, Proudhon, Lenin, etc. Moreover, in today's politics, some contributions of nature sciences are strongly affecting national governments and their policies. Think of the dramatic question of climate change. It was detected and put to the attention of world public opinion by physicists and climatologists. At present, in every continent we can see strong ecological movements lobbying their government in order to promote policies to green the economy. The leaders of these movements gather on the occasion of the UN summits dealing with climate change, showing that a sort of world political movement is coming into life.

Therefore, it seems reasonable to say that politics and science provide insight when the passion of the politicians need the clarity and the accuracy of the scientist in order to look towards the future and to work out a new action plan. We do not know if the 2010 Ventotene seminar has fully reached these goals. But we are certain that cosmopolitan democracy and federalism have many characteristics in common and that they are two crucial points of view necessary to explore the future of democracy and the future of humankind. Democracy languishes if its horizon is confined to nation state borders. Humanity will have a future only if democratic politicians become capable of thinking with a cosmopolitan perspective and of taking action to build supranational institutions. This is the significance of the European Union, a political experiment that the European Parliament defines a supranational democracy.

In Ventotene, to talk about these problems was in itself a significant achievement because in the daily national context these ideas, so commonly debated during the Enlightenment, have practically disappeared.

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February 2011

Cosmopolitan Democracy and Legitimate Founding of Political Community: Why Turkey has a Right to Participate in the Politics of EU Enlargement

Hans Agné

In view of required political reforms, the relationship between the European Union (EU) and states which seek membership therein is asymmetrical. The EU demands that applicant countries reform their political, legal, and economic system while the applicants do not themselves require equivalent changes within the EU. This is the background for an often heard story about how the EU makes use of enlargement conditionality to promote democracy, human rights, and the rule of law, and ultimately to uphold the legitimacy of the Union itself. The EU has been said to constitute a normative power in world politics.[1]

Without any intention to devalue the moral importance of promoting democracy, human rights, and the rule of law, I will in this article turn the asymmetry between the EU and applicant countries upside-down, or inside-out, and ask the following question: Are there any criteria for how the EU should react to demands for membership from non-members in order for the Union to be legitimate in the future? The answer which I will develop is that, to be legitimate in the future, the EU cannot even at present permit its decisions on enlargement to reflect only the interest of its current citizens and member-states. The EU is not a private club, which has no impact on the outside world and which can for that reason decide on new members at its own discretion. By contrast, the continual creation of the EU through enlargement is a fundamentally political process which impacts on members and non-members alike. In order to be legitimate in the future, the ongoing creation of the EU in the present must for that reason reflect interests of people inside as well as outside its present boundaries. I will suggest that this conclusion represents a sound principle on the basis of normative democratic theory, but also a practically useful devise for designing effective political institutions.

Throughout the development of this argument I will perceive of enlargement as an element in the creation, or the founding, of a new

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[1] Ian Manners, 'Normative Power Europe: A Contradiction in Terms?', *Journal of Common Market Studies* 40 (2002), no. 2: 235-258. Cf. Adrian Hyde-Price, '"Normative" power Europe: a realist critique', Journal of European Public Policy 13, no. 2 (2006): 217-234.

political order.[2] At the end of the day, enlargement is not about making decisions on the basis of already existing political procedures, but about creating political procedures which will have neither power nor legitimacy until after the enlargement has taken place. To view enlargement as an act of political founding is, I believe, not to dramatize a relatively minor phenomenon in European politics, but to give to enlargement its proper significance. In traditional Westphalian terms, a particular political order is identified through its particular territory and citizenry, so by altering what territory and citizenry that will count as belonging to the EU, enlargements do create a political order which did not exist before. Only the high frequency of EU enlargements, the weak emotional linkages between the EU and its citizens, and confused notions of the Union as consisting in nothing more than another international organisation, may have desensitized observers to the revolutionary political and constitutional significance which all enlargements carry with them.

The legitimacy of enlargement will be assessed in this article from a perspective of procedural democracy. Theories of democracy have primarily been developed within the imagination of the nation-state[3] and it is sometimes objected that its application beyond this context will distort the original concept and confuse normative reasoning. However, there is no logical necessity, only a historical contingency, of imagining democracy primarily in relation to nation-states. Less canonised contributions to democratic theory, locating democracy in working places, city-states, or families, illustrates that its field of application is not given once and for all but open for negotiation as we discover or construct new areas of study. Moreover, openness as to where the concept of democracy can be fruitfully applied is particularly important under contemporary conditions, as many of today's most sensitive political issues transcend traditional state politics. If only to explore whether democratic theory has anything valuable to say on politically significant issues beyond the nation-state, it must be brought to bear on them in the first place.

But why is democratic legitimacy important in the first place? I turn to this question in the following section and then relate it to some specific difficulties implied by enlargement politics.

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[2] E.g. Hannay Arendt *On revolution* (London: Penguin, [1962] 1990); Bruce Ackerman *We the People* (Cambridge, Mass: Harvard University Press, 1998); Carl Schmitt *Political Theology* (Cambridge, Mass: MIT Press, 1985).
[3] Robert Dahl *Democracy and its Critics* (New Haven: Yale University Press, 1989); David Held *Democracy and the Global Order* (Cambridge: Polity Press, 1995).

Democracy and the boundary problem in enlargement politics

All legitimate political decisions – including decisions on enlargement – require some level of democracy: people have a right to participate in the making of laws and political orders under which they will live. The justification for this normative principle is not that all people want democracy, but that in modern societies people are capable and willing to form political opinions of their own, and that they must accordingly have some neutral means for resolving the political disagreements which follow from their forming of opinions independently of each others. If people are sufficiently educated to know something about the outside of their own life world, or because the living conditions of their societies have become fragmented and heterogeneous, political consensus is something to be suspicious about rather than to expect: under such conditions of modernity explicit consensus is more likely produced in the absence rather than in the presence of freedom. Yet all people must solve the political problem of acting together with others, if only to uphold the boundary which keeps them apart, should they not risk even their most basic level of human security.[4] What people then need is a political procedure that is maximally neutral in relation to opposite political positions and, simply speaking, "democracy" is a useful name of that procedure, defined as a way of decision-making where, absent consensus, decisions are made by the largest number of people.[5] In any case, all legitimate politics require some level or kind of democracy in order to allow for the making of decisions and laws under conditions where it is likely that people will disagree about what should be done.

It may be objected here that some disagreements are simply unreasonable, and that in such cases it is better to rely on whatever force that is available for proceeding along reasonable lines than to treat an unreasonable adversary fairly by applying a democratic procedure to the disagreement at stake. As the EU employs its enlargement conditionality to promote democracy, human rights, and rule of law, dogmatic supporters of the Union may then question whether they who oppose the aims of the Union really deserve to be treated democratically. What makes this objection to the need for democratic legitimacy in enlargement politics dogmatic is that it takes a simplistic position on the meaning and political significance of

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[4] Hobbes, Thomas. *Thomas Hobbes Leviathan*. *Vol. 1-2*. (London: Continuum, [1648] 2005)

[5] E.g. Sofia Näsström, "Democracy Counts", in *Transnational Actors in Global Governance*, eds. J. Tallberg, C. Jönsson, (Palgrave Macmillan 2010).

concepts such as human rights and rule of law. These are no clear-cut criteria of political legitimacy, but vague notions which in political practice are given different content depending on what other aims – like security or economic efficiency – that they are currently traded-off against. This is no less true inside than outside the boundaries of the EU, as perhaps still most commonly illustrated by the swift rebalancing in Western countries between security and freedom as a consequence of the US war against terror. Hence the EU policy towards applicant countries, though dressed in words denoting fundamental political values, should not be mistaken for an uncontroversial utopia beyond reasonable debate. Taking the EU policy for what it is, it does require democratic legitimation.

But what more exactly is it that democracy requires? I will focus here on criteria of a democratic people, i.e. the demos question,[6] or the boundary problem,[7] in democratic theory. What persons must be able to participate in the making of a decision in order for the decision to be democratically legitimate? All political practice aspiring to democracy operates on some assumption on this point: no decision can be made without someone participating in making it. In the domestic politics of democratic states, the people with a right to political participation is generally composed of the adult national citizenry or, in more cosmopolitan countries, the permanent residents of the state. They, and only they, who are bound by the laws, have a right to participate in making them. However, the question of democratic inclusion becomes more problematic when applied to the issue of an enlarging European Union, as can be illustrated by two prevailing but unsatisfactory answers to it.

According to some researchers, there is a simple answer to the question of who must be able to participate in the making of enlargement politics for it to count as legitimate: a legitimate decision 'can be recognised as "just" by *all* parties, irrespective of their particular interests, perceptions of the 'good life' or cultural identity'[8].

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[6] Dahl, *Democracy and its Critic*s.

[7] Robert E. Goodin, 'Enfranchising All Affected Interests, And its Alternatives', *Philosophy and Public Affairs* 35 (2007), no. 1. Of course, democratic theory coveres many other aspects of democracy than the issue of inclusion, for instance protection of basic human rights and formation of public opinion in normatively acceptable ways. I bracket those other issues here in order to give more attention to the problem of primation interest in the politics of creating new political communities.

[8] Helen Sjursen, 'Why Expand? The Question of Legitimacy and Justification in the EU's Enlargement Policy', *Journal of Common Market Studies* 40 (2002), no. 3, p. 495. See also Erik Oddvar Eriksen, 'The EU – a cosmopolitan polity?' *Journal of European Public Policy* 13 (2002), no. 2, p. 255.

The central term then is 'all'. For the moment we can leave aside the difficulty of whether the right criterion is to give 'all' a right to participate in the making of enlargement decisions, or whether a decision on enlargement need only be justified in the views of 'all', as theorists of deliberative democracy would more often like to have it. A more serious difficulty namely, is that simply inserting a moral conception of 'all' doesn't answer the question of who should actually be included, or whose positions must be taken account of in a sound justification. For in enlargement politics the definition of this term – 'all' – is precisely what the political conflict is all about. Does 'all' include Turkey or not when decisions are made on the enlargement of the EU? That is but one instance of the question which we want to have an answer to, and those questions are concealed by postulating a moral and abstract 'all' as a sufficient answer.

A second less helpful answer to the question of who must be able to participate in the making of enlargement politics in order for the process to count as legitimate can be seen in the official EU doctrine. According to current regulations and practices, authority over membership is owned exclusively by present members together with their supra-national institutions.[9]

In terms that lend themselves more easily to a normative assessment, this official doctrine can be seen as representing the idea that a legitimate political order is founded through a voluntary association among independent parties. In the original context of this theory, private persons make an agreement – "of every man with every man"[10] – about submitting their will, or part of their will, to a political authority which will typically provide security or freedom in return to them. The idea then is that a political order is legitimate when willed by, or justifiable in the views of, all individuals living under it. To explain how individuals identify other individuals together with whom they want to create a common political order, a theory of voluntary association will typically also stipulate that all individuals are free to initiate other associations (political orders) than those in which they find themselves at the status quo, and that every individual is allowed to migrate to all other associations (political orders) which are willing to accept him or her as a member.[11] On the basis of these

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[9] For basic textbook accounts of the enlargement procedure, see e.g. Lykke Friis, 'EU enlargement … and Then They Were 28', *The European Union: How Does it Work?,* eds. Elisbeth Bomberg and Alexander Stubb (Oxford: Oxford University Press, 2003).

[10] Hobbes, *Leviathan* (Cambridge: Cambridge University Press) p. 120. Or see John Locke, *Two Treatises of Government.* (New Haven and London: Yale University Press, [1690] 2003), p. 142.

[11] Robert Nozick *Anarchy, state, and Utopia* (Oxford: Blackwell, 1974), Ch. 10.

idealised premises, the formation of the people in a liberal democracy can be seen as having been founded by itself: the decision about whose voice should count in the making of political decisions is justified in the views of the very people bounded by those decisions. Hence any group of individuals which succeeds to agree upon who should be included as a member of their group also have a *right* to establish this group; and by extension of this principle we reach the official EU doctrine, namely that the legitimate way of enlarging any such group is through a procedure of unanimous voting among the present members. This is the voluntary association model of legitimate foundings of political orders.

The voluntary association model might be valid if limited to groups of people which live their life in complete isolation from each other, or groups which do not affect outside people in any politically significant way. Real world examples of such conditions might perhaps be found in certain private clubs, say church choirs or ornithology associations, as long as even non-members agree that those entities have little or no *public* interest. However, to regard the EU as a private club in this sense would be patently absurd. The effects of EU decisions, especially when dealing with enlargement issues, are surely not limited to the inside of it, and by their content – the constitutional and economic conditionality for instance – it would simply be a misuse of language to describe the external effects of the EU as being of *private* interest only. Here an advocate of the official EU doctrine will object that the EU conditionality is not imposed on anyone, but voluntarily chosen by applicant governments which have a free choice not to apply for membership and thereby to make irrelevant the conditions on which membership is being offered.[12] Why is there a need to decide democratically on conditionality if the effects of this decision are voluntarily chosen by the applicant countries themselves? The reason why democratic legitimacy is still required is that the vision of compliance with conditionality as a voluntary choice is not always true. The alleged tendency on the part of the EU not to put pressure on applicant countries, or potential applicant countries, does not imply that compliance with conditionality is voluntarily chosen. Applicant countries can be hard pressed to integrate with the EU, and to comply with its conditionality, by factors other than EU sanctions. Even the most coercive situation, one should notice, involves some measure of

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[12] Cf. Frank Schimmelfennig, Stefan Engert, and Heiko Knobel, 'Costs, Commitment and Compliance: The Impact of EU Democratic Conditionality on Latvia, Slovakia and Turkey', *Journal of Common Market Studies*, 41 (2003), no. 3; Geoffrey Pridham, 'Complying with the European Union's Democratic Conditionality: Transnational Party Linkages and Regime Change in Slovakia, 1993-1998' *Europe-Asia Studies* 51 (1999), no. 7.

voluntary choice (for instance, the choice offered by a gunman shouting "your money or your life" is indeed not indicating voluntariness in any common sense of the word, let alone when stated in less direct language in a letter sent by a pharmaceutical company to a seriously ill persons). If an action is voluntarily chosen or not depends rather on whether the alternative (counterfactual) outcome will strike at some essential, 'non-negotiable' interests of the actor. Different applicant countries will face different alternatives to European integration, but in case the alternatives involve, say, uncontrollable corruption, territorial or human insecurity, or failure to uphold the secular identity of the state, it is by no means evident that a choice to comply with membership conditionality is voluntarily made.[13]

Hence issues of membership cannot be eliminated from the political agenda by suggesting they are of private character, or that compliance with membership conditionality is only a matter of voluntary choice. By contrast, membership issues are in their essence political, i.e. controversial beyond the boundaries of private action and typically resolved on the basis of differences in power and resources among actors. By consequence, this contractualist argument about what should count as a legitimate founding of the people is plainly wrong. For why should people outside the Union accept as legitimate the outcome of a decision-making procedure from which they are excluded or in which they were not treated on par with other people? Since there is an international political struggle over membership in the EU, treating enlargement decisions as a purely internal affair of the Union will only perpetuate and perhaps exacerbate existing political conflicts.

But is there a better solution, i.e. democratically more legitimate solution, to the problem of deciding who should be allowed to influence enlargement decisions? That question will be dealt with in the next section.

Towards a democratically legitimate delimitation of peoples

Many critical theorists now regard the flaw in the contractualist theory mentioned above as indicative of a general and irresolvable paradox of founding in democratic theory.[14] According to proponents

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[13] Hans Agné "European Union Conditionality: Coercion or Voluntary adaptation" in *Alternatives: Turkish Journal of International Relations*, vol. 8, no. 1 (Spring 2009).
[14] Authors occupied with this problem include, among others, E.g., F.G. Whelan, 'Prologue: Democratic Theory and the Boundary Problem' in *Liberal Democracy*, R.J Pennock and J.W. Chapman, eds. (New York: New York University Press, 1983), p. 41

of this position, no founding of a political order, be it a democracy or not, can itself be democratically legitimate. For a decision to be democratic it must be taken by the people, which means that the decision to delimit the people in one way rather than another cannot itself be made democratically, since that decision must necessarily have been taken prior to the establishment of the people necessary for the making of democratic decisions. To they who follow Rousseau the situation may indeed appear hopeless: 'the effect would have to become the cause; the social spirit which should be created by those institutions, would have to preside over their very foundation; and men would have to be before the law what they should become by means of law'.[15] Later critics have formulated similar points, that there is a 'gap at the heart of democracy in the sense that "the people" – in order to constitute the legitimate source of political authority – would have to be prior to itself',[16] or that 'democracies cannot choose the boundaries of their own membership democratically'.[17] What is more, these difficulties are thought upon as being unavoidable: the paradox is the very 'condition in which we find ourselves when we think and act politically'.[18] If these authors are right, we would be force to conclude that the idea of a democratically legitimate founding of political orders is a mirage. In the remainder of this article, however, I will argue here that it is indeed possible to found political orders in democratically legitimate ways; that it is politically and normatively misleading to think of democratic foundings as involving a logical paradox; and that there are positive, more democratic, alternatives to the making of enlargement decisions than EU politics displayed in status quo.

Reason why the theory of voluntary association failed to explain the legitimacy of political founding: people who have been excluded from

et passim; Frank I. Michelman, _Brennan & Democracy_, (Ewing, Princeton University Press, 1999), 33-42; Chantal Mouffe, _The Democratic Paradox_ (London and New York: Verso, 2000), p. 43-45; Sofia Näsström, 'What Globalization Overshadows', _Political Theory_ vol. 31 (2003), no. 6, p. 808; Sheila Benhabib, _Another Cosmopolitanism_ (Oxford and New York: Oxford University Press, 2004), p. 35; Marc G. Doucet, 'The Democratic Paradox and Cosmopolitan Democracy', _Millennium_, vol. 34 (2005), no. 1: pp. 137-55; Bonnie Honig, 'Between Decision and Deliberation: Political Paradox in Democratic Theory', _American Political Science Review_, vol. 101 (2007), no. 1, p. 2-3; Andreas Kalyvas, _Democracy and the Politics of the Extraordinary_ (Cambridge: Cambridge University Press, 2008), p.197-98.

[15] Jean Jacques Rousseau ([1765] 2003) _On The Social Contract_ (Minneola/New York: Dover Publications) p. 27.

[16] Näsström, 'What globalization overshadows', p. 808.

[17] Benhabib, _Another cosmopolitanism_, p. 35.

[18] Honig, 'Between decision and deliberation', p. 2.

the process of forming a political community have no reason to accept the outcome as legitimate. Defined in such way, however, the problem is not impossible to overcome: it will be resolved in so far as opportunities to participate in the politics of founding are possessed not only by they who might – depending on the political dynamics – be included in a prospective political community but also by they who might – again depending on the political dynamics – remain at the outside of the political community once founded.

It should be recognised that democracy is on the basis of this principle not founded exclusively by the people who will practice it domestically, but through procedures inclusive also of they who will be effectively bound by the founding decision in the sense of being excluded from the political procedures of the political order once founded. This is of course as it should be. Non-exclusion of human beings effectively bound by political decisions is a fundamental idea in democratic theory and practice, without any qualification of the ways in which people are in fact bound.[19] This principle of non-exclusion of persons bound by political decisions is enough to conclude that the founding of political orders should be made by persons inside as well as outside the boundaries of that order (with exception only for political founding at the global level inclusive of humanity as a whole – which does not imply a politically significant outside). Self-founding, on the other hand, in the sense of restricting foundational power to individuals on the inside of a prospective political order, is justifiable only on an assumption that this group of individuals should have a politically greater role than human beings in general, even before a fair collective decision has been made on that issue. Such assumption may perhaps play a role in say nationalist or communitarian theory, where moral responsibility is to some extent limited to the inside of particular groups. But for a theory of democracy – especially when explored in relation to issues of concern to more than one nation – it is simply unacceptable to attribute greater political weight to some people than to others without grounding it in a political procedure freed from bias towards particular participants and decision-alternatives. Summing up then, *a democratically legitimate founding of a political order – a state, a constitution, a political union, or something else – requires that the founding is made – continually or at a single point in time – by people*

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[19] E.g. Dahl, *Democracy and its Critics*, or Jürgen Habermas, *Between Facts and Norms. Contributions to a Discourse Theory of Law and Democracy* (Cambridge, Mass: The MIT Press, 1996). Cf. Abizadeh, A. (2008), 'Democratic Theory and Border Coercion: No Right to Unilaterally Control Your Own Borders', *Political Theory*, 36 (1): 37-65.

who will live within as well as beyond the boundaries once founded, and through procedures which give each individual the same opportunity to influence such politics of founding.[20]

But even if this principle would be accepted as a sound corollary of an ideal theory of procedural democracy, is it politically useful? At this point critics may object that the practical implications of the principle for democratically legitimate political foundings are unrealistic, even utopian. If people must decide democratically on the borders which keep them apart, wouldn't the implicated world be one of ever increasing chaos and political instability as no human beings could then legitimately be excluded from having a say on the drawing of borders anywhere? In the following sections I will argue that such fears are based on misunderstandings, and that removing those misunderstanding will explain why said normative principle is in fact both practical and politically helpful.

Tempering principles in view of interests and priorities

One reason why the italicised propositions above can be fully accepted without committing oneself to a complete and immediate restructuring of the world is that it ought to be interpreted in terms of opportunities to participate, not actual participation. Hence it does not even in theory require that everyone in the world – all persons, or the political representatives of all persons – actually participate in the political procedures of founding a new political entity. If people abstain from political participation because of their own choice, they do no harm to democracy but delegate their decision-making power to the group of people how actually participates. Voluntary abstention from participation is an accepted facilitator of political decision-making in national liberal democracies, and there is no reason to deny the same possibility because the context is one of foundational politics beyond existing states. What is required is that they who themselves believe that their political interests are at stake in the founding of a new political order can in fact participate. Turkey might have had an interest in the inclusion of Cyprus as a member of the European Union which was not shared by say New Zealand. And if people would agree that it is impractical to include the whole world in the making of all foundational

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[20] For a normative defense of this position, see Agné, Hans (2010) "Why democracy must be global: self-founding and foreign intervention", *International Theory*, vol. 2, no 3: 381-409.

decisions, they will of course be free to opt for political institutions or practices that prioritize inclusion of people with strong rather than weak interests in the cases at hand. Should disagreement remain, however, the principle defended here would imply a gradual inclusion of more people until everyone is satisfied or no one is excluded.

Moreover, no principle in normative theory requires that the world can be completely rectified in accordance with it in order for the principle to retain its validity. By contrast, in all politics we accept that discrete issues are prioritized in relation to each other, i.e. we deal with important issues first and less important issues later. Having to begin then with a choice of exactly what concrete issues of founding should be addressed first, it seems reasonable to begin with issues that have already established themselves high on political agendas. And this criterion alone justifies attention for instance to the EU-Turkey relationship as well as particular efforts to enhance legitimacy in cases of like political significance. Once again, however, if there is sustained and substantial political disagreement as to what potential enlargements should be dealt with first, a procedurally legitimate solution would require a gradual shift towards more inclusive institutions until either everyone is satisfied or no one is excluded.

Practicability and institutional implications

How then might political processes involving for instance EU and Turkey be institutionalised in order to enhance democratic legitimacy of enlargement decisions? More specifically, how might the criterion of inclusion of people within as well as beyond the new boundaries be approximated in this case? By posing the question in this way, I have accepted the idea of the previous section that it is legitimate to focus attention on a single founding issue, in this case the EU-Turkey relationship, selected because it is placed high on the political agenda already. Two general suggestions about the direction of institutional change can then be made.

First, when the terms of enlargement are dealt with in the institutions of the European Union, applicant countries should have the same right to participate in the proceeding of that institution as present members have. One may discuss what the right principle of representation is, but regardless of whether one opts for equal representation of people or states, or something else, the guiding idea should be to provide applicants and members with similar institutional resources. This suggestion should not be discarded as unrealistic. In today's informal

European political practice, nationals of non-member countries do act as European citizens.[21]

Second, to the extent that that the state institutions of the applicant country do not provide equal representation to everyone who lives in that country, the EU must mediate between these possibly conflicting interests and provide institutional access also for these less than equally represented groups. In the case of Turkey this is likely to apply for instance to women and Kurds. Since adequate representation of such groups in European institutions will in many cases be necessary for the legitimacy of these institutions when deciding on enlargement, one should notice that it would not represent a dramatic institutional shift in the present EU system. Inclusion of transnational actors in varying stages of the European policy process is already well-developed, and the space for such inclusion has certainly been appropriated also by opposition and minority groups of applicant countries.[22]

Beneficial political effects

Reforming political institutions in directions suggested above is adequate not only from the perspective that all politics require some level of democratic legitimation, but there is reason to expect also that such reforms will produce effects that most people would regard as beneficial. First, one should expect those reforms to speed up and consolidate democratisation and economic reforms in applicant countries. By reflecting a concept of democracy which does not discriminate against outsiders, EU policy will gain legitimacy on the ground, outside the present EU, where it will in fact be implemented. Political leaders in applicant countries less committed to democracy can then no longer dismiss 'democracy' as a rhetorical cloak for the EU to inflict its own preferred political structures on neighbouring countries. Instead 'democracy' will come to mean political procedures in which people solve their disagreements in common and with equal respect to the views and interests of everyone politically affected.

Second, reforming enlargement politics in suggested ways should impact positively on the problem-solving capacity of the Union once enlarged. Feelings among new members of having been unfairly

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[21] Rumelili, Bahar, Fuat Keyman, and Bora Isyar 2009. "Multi-layered Citizenship in Extended European Orders: Kurds Acting as European Citizens". Paper presented at the workshop Re-conceptualising Turkey-EU Relations, 9-10 October 2009, Istanbul.
[22] Ibid.

treated during the period of probation are likely to backfire on willingness to cooperate for the solution of joint problems. Examples of this mechanism might include Poland who, once included as a member of the EU, developed an unusually offensive, even aggressive, style of negation in the negotiations over the reformed constitutional treaty;[23] or to take another example, the Bulgarian debate on restarting two nuclear plants, Kozloduy 3 and 4, shut down in 2006 as required by the EU before Bulgaria's accession to the Union.[24] The empirical details of these and other cases remain to be investigated, of course. However, on theoretical grounds alone it is plausible to assume that greater willingness of the EU in the present to listen to voices of dissent will provide for less political trouble, and more problem solving capacity, in the future.

Conclusion

Like any polity wishing to be sustainable and well-functioning, the EU must be legitimate. For this reason it must be able to justify its ongoing founding, which takes place in significant part through enlargement, in view of democratic principles of freedom and political equality. When enlargement issues are discussed and decided in political institutions, democratic legitimacy will then require that people in accession countries are represented on par with people in the member-states. That conclusion, I have argued, is a sound corollary of democratic theory as well as a practically useful devise for designing effective political institutions.

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[23] Recall among other unforgettables: 'the square root or death', a polish slogan that referred to a certain distribution of voting points in the Council of Ministers; see *Spiegel Online International,* 'The Unloved Neighbors (sic)' (June 20, 2007), available at http://www.spiegel.de/international/europe/0,1518,489510,00.html, accessed 2008-06-17.
[24] *World Nuclear Association*, 'Nuclear Power in Bulgaria' (Mai 20, 2008), available at http://www.world-nuclear.org/info/inf87.html, accessed 2008-06-17.

Sub-national Direct Democracy in Multicultural Societies: A Trojan Horse or Useful Tool?

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Introduction

In today's world, decision-making is ever more complex. Globalization, European Integration and individualization challenge classical forms of political decision-making. Different actors with different legitimacies at different levels all play a role in shaping nearly every policy. Direct democracy opens up possibilities for direct involvement of the citizenry in political decision-making. It fosters popular participation and enhances responsiveness. It is thus a tool for overcoming democratic deficits and increasing transparency. Since the 1990s both the number of states offering direct-democratic instruments and the use of such instruments have considerably grown. In Europe, the pattern of direct democracy represents a colorful mosaic on four levels of political systems: local, sub-national, national and European.[1]

This article focuses on direct democracy at sub-national level. By analyzing some case studies it intends giving food for thought on the use of direct-democratic instruments in multicultural societies. On the assumption that both direct and representative democracy are constituent parts of the democratic principle, direct democracy in this article refers to citizens making policy and law decisions in person, without going through representatives and legislatures. Direct democracy in this article stands for institutional change and a participatory federal political culture. Federalism indeed is both a form of division of powers and responsibilities and a tool of coordination and cooperation among the levels of government and all its stakeholders.

Against the background of the failed referenda carried out in autumn 2009 in South Tyrol (Italy) the article focuses on the relationship between the use of direct-democratic instruments and the

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[1] An up-to-date electronic data base on direct democracy is provided by C2D – Research and Documentation Centre on Direct Democracy at http://www.c2d.ch/ (25.01.2011). General Information on the state of direct democracy is provided by www.iri-europe.org (25.01.2011).

protection of group rights. Both are, in *prima facie,* contradicting concepts, especially in multiethnic societies.

Overall the paper defends the thesis that direct democracy opens up new political spaces in empowering peoples' participation and in enhancing democracy bottom-up (political science perspective). Furthermore, the paper argues that the emergence and development of direct democracy can also be considered as the expression of a redefined version of the classical centralization-decentralization categorization (constitutional law perspective). The paper does not intend to favor or disfavor direct democracy but intends to give food for thought of its use in multicultural contexts.

Direct democracy and the protection of group rights: the case of South Tyrol

In October 2009 the first referenda took place in the Autonomous Province of Bolzano/Bozen[2], a bi(tri)lingual territory (German, Italian, Ladin) in Northern Italy. The Province is generally considered to be one of the most successful examples of the accommodation of minorities through territorial self-government. The extensive self-government provided by the current institutional setting has been advanced in order to settle interethnic disputes and guarantee group rights.[3] The autonomy arrangement for South Tyrol is strongly characterized by detailed legal safeguards and is highly asymmetrical also compared to other special regions in Italy (Palermo, 2004a, pp. 107-131; Zwilling, 2007, pp. 116-129) enjoying a special and unique position within the Italian legal system (Palermo, 2008a, pp. 33-49). Its population of half a million consists of almost seventy per cent German-speakers as slightly more than twenty-six per cent Italian-speakers and roughly four per cent Ladin-speakers (data referring to the census of 2001).[4] The whole institutional setting in South Tyrol is a power-sharing system based on strict separation and forced cooperation

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[2] The Autonomous Province of Bolzano/Bozen and the Autonomous Province of Trento form together the Autonomous Region of Trentino-South Tyrol in Northern Italy, one of Italy's five special regions alongside the fifteen ordinary ones.

[3] Annexed by Italy after World War I, South Tyrol suffered a strong policy of assimilation during the fascist regime. After a long-lasting dispute between Austria and Italy the international conflict regarding South Tyrol was settled in 1992: the full implementation of the autonomy system and a satisfying protection of its German-speaking minority were officially acknowledged.

[4] ASTAT, South Tyrol in figures (Provincial Statistics Institute, Bolzano/Bozen) at http://www.provinz.bz.it/astat/de/service/daten-online.asp (25.01.2011).

of the two main linguistic groups, German speakers and Italians (Wolff, 2008, pp. 329-370). The German language is set on a par with the Italian language, which is the official language of the State (Art. 99 of the Autonomy Statute). Every person may use Italian or German (in limited areas also the Ladin language) in the relations "with the judiciary and with the organs and offices of public administration located in the Province (…), as well as with private companies with concessions to provide public utility services" (Art. 100.1 Autonomy Statute). This principle of ethnic governance based on an institutionalized linguistic regime (Fraenkel-Haeberle, 2008, pp. 259-278) provides for a large spectrum of group rights, which penetrates the field of public jobs, the distribution of financial resources and the organization and administration of the educational system. South Tyrol's ethnic governance is based upon the 'ethnic quota system': German, Italian and Ladin speakers shall be considered in certain fields according to their numerical strength inside the population (Lantschner, Poggeschi, 2008, pp. 219-233). The most widely know field of application of this quota system is the public administration: for the personnel in public offices, the positions are "reserved for citizens belonging to each of the three language groups, in proportion to the size of the groups themselves, as they appear in the declarations of the official census (art. 89 ASt)". It is however important to point out that the system also applies to the allocation of financial resources.

On 25th October 2009 the first referenda took place in South Tyrol (Alber, Palermo, 2010, pp. 223-241). All five questions put to the ballot failed because none reached the turnout quorum of forty per cent (the voters' turnout was, depending on the issue, between 37-38%). Pursuant to the reform of the South Tyrolean Autonomy Statute in 2001[5], the regulations for the electoral system and for the use of direct democracy instruments were changed (Palermo, 2004b, p. 33). A provincial law, approved by qualified majority, shall, among others, determine the use of the right of popular initiative and the right to provincial referenda aiming at repealing a law, advancing a proposal, or holding a consultative referendum (art. 47 para. 2 Autonomy Statute). The provincial law n° 11/2005 specifies that a bill shall be subject to referendum if 13,000 signatures of persons belonging to the provincial electorate have been collected; furthermore, a technical commission[6]

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[5] Constitutional Law 2/2001 (art. 4).

[6] There are no clear rules on the composition of the technical commission (the law is thus ethnically neutral): art. 8 of the provincial law 11/2005 only provides for three judges; nothing is prescribed with regard to the linguistic affiliation of the members who are part

– composed of three judges – is in charge of supervising the procedures. The turnout quorum for the validity of the referendum is fixed at forty per cent. Overall, the regulatory system is characterized by a general distrust of the legislator in the ability of the people to make decisions.

In 2006, three groups of proponents elaborated five different bills. The referendum was finally carried out in autumn 2009. Of the five popular initiatives, two are of particular importance. Both of them aimed at introducing significant changes to the provincial regulatory system with regard to direct democracy.[7] The proposing committees wanted to 'use direct democracy to change direct democracy'; in fact, the referendum aimed at modifying the existing law on direct democracy and making it more accessible for the citizenry as a complementary means to representative democracy.[8] Neither proposal included the same extent of guarantees for the protection of the linguistic group rights as the one included in the Autonomy Statute of South Tyrol; the population was skeptical because of risk that a group of proponents could outvote another group's rights. Also the technically sophisticated bill put forward by the 'Initiative for More Democracy' lacked such a detailed guarantee mechanism. Too little attention was paid to including legal guarantees similar to the ones in the Autonomy Statute. Besides the institutional guarantees (the parity principle in relation to the composition of the representative organs), the Autonomy Statute provides for veto powers (art. 56) and appeals against administrative acts (art. 92 para. 1), if these are considered prejudicial to the principle of the equality of citizens in regard to membership of a linguistic group.

Such "emergency brakes" would not (yet) be included in the proposed direct-democratic system (Alber, Palermo 2010, p. 225), and consequently direct democracy could have been quite easily misused to

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of the commission. Implicitly, the proportional system that permeates South Tyrol's institutional system also applies to this commission (two German-speakers and one Italian-speaker). The lack of a clear rule (and thus the indifference in ethnic terms of the norm) leaves politics and *ad hoc* decisions a large margin of discretion. Contrariwise, if the law provided for a linguistically-defined composition, it would exclude the Ladin group, the latter not being represented as such in the judiciary.

[7] The two proposals were proposed respectively by the party Union für Südtirol (http://www.lautemitte.st/; 31.08.2010) and by the Initiative for More Democracy (http://www.dirdemdi.org/neu/it; 31.08.2010).

[8] The 'Initiative for More Democracy' pointed out that direct democracy represents a necessary complement to indirect (representative) democracy. Without direct-democratic instruments the citizenry would be a mere spectator in the political arena, forced into political apathy. Without direct democracy, political power tends to become auto-referential and develop authoritarian tendencies, legitimized by the necessity to increase the efficiency of governmental action.

impose the will of the majority on the minority in the ethnic governance system of South Tyrol. The bill proposed by the 'Initiative for More Democracy' excluded from its scope of application norms that forbid discrimination against linguistic groups, but this omission is in fact not of huge relevance. There are few norms that directly refer to this sphere (mainly enactment decrees[9], and as such not subject to referendum).

As already stated beforehand, the Autonomy Statute establishes a system of group rights that applies to everyday life in South Tyrol, with numerous different norms that in abstract terms could have repercussions on the linguistic group rights. For example, one could propose to put on the ballot provincial government bylaws for rebates on financial contributions by the Italian and Ladin minority groups. The proposed legislation could also have had consequences for the equilibrium between the different groups in other spheres such as the regulatory system of social housing (Alber, Palermo, 2010, p. 225).

The geographical analysis of the failed referenda reveals that the voter turnout was particularly low among the Italian-speaking South Tyroleans. This seems to confirm that the bill did not contain enough legal guarantees for the group rights, thus offering the majority group (German speakers) the possibility to regularly outvote other groups. Other factors, such as the separated public spheres and the divided public opinion on the issue at stake, also help to explain the failure. This does not mean that the South Tyrolese system of group rights is *a priori* incompatible with direct-democratic instruments. The quest for more participatory decision-making got visibility and the ball was set in motion. For the time being, a draft for a revised law on direct democracy is being elaborated and the 'Initiative for More Democracy' has filed a petition for a referendum on a draft to revise the existing law on direct democracy.[10]

Direct-democratic instruments and minority rights: an (im)possible relationship?

The two concepts of direct democracy and minority rights are – *prima facie* – two contradicting concepts. The inherent nature of direct

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[9] The relationship between the Italian State and the special regions (thus also the Autonomous Province of Bolzano/Bozen) are based on parity. So-called Joint Commission(s) (Art. 107 Autonomy Statute) prepare the texts of the enactment decrees implementing the Autonomy Statute. Enactment decrees have a peculiar rank as sources of law. Their binding force is superior to that of all other governmental decrees. They hold a status between an ordinary law and a constitutional law and cannot be amended by a subsequent law of parliament (see further on this point Palermo, 2008b, p. 147).

[10] Updated information at www.dirdemdi.org/neu (25.01.2011).

democracy is that the majority rules over the minority. In fact, direct-democratic instruments allow a majority of citizens to impose their rule on a minority whereas the protection of minority rights is mainly based on guarantees that go beyond the purely numerical factor. Thus, opponents of direct-democratic instruments affirm that the latter are likely to endanger human rights (and thus minority rights). Advocates of direct-democratic instruments however tend to oversee that there is a basic contradiction between their use and the protection of minority rights as part of human rights.[11] In their eyes, direct democracy is seen as the ultimate goal in affirming civil rights. The consequences of the introduction of direct-democratic instruments in majority-minority and multi-minority societies should be taken well into account from the beginning – especially if the territorial institutional system organizes groups along ethnic lines. The consequences are significantly different in societies composed of distinct majority and a minority or minorities, and those societies composed of a number of minorities with no distinct group being in a majority position. In the first case, minority groups feel themselves vulnerable to dominance by the permanent majority (and by its logical and arbitrary use of direct-democratic instruments). In the second case, with no distinct (permanent) majority group there is likely to be a greater willingness to make alliances from time to time based on the subject-matter. Multiple majorities are supposed to develop rational content-based arguments rather than arguments on the grounds of an 'us *vs*. them' mindset. In other words, if there are economic, social and political cross cleavages, no group of citizens is always in the majority position. Groups will thus be careful not to antagonize other social groups (Frey, Stutzer, 2003, p. 32). Giving the citizens more voice in governmental processes should also lesson alienation and apathy (Cronin, 1989, p. 11). Moreover, the political discussion induced by initiatives and referendums generates a common understanding for different political views favoring a common public

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[11] Against the background that there is no universally accepted definition of the concept of minority, for the purpose of this article the minority concept is analysed from a political point of view, namely from the politics and legal order of the states in question and thus implicitly also from the applied concept of nationality. The starting point is that minority rights are an integral part of human rights (see for example para. 30 of the OSCE's Copenhagen Document and Art. 1 of the Council of Europe's Framework Convention for the Protection of National Minorities). The essence in defining minorities lies in maintaining coherency and consistency in terms of both political theory and legal order. The importance of such a definition lies at a practical level in its capacity to delimit the subject matter to be dealt with and at a theoretical level in the fundamental need for the clarity and foresee ability of law, thus removing any doubts regarding the beneficiaries of minority rights.

sphere. The social contract based on consensus would ensure "people's motivation to go beyond acting out of narrow self-interest" (Frey, Stutzer, 2003, 13). This ideal type of common public sphere is desirable but is not the reality in most multiethnic societies.

What matters are not only the results of direct democracy instruments (if appropriately implemented), but also their effects on the population (in both, the pre-referendum[12] and post-referendum political bargaining phase). Direct-democratic instruments clearly reveal how the population feels about the matter and identifies how significant every group is. Groups dissenting from the majority are identified, they become visible and thus part of the political process and modified public sphere(s). Majority-minority and minority-minority relations have to be taken into account from the beginning. Both the information campaign(s) in the pre-referendum phase as well as the announcement of the results evoke pressures on the electorate and politics, especially in ethnically sensitive societies.

Generally speaking, where the impact of direct democracy on multicultural societies is concerned scholarship tends to point in contradictory directions and not to offer a clear answer. Barry (1975, p. 485), for examples, claims that direct democracy is the 'antithesis' of consociational democracy as in a referendum a majority of fifty per cent plus one is usually sufficient to win. Gerber states that empowering the state's majority through direct democracy may result in disregard for basic minority rights as direct democracy "lacks the checks and balances that provide minority groups with multiple points of access in the legislative process" (Gerber, 1999, pp. 142-143). Thinkers like Plato, Weber and Schumpeter expressed doubts about the competence of citizens to vote on complex political issues.

However, other scholars stress that direct democracy institutions may be a good instrument for minorities (Kobach, 1993, p. 261): its combination with consociational structures "has proven effective in coping with demands of an extremely heterogeneous society". Bottom-up direct democracy would enable minorities to put issues on the political agenda that have been ignored or not sufficiently paid attention to by the institutions of representative democracy.[13] Also the recent concept of

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[12] The pre-referendum discussion process should be interpreted as an exchange of arguments (pros and cons) among equal persons and take place under the guidance of well-defined rules. Such an institutionalized discussion process would meet various conditions of the 'ideal discourse process' envisaged by Habermas (1983).
[13] Depending on who has the right to initiate a popular vote one has to distinguish between bottom-up direct democracy (facultative referendum, popular initiative) and top-down direct democracy (compulsory referendum, plebiscite). According to the

'power dividing' favors direct democracy institutions. Rothschild and Roeder stress that in divided societies some decisions have to be taken out of the hands of the government and parliament and left to the private sphere and to civil society. They emphasize the creation of a context of multiple majorities and minorities as a beneficial effect of a frequent use of direct-democratic; such multiple contexts "increase the likelihood that members of ethnic minorities will be parts of political majorities on some issues and many members of any ethnic majority will be members of political minorities on some issues" (Rothchild, Roeder, 2005, p. 17).

Switzerland's multiethnic (direct) democracy

Multilingual Switzerland seems (still) to prove that direct democracy is an integrative force. It is the world leader in the practice of direct democracy, but direct-democratic instruments are surely not the only factor explaining Switzerland's stable democracy. The Swiss legal and political system exemplifies that a federal structure favors direct-democratic instruments. In fact, the extended possibilities of democratic decision-making are a central aspect of federalism (in line with the subsidiarity principle). Indeed, the relationship between federalism and direct democracy is one of mutual and beneficial dependence (Rehmet, 2003). Both should guarantee greater efficiency and democracy. Territorial management across Europe at federal, regional and devolved level has arisen during recent decades in order to make policies more accessible for citizens and non-citizens and to ensure their involvement in government processes - as does direct democracy. Generally speaking, there is a quest for deliberative and participatory democracy schemes being applied to all decision-making processes at every level of government; these often result in asymmetrical institutional schemes and differentiated policy-making to better meet the voters' preferences and local necessities. Against this background the introduction of direct-democratic instruments in local and sub-national politics is often seen as the remedy for political deadlocks when representative democracy fails to meet the electorate's will.[14]

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political scientist Vatter (1997) the popular initiative and the facultative referendum are closer to consociational democracy, as envisaged by Lijphart (2002), than to the majoritarian model. The obligatory referendum and the plebiscite are, on the contrary, closer to majoritarian rule.

[14] An often cited example of referenda breaking deadlocks in societal decision-making is the secession of the Swiss canton of Jura from the canton of Berne after the holding of a number of referenda. The Jura example shows that it was precisely direct democracy that allowed a peaceful resolution of a tense conflict situation of differing ethnolinguistic claims in Swiss history.

Direct democracy in Switzerland has been and still is an important factor in fostering internal cohesion. It is claimed to be a constituent factor due to its long tradition and frequent use.[15] Also the fact that all Swiss parties, as well as NGOs, are multilingual has been recently explained as a consequence of direct democracy (Tresch 2008, p. 280). Stojanović claims that the frequent use of direct democracy produces four advantages: a bottom-up democracy, obstacles to the emergence of divisive ethnolinguistic discourses, a common demos[16], and centripetal effects across language borders (Stojanović 2009a, p. 11). This scholar also assumes that direct-democracy instruments could serve as a possible solution for the Belgian case[17] and even for the post-conflict federation of Bosnia-Herzegovina (Stojanović 2009b), provided that ethnically sensitive subject matters are excluded. The gradual introduction of direct-democratic instruments would transform divided public opinion in heterogeneous societies. Groups would gradually recognize that the linguistic cleavage is but one form of conflict. Direct democracy would thus produce consensus-oriented effects and in the long run be able to form a united content-based public opinion.

In the Swiss case the double-majority requirement for both the obligatory referendum and the citizens' initiative (approval by a majority of the actual voters and a majority of the cantons) represents but one strong element of the protection of minorities. Additional fundamental aspects are the Swiss civic culture and the fact that the lines of conflict in Swiss society crisscross and overlap, favoring changing majority and minority constellations (Marxer, Pállinger, 2009, p. 49).

The frequent use of direct-democratic instruments also contributes to dissolving potential tensions between linguistic groups. However, even in Switzerland the use of direct democracy did at some point create tensions between language groups. Linguistic cleavage and tensions emerged in the four multilingual cantons on a number of votes which concerned 'communitarian issues' like the teaching and use of different languages in schools, or new electoral systems with effects on

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[15] The Swiss "Konkordanzdemokratie" (consensus democracy) is seen as a by-product of direct democracy (Neidhart, 1970).

[16] Contemporary political theorists consider the emergence of such a demos as indispensable for a stable democracy and for cross-country social solidarity (Habermas, 1998).

[17] Stojanović advances "the thesis that direct-democratic tools can greatly (and perhaps decisively) contribute to establish stable democracy in a truly multilingual society". He defines this as "a side-effect and a true paradox of direct democracy". Other scholars counter this by claiming that the institutionalization of direct-democratic instruments in the Belgian context could hardly play an integrative role. However, they agree with the underlying logic of Stojanović's proposal that institutional changes are necessary.

linguistic proportionality in the cantonal government (Stojanović 2006). Another study shows that linguistic minorities are outvoted; even though direct democracy occasionally violates the interests of linguistic minorities, the use of direct-democratic tools seems to be beneficial in protecting them against parliamentary decisions that a majority of them feel uneasy about (Bolliger 2007, p. 442).

Against the background that one cannot ignore the fact that individuals are influenced and determined by political power, Swiss rational content-based direct democracy is being challenged by recent tendencies towards the promulgation of 'us vs. them' policies. The growing number of popular initiatives also calls for an in-depth reflection on how the political system responds to the increasing diversity of Swiss society and seems to confirm the hypothesis that the political system is less capable of integrating new demands arising from that increased diversity (Papadopoulos 2001, p. 49; Marxer, Pállinger, 2009, p. 51-53). This becomes visible whenever the Swiss citizens accept an initiative that is incompatible with the European Convention on Human Rights.[18] Given the linguistic and religious heterogeneity in Switzerland, it is (wrongly) assumed that there is no tension between direct democracy and the guarantee of pluralism and that, on the contrary, Switzerland's solid democratic system exemplifies how direct democracy goes hand in hand with the representative system (Tiefenbach, 2005). The Swiss legal order is grounded in a strict application of the territorial principle in linguistic matters[19]. The protection of group rights at the federal level derives from the sum of as many majoritarian systems as there are cantons (with the partial exception of the three bilingual cantons and one trilingual canton). In other words, the guarantee of pluralism and the respect of minority positions is nothing else than the product of many sub-national systems that do not legally protect minorities (except the multilingual cantons), combined with a political consociational culture that tends to involve minority groups in decision-making without being obliged to do so. Thus, minorities are rather exposed to the risk of being outvoted as there exist no legal guarantees for the protection of minority positions in exercising direct-democratic instruments, which can essentially concern all laws. A proof of the lack of legal instruments

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[18] This is not intended to disfavor direct democracy. Representative democracy legislation can also easily be in conflict with human rights (see, for example, the death penalty in the US). The relationship between direct democracy and human rights is more fully discussed in Kirchgässner 2009.

[19] Art. 70 para. 2 Federal Constitution. See also the interpretation of the Federal Tribunal (Schweizerisches Bundesgericht, BGE 106 Ia 299, 302 and 305).

aimed at protecting minorities that politically are not considered to be part of the system is the vote on the Minaret ban of the 29th November 2009. The majority of Swiss (57 per cent) and the majority of the cantons approved the popular initiative "Against the construction of Minarets" and in this way introduced a ban on the construction of further minarets into the federal Constitution (Art. 72 para. 3).

The Swiss legal system does not provide for any jurisprudential control if the controversy is part of a constitutional revision (in the case of the Minaret ban the vote was thus a legitimized expression of majoritarian rule).[20] Does this therefore mean that direct democracy in Switzerland is very well compatible with its 'classical' minority groups, but not with new minorities arising from immigration? In the absence of a political guarantee for the minority (the Islamic minority is apparently not part of the consociational system), the vote was a legitimate expression of the electorate's will. The territorial analysis of the vote indicates that a large majority of the biggest part of Switzerland, the German-speaking part, voted in favor of the ban, whereas a majority in the French-speaking part voted against the ban.[21] This exemplifies that the vote of a 'classical' group of Swiss citizens, the French speakers, can be quite easily outvoted. The model of intra-national exclusion seems to be being replaced by a model of exclusion between nationals and immigrants.

Concluding remarks

This contribution was motivated by a desire to reflect upon the potential and risks of direct democracy in the presence of multiethnic societies with diverging interests. Against the background of the failed referenda in South Tyrol the paper particularly focused on the sub-national level.

There is no doubt that there is a general restrictive effect of direct democracy on minority rights. This does not mean that direct democracy and the protection of minority groups and interests are *a priori* incompatible. Direct-democratic instruments are not an all-or-

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[20] The marginal role of the Federal Tribunal in the Swiss case is more fully discussed in Kirchgässner, 2009, p. 16; he compares its role with the German Constitutional Court and advances the thesis that the Swiss Federal Tribunal should play a bigger role in guaranteeing the use of direct democracy and its compatibility with European Human Rights Standards.
[21] The only 4 cantons (out of 26) that voted against the initiative were Geneva, Neuchâtel and Vaud (French-speaking) and Basel city (German-speaking). The vote did not respect the voice of the French group who mostly voted against the proposal. The cantons of Geneva and Neuchâtel are influenced by French secularism and the slogan '*blanc-black-beur*'. They are also the only cantons that have explicitly adopted the separation of state and church (Art. 164 Geneva constitution; Art. 97 para. 2 Neuchâtel constitution).

nothing tool. They may be appropriate if the legal and political system provides enough guarantees against their misuse, avoiding that minority groups resulting from the dynamics of a referendum on a specific issue coincide with those ethnic, linguistic or religious minority group(s) specifically protected by the local regime. It is obvious that such a coincidence between a political minority and a legally recognized minority group is more likely if the electorate tends to vote along ethnic, linguistic or religious lines. An appropriate arrangement of direct-democratic instruments is anything but easy. The normative possibilities seem to be at the very core of making direct democracy work efficiently in multiethnic contexts.

The emergence and development of direct-democratic tools can also be considered as the expression of a refined version of the classic centralization-decentralization categorization and as the inevitable response to weaknesses of representative democracy. Direct democracy might be an appropriate complementary tool: a counterweight to representative democracy, offering a supplementary means of political articulation and additional political space for debate. The initiative-process itself can be regarded as supportive of democracy since proponents open up for debates on issues that are brought forward from the bottom up. In such a way the participation of citizens in the legislative process can be encouraged and civic engagement increases. This goes in line with the participatory democratic theory, which argues that given more opportunities for meaningful participation, voters will learn to become more active and engaged democratic citizens. The participatory model further suggests that strengthening the relations between citizens and policy-makers will improve decision-making processes. To those putting forward the critique that citizens are not able to understand complex issues one could reply that they tend to overlook the fact that it is more difficult to follow and understand representative politics because elections do not take place so frequently and because the electorate is asked to evaluate subject-matters based on the candidates' intentions and ability to keep promises.

The inherent character of direct democracy instruments with regard to multicultural societies is surely Janus-faced: they can facilitate the awareness of possible common public spheres, but might also perpetuate and intensify cleavages. Especially in contexts of institutionalized ethnic, linguistic and religious diversity direct-democratic instruments may only work efficiently if, in addition to legal guarantees, other factors such as the civic culture, the mass media, the party system and the public sphere are also receptive to such decision-making processes. This is because direct democracy has effects on the polity, politics and policies. A gradual introduction of direct-democratic tools and their

subsequent frequent use, combined with legal and political guarantees, allows for possible relationships between direct democracy, minority rights and minority interests. The statement that "every idea needs an argument and also a reality check" seems to be particularly valid with regard to the application of direct-democratic instruments in multicultural societies.

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Cosmopolitan Democracy: Paths and Ways

Daniele Archibugi and David Held

Twenty years after

When at the end of the cold war and at the beginning of a new wave of democratization we suggested the idea of a cosmopolitan democracy (Archibugi and Held, 1995; Held, 1995), we were aware that we were pouring old wine into new bottles. The attempt to make world politics more transparent, more accountable, more participatory and more respectful of the rule of law had pioneers spanning from Immanuel Kant to Richard Falk. Much work, both in theory and in practice, was carried out by a variety of political and social associations. The World Federalist Movements in the United States, in Europe and in a variety of other countries elaborated a variety of proposals to achieve a more effective, representative and legitimate global political authority (for a review, see Levi, 2008).

Still, the idea that "democracy" as a concept and a practice could and should be applied beyond nation-states was somehow innovative in mainstream political science. If we read the international relations textbooks prior to 1989, we may be surprised to note that many of them do not even contain the word "democracy". When the word appears, it is generally in reference to the internal political system of states and certainly not in relation to the possibility of subjugating world politics to democratic rules. Even international organizations were mostly seen as purely inter-governmental bodies and the prospect of making them more democratic was not contemplated. The European Union, the first international organization composed exclusively by democratic regimes and with some germs of democratic norms in its *modus operandi*, was mostly discussed in relation to the limits it imposed on its member countries rather than in terms of its ability to deal publicly with trans-national issues. The state of the art was not very different in the realm of democratic theory. Most of the textbooks dedicated to democracy, including the first edition of the work of one of us (Held, 1987), did not contain any reference to the problem of democracy beyond borders. Many of these textbooks addressed in detail how

decision-making within town halls, counties and central governments could foster or hamper democracy. But democratic theory ended at state borders: it had nothing yet to say beyond this level of analysis.

Today the state of the art is substantially different: international relations and democratic theory both take for granted that "democracy beyond borders" is an issue to be discussed. Most of the recent international relations handbooks devote at least a chapter to the question of democracy within international organizations and of the impact of globalization on national democracies. The same applies to handbooks on democracy, which often devote the last chapter to the challenge of expanding democratic values to the international system.

Of course, not everybody is convinced that a cosmopolitan democracy is needed or desirable. Opponents are clearly more numerous than supporters. Robert Dahl, Ralf Daharendorf, David Miller, Philippe Schmitter and many others have more or less politely declared that the idea of applying the concept of democracy beyond the state is premature or even naïve. However, other scholars, including Jurgen Habermas, Richard Falk, Ulrich Beck, Mary Kaldor, Tony McGrew, Jan-Aart Scholte and Saskia Sassen have contributed to the development of this vision from a variety of disciplinary backgrounds. Moreover, the hope of cosmopolitan democracy has reached the hearts and minds of many young scholars, which are increasingly providing fresh ideas and sophisticated analytical tools.

The aims of the cosmopolitan democracy project have never been limited to academic discourse. On the contrary, the ambition was mostly to provide the intellectual arguments to achieve elements of transformation in the real world. It should be recognized that, while the academic discourse has been unexpectedly successful, the hopes to obtain a democratic transformation of world politics have achieved so far very modest results. In fact, most of the proposals put on the table in the last two decades have not been implemented; a fact that is not entirely surprising, given how long it takes to change and reshape institutions. A change in the rhetoric, at least, is perceivable: since the beginning of the 1990s, statesmen are less likely to justify their actions on the ground of national interests, while international organizations are now keener to be accountable not only to diplomatic circles but also to public opinion at large. It is difficult to foresee now if this change will remain a simple cosmetic coverage or if it might lead to substantial transformations.

In this paper we address an issue that has not yet been satisfactorily discussed in our previous work: who are the agents that might promote cosmopolitan democracy? While we have elsewhere illustrated the reasons that justify the need and the possibility of a cosmopolitan

democracy (Held, 1995, 2010; Archibugi, 2008), and others have discussed its possibility (Koenig-Archibugi, 2010), we have not yet discussed the social, economic and political processes that may lead some agents to support the political innovations suggested by the model. We are well aware that political transformations occur because of a combination of idealistic and materialistic motivations and that both top down and bottom up forces do contribute to the development or obstruction of change. In the next section we single out a few areas were changes in line with cosmopolitan democracy have been debated, while the subsequent sections are devoted to identifying the top-down and bottom-up agents that could promote cosmopolitan democracy.

Paths toward cosmopolitan democracy

If we ever manage to achieve a form of global governance that embeds some of the values and norms of democracy, it is very unlikely to happen as a result of a single grand plan. It is, on the contrary, more likely that various changes and reforms introduced at the local, national, regional and global levels will together contribute to a progressive transformation of world politics, and that each innovation provides inspiration and encouragement for further changes. The idea of a cosmopolitan democracy was never intended to provide a closed recipe, but as a unifying framework for a battery of proposals and campaigns that, in different ways, aim to develop global governance in a democratic direction.

Many ideas for reforming global governance have been debated by diplomats and activists, governmental authorities and nongovernmental organizations, businessmen and scholars, at the United Nations, the G8 and G20 summits, the World Economic Forum and the World Social Forum. Some suggest reforms to current international organizations and others argue for new ones. Some stress the role of social movements, others the need to give more space to selected groups of stake-holders. There are campaigns that insist on the crucial importance of legal institutions, while other groups suggest giving to the business sector a more prominent role in managing global issues (see Held, 2004). We do not consider this variety of proposals competing against each other. On the contrary, we tend to look at most of them as complementary attempts to move towards a world order that progressively encompasses at least some forms of democracy. We sketch below some of the areas where transformations have been advocated.

States as champions of cosmopolitanism. – States can be champions of cosmopolitanism within their own borders. Most states have to deal with a citizenry with diverse languages, religions, ethnicities and ideologies. Each state has the opportunity to experiment with different forms of political participation, and with those minority rights that have been advocated by multiculturalists. Many states, especially Western states, are also facing an increasing challenge from migration. Aliens have fewer rights than natives in most states and, with transborder flows of people on the increase, this is making accommodation more problematic and it is generating mounting internal tensions. A state willing to become a champion of cosmopolitanism should make an effort, where possible, to reduce disparities between natives and strangers and offer to aliens the political rights enjoyed by its citizens. The expression "cosmopolitan state" may at first appear an oxymoron, but cosmopolitanism is a set of values and practices that can be implemented by any political institution, including the state (Brown, 2011; Beardsworth, 2011). International institutions can also be a positive stimulus to induce states to introduce more progressive standards in this regard. The UN Human Rights Council, the Council of Europe and the European Union all have monitoring programmes that critically assess respect for minority rights within their member countries.

For a democratic foreign policy. – One of the core demands of cosmopolitan democracy is to obtain a substantial change in national foreign policy priorities, especially those of the liberal and powerful Western states. A democratic state should use its foreign policy instruments to become a good member of the international community even at the expense of short term disadvantages. For example, consolidated democracies should support foreign political parties and activists willing to foster democracy in despotically ruled countries rather than those who might be more congenial to their own national interests. For too long democratic countries have passively accepted or even actively supported dictatorial regimes when this was in their interest. A new foreign policy doctrine based on solidarity among democratic forces is now needed. This does not necessarily mean that democratic countries should create new institutions to exclude other despotic governments, as suggested by the proposal for a League of Democracies (see Carothers, 2008, for an assessment). Such a proposal risks creating a further divide among countries and could have the paradoxical effect of creating international cohesion among despotic countries and the isolation of democratic movements within these countries.

The reform of International Organizations. – International Organizations (IOs) embed some elements of democracy as they are based on treaties and charters, their actions must not violate international law, their operations are transparent to a certain extent and their activities and policies are accountable to their member states to a degree. But many of the core ideas of democracy, such as the principle of equality among citizens, are not applied. Most IOs started as clubs for national governments, but they progressively incorporated, often in a decorative role, larger numbers of stake-holders. As a result of the participation of the business sector and non-governmental organizations, IOs have managed to expand their authority and legitimacy. Yet, while plans to reform the UN and other IOs have emerged from policy debates and academic writings, they have not been implemented (for a review of proposals, see Patomaki and Teivainen, 2004). The bulk of these proposals aim to increase the role and functions of IOs and to enlarge participation and accountability. Many of the reform proposals could substantially enhance the independent political role of IOs, making them something other than simple instruments of national governments. This would help make them one of the core institutions of a cosmopolitan democracy. Perhaps surprisingly, opponents of these proposals are not only found among autocratic states, but among democratic ones as well.

Global judicial authorities. –The rule of law and its enforcement is an essential component of any democratic system. Cosmopolitan democracy supports the development of a more effective global rule of law, while remaining sceptical of the enhancement of coercive supranational powers in general. Several IOs, including the European Union and the United Nations, already have complex legal norms and embryonic judicial power. These bodies have a weak authority in world politics since they lack enforcement capacity. Nevertheless, if international norms and jurisdictions become more sophisticated, it will be increasingly costly for governments to violate them. There are at least three aspects of the global judicial authority that should be taken into account: the emerging global criminal justice system, the need to reinforce legal solutions to interstate controversies and the need to provide adequate transnational administrative rules for both the public and the business sectors.

Criminal justice. – The creation of several *ad hoc* international courts and, above all, the International Criminal Court (ICC) have generated new hopes to hold egregious criminals, including politicians,

accountable for their actions. Indeed, the ICC is the most significant institutional innovation introduced in the post cold war era. Much could still be done to make the Court fully operative, and to induce all countries to accept its jurisdiction. But it is already possible to assess its first few years of activities (see Glasius, 2009). To date, the ICC has mostly acted on suspected African culprits, and on insurgents fighting against, and denounced by, incumbent governments (the case opened against the Sudanese President Omar al-Bashir is a significant exception). All investigations undertaken are well documented, but the coverage is still highly selective. There is the danger that the ICC will be perceived as an instrument of incumbent governments against rebels and another burden of the white man over the black man. Those who hoped that the ICC could also be an instrument in defence of the weaker against the most powerful have so far been disappointed. There is the need to balance the action of the Court to cover cases in which the crimes are committed by Western individuals. For these reasons, the operation of the ICC can be stimulated and reinforced by other bottom-up initiatives such as Opinion Tribunals, which may be selective and politically motivated, but are less influenced by diplomatic negotiations and could call the attention of public opinion and of the official criminal courts to cases that have been overlooked.

Lawful conflict resolutions. – Interest in the ICC has somewhat overshadowed an equally important problem, namely the need to address interstate controversies through legal instruments. The International Court of Justice (ICJ), the body within the UN system that should address these controversies, is highly underused mostly because it can be activated only when both parties in a dispute are willing to accept its jurisdiction. Unfortunately, this happens very rarely and too often is activated for relatively insignificant controversies. If we read the sentences and the opinions provided by the Court, we will have a much distorted view of the world history of the last 60 years. The Vietnam war, the invasions of Hungary and Czechoslovakia, the Iraq war, the legitimacy of nuclear weapons and many other key international controversies have not received any attention from the Court for the very simple reason that states were not willing to submit core case to its judgement. A major expansion of the global rule of law would require empowering the ICJ with compulsory jurisdiction, making the Court, not just a sort of "referee" among two states but a proper Tribunal (Falk, 1998). This does not necessarily imply that the ICJ would have the power to enforce its own judgements. But even in absence of enforcement, a judgement denouncing the behaviour of

some states would have an important impact on international relations. And, again, this is a change that each state could implement individually; several states have already accepted the compulsory jurisdiction of the ICJ.

International administrative courts. – One of the most relevant trends in international law is the development of judicial or semi-judicial authorities for administrative purposes and the business sector. Rather than using national courts, both public and private players prefer to activate elements of *lex mercatoria* (the global framework of commercial law) and to use special courts set up for the purpose of hearing such cases. This new network of judicial institutions is in fact replicating, at the global level, the functions of the state: namely, arbitrating in cases of controversy. At the same time, these legal developments show that there are some possibilities to obtain conflict resolutions also in absence of a coercive power of last resort.

Citizens' participation in global politics. – Cosmopolitan democracy advocates giving citizens political representation, in parallel and independent assemblies from those of their national political institutions. There is a wealth of proposals aimed at creating this, but the most straightforward way to achieve it would be to create a World Parliamentary Assembly similar in composition to the European Parliament. Such an institution would be the natural and most effective way to help bring together the peoples of the earth, allowing them to deliberate on common issues (see Falk and Strauss, 2001). It is unlikely that such an organ would have effective powers (at least in the short and medium period), but even if it were simply a forum reflecting and deliberating upon global public opinion it could play an important role in identifying and confronting policies on world issues. This Assembly would not necessarily be involved in every aspect of global political life, but it could concentrate on the most relevant and pressing issues: for example, those with a high impact on global life (e.g. the environment) or those with huge political significance (e.g. major violations of human rights). On some occasions, the World Parliamentary Assembly could provide suggestions on what is the most appropriate constituency to address issues that cut across borders. Such a new institution would complement the UN General Assembly and could work in close connection with it. It could provide political representation in global affairs to individuals and collective groups that are so far deprived of it: ethnic or political minorities within states, stateless groups, immigrants,

refugees and, more importantly, peoples who still live under authoritarian regimes. Its usefulness will not just be for groups at the margins of political representation: individuals living in consolidated democracies would also have the advantage of engaging with a new level of governance and representation.[1]

Political communities without boundaries. – Deliberative communities are not necessarily based on a territorially contiguous space. There are increasing areas in which political problems are non-territorial or involve stake-holders in very different capacities (Gould, 2004). Professional associations, ethnic communities, groups of citizens linked by common diseases or by strong economic interactions may be willing to address their problems through democratic procedures. Capacity to address these challenges is strongly limited by the current representation of interests in world politics, whereby most foreign affairs issues are addressed by national governments. While many of these specific groups have neither interest in nor the capacity to become a state and claim sovereignty over a given territory, they may nevertheless find it necessary to have a political space to address their problems that it is recognized by states and international organizations (Dryzek, 2006; Terry Macdonald, 2008). The number of transnational actors that are in charge of specific domains is increasing, as is the number of administrative bodies involving both public and business members. Transnational movements for social justice have already experimented with many ways to link players across borders.

Recognizing the importance of non-territorially bounded political communities composed of individuals with common interests raises a crucial question for political theory: who are the legitimate stakeholders? For good or for bad, the organization of political communities based on states provides a straightforward answer: it is the state that decides who the citizens are and how to represent their interests on the international scene. In cases of other forms of political representation, it will be much more difficult to assess who the stakeholders are. Who are the stakeholders of the oil industrial complex? We can name the shareholders of the oil companies, the employees of the industry, the consumers of the industrial society and the citizens of oil-producing countries, among many others. All of them are legitimate stakeholders, but this still leaves open the relative weight

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[1] The Campaign for the Establishment of a United Nations Parliamentary Assembly has even prospected the electoral systems and the number of deputies of such a World Parliament. See http://en.unpacampaign.org/news/374.php

that each of these categories should have in the political process. In some cases stakeholders themselves will find the system of representation congenial to their interests, but in more controversial cases it is likely that they will need to rely on an external assignment of competences and electoral weights. A World Parliamentary Assembly may be the instrument that could minimize political exclusion providing political representation and also attribute competences and functions to dedicated functional areas where the relative importance of stake-holders is not properly acknowledged.

Top-down and bottom-up agents of cosmopolitan democracy

We have briefly discussed a number of areas and institutions that could make world politics more democratic. It is now important to ask: which political and social agents might have an interest in supporting these reforms? Political change occurs when there are interests at stake and agents willing to mobilise. The question just posed can in part be answered by reflecting on those social groups that are today excluded from political participation, that find the traditional channels to access world politics insufficient or that feel strongly motivated to act in selected domains. These are the players that should have an interest in generating more democratic global political institutions.

The dispossessed. – The first group of agents that could have an interest in minimizing exclusion in world politics and that have access to decision-making are the dispossessed, those that Frantz Fanon (1963) labelled the "wretched of the earth". These are people concentrated in underdeveloped countries, with very low living standards, and that are more vulnerable to environmental, economic and political crises. A significant part of this grouping has also experienced major political instabilities associated with failed states. This group has also been called "the bottom billion" (Collier, 2007) but perhaps its number is even higher. It is a group of people that rely heavily on the support provided by international agencies and donors. The structural weakness of this group does not allow its voice to be heard directly in world politics, to reach world markets and often even to participate actively in the domestic politics of their own country. If its voice is heard at all in global fora it is because of extreme actions, humanitarian catastrophes or because other players report its needs and its opinions. International relief agencies and nongovernmental organizations call attention to the conditions of these people as they are

not sufficiently powerful and organized to obtain it themselves. The dispossessed have even to rely on Western celebrities as their spokespersons.[2] In principle, this is the group of people that could benefit most from a cosmopolitan democracy: within states the dispossessed obtained substantial advantages when they achieved the franchise, and empowering them with political rights in world institutions could be an important step in improving their bargaining power.

Migrants. – Migration flows motivated by economic reasons are generating major changes in affluent countries. Most of these migrants move to countries that are not only wealthier but also with democratic regimes. Authorized immigrants are seldom guaranteed the same economic, social and, above all, political rights than the natives, while unauthorized immigrants can have no rights at all. This is creating an increasing discrepancy between the rights and the duties of these citizens. Immigrants are engaging in forms of civil disobedience such as the Great American Boycott on 1st May 2006 in the United States[3] or the "Sans-Papiers" movement in France and other European countries.[4] Immigrants are not isolated and they have often been supported by civil society groups, trade unions and other organizations, creating a social and political coalition supporting their rights (see Cabrera, 2010). The immediate target of these protesters is the government of the host country and the principal aim is to get their status recognized. But these protests go far beyond national boundaries: there is a more general claim towards freedom of movement that it does not correspond to the state only (see Benhabib, 2004). Most democratic states are also associated to IOs that monitor their human rights regime, including the treatment of aliens. Individual EU member states, for example, have often been reproached by the EU and the Council of Europe for unfair treatment of immigrants.

Cosmopolitan groups. – There are already some collective groups that are already sociologically "cosmopolitan". Some rock stars, football players and actors have not only become global icons but they

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[2] Paradigmatic cases are George Clooney as campaigner for Darfur and Angelina Jolie as Goodwill Ambassador for the United Nations High Commissioner for Refugees.

[3] On May 1st 2006, immigrants in the United States boycotted businesses, shops and schools to show how important their presence was to the American economy and society.

[4] The Sans-Papiers ("without documents") movement started in France in April 2007 when a group of undocumented immigrants occupied the Church Saint Paul in Massy claiming their right to be regularized.

already live in conditions that make national boundaries irrelevant to them. While these icons are the most visible cosmopolitans, they are certainly not alone: cosmopolitans are also made up of many intellectuals, businessmen, public officers and social activists. This group has periodically attracted the hostility of nationalistic and totalitarian leaderships and have often been called derogatorily "rootless cosmopolitans" (Kofman, 2007). It is not easy to identify the size of this cosmopolitan group and even less to what extent they simply belong to privileged elites. It is however possible to distinguish between two relevant analytical factors: that is, between having a personal cosmopolitan lifestyle and holding cosmopolitan values. The cosmopolitan democracy project needs more support from the latter than from the former.

The available empirical evidence shows that as many as 15 per cent of the world's inhabitants perceive their principal identity as post-national (either regional or cosmopolitan), compared with 38 percent who privilege their national identity and 47 percent their local identity (Norris, 2000). Moreover, identification with the global identity increases among young people and among those with a higher educational level, suggesting that in the near future cosmopolitan identity might become considerably more important. It might be argued that it is the privileged elites who hold these cosmopolitan values, but this assumption is disproved by other empirical evidence which, on the contrary, indicates that the share of cosmopolitan values is spread evenly between elites and the population at large (Furia, 2005). The existence of cosmopolitan values does not, of course, necessarily translate into political mobilization, but if and when it does, it could resonate with a considerable proportion of the world population.

Global stakeholders and global civil society. – Political mobilization in favour of a more progressive world politics rests on two important and often overlapping groups: global stakeholders and the global civil society. Global stakeholders include sectors of governance, networks and social movements, as well as other groups with sectoral interests. In all cases, these groupings do not necessarily overlap with established political communities nor receive a mandate by states. These stakeholders are very active and have considerable mobilizing and lobbying capacity which they can direct at both national authorities and international institutions. Often these global stakeholders are better informed, technically more competent and certainly more motivated to pursue their agenda than their national or international counterparts (Kate Macdonald, 2011). As might be expected, in many areas stakeholders

have managed to secure key positions in decision-making and can even act as suppliers of global governance without an explicit delegation. In other areas, stakeholders are dispersed and less organized and their political contributions unheard or heard only in international fora when national governments are willing to support them.

Mary Kaldor (2003) and her collaborators have also described and mapped another important player: global civil society.[5] Global civil society is often the most vocal supporters of progressive changes in world politics, including the democratization of global governance and IOs reform. Non-governmental organizations and other players have become increasingly important in drafting the agenda of global politics and often also in delivering public goods in areas of crisis. Global civil society is, according to Kaldor and her colleagues, also transforming the canons of international politics, providing often more effective solutions to local problems than national governments or even international organizations and acting as a powerful counter-weight to traditional power politics (Kaldor et al., 2003a). This "politics from below" carried out by the global civil society is often pushing for a different organization of interest at the various levels of policy actions, local, national but also global.

International political parties. – Several political parties have also a transnational affiliation. As is widely known, the loyalty to this affiliation is low and the political priorities of parties are largely dictated by national interests rather than by the parties' international ideologies. Within the European Union, parties have a greater international coordination and this is associated with the powers and functions of the EU as well as with the existence of the only directly elected international Assembly: the European Parliament. In fact, in the European Parliament national parties are organized within European groups. This is far from reflecting a genuine Westminster-style majority and opposition (see Hix, 2008), but it still provides a sense that, certainly at the European level, there are different options. The European example indicates that institutions do shape the ways in which interests are organized. It is therefore possible that international political parties could act as promoters of democratic reforms in the United Nations and other international organizations. The Socialist International (2005), for example, has already published a far-reaching

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[5] See the *Global Civil Society Yearbook* produced by LSE Global Governance since the year 2000 has produced a wide range of analyses on the significance and activities of global civil society.

document on UN Reform which urged member parties in government to actively support the proposals made.

Trade unions and labour movements. – The labour movement is seriously challenged by economic globalization. The labour movement built its political power at the national level, when in alliance with leftwing political parties it managed to guarantee labour rights, labour standards and the welfare protection of the lower and middle classes. Ideologically, however, the labour movement always had an internationalist standpoint, as shown by its mobilization against many wars and colonialism. One of the most important challenges of the labour movement in the twenty-first century is to guarantee to the working classes adequate standards of living and economic and social rights in a global economy dominated by multinational corporations and the high mobility of capital (see Munck and Waterman, 1999). The labour movement's mandate to defend wages and jobs at the national level is now in tension with notions of the transnational solidarity of the working class. This tension is reflected in the ambivalent attitude of labour movements towards trade liberalization and migration. Most trade unions have been actively involved in defending the labour rights of immigrants, but some of them have been hostile to uncontrolled trade liberalization and inflows of labour when these risk reducing employment and wage levels.

How could the labour movement face a much better equipped transnational business sector? The differences in labour costs and labour rights at the world level are still so high that it is difficult to create an effective alliance linking labour interests in countries as different as Sweden and China, the United States and India. This issue has been addressed in the attempt to standardize and upgrade labour standards through the International Labour Organization and to prevent unfair trade practices through the World Trade Organization. Expanding from labour rights to other social and economic rights, and ultimately to political rights, might allow the labour movement to become a powerful agent in democratizing global governance.

Multinational corporations. – Multinational corporations (MNCs) are formidable players and drivers of the global economy. A few hundred MNCs account for a very large share of world income, employment and technology generation and are also very efficient in lobbying to protect their interests. To secure materials, to organize their production and to reach markets, MNCs need to overcome institutional barriers, including barriers to trade, capital movements and migrations.

MNCs have also shown their capacity to shape global governance in line with their interests, as they have done with national governments.

Some scholars believe that MNCs will always act against the democratization of global governance since can satisfy their agenda with lobbying or functional networking, rather than with transparent and accountable policy-making. This is certainly part of the story, but not all MNCs interests are convergent and often their agenda also needs effective and accountable global governance. In some core areas, such as telecommunications, transports, standards, crime prevention and law enforcement, MNCs require more effective, transparent global governance. In the area of business law and property rights, the lack of appropriate transnational jurisdiction often makes transactions less certain and more risky. In such cases, MNCs push for transnational legislation and law enforcement (see Crane et al., 2008). They are also making increased use of international arbitration and public or semi-public judicial powers.

Effective combination of top-down and bottom-up politics

The two sections above have presented two lists, neither of which pretends to be comprehensive. The first is a list of actions that can be taken to advance cosmopolitan democracy. The second is a list of the political and social players that may have interests in or ideological motivations to introduce greater transparency, accountability and participation in global governance. Of course, the various players do not necessarily have an ultimate and coherent agenda for pursuing the democratization of global governance; their agency is often dominated by mixed motives. Table 1 displays the list, mapping the uneven and combined agency which might pursue cosmopolitan democracy. It indicates that the vision of a more transparent, accountable and participatory global governance has roots in current economic, social and political processes, and that the cosmopolitan project has social and political anchors.

To what extent can the actions and the players be labelled "top-down" or "bottom-up"? The very idea of democracy rests on a glorious bottom-up struggle to make political power accountable. But this bottom-up process is not necessarily fostered only by bottom-up pressures. We know that the English, American, French and Russian revolutions, all fought in the hope of empowering the bourgeois, the citizen, and the proletariat, were led by elites. But, as Mary Kaldor has shown, political change also occurs using less imperative levers and

that light ties among individuals, associations and unofficial political movements may generate snow-ball effects of unpredictable consequences. The end of the cold war and the re-unification of Europe provide a powerful example of this (see Kaldor, 1991).

The cosmopolitan democracy project is shaped by this hope: it aims to analyse the current transformations, to identify the areas where institutional innovations are needed and possible, to foster linkages and to understand what the main political players require. It has not a fixed final goal since we are convinced that history will continue to surprise even the most optimistic thinker. And it adjusts routinely to the evolution of politics. It is perhaps this suppleness that is the very essence of democratic thought and practice. Today this needs to confront a globalizing society.

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The Common Security and Defence Policy and the Issue of Democratic Accountability: what Role for the European Parliament?

Michele Comelli[1]

Introduction

Since the European Union started to take on a role in security and defence, The debate on democratic legitimacy and accountability within the Union has traditionally concerned the Community sectors. However, especially since the launch of the first Common Security and Defence Policy (CSDP) missions in 2003, it has been extended to include the areas of foreign policy, security and defence. While the basic features of what is generally referred to as the "democratic deficit" of the EU decision-making processes also apply to the security and defence spheres, these differ in certain characteristics from other areas.

First of all, the security and defence sectors have traditionally been characterised by a higher level of secrecy compared with other sectors. Much progress has certainly been made since the United States (US) President Woodrow Wilson, in the first of the 14 points he presented to Congress in 1918, emphasized the need for diplomacy to proceed "in the public view". It remains the case, however, that foreign, security and defence policies are considerably less open than other policy sectors. The point, however, is not only providing citizens with enough information – obviously obtained lawfully, which seems not to be the case with the revelations of Wikileaks – but ensuring that decisions in the field of foreign, security and defence policies are taken by making full use of democratic procedures and holding the executives accountable to the parliaments as representatives of the people.

Second, they also require faster decision-making processes, because foreign policy decision-makers often need to react to unexpected events and crises.

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[1] This paper is an updated and revised version of the following paper: Comelli M., "The Democratic Accountability of the CSDP and the Role of the European Parliament", in Greco E., Pirozzi N. and Silvestri S. (eds.) (2010), *EU Crisi Management Institutions and Capabilities in the Making,* Quaderni IAI No. 19.

In addition, for all the changes introduced since the Maastricht Treaty, security and defence policies remain mainly intergovernmental. Most notably, in the absence of a European army, CSDP has to rely on national forces that are deployed by national governments as and when required to serve under the "EU hat". Each Member State therefore retains the power to decide whether or not to deploy troops for EU missions. We might be led to conclude, therefore, that the democratic legitimacy and accountability of the CSDP should be ensured mainly at the national level. However, this option entails a number of problems.

First, the powers and *modus operandi* of national parliaments in the individual Member States differ widely. This applies, in particular, to their power to control security and defence policy decisions. Second, there are many political and institutional problems standing in the way of democratic, national control of CSDP. One such problem is that security and defence policies have undergone a transformation and are now focused on the projection of security abroad rather than on territorial defence. Indeed, they have more to do with ensuring the implementation of multilaterally-mandated missions than with ensuring the defence of national territory.

While the decision to authorise the deployment of national troops remains in the hands of Member States, the decision to launch a mission is taken at the EU level. The EP has traditionally had an extremely limited role in overseeing security and defence policies, but the Lisbon Treaty introduced a number of changes that strengthen this role. Moreover, the EP has taken advantage of the debate among the EU institutions on the establishment of the European External Action Service (EEAS) to try to gain greater powers of control over both the Common Foreign and Security Policy (CFSP) and the CSDP. Moreover, the EP has a *vision d'ensemble* of CSDP, that national parliaments cannot have.

This paper starts out by defining the concepts of accountability and democratic legitimacy and then investigates why democratic control of CDSP at the national level alone poses problems. It then goes on to make a case for strengthened powers of control for the European Parliament. In so doing, the paper analyses how the Lisbon Treaty has increased the powers of the EP in this domain. It examines how these powers are likely to be further strengthened as a consequence of new inter-institutional power dynamics in Brussels and the creation of new bodies such as the EEAS. It then takes a brief look at the changes introduced by the Lisbon Treaty, directly and indirectly, to the interparliamentary dimension of democratic accountability. The paper concludes with a number of policy recommendations on the ways and

means to reinforce the EP's democratic control over security and defence policy.

1. *Democratic legitimacy and accountability in CSDP: what they are and why bother about them*

The debate over the democratic legitimacy of the European Union intensified following the signing of the Maastricht Treaty in 1992 and the first referenda on the Treaty, which took place in Denmark and France. While it initially focused on the "communitarised" sectors, the debate gradually extended to intergovernmental sectors such as Common Foreign Security Policy (CFSP) and the Common Security and Defence Policy (CSDP). The launch of EU civilian and military missions, which started in 2003, has given added impetus to that debate.

Before examining why democratic legitimacy and accountability in CSDP matter, it is first necessary to define these concepts, a step that will also help delimit the scope of this paper.

The first question is: according to which version of democracy should we evaluate legitimacy? Since democracy is a contested concept and different versions of it exist in the various EU countries, they need to be combined in a way that avoids incompatibilities and deadlock. Wolfgang Wagner provides a typology of democratic legitimacy (Wagner, 2005, p. 7): 1) legitimacy as ensured by effective governance ("government for the people" or "output legitimacy"); 2) legitimacy as ensured by participatory procedures ("government by the people" or "input legitimacy", the latter of which, in turn, may take place at national and/or European level); and 3) compliance with international law. This paper focuses on the second typology, "input legitimacy", which has become an ever-more important issue in the political and academic debate, especially since the entry into force of the Lisbon Treaty.

Linked to the concept of democratic (input) legitimacy is that of accountability, meaning the relationship between an actor and a forum, in which the former has an obligation to explain or justify his/her conduct and the latter may pose questions and pass a judgement. Following this approach, the actor may face the consequences of this judgement (Bovens, 2006).

Traditionally, it has been up to the parliaments to ensure this kind of accountability. We will therefore examine to what extent parliamentary institutions at the different levels (national and European) exercise scrutiny of decisions taken in the CSDP context.

For a number of reasons, little attention has traditionally been paid to the problem of the democratic legitimacy and accountability of

European foreign, security and defence policies. First, these policies have usually been characterised by a higher level of secrecy and by a need for greater responsiveness, rapidity and flexibility than other policies. Expectations of adequate democratic legitimacy and accountability in these domains are therefore lower. In addition, these policies have mainly remained intergovernmental in nature and have not been affected by the trend towards a more supranational profile that has characterised other EU policy sectors.

However, democratic legitimacy and accountability have gained importance in the security and defence fields also. To start with, the armed forces have undergone a transformation process which has unfolded along two lines: they have increasingly moved from territorial defence to an external projection of their role/scope of action; and they have become more engaged in multilaterally-mandated missions, including CSDP ones. The combined impact of these two processes complicates the exercise of control by national parliaments. Moreover, the difficulties they experience have not been compensated by an increased role for the European Parliament. For this reason, some scholars have spoken of a "double democratic deficit" in the CFSP and the CSDP domains. But why should we be bothered by this trend?

First, ensuring the democratic legitimacy and accountability of European foreign, security and defence policy contributes to the credibility of the EU as a substantive international actor. The EU, whose foreign and security policy goals encompass the promotion of democratic practices abroad, including accountability, cannot afford not to ensure democratic control of its own foreign and security policies. Second, as has been argued, by Wolfgang Wagner in particular, the democratic control of security and defence policies is connected to a country's stance on the use of violence in international relations (Wagner, 2007, p. 1). It constitutes one of the guarantees whereby peaceful and cooperative international relations are maintained. In our analysis we will look at parliamentary bodies (national parliaments, the European Parliament and interparliamentary fora) because parliaments are considered "the central locus of accountability" (Hänggi, 2004, p. 11) for decisions concerning the use of force.

2. *The role of national parliaments in the control of the Common Security and Defence Policy (CSDP)*

The Common Security and Defence Policy is a multi-level policy: while its decisions are taken in Brussels, at the European Union level,

they are implemented nationally, drawing on national capabilities. This multi-level game makes CSDP decisions difficult to control – at both the national and the European level (Gavrilescu, 2004, p. 75). CSDP decisions are taken by EU Foreign Ministers gathered in the Foreign Affairs Council, on a unanimity basis. In particular, decisions to launch a mission are taken through a CFSP Joint Action drafted by the Political and Security Committee (PSC, also known as COPS). This covers the mission mandate, its objectives, scope, duration and chain of command, as well as the resources that the individual Member States will be making available to the EU. While the decision to launch a CSDP mission is taken within an EU framework, the commitment to deploy troops and to finance their mission is national. It is the Member States that place their troops at the EU's disposal, since it does not have its own.

As a consequence, it is still up to national parliaments to scrutinise their government's decisions to deploy troops, even when they take part in multilateral missions led by the EU or by an international organisation. However, national parliaments exert different degrees of control over their governments' decisions. Heiner Hänggi (Hänggi, 2007, p. 11) has identified three factors that combine in determining the effectiveness of parliamentary accountability: 1) authority, i.e., the power, constitutionally enshrined or derived from customary practice, to hold the government accountable; 2) ability, i.e., the resources, budget and staff instrumental in exercising parliamentary control; and 3) attitude, i.e., willingness to hold the executive to account. The most important of these factors is certainly authority, which differs widely between individual European countries. However, even in EU countries like Italy and Germany where the parliament is entrusted with considerable authority to keep check on the executive, the situation is far from ideal.

More in general, notwithstanding the differences between one EU country and another, a "democratic deficit" with respect to control over the CSDP exists in all countries of the Union. According to a study conducted by Hans Born et al. for the Centre for the Democratic Control of Armed Forces (DCAF) (Born et al., 2007), four factors account for this.

First, only a few countries are entitled to give their government a clear negotiating mandate prior to the adoption of a Council decision. Second, few national parliaments are empowered to give their formal approval for the deployment of troops in an international operation. In many cases, powers of approval are limited to the deployment of armed forces and do not include, for example, the secondment of national

police personnel to police missions. Since most of the CSDP missions launched so far by the EU are civilian and civilian/military rather than purely military, this constitutes a real problem. Third, national parliaments are dependent on their governments as far as the transmission of security and defence-related information is concerned. Furthermore, their powers are mostly limited to the yearly approval of funds for external operations, as part of the overall national defence budget. Fourth, and last, national parliaments are only able to scrutinise their own governments, and therefore lack a *vision d'ensemble* of the whole ESDP decision-making process (Gavrilescu, 2004, p. 78). In fact, they are neither jointly associated with this process nor able to exercise a collective scrutiny of the implementation of Council decisions (Born et al., 2007, p. 4).

3. The role of the European Parliament

Unlike most policy sectors, where the European Parliament has progressively acquired more power since the Maastricht Treaty, it has continued to have only a marginal role in the CFSP and CSDP areas. However, the entry into force of the Lisbon Treaty in December 2009 has given the EP – directly and, above all, indirectly – a growing role in these areas as well. Currently, the EP is neither associated *ex ante* with the CSDP decision-making process nor able to scrutinise the Council's decisions *ex post* (Gavrilescu, 2004, p. 82).[2] The minor role played by the EP in these areas is a consequence not just of the fact that CSDP is mainly an intergovernmental policy, but also that one of the primary concerns of the CSDP architects has been its efficiency (Barbé, 2004, pp. 47-60). While many Brussels-based institutions have been built up to make CFSP and the CSDP more effective, no significant new powers have been entrusted to the EP.

The current Lisbon Treaty grants information and consulting powers to the EP on "the main aspects and basic choices" of both CFSP and CSDP (art. 36 of the Treaty on the European Union, TEU). The

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[2] *Ex ante* refers to any form of parliamentary oversight from the identification of a crisis to the decision to take action. *Ex ante* instruments may include: prior authorisation of the mission; the issuing of non-binding resolutions or recommendations about an upcoming mission; budget control; the raising of questions; or the organization of (public) hearings. *Ex post* oversight refers to any oversight that takes place after the decision to take action has been adopted and involves the phases of implementation, eventual refocusing of EU action and termination of operation. See Hans Born et al., *Parliamentary Oversight of Civilian and Military ESDP Missions: The European and National Levels*, cit., p. 5.

former article 21 of the TEU (Nice version), on the other hand, referred only to the CFSP, leading some scholars to wonder whether the power of consultation granted to the EP included the CSDP or was limited to CFSP alone. These new powers are actually limited and vague, since the text fails to spell out what the "main aspects and basic choices of the CFSP and CSDP" are. Nor does it specify whether the EP should be consulted *ex ante* or *ex post*. Art. 21 of the Nice Treaty entrusted the rotating EU Presidency with the task of consulting the Parliament. Art. 36 of the Lisbon Treaty assigns this task to the newly created High Representative for Foreign Affairs and Security Policy (HR/VP), who shall also "ensure that the views of the European Parliament are duly taken into consideration".

Actually, since the new HR/VP role was created, the relationship between the holder of this position and the EP has acquired more importance. Indeed, the HR/VP, together with the President and the other members of the Commission, shall be subject to a vote of consent by the European Parliament. In addition, before the European Parliament approves the new Commission, each candidate for commissioner will be heard before the relevant committee of the European Parliament. She also appears before the Parliament in her position of Commissioner for External Relations (RELEX). The Lisbon Treaty also increased the number of plenary sessions of the European Parliament on CFSP/CSDP issues from one to two a year.

Linked to the right of the EP to be consulted is its right to receive adequate information, a right which is regulated by a number of Interinstitutional agreements (IIA) with the Council and the Commission. Most notably, the IIA of 20 November 2002 provided for limited access by the European Parliament to sensitive information held by the Council in the field of security and defence policy (European Parliament, Council of the European Union, 2002).

The right of access to confidential documents – but not to all secret documents – is not granted to all members of the European Parliament (MEPs), but to a Special Committee composed of five MEPs, or to the EP President. These documents can only be consulted on the Council premises. The Special Committee is presided over by the Chairman of the EP's Foreign Affairs Committee (AFET). Its other four members are appointed by the Conference of Presidents, including the Chairman of the Security and Defence Sub-Committee (SEDE). In addition, Member States and third parties can deny access to the documents if they so decide.

The rules governing the transfer of documents are even more strict. They provide that confidential documents may be transmitted only to

the President of the European Parliament, who has a number of options for passing them on to other EP bodies (Diedrichs, 2004, p. 43). In its latest report on the Implementation of the European Security Strategy and the Common Security and Defence Policy, the EP called for a revision of these rules (European Parliament, 2010).

The EP's right to be informed has been slightly reinforced by the 2006 Interinstitutional Agreement. This provides that the Presidency of the Council (the HR/VP after the entry into force of the Lisbon Treaty) shall consult the EP each year on a forward-looking Council document to be transmitted by June 15 (European Parliament, Council of the European Union, Commission of the European Communities, 2006). The document sets out the main aspects and basic choices of the CFSP, including the financial implications for the general budget of the European Union and an evaluation of the measures launched during the previous year. In addition, the Council Presidency keeps the European Parliament abreast of developments through joint consultation meetings taking place at least five times a year, in the framework of the regular political dialogue on the CFSP. Participants in these meetings include the European Parliament (the bureaux of the two Committees concerned), the Council, represented by the Chairman of the Political and Security Committee, and the Commission.

As mentioned above, the EP has no formal power of authorisation of CDSP missions. However, it has other non-binding instruments to exercise scrutiny over EU missions. *Ex ante*, the EP can issue non-binding resolutions and recommendations before a Joint Action is taken or before a the CSDP mission is launched. These resolutions are normally adopted following statements made by Council and Commission officials before the EP. The Security and Defence Sub-Committee (SEDE) was set up in 2004 as part of the EP's Foreign Affairs (AFET) Committee. It has been particularly active in the dialogue with the Council over CSDP missions, including future ones, its main responsibility being to monitor civilian and military CSDP operations. In addition, SEDE has established the practice of inviting the Permanent Representative of the country holding the EU Presidency to provide a briefing on its programme and on CSDP developments (Barbé and Herranz Surrallés, 2008, pp. 77-107). In some cases it is the Foreign Affairs or Defence Minister of the Presidency country who is invited to brief SEDE members.

With regard to *post hoc* oversight of accountability, the powers of the EP are again limited. So far, it has not adopted any *ex-post* resolutions on a CSDP mission. Each year, the EP receives a report from the Council on CFSP and CSDP-related developments, on the

basis of which it drafts its own report containing recommendations on the matter. However, the EP report does not have much impact on the Council's strategy. Similarly, the EP may receive written reports from the European Union's Special Representatives (EUSRs). However, the latter are not obliged to send these reports, and in practice they have done so only on some occasions (Born et al., 2007). Instruments such as hearings and evaluations have been used often, especially by the SEDE Sub-Committee. Individual MEPs may also address specific questions to the Council, which is obliged to provide an oral answer directly at question time or a written one at a later date. In addition, members of AFET and SEDE have a right to visit the troops deployed for a mission, with the results of the visit being reported to the Chair of the delegation.

While the European Parliament has limited powers in overseeing CSDP missions, and no power at all in authorising them, it has an important role with regard to budgetary decisions on civilian CSDP missions – which constitute most of the EU missions undertaken so far – but not for military ones.

The rules governing the financing of missions, laid down in the 2001 Commission Communication on the Financing of Civilian Crisis Management Operations, outlines three different types of crisis management missions (Commission of the European Communities, 2001). These are: 1) "operations under a Community instrument", financed by the Community budget; 2) CFSP operations without military or defence implications, financed by the CFSP budget; 3) CSDP operations with military implications, financed by Member States (outside the EU budget).

The first category of operations are first-pillar actions over which the EP has powers of scrutiny and co-decision.

The second category of operations (e.g. executive police operations) is decided by a Council Joint Action under the second pillar and is normally charged to the CFSP budget. The EP can place a ceiling on the budget. In addition, every three months the Council must provide the EP with a detailed list of CFSP commitment appropriations, including the costs of civilian CSDP missions. If the Council believes the CFSP budget appropriations for operations to be insufficient, it has to ask the EP for additional funds. The Council must inform the EP every time CFSP expenditure is envisaged and in any case no later than five days after the adoption of a final CFSP decision. Finally, the Joint Consultation Meetings, formally introduced by the 2006 Interinstitutional Agreement with the aim of keeping the EP abreast of CFSP financial planning and spending, take place at least five times a year.

It should be noted, however, that the Council may decide that some costs are to be borne separately by Member States. This normally applies to the costs involved in the secondment of national personnel and those incurred during the preparatory phase of a given operation, e.g. fact-finding missions. As argued by some scholars (Barbé and Herranz Surrallés, 2008, pp. 77-107), the existence of these various types of costs financed through the Member States clearly hinders the Parliament's supervisory tasks.

As far as the financing of CSDP military missions is concerned, the EP has no oversight powers whatsoever. In fact, common administrative costs are financed through the so called Athena mechanism. This refers to a common fund for military missions, where Member States' contributions are made in advance on the basis of a fixed percentage of gross national income (GNI). So-called "operational costs" must be borne by Member States on the basis of the "costs lie where they fall" principle, which is also applied by international organisations such as NATO.

4. Democratic accountability of the CSDP and the negotiations on the European External Action Service: an increased role for the EP

What is even more remarkable is that the European Parliament has succeeded in gaining a stronger role in the control of both CFSP and CSDP. In this, it has taken advantage of the negotiations with the Council and the HR/VP on the arrangements for the European External Action Service (EEAS), the new diplomatic service envisaged by the Lisbon Treaty and entered into on December 1st 2010, exactly one year since the entry into force of the Treaty[3]. The Decision that established the new service on 26 July 2010 (Council of European Union, 2010) was actually taken by the Council, acting on a proposal made by the HR/VP after consulting the European Parliament and obtaining the consent of the Commission. Therefore, the EP had only a consulting role on the Council decisions. It did, however, have power of co-decision, that is, a right of veto, on two regulations – the Staff Regulation and the Financial Regulation – that were essential to put the EEAS in place, and on the budgetary adjustment.

During the negotiations among the EU institutions on the arrangements for the establishment and functioning of the EEAS, the

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[3] However, the transfer of staff from the Commission, the Secretariat General of the Council and from the national diplomatic services started on January 1st, 2011. Initially, the personnel of the new diplomatic service will amount to 1,643 people.

EP succeeded in linking its consultation power on the decision with its power of co-decision on the two regulations mentioned above. It extracted a number of important concessions from the Council and the HR/VP on these arrangements. The main principle the EP tried to foster was that of the political accountability of the HR/VP and the new service vis-à-vis the EP.

An analysis of the concessions that the EP obtained on this issue goes beyond the scope of this paper. It is important to recall here, however, that the HR/VP issued a Declaration on Political Accountability, annexed to the EP Resolution of 8 July 2010 on the EEAS (European Parliament, 2010), where she sets out a number of commitments intended to ensure an adequate degree of accountability of CFSP and CSDP.

The Declaration reaffirms, first, that the HR/VP will seek the views of the EP on the main aspects and basic choices of CFSP. All exchanges of views leading up to the adoption of mandates and strategies in the CFSP sphere must take place in the appropriate format. For example, the practice of holding Joint Consultation Meetings will be enhanced and briefings given at these meetings will focus on missions financed from the EU budget. In addition, the declaration recalls another point on which the EP had been particularly keen during the negotiations on the arrangements for the EEAS. If the HR cannot participate in an EP plenary debate on CFSP/CSDP, her place will be taken by a representative from the rotating Presidency or from the trio Presidencies and the EP will be informed of this replacement.

In addition, there is now also an EEAS official responsible for relations with the EP and national parliaments, as there was previously a similar official of the Council before the EEAS was established.

The provisions of the 2002 IIA concerning the transmission of confidential information on CSDP missions and operations have also been confirmed. However, the HR can also provide other MEPs with access to other CFSP documents on a need-to-know basis at the request of the AFET Chair, and, if needed, the EP President.

Second, the text confirms that the new budgetary procedure introduced by the Lisbon Treaty applies in full to the CFSP budget and that the HR/VP has undertaken to work towards greater transparency on the CSDP budget. This includes the possibility of identifying the major CSDP missions within the budget.

Alongside these measures, the European Parliament also asked to have budegtary control of a possible warehouse to be put at the disposal of EU missions and an EU Institute for peace, both to be created. However, by increasing its demands, the EP may run the risk to be

perceived by the other EU institutions, and notably by the Council, as altering the interinstitutional balance in Brussels. Whether or not the EP is to perform a role comparable to that of the US Senate will depend to a large extent on the way in which the relationship between the EP on the one hand, and the HR/VP and the EEAS on the other, evolves (Missiroli, 2010, p. 23).

5. *The role of interparliamentary cooperation*

Besides the national and the European levels, there is a third level of control over CFSP and CSDP, exercised by interparliamentary bodies. The most important of these has traditionally been the Western European Union's European Security and Defence Assembly (WEU-ESDA).

Following the transfer of the WEU's operational activities to the EU in 2000, the Assembly's main focus has been twofold. It monitors the implications of the WEU's collective defence commitment under Article V of the modified Brussels Treaty, as well as cooperation with NATO, and it also scrutinises the CSDP. The Assembly has devoted special attention to issues such as peacekeeping operations in the Balkans, the Middle East and Africa.

One of the strengths of the ESDA is that its institutional set-up, including a permanent secretariat and specialised staff, has enabled it to provide a continuous follow-up on security and defence issues at the European level (Gavrilescu, 2004, p. 89). However, what the Assembly can do is subject to a number of limitations.[4]

In any case, on 31 March 2010 the Presidency of the WEU Permanent Council issued a statement declaring that ESDA and the remaining WEU bodies had been made redundant by the entry into force of the Lisbon Treaty and specifically by the EU defence clause.

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[4] First, the Assembly is not legally entitled to intervene in the decision-making process, either at national or at the EU level. Rather, it acts as a forum for scrutinising CSDP policies and missions. Second, membership of the Assembly coincides with WEU and not with EU membership, which results in the Assembly including Members of Parliament (MPs) from non-EU countries such as Norway and Turkey. This poses the question: how legitimate is it that an institution that includes representatives from non-EU Member States should scrutinise European security and defence policy? Finally, the national delegations to the WEU-ESDA must be identical to those in the Assembly of the Council of Europe and no criteria for the sphere of competence of appointed members have been set out. It follows that the national delegations are not necessarily made up of a majority of defence committee members.

They would therefore be disbanded by June 2011 (WEU Permanent Council, 2010).

The same statement, however, called for the enhancement of the European interparliamentary dialogue in the field of security and defence to make up for the future closure of the Assembly. Immediately afterwards, the President of the WEU-ESDA sett up a "steering committee" tasked with creating a substitute body and evaluating suggestions on how to continue interparliamentary control of CSDP (European Security and Defence Assembly, Assembly of the Western European Union, 2010, p. 6). In his view, there is a need for a light but permanent structure, to be jointly financed by the 27 EU national parliaments (Walter, 2010). Again, in a resolution adopted on December 1st, 2010, the WEU-ESDA invited national parliaments to "concentrate their efforts in order to put forward, as soon as possible, concrete proposals to create an interparliamentary structure suitable for monitoring common European security and defence policy" (European Security and Defence Assembly, Assembly of the Western European Union, 2010).

In addition to the WEU-ESDA, other interparliamentary bodies also exist. These include:
– the Conference of the Community and European Affairs Committees (COSAC), bringing together parliamentarians from the Community and European Affairs Committees of national parliaments as well as representatives of the EP;
– the Conference of Foreign Affairs Committee Chairpersons (COFACC), bringing together the chairpersons of the Committees on Foreign Affairs of the national parliaments and of the European Parliament;
– the Conference of the Defence Committee, which focuses on defence topics.

So far, however, cooperation within COSAC and COFACC has been narrow in scope. Moreover, given the limited number of meetings, it cannot exercise systematic oversight of CSDP decisions and can only provide limited exchanges of information. However, the importance of this form of interparliamentary cooperation is acknowledged by the Lisbon Treaty and, more specifically, by its Protocol No. 1 on the role of national parliaments in the European Union. Art. 10 of the Protocol encourages the conference of Parliamentary Committees for Union Affairs to organise interparliamentary conferences to debate matters of common foreign and security policy, including common security and

defence policy. With the end of the WEU-ESDA approaching and in view of the Lisbon Treaty provisions, it will be necessary to establish new forms of interparliamentary cooperation on CSDP.

6. *Concluding remarks and policy recommendations*

This study has shown that, even though the areas of European security and defence have a number of distinguishing features, they are affected by the problem of the so-called "democratic deficit". Putting adequate mechanisms in place to ensure the democratic legitimacy and accountability of the CSDP is therefore of paramount importance.

Legally, it is still a competence of the national parliaments to approve the financing of CSDP and the deployment of national troops for its missions. At the same time, the democratic legitimacy and accountability of the CSDP is an EU-wide issue, which cannot be limited to the national level.

Indeed, national troops serve in EU missions under the EU hat, making it important for the European Parliament to increase its power of scrutiny over CSDP. This is even more true since the entry into force of the Lisbon Treaty, which created new institutions in the CSFP-CSDP domain, notably the HR/VP and the EEAS. These may not be supranational bodies, but they cannot be regarded as intergovernmental bodies either. It is necessary, therefore, for democratic legitimacy mechanisms to be enforced at the EU level. At the same time, national parliaments have neither a *vision d'ensemble* as enjoyed by the EP nor adequate access to information. Not to mention the fact that too many differences exist between the powers and resources of each, for them to be properly able to scrutinise CSDP.

Finally, the termination of the WEU-ESDA poses the problem of how to continue interparliamentary cooperation on the question of CSDP accountability.

To achieve these objectives, the following measures should be taken:

– In view of the future termination of the WEU-ESDA, no new interparliamentary body needs to be set up. Rather, existing fora for interparliamentary cooperation, such as COSAC and COFACC, could be strengthened. In particular, it is important that their representatives meet regularly with MEPS, in order to ensure a proper exchange of views and practices on defence issues between the European and the national levels;

– National legislation and practices regarding the control of CSDP, including the authorisation to deploy troops as part of EU missions, widely differ among EU countries. While it would be extremely difficult to overcome political, institutional and cultural differences among Member States, it is important for best practices to be made widely known. In addition, those Member States that do not have mechanisms in place to provide for the scrutiny of security and defence policies should make an effort to improve the situation;

– A working – and effective – relationship must be established between the HR/VP and the EP, so that the latter is duly informed, in accordance with its prerogatives, of the main aspects and basic choices of CFSP/CSDP, including missions;

– The provisions contained in the HR/VP's Declaration on political accountability should be fully implemented. The period between the Lisbon Treaty entering into force and the EEAS being fully established is a decisive one, since it is a time when practices and precedents are established. It is therefore important that the measures noted in the document be given full effect;

– The Sub-Committee on Security and Defence (SEDE), currently established within the AFET Committee of the EP, has played an important role. It has been suggested that the SEDE become a fully-fledged EP Committee and be provided with more adequate resources and staff, which will be possible only at the start of the next legislature, that is, in 2014. However, this measure may imply the risk that security and defence topics should be decoupled from broader foreign policy topics, particularly at a moment when many institutional and policy efforts are being made to ensure the coherence and consistency of European foreign and security policies. Whatever the institutional set-up, it is important that a functional division of labour be established between AFET Committee and SEDE Sub-Committee, also in order to avoid damaging institutional turf wars;

– Access to confidential CSDP documents should be extended to a larger number of MEPs to avoid discrimination among them and, most important, to enable them to exercise their prerogatives in a more informed and effective manner. In particular, MEPs who act as *rapporteurs* on topics regarding CSDP should be given access to these documents, once they are security-cleared;

– An adequate dissemination effort should be made by MEPs and MPs that participate in these meetings to inform the wider public of the goals and instruments of the CSDP. The best way to ensure democratic legitimacy and accountability for CSDP is to establish forms of political control by parliamentary bodies over the executives. However,

this should be matched with a parallel effort by parliamentarians, at both the national and the EU levels, to reach out to citizens. In the absence of this effort, the other measures are not likely to be much effective.

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Beyond Pope and Emperor:
The Emancipatory Vocation of Federal Europe

David Coombes

'The only given condition for the establishment of rights is the plurality of men; rights exist because we inhabit the earth together with other men. No divine command, derived from man's having been created in the image of God, and no natural law, derived from man's "nature", are sufficient for the establishment of a new law on earth, for rights spring from human plurality, and divine command or natural law would be true even if there existed only a single human being.' (Arendt 1951, Page 629.)

I

In view of the humanitarian values and aims that seem to be fully shared between both, a project of cosmopolitan democracy and one of European federation ought to be pretty much one and the same thing, and have a lot to share with each other. Although I shall suggest here that the completion of latter project must surely be an essential preliminary to any realistic pursuit of the former, nevertheless, it still comes very much to the same issue. The federal project is itself no more – and no less – than a logical continuation of an historical movement in Europe towards the gradual emancipation of its peoples from ignorance, oppression, and want of material necessities. A further logical extension must thus be the emancipation of all humanity from the same ills. Furthermore, following an argument emphasised by Immanuel Kant in his justification of an earlier form of cosmopolitanism, Europeans could not pursue such emancipatory aims, practically, rationally or morally, without intending them also for the promotion of happiness, and relief of suffering, for others, without exception.

In this presentation I shall go even further and suggest that it is *only* when seen from this perspective – as a means towards the same ends as cosmopolitan democracy – that the *sui generis* nature of the present European Union becomes comprehensible and justifiable. This is by implication to reject other more fashionable and current representations

of the EU, either: as a grandiose, but regionally limited, project of nation-building (or creation of a 'super-state'); or, on the contrary, as a mere economic association (or 'bloc') of sovereign states.

On the other hand, for their part those primarily concerned with cosmopolitan democracy need to acknowledge and respect what it is that makes the EU unique – namely, the latter's federal vocation, and to take account of what that implies for their own preoccupation with the much larger, even more visionary, undertaking of emancipation on a global scale. It may not be obvious to those who do not work closely with the EU, as scholars or practitioners, why its underlying federal character is actually so crucial to an adequate understanding, and even daily implementation, of the principles and objectives inherited by the Union from the original European Communities, along with the so-called Community Method of using elaborately-constituted 'supra-national' institutions for that purpose. In fact, the federal vocation continues to make a very significant difference to the way the project of so-called European 'integration' is actually undertaken and can, potentially, have a similarly crucial effect on what we understand and intend by cosmopolitan democracy, as well as what is actually possible to achieve towards that more distant and ambitious goal.

The next two sections try to justify the proposition that both cosmopolitan democracy and European federation belong to a movement of ideas, and sometimes action, that is historically unique to Europe, and accounts for what gives Europe its distinct identity compared to other parts of the world, namely: a secular movement of emancipation from tyranny, whether the latter rests on spiritual or temporal means to demand obedience from its victims. Following that is a tentative exploration of why self-styled cosmopolitan theorists today might be unable to accept the vital significance of European federalism as *the* emancipatory project in our own time. In conclusion I shall suggest a way to perceive the aims and methods of European federation, which might make its relevance more apparent to those concerned primarily with cosmopolitan democracy, and even persuade them to re-consider and revise of their own project in certain respects.

II

Europeans have since the last Dark Ages witnessed both dramatic advances and catastrophic reverses in their struggle for emancipation from different kinds of oppression and want. Nevertheless, overall the process of humanising Europe has produced a significant enlargement of people's capacity for self-government.

That process has always depended historically on a concurrent process of secularisation, including in particular the invention and cultivation (though customarily described as a renaissance, or revival of previously classical modes) of an idea of citizenship, derived from the priority of the political (or civic) over other aspects of human community, including both the cultural – especially religious, and economic. Although still not fully established by the start of the French Revolution, and remaining insecure, incomplete and controversial even after it, the supremacy of the state, as unique embodiment of temporal authority derived ultimately from the people themselves, may be regarded as a defining characteristic of European politics, and one extensively exported from Europe to other parts of the world.

First among the material and moral prerequisites for this achievement was a successful assertion of the right to government itself. This historically entailed a temporal struggle against the despotism founded on a religious or quasi-religious hierarchy. It might seem to be a long time ago now that most Europeans escaped from general involuntary subjugation to such a hierarchy, capable in effect of legislating for political communities and ultimately holding their rulers accountable, and sitting in judgement over them. It is hardly necessary here to expatiate further on the revolutionary importance of the process of secularising European society through a gradual re-assertion of political authority. The story is familiar to all my readers, and finds its original, and still unsurpassed, exposition in the works of Niccolò Machiavelli at the turn of the fifteenth century.[1]

The familiar history of the emergence of the modern state needs to be remembered, in order to remind ourselves of the disturbing fact that what has been created can also be destroyed, so that defenders of human liberty must be ever vigilant against the rise of forces with the will and the power to set themselves beside and above political authority.

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[1] My emphasis on secular emancipation from religious authority should not be construed as in any way anti-religious, and least of all as implying scepticism towards a spiritual understanding of human existence. On the contrary, as Machiavelli himself was at some pains to explain, the problem was, and still is, not the admission of spiritual authority as such, but rather how to attend to the material prerequisites of the *vita civile* including the appropriate regulation of spiritual authority on its excursions into temporal form. Ostensibly this very issue seems to have re-emerged in Europe politically today, with respect mainly to the influence of Islam, though there is ample evidence that Christianity continues to be capable of mounting the more serious threat to civil authority, and the liberties dependent on it, not to speak of the overriding moral challenge of global finance. Indeed, could it be their embarrassment at the mounting and increasingly uncontrollable impact of this last – highly materialistic – factor that has caused political parties on the right in Europe to make such efforts to invoke the practice of Islamic faith as a scapegoat.

The current global sway of neo-liberal economics, and its 'priesthood' of zealous ideologues in business, politics and the academy offer a new, but fascinatingly similar, challenge in our own time. Theirs is not, of course, the first ideological movement of its kind to arise in modernity, though they do seem to be the first to be able to claim successfully a dominion as powerful and exclusive as that of the medieval Church. To mention only what is probably the most topical illustration, the key operators in financial markets seem now able to claim universal authority that overrides the formal sovereignty of the state. They evidently see their own authority as both singular and indivisible, and seek to impose an infallibility, which has put ordinary mortals, including heads of states and governments, in dread of challenging its immanent truth. Again like the Church in Europe of the middle ages, it combines dogmatic absolutism with corporate organisation armed with – in effect – coercive power. It disregards both the material welfare of ordinary people (whom it views as existing mainly in order to provide it with necessary resources and serve as agents of its will) and any kind of public accountability, which is reserved exclusively for the apparatus of the state, which in turn is intended to function only as its instrument.[2] If the preponderant role played by commercial and merchant banks in the instigation before 2008 of the global financial crisis were not enough to suggest an advanced degeneration of republican values, the same financial institutions have now successfully claimed immunity against the consequences of their self-induced crisis, and imposed the costs of retrieving the debts thus incurred on the active, productive sectors of the citizenry, especially in the overstretched public sector.

We might well therefore remember Machiavelli's warnings about the corruptibility of political life: that it is not the mass of ordinary people who embody the main threat to political stability and republican virtue, but the few who have so taken advantage of their fellows as to become excessively rich (the infamous *gentiluomini*)!

> To make it clear what is meant by the term 'gentry', I would point out that the term 'gentry' is used of those who live in idleness on the abundant revenue derived from their estates, without having anything to do either with their cultivation or with other forms of labour essential to life. Such men are a pest in any republic and in any

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[2] Tony Judt makes a similar comparison between corporate finance, served by the 'emperors of economic policy', and the role of the medieval Church, see Judt 2010 pages 105 and 161.

province; but still more pernicious are those who, in addition to the aforesaid revenues, have castles under their command and subjects who are under their obedience.[3] (Machiavelli 1970, p. 245-6)

Those who have profited most from the de-regulation of markets may not possess 'castles' (though in fact many of them do - as well as private navies)! However, what Ulrich Beck described, even before the extraordinary developments since 2008, as 'the metapower of global business' (Beck 2008, pages 136-70), and the capacity of large corporations to override concerns for the welfare of consumers, workers and the natural environment, suggests a very similar kind of corrupting threat to the very basis of public authority, as that which so troubled the great republican Machiavelli.

Especially since it is so closely associated with the process now commonly described as 'globalisation', the challenge of capital mobility is especially significant for those who advocate cosmopolitan forms of government. It means that they need to articulate very clearly what it is that differentiates their own vision of global civil society from the reality that has already emerged in the form of transnational economic interests that are not only able to ignore regulation by public authority, but actually dispose at will the conditions on which such authority can be exercised at all.

Above all, advocates of cosmopolitan democracy have to demonstrate how their imagined regime would seek to restore the authority now lost by states. The alternative of a benign global anarchy is not available, unless it is what we already have now, which is of course benign only to a very select minority. In other words, cosmopolitans need to make plain where they stand in the historical divide, more than ever now crucial to the real human condition, well encapsulated in one of Ernest Hemingway's famous titles: 'To Have and Have Not'.

In this same regard, however, we must not fall into the temptation of hysteria, and bear in mind that the normal operations of capital markets are not harmful in themselves, any more than the successful exploitation of new opportunities for international transactions made possible by removal of political barriers to the movement of capital,

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[3] E per chiarire questo nome di gentiluomini quale e' sia, dico che gentiluomini sono chiamati quelli che oziosi vivono delle rendite delle loro possessioni abbondantemente, sanza avere cura alcuna o di coltivazione o do altra necessaria fatica a vivere. Questi tali sono perniziosi in ogni republica e in ogni provincia; ma più perniziosi sono quelli che oltre alle predette fortune comandano a castella, e hanno sudditi che ubbidiscono a loro. (Machiavelli 2010, p. 173).

and by technological innovation. On the contrary these developments are in themselves benign for economic welfare, and positive for social re-distribution. Much the same can of course be said for the spiritual teaching and practice, and of the pastoral care, provided by the Christian and other religious faiths, both before the Reformation and still now. Indeed, both economics and metaphysics reveal essential truths that it would be foolhardy and irresponsible to ignore in the practice of government, as Machiavelli was himself much concerned to point out.

The problem then as now lies rather in the degradation of politics, and in the deficiency of skill and motivation for the onerous task of self-government.[4] How might cosmopolitan democracy contribute to overcoming that deficiency, bearing in mind Montesquieu's familiar warning about the close and necessary relationship between a sense of community and a disposition to accept, abide by, common laws?[5] Surely it will not do to rely either on a simple appeal to some uniform individualism (even when founded on a universal prescription of human rights), or on the primacy of a utilitarian economics that reduces all beings to the equivalent status of passive consumer. This is, indeed, the first main respect in which cosmopolitan democracy needs to ingest the doctrine and practice of federalism, with its primary emphasis on the autonomy of established political communities, while nevertheless recognising the natural links between them and the individuals of whom they are composed.[6]

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[4] Again see also Judt 2010: 'Liberation is an act of the will.We cannot hope to reconstruct our dilapidated public conversation …unless we become sufficiently angry at our present condition (p. 161).

[5] Montesquieu (1951), see page 237 (*Esprits des Lois* Book I Chapter 3): 'Le gouvernement le plus conforme à la nature est celui dont la disposition particulière se rapporte mieux à la disposition du peuple pour lequel il est établi . . [Les lois] doivent être tellement propres au peuple pour lequel elles sont faites, que c'est un grand hasard si celles d'une nation peuvent convenir à une autre.'.

[6] Bhikhu Parekh has demonstrated comprehensively the dangers of mistaking monistic ideology, concealing a kind of neo-imperialist quest for world domination for a Quixotic universal humanitarianism or liberalism (PAREKH 2006, 2008). However, Parekh's skilful argument for 'multi-culturalism' needs to be read in conjunction with Brian Barry's sharp critique of the same concept as an invidious device to re-introduce the tyranny of religious persecution and prejudice in the name of respect for cultural diversity, see BARRY 2001. See especially pages 252-91 where Barry seems to turn Parekh's reluctance to admit the neutrality of liberal values on its head: '… it is no objection to the legal enforcement of norms of civility and good order that they have a substantial element of convention about them. The whole point of this discussion is to emphasize that these norms emerge from the practice of some actual community.'

For Machiavelli, indeed, self-government is the highest ideal – even an overriding obligation – for any people who see themselves as constituting a distinct political community. As the ancient Romans also firmly believed, the reason for its primacy is that it is an essential condition for attaining and enjoying *'il vivere libero'*. Both self-government and liberty are to be valued in this sense primarily as a means of living in security, and of obtaining all the material as well as moral advantages that depend on the existence of effective political authority. However, enjoyment of those advantages depends on what I am willing to put into the body politic of my own accord, and not only on what I can claim from it on the basis of a shared conception of rights. Certain conditions of good government follow from this concept of liberty as freedom from domination, mostly concerning the crucial relationship between citizen and government:

> The idea that government is a sort of legal trust – the idea that government is a more or less well-defined brief to which the rulers have to remain faithful – goes with the further idea that the people are entitled to challenge the government about how far and how well it is discharging that trust … if the government fails to do its job, then the people have the right to resist and overthrow it.' (Pettit 1997, page 202)

It took several centuries after the time of Machiavelli for this idea and the practice associated with it, essentially that of constitutional government, to replace the imperial or monarchical dynasties, which had become the model of temporal power in post-Renaissance Europe, but became an even greater threat to liberty than spiritual power, especially when able to manipulate the latter as an agency of their own will to domination. Culminating in the terrible Thirty Years War, the demands by separate native communities in Europe to engage freely in economic activity, to manage their own social affairs, to appoint their own political representatives and endow them with power to act effectively on the people's behalf, as well as to enable people to choose to follow a particular religious doctrine or practice, resulted in centuries of violent and cruel repression, and in mass emigration to other unknown continents.

That experience left Europeans acutely suspicious of centralised power and jealous of local and provincial diversity (as well as extensively engaged in world-wide commerce), but it also provoked

– by reaction as it were – a remarkable intellectual fruition of humanitarian liberalism especially in the eighteenth century Enlightenment. As a consequence the previously established idea of state sovereignty, designed initially to support the supremacy of temporal over spiritual power, was greatly embellished, so that it could underpin a theory of government *by consent*, already practised in some parts of Europe, implying the fundamental (or 'natural') right of those defined as citizens to withdraw their allegiance to a regime which failed to meet its contractual obligations to act on their behalf and replace it with another that would.

The political idea of federalism, already emergent by the end of the sixteenth century, is quite simply derived from the same perception of government as a power based on trust, in effect on a covenant or contract between the people and their government. John Locke seems to have been the first to apply the same sense of power as a relationship of trust by extension to the relations between constitutionally-established sovereign states. In other words, the term 'federal' could be applied to all relations between political communities of a stable and peaceful nature, especially when established by treaty, and governed by certain agreed rules of conduct, albeit more loosely than the interior contractual relationship between such states and their citizens. Montesquieu suggested a similar understanding of the value of 'confederation' for ensuring the security of republics, especially small and less powerful ones. However, Montesquieu also perceived politics within states as a kind of compact between the private and public elements of which a community is composed, hence his celebrated theory of the separation of powers.[7]

Then, in the later part of eighteenth century, the revolutionary founders of the USA, the protagonists among whom (especially Madison, Jefferson and Franklin) were remarkably well versed in all such doctrines, and no less impressed by the classical lineage of European political thought, from which they freely borrowed, made enormous strides to elaborate the idea of federation as a practicable method of government, as well as to make it much more precise, and tangible, in constitutional terms. Above all else, what inspired them was the idea of liberty, as received through the same lineage.

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[7] My own reading of Montesquieu in this respect is greatly influenced by the commentary provided by Todorov (1989) pages 483-504: 'Montesquieu reconnaît une autre diversité, cette fois à l'intérieure de la société: aucune nation n'est parfaitement homogène; et c'est en tenant compte de cette caractéristique essentielle des sociétés qu'il préconise la séparation et l'équilibre des pouvoirs'.

It is above all that idea which led James Madison to expound at length in *Federalist Number X* the advantages of representative (or republican) government over pure democracy as a means to secure the property, safety and religious freedom of ordinary citizens, which the member states of the confederation individually could not be adequately trusted to provide (Madison, Hamilton and Jay 1788). A similarly cardinal exposition occurs in *Federalist Numbers XLI-LI* which elaborates the theory of the separation of powers, and recommends its practical application under the new federal constitution, very much as a system of balanced government on lines already adumbrated by European political thinkers and practitioners, above all Montesquieu (Pocock 1975, pages 462-584).

The original, but also thenceforth paradigmatic, character of American federalism thus led Preston King to define federalism as having 'more to do with constitutionalism in general than with territoriality in particular', and to warn that the comparative analysis of federations may be undertaken coherently only on the basis of 'a resuscitated concept of constitutionalism'. King also points out that the degree of integration achieved in any particular case of federation is far less significant than the presence of overriding stipulations of a constitutional nature (King 1982).[8]

Although this aspect of the original American constitutional settlement remains valid as a model for federalists today, and has seemingly profoundly influenced the much later tentative efforts to apply similar principles in Europe and elsewhere, in fact the USA wandered far from the original principles of its founders, in both form and practice of its government. The differences already existing between Madison and Hamilton, which were to become a major cause of political conflict in the early decades of the new federal republic, are still invoked today as representing contrary and divergent views of the purposes of union (see, for a very well researched example, Hodge 2010).

Overall, it is the Hamiltonian version which has prevailed, along with a much wider emergence of nationalism, which has in conjunction with the idea of popular sovereignty, given a largely new significance, and not only in the USA, to fundamental values like self-government, integration and democratic rule. The effects on the USA alone over the past two hundred years have been such as to render anachronistic the description of the present American system as federal at all in practice.

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[8] King, Preston (1982) *Federalism and Federation* London: Croom Helm Pages 67-8, and 145. For a much fuller treatment, see Burgess, Michael (2006) *Comparative Federalism: Theory and practice* London: Routledge pp. 9-101.

The concept has been changed out of all recognition compared to its original meaning as applied to the embryonic Union as it was at the end of the eighteenth century. This can be said not only of the relationship between the Union and its member states, but also that between the different parts of the federal government, though still formally separated in accordance with Montesquieu's famous prescription.

An additional cause of the transformation of American federalism, as well as a concomitant to it, is the development of the USA into what has become in effect a global empire, arrogating to itself – at least since the demise of the USSR – economic, military, cultural and political hegemony over the entire world. As a result the significance of the effectively cosmopolitan aspirations and invocations that have continued to characterise the highly idiosyncratic view Americans tend to have of themselves politically must also be understood now in an entirely different way from their original perception by the "founding fathers". The unpredictable, fortuitous, but still revolutionary outcome – 'globalisation' as a euphemism for 'Americanisation' – obliges us to recall how the self-styled cosmopolitans of classical Rome, though mainly Stoics by disposition, professed their universalistic doctrines with the help of another empire, exercising a very similar comprehensive dominance over the world as it was then known to them (albeit on a territorially much smaller scale, and not yet global in conception).

I have tried to re-introduce here a more authentic version of federalism, as a theory and practice derived essentially from a perception of government that is directly contrary to the absolutist will for power which has persisted: from the old and new dynastic empires that in effect usurped authority that had been previously spiritual, down to the industrialised, highly-integrated and largely novel, but still mainly dynastic nation-states, which had become the established models of modern government by the end of the nineteenth century (greatly influenced by the French Revolution), and down to the twentieth century's monstrous offspring: the global superpowers, which until recently divided Europe itself politically and economically between east and west, and divided the world by competing totalitarian ideologies and nuclear arsenals, each in its own way claiming a cosmopolitan moral superiority, to justify its respective aspirations to world domination.

Here then is a second major challenge to cosmopolitan theorists of today: how, unless by espousing federalist principles and employing some kind of federal institutions on the inchoate model of the EU, can today's cosmopolitans hope realistically to renew and reinforce the

European emancipatory tradition on a world scale. Moreover, assuming that such a hope does indeed inspire their purpose, cosmopolitans must surely welcome any way to prevent the terminal decline of the established political communities of Europe, and forestall their subservience to one or more monolithic powers in search of global supremacy, since it must be assumed that new potential global empires will emerge (if they have not already begun to do so) to challenge the already declining supremacy of the USA, and since we know from ancient historical example that all empires eventually descend into chaos.

IV

'Neither do men put new wine into old bottles: else the bottles break, and the wine runneth out, and the bottles perish: but they put new wine into new bottles, and both are preserved.' Gospel according to St. Matthew 9:17

The challenge to liberty which the European federalists sought to address during and after the second world war was no longer the threat from the old dynastic empires, but rather the failure of nationalism, and the model of the nation-state conceived out of it. Rather than provide the new assurances for which it had been intended, the idea of national or popular sovereignty, born out of the French Revolution, and closely associated ever since with the gradual spread of democracy, had by the middle of the twentieth century not only failed to prevent new kinds of imperialism, but revealed its own tendency to transform itself into a monstrous new form of tyranny, of a kind and on a scale, never before conceived: that of the totalitarian state. (Arendt 1951)

The inescapable fact is that whenever and wherever an attempt has been made to apply it, the nation-state has failed. Transposed beyond its ordinary cultural, geographical, historical, demographic, or sometimes legal denotation, and brought into the realm of the political, the idea of the national identity must sooner or later lead to unjust discrimination, and unequal treatment, of certain groups within a given 'national' community, even when they are fully assimilated, and in a need to demonise outsiders as alien, if not actively hostile.

The issue is, again, not that of the substantive element itself, in this case the palpable fact that we are all both united and divided at the same time by individual characteristics that we owe to our origins in

some more or less identifiable community (though many of us are obliged, and some may even choose, to admit to a plurality of such identities or none at all). Nationalism becomes pernicious only when it is invoked in order to legitimate the use of public power, and especially when used as a substitute for legitimacy derived from religious affiliation and belief.

It is then that the absolutist pretensions of nationalism kick in, just as they did with the older imperialism. In both cases the trend towards an absolute conception and practice of authority, and the necessity for unquestioning loyalty to some overarching mortal presence – whether traditional or charismatic in its authority – can be said to be derived from the earlier monotheistic conception of divine authority, which is invariably thus appropriated for the purpose of endowing the 'emperor' or 'leader' with supreme power (see Arendt 1963, pp. 150-52). Nationalism, which assumes a definitive synthesis of state and society, actually goes further, by demanding from a given population total engagement in both its own internal solidarity and the external alienation of others. While the authority of the temporal state is still said to be founded in law, nevertheless, through the very same process by which the people (or nation) become sovereign (or in the currently fashionable jargon in use in the present European context: transform themselves into a *demos*) that same authority is in fact confused with power. Inevitably, therefore, sooner or later the people as self-appointed nation will arrive at the point where, in order to sustain that illusion, they must identify some others as alien, whether internally or externally, against which the mythical purity and solidarity of the nation must be defended, and indeed invigorated. This process is of course all too familiar from what happened in Europe in the first half of the twentieth century, with catastrophic outcome. (For the full story see Arendt 1951)

The kind of federalism prescribed by the founding fathers of what has now become the European Union, and to some degree still practised in its name, arose essentially out of the need to correct just those excesses of nationalism, and to find a more reliable and economical means of realising the ideals of republicanism, especially in that part of the world where they were originally conceived, only to be so poorly nourished once born.

It is unnecessary to say much more here to support these assertions, since there is now such a substantial body of published work which does just that. However, whereas today's cosmopolitans seem fully aware of nationalism's defects, including its imperfections as a basis for democracy, many of them still seem reluctant either to let go of the

conceptual restraints imposed by a political science and international relations in which national sovereignty is still seen as sacrosanct and irreplaceable, or to experiment with the new forms required by the utterly changed conditions of today's 'globalised' world, not to speak of the effects of the historical success of totalitarianism in rendering inane, through its acts against the very concept of humanity, all the traditional foundations of political discourse.

However, there are exceptions, of which I shall here consider only one, albeit a most prolific and inventive one. Ulrich Beck has provided a brilliant and comprehensive critique of the failure of the nation-state, and of the 'methodological nationalism', as he calls the infection of intellectual and scientific observation by the old and fragile bottles still in use, especially in the academic social sciences. He thus explains convincingly how this clinging to old forms actually impedes research into the real consequences of globalisation and prevents the invention of new forms capable of securing constitutionalism against the various forces now so threatening to it in a post-national age (see especially Beck 2005 pp. 35-50).[9]

Beck's analysis of the changing relationships between state and society, the undermining of the capacity to govern arising from new strategies of capital, and the demise of social democracy based on the national welfare state provides an essential background for realising the significance of European integration from a federalist perspective. (Beck 2005 pp. 51-165). In particular he seems to want to avoid the chimera of a new over-arching world order or global 'demos', on the nationalist model, and foresees rather that existing entities, including both states, transnational organisations, and actors in what is increasingly described as 'international civil society' change their own conduct and expectations, thus gradually supplanting the system of international relations, with its dependence on domination and violence and the confusion of power with authority which seems to have returned as the basis of most 'foreign policies' of states, above all the state to end all states: the USA.

Indeed, the theoretical considerations and historical analysis which I have been unfolding here have been greatly influenced by my reading of Beck's justification of cosmopolitanism. I have also been encouraged

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[9] My references to these works here are to the available English translations of two of Beck's recent published works, see references at the end, where the original German texts are also cited. My understanding of nationalism has also been greatly influenced by the work of the contemporary French historian of ideas, Tzvetan Todorov, see in particular Todorov 1989 pages 237-60 and 331-51 (the second of these selections beginning with a subtitle: '*Nationalisme contre humanisme*').

by Beck's later treatment of the normative issues which have to be invoked in order to explain the historical course, and relative success, of European integration since 1945 (Beck and Grande 2008 pp. 131-5). Throughout Beck's writing shows an unusual awareness of the political issues that are paramount for federalists:

> 'Europe, understood as the horizontal Europeanization of the nation-state, *needs* a cosmopolitan humanism, but not a normative integration of the kind presupposed by the integration theory of national society from Durkheim to Parsons.'

The major disappointment, however, is the way that Beck dismisses federalism as of no relevance to his theme and in his later, co-authored volume, gives it merely a few sentences.

The summary reason given for this evasion is that European Union could be a federal union (or federation), only if it were also to become a nation-state, which, as Beck and many others have consistently pointed out, is precisely what we do not want, and may be an inconceivable, even nonsensical, outcome to seek anyway. A caveat about federalism is justifiable, precisely because it is indeed conventional in comparative political science, with its outdated and rigidified conceptual frameworks, to assume that the terms 'federal' and 'federation' can described only a particular kind of state, even a nation-state. Thus a federal state is one that differs from other varieties only in so far as its government is divided between different territorial levels, while the constituent territorial units can make and unmake the constitutional arrangements that determine the powers of the federation (or possibly nation) as a whole (what German lawyers call *Kompetenz Kompetenz*).[10]

Although they at least acknowledge the possibility of perceiving European Union as an incipient, or half-finished, federation, Beck and Grande make no serious attempt to examine what that might really imply (other than a process of creating a new super nation-state) and so bail out of their discussion of federalism in mid-flight, as it were. Indeed, I have already here used far more words than Beck does in his own references to federal Europe. (see Beck and Grande 2008 pp. 50, 73 and 248).

Beck and Grande's impatience with federalism contrasts with their treatment of their own preferred conceptual definition of Europe as a

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[10] It has become common in comparative politics, and especially in studies of European integration, to use the more elaborate phrase, 'multilevel governance', as a synonym for federal (though it is an unduly clumsy and inelegant, as well as redundant, neologism).

cosmopolitan polity, which is to perceive the latter as an 'empire'! They spend the next few hundred pages drawing out the implications of this definition. On the surface this would seem to be even self-contradictory, given that Beck's own perception of 'cosmopolitan Europe' expands on Jürgen Habermas's concept of *Verfassungspatriotismus* referring originally to the 'constitutional patriotism' which has replaced nationalism as the social basis for the legitimation of political authority in the German Federal Republic. Transposing such a conception to the European level, as Habermas readily does himself, is to point, surely, in a direction diametrically opposite to what historically we have come to call empire, including the American global empire that we often seem to be living under today. (Habermas 1988, pp. 105-28 and 155-61)[11]

Beck and Grande do, nevertheless seem to be fully aware that their new name for the EU must give rise, at the very least, to ambiguity, admitting almost as they introduce it: '… we must distinguish between two variants of European Empire: a repressive one and an emancipatory one'. (Beck and Grande 2008, p. 71). They then make the further qualification that 'it (the European Empire) does not involve clear and straightforward relations of exploitation, such as were typical for pre-modern empires and the modern colonial systems' and so must be distinguished 'sharply from other empires, modern ones included'. If this were not enough to throw suspicion on the choice of such an admittedly ambivalent and misleading terminology, the authors go on to review a whole series of characteristics intended to distinguish their own 'empire' from others bearing the same name. (Beck and Grande 2008, pages 73-74) In fact, most of those characteristics belong to what federalists would call an ideal federal union!

The moral is that, if Beck and Grande are sufficiently representative of the *genre,* advocates of cosmopolitanism tend to be banefully ignorant of federalism, relying far too much on the superficialities of comparative politics rather than on the deeper and more reliable lessons of history and philosophy. Their consequent *idées fixes* blind them to a

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[11] One possible explanation for Beck and Grande's terminological eccentricity might be an intention to suggest an analogy with the Habsburg Empire, which – at least for a certain period of its history – provided its diverse peoples with an overall security and order, without entailing their full integration (in a cultural and social sense) into a new overarching national identity. If so this would be a clever and apposite analogy to make. Nevertheless, such an analogy is regrettably not likely to be understood by readers not versed in the history of Central Europe, or of the German peoples. There is more than a little danger, indeed, that the worst kind of ill-educated English readers (including parliamentary representatives of the political party, UKIP) will assume that Beck simply wants to promote the EU as 'The Fourth Reich'!

whole range of different possible forms and procedures of which federation is capable in practice. Moreover, federalism, even when reified as federation or federal union[12], is concerned with far more than just a particular species of constitution or state superstructure It contains a strain of historical thought and practice indispensable to a full understanding of constitutionalism itself, as well as to a whole political tradition inspired by the aspiration to freedom from domination. In other words it directly concerns values which today's self-styled cosmopolitans say they want to promote.

Although they have been with us for a long time, and subject to several re-iterations, federalism and federation must, therefore, be regarded as more easily renewable and serviceable concepts than 'empire' – a bottle surely too old and too leaky to contain the new wine of a world too much changed. Even before Beck and Grande offered their excursus on the 'European empire', one of the major critics of cosmopolitanism had already raised the suspicion that its exponents might, behind their humanitarian rhetoric, be implicitly imperialist in outlook and aim (see Miller 2002, pages 84-5), a suspicion which Beck and Grande's chosen terminology can have only heightened.

V

In conclusion, we need to ask what it is that the idea of cosmopolitan democracy adds to federalism as a principle of action to help Europe and the wider world respond to the currently man-made threats to human survival that now seem so overwhelming. Most of those threats seem to have no other efficient remedy than the discovery of institutional means through which sufficient trust and understanding can be built to make it possible for all of mankind to abstain from harmful action while being assured of due respect and reciprocity from others. This can surely only mean some form of common government, which does not exist at the present time, and has probably never existed.

One key question is whether cosmopolitan democracy offers a credible, genuine alternative to conventional international relations, as they are practised through war and diplomacy, tempered for the past sixty-five years with very limited efficacy, and inadequate resources, by the United Nations system. If not, and if all that can be specified is a vague formula of 'governance', operating through friendly networks

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[12] For more explanation of this important conceptual distinction, see King 1982, pp. 74-76, and Burgess 2006 pp. 9-49.

of more or less organised interest groups forming an virtual 'international civil society', then the idea verges on the redundant. Indeed it hardly differs from the old-fashioned functionalism of David Mitrany, which influenced much of the structure of the United Nations Organisation, and in response to the dire shortcomings of which the European Communities were initially designed on federal lines.

Another question, which is often posed by critics, like the political philosopher, David Miller, is how in practice cosmopolitan democracy can be expected to reproduce at a global (or for that matter a European) level what Miller has called the 'institutional reciprocity' which enables relatively small, more integrated political communities to provide their members with access to public goods, including that of democratic participation in government. (Miller 2002, pages 81-85) This is similar to Montesquieu's argument that the best government is provided by small-scale republics formed by recognisable, well-established political communities. However, Montesquieu could also see in 'confederation' a means of protecting such more compact but also more vulnerable communities against the ambitions of larger empires (Montesquieu 1951, pages 369-71), Federalism offers a similar answer to the challenge to cosmopolitans to reconcile their advocacy of universalistic values with the claims of discrete communities for the right to 'engage in collective projects that reflect the cultural beliefs and values of (their own) members, and devote part of their resources to these projects' (Miller 2002). James Madison already countered precisely this kind of objection by producing well-known, weighty and substantiated reasons why overarching federal institutions were necessary to protect citizens against a possible tyranny of the majority in their own states (Madison, et al 1987, pages 122-28, Federalist X).

Certainly in a world still very much challenged by the economic and military dominion of one or more superpowers, and a European Union which includes among its larger member states some whose persistent but pathetic sense of moral superiority belies the loss of previously global empires, the organisation of political authority beyond established, familiar communities must require more than vague speculations about 'governance'. Among much earlier advocates of cosmopolitan government we can find those who believed 'that there should be a single world government, and moreover a government controlled by people of virtue' (Miller 2002) and did so with a piety and dogmatism that could become terrifyingly ruthless. They include not only the classical Stoics themselves but also Robespierre and of course Lenin. We should also take heed of Hannah Arendt's perceptive – and all too well informed – warning that the Nazi party did not actually

espouse a nationalist ideology, dismissed nation-states as essentially provincial, and saw itself as a movement with a millennial destiny on a global scale. (Arendt 1951 p. 12) With possible friends like these, self-styled cosmopolitans of today should be asked to be more than usually explicit about the precise principles and methods with which they intend to set about the construction of new political institutions on a world scale.

Federalism certainly has its own ambiguities, above all the divergence of the Madisonian from the Hamiltonian interpretations of the constitutional settlement of 1789. That very same divergence is, however, rich in suggestiveness even in the context of today's world. Indeed, it can serve to remind and inform scholars of both American politics and European integration of a vital tension that runs through the historical development, in and beyond Europe, not only of federations of states but also of democracies. On the one hand, there is the republican tradition from Machiavelli to Montesquieu, from Locke to Hume, on which Madison, in particular, drew for his inspiration when seeking to design a new system of government for the USA which would guarantee above all moderation, liberty and protection from tyranny. On the other there is the incipient nationalist imperialism of his contemporary, and one-time collaborator, Alexander Hamilton, whose 'federalism' disguised a temperamental and ideological zeal for territorial expansion and commercial exploitation, and readiness to use violent means to realise its 'manifest destiny'. (See, for example Hodge 2010, which is primarily intended as a critique of the Obama presidency; and on the huge significance of the Madison/Hamilton divergence for the whole history of European political ideas before and after the US Constitution, see Pocock 1975, especially pages 462-522; and see Pettit 1997, pages 129-205, on the substance of the republican tradition and its opponents).

All the more reason why the onus is on advocates of a federal Europe to refresh their own appreciation of this legacy, and to exercise special vigilance against the tendency today to conceal, distort, or mystify its current significance. Here I have tried to contribute to that task by substantiating further the essential symbiosis between the federal vocation of European Union and the emancipatory vocation of the European liberal or republican tradition, since exported all across the world but with mixed results. In the continuing process of reform of the political institutions so far constructed to implement the project of European federation, I suggest in conclusion that the following three reflections should be paramount, and should illumine any and every effort to justify that project to a wider public. Each indicates also pitfalls to avoid.

• Although the project of European federation, like the EU itself, has been typically described – initially by academics but increasingly also by practitioners – as being concerned with 'integration', it is much better and more authentically perceived as being primarily about *self-government*. In other words, federalists' characteristic, even defining, peculiarity is a concern for the viability of government itself, at each of the various territorial levels at which it is exercised. This includes especially the need to ensure that the relations between the various economic and social forces – including national, regional and local governments – that make up, or play upon, the various communities of which a federation is composed – can be persuaded, or when necessary obliged, to act through *political* means, and out of respect for *political* ends. Therefore, in the case of the EU for example, it is perfectly correct to say that one of the primary aims of 'integration' is actually to strengthen the member states, and make their action more efficacious, especially when faced with major threats to their autonomy from hostile powers whether acting within or from outside (which might include in some interpretations bodies like the IMF, but certainly includes cartelised or otherwise conspiratorial private commercial and financial interests).

• 'But federalism, where conceived as a doctrine of balance, is neither more nor less centralist, and because of this, it need not necessarily be expressed in territorial terms at all. Federalism as balance has accordingly more to do with constitutionalism in general than with territoriality in particular.' (King 1982, Pages 67-68) Although the original European federal compact of treaty of Rome was joined by only six member states, the limitation was much less important in territorial terms than the fact that in itself it enabled the Community to be founded essentially on *law*, and allowed the progressive integration which the Treaty foresaw to be defined essentially as a due legal process, capable of directly binding individuals and corporations. For similar reasons cosmopolitans should be less concerned with the fact that European Union is only a regional framework of government (even with 27 members), and more with the limitations of its constitutional basis, in so far as these weaken its capacity to provide, as was initially intended, a unique example of constitutionalism and the rule of law on a supranational scale.[13]

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[13] For a comprehensive and authentic explanation of how the constitutionalism of the European Union and its forebears has been made manifest, as well of its shortcomings, exceptions and difficulties, see Weiler 1999.

• As Montesquieu prescribed, the effectiveness of the law relating to any system of government depends on that system's accompanying principle of action.[14] Such a principle is discernable in the case of European federation since the second world war, as the recognition of a *public good* which transcends the separate or private interests of the member states and their citizens. The economic compact on which the present EU is still founded thus became a social compact as well, and required both legal and political means to be sustainable. In principle, therefore, the EU guarantees (supranational) rights in citizens which did not exist before, and in so doing emancipates them from the obligation to derive their personal identity from some nativity, though they are also perfectly free to do that if they so wish.[15] A federation of this kind constitutes a form of *representative government*, which does not entail the prior existence of a national or demotic community ('*demos'*) coterminous with itself. However, Montesquieu's caveat that a democratic form of government must respect the principle of *virtue,* if it is not to be corrupted by private interest, still applies, even *a fortiori*.[16]

In its present form and operation, the EU does not seem to be an ideal model of how to restore now seriously-damaged, but more than ever necessary, political authority to control the economic savagery of market forces, to strengthen and uphold the rule of law, and cultivate the bonds of communal solidarity, without which no guarantee of true liberty can be reliable in the longer term. In particular, the effects of the recent financial crisis have exposed critical deficiencies in the original compact of monetary union, as legitimated by the Treaty of Maastricht of 1993. These were evident at the time to many who nevertheless believed that the move to a common currency would have the overall effect – a least eventually – of strengthening rather than weakening the political legitimacy of the Union, not least by means of a long overdue full constitutional settlement.

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[14] 'Il y a cette différence entre la nature du gouvernement et son principe, que sa nature est ce qui le fait être tel, et son principe ce qui le fait agir. L'une est sa structure particulière, et l'autre les passions humaines qui le font mouvoir' (Montesquieu 1748, 1951, pages. 250-51, see also Arendt 1951, especially pages 607-10.

[15] One may have to hold the citizenship of one of the member states to claim these rights, but they do not depend on one's also having to be assimilated into a French or Hungarian 'nation', or for that matter a European one. See Burgess 2006 on the vital significance of the concept of representation in federalist thought and practice, pages 192-208.

[16] 'Les politiques grecs, qui vivoient dans le gouvernement populaire, ne reconnoissoient d'autre force qui pût les soutenir que celle de la vertu. Ceux d'aujourd'hui ne nous parlent que de manufactures, de commerce, de finances, de richesses et du luxe meme.' Montesquieu 1748, 1951, p. 252.

As it is, on foot of the failure to give the EU a sufficient constitutional basis, the global financial crisis and economic depression since 2008, though caused initially by misgovernment and mismanagement in the USA, has had a disproportionate impact on the EU's structurally weaker states, as well as on more vulnerable groups in all states, in some cases imposing intolerable fiscal burdens on a majority of the economically active population. This has been allowed to take place in a manner altogether contrary not only to the principle of economic and social cohesion enshrined in the EU's existing legal basis, but also to the whole spirit of the original, and more important, covenant established by the foundation of the original European Community in the 1950s.

In such a present conjuncture, and in view of the dire consequences of allowing any further degeneration of the federalist vocation, surely those Europeans who see their own lives as purposeful only in dedication to the cause of emancipation of all beings should concentrate their energies on the urgent revival of the original principles and objectives on which the present EU was founded. For those who cannot accept the federal vocation, who balk at the very name, or who cannot believe in the true elasticity of forms of federated government, the bad news is that there simply is no other way than this way.

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Europe without Institutions: a British Illusion

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Other Europeans or Britons returning to the United Kingdom after a long period of living abroad are often shocked by the tone and content of British discussion about the European Union. There is a wilful and dogmatic ignorance underlying most of the debate, a resentment of any attempt to confront hysterical prejudice with facts or logic and an implicit assumption in the minds of most Britons discussing the subject that any respect in which the European Union differs from British political practices is simply a further demonstration of the Union's inferiority. These disagreeable and irrational attitudes are lovingly encouraged by idle and superficial national media, which are more properly to be regarded as a branch of show business rather than as serious contributors to public education.

Nor is wilful ignorance about the European Union confined to the broad mass of the population who take little day to day interest in politics. This ignorance is widespread among the British political classes, even among those who profess themselves immune to the wilder fantasies of radical Euroscepticism. This ignorance ensures that the defence, much less the advocacy of the European Union frequently passes by default in the United Kingdom. Those who supposedly favour a full role for Britain in the European Union often do not possess the knowledge or intellectual coherence of approach to allow them to give a robust and credible account of the nature of the Union and Britain's position within it. It is much easier for such tepid friends of the European Union in this country to accept, consciously or unconsciously, much of the Eurosceptic analysis of the supposed iniquities of the European Union. They argue only that the Union is probably not quite as bad as its most vitriolic critics assert, that it is changing in a way that will make it more acceptable to British Eurosceptics and that in any case Britain has no choice but to remain, albeit unenthusiastically, a member of the Union for fear of impotent isolation outside the Union. It is hardly surprising that such lame and unpersuasive rhetoric makes little headway against the unbridled distortions of most presentations in the mass media of European questions.

Later in this essay will be devoted to specific areas of the European Union's policies, such as its budget, its Common Agricultural Policy, its external relations and the single European currency. All these are topics upon which frequently grotesque misperceptions exist in British public and political opinion. But underlying all these sectoral questions, and indeed psychologically conditioning the British approach to them, is a deeper intellectual and moral confusion about the workings of the European Union, a confusion which again and again finds its expression in a uniquely British bitterness and resentment towards the central European institutions. Successive democratically elected British governments have said for fifty years they wish Britain to be a member of the European Union. Even today a majority of British voters claim in most opinion polls that they want their country to remain within the Union. But this wish apparently co-exists in the mind of many British voters with the delusion that it is possible and desirable for the United Kingdom to be a member of the Union without participating in and being reciprocally affected by the Union's institutions. This delusion is one they often share with their political leaders. Too many current British politicians apparently share the belief that the Union's institutions are simply an optional extra of the way the Union works, and they can be as dismissive as they like about these institutions without thereby weakening fundamentally the case for the Union and Britain's role within it. But the European Union would not be the European Union without its institutions. Nor is the proper functioning of these institutions conceivable without the whole-hearted contribution of the Member States, such as Britain, to their success.

The systematic misrepresentation of the Union's institutions and their interaction with the Member States, including the United Kingdom, has been one of the major propagandistic pillars on which the case against the European Union and all its works has been constructed over the past twenty years in the United Kingdom. Central to this propagandistic case is the presentation of all the central European institutions as a single amorphous mass of unaccountable and intrusive bureaucrats. In fact, it is a defining characteristic of the European Union's system of governance that differing institutions, with differing roles and differing sources of legitimacy, offer to the Union a sophisticated and responsive political structure, in which power is deliberately dispersed. Caricatures of the Brussels monolith, intent only upon squeezing every last drop of national sovereignty out of the Union's member states, are well wide of the mark, as even the most cursory review of the individual institutions will make clear.

The European Commission

No preconception is more illuminating of the refusal of much British opinion to understand the basic workings of the European Union than the sloppy but almost universal description of the European Commission as "the civil service" of the Union. In most national administrations, civil servants are those who take instructions from their political masters, whether in the preparation of legislative proposals for national parliaments, or in the execution of administrative tasks entrusted to government by national legislatures. The Commission of the European Union emphatically does not correspond to this political template, and because it does not, there frequently lurks beneath the surface of most discussion of the Commission within the United Kingdom the suspicion that the Commission is always illegitimately attempting to go beyond its proper role, seeking for itself prerogatives which properly belong to elected governments. The suspicion is an ill-founded one, but its roots are demonstrably to be found in the lazy and factually incorrect assimilation of the European Commission's position within the European Union to that of the British civil service.

The political and administrative role imposed upon the Commission by the European treaties makes clear how misleading any such assimilation must be. Far from taking instructions from national ministers, the Commission is explicitly charged by the treaties to act independently of national governments, in the European interest. There have over the years been members of the European Commission over-eager to accept guidance, even instruction, from their national capitals. But far from acting in a way befitting their station as supposed simple functionaries, these individuals were flouting the basic obligations of their offices. National governments nominate the European Commissioners who direct the administrative and other activities of the European Commission. Once installed in their posts, however, these Commissioners are called upon to exercise responsibilities which logically cannot be discharged by messenger boys from national capitals.

The two main responsibilities of the European Commission are the proposal and the execution, once adopted by others, of European legislation. It must be obvious that neither of these tasks can be performed by a group of twenty seven national civil servants, all bound by instructions from their political masters. No legislative proposal could possibly be the result of the unmediated clash between apparently discordant national interests and traditions, with their constant vulnerability to sectional, regional and demagogic pressures.

If it is to be in any way an effective proposer of new European legislation, the Commission must be able to act not merely as mediator, but on occasion as arbiter between at least superficially conflicting national positions. Quite apart from the legal and moral constraints imposed upon it by the treaties, the Commission could not, as a matter of practicality, fulfil its task as proposer of legislation if it saw itself as a body directly comparable to the British civil service. There is no European government from which the European Commission could even theoretically take instructions in its preparation of proposed new legislation. It would be interesting to know how many of its critics would like to remedy this absence by establishing a European government to which the European Commission could be subordinated.

Almost more important than the role of independent proposer of new legislation is the role of the Commission as monitor and, together with the European Court of Justice, enforcer of adopted European legislation. Whenever European legislation is infringed, at least one national government is always directly or indirectly involved. For the Commission to be an effective and independent monitor, it obviously needs to build up over time an acknowledged autonomous position independent of national governments. In doing this, it is in no sense acting contrary to its allotted role within the European political system. On the contrary, it is precisely fulfilling this role by its refusal to see itself as a mere secretariat for national governments. The European Union is founded on the proposition that decisions taken exclusively at the national level are not always the most rational, the most morally defensible or even the most economically advantageous to citizens of these national communities. The role of the European Commission in the structure of the Union is a reflection of this insight. There would be no European Union today if the European treaties had instituted a political structure in which the European Commission was a body precisely comparable to the British civil service. Consciously or unconsciously, those in the United Kingdom who question the autonomy and legitimacy of the European Commission are questioning the founding principles of the European Union.

The Council of Ministers

An important consequence of the vagueness and imprecision with which the workings of the European Union are discussed in the United Kingdom is the pervasive impression that European legislation, binding upon the United Kingdom, is adopted in Brussels by a shadowy

group of non-elected bureaucrats who then impose their diktats upon plucky but hapless democratic leaders in the member states. That such manifest nonsense should be widely believed in this country is the worst possible augury for the possibility of rational debate in the United Kingdom. Nevertheless, to any observer not entirely given over to irrational prejudice against the European Union, the distinctive and central role of the Council of Ministers in the structure of the Union should surely provide reassurance that national politicians, national interests and national political cultures play a full and appropriate part in the way the Union functions.

If it is the role of the European Commission independently to provide proposals for European legislative initiatives, these proposals can never enter into law without the approval of the Council of Ministers and the European Parliament. Fulminations against the non-elected European Commission for its allegedly anti-democratic culture would be much more to the point if this were not the case. Within the European Union, all fundamental decisions are taken by democratically elected politicians, with their decision-making open to at least the same level of public scrutiny as that which obtains in national political arenas. The role of national ministers meeting in the Council of Ministers to adopt legislation is particularly crucial in this respect. It is their decisions and those of the European Parliament that the European Commission is then called upon to execute and to this extent a legitimate parallel can be drawn between the Commission's role and that of national civil services. A specificity of course inherent in the Commission's function is that it cannot allow individual national governments themselves to be sole judges of whether they are acting in accordance with the decisions of the Council of Ministers. To allow them to do would be in effect to recognize the right of every government to evade the responsibilities arising from the decisions of the Council. Vast national resources are always available to national ministers to manufacture more or less plausible arguments about why their country cannot, should not or must not implement to decisions to which they were a prominent party. The vigilance of the Commission is a bulwark against inevitable backsliding by national administrations who are often happier for their neighbours to carry out their European obligations than to do so themselves.

The latter recidivism is all the more culpable in that it is only in the very rarest cases that national governments have found themselves formally voted down by the procedures of qualified majority voting in the Council. In general, the members of the Council do their best to

proceed by consensus, an attitude encouraged by the high threshold of acceptance set for decision-making, even where national vetoes are not formally available. The legislative and other decisions that issue from the Council represent the considered and carefully-arrived at common decisions of twenty seven democratically elected national governments, who then play a central part in the national realization of these decisions. To present this eminently reasonable, balanced and democratic method of decision-making as in any way dictatorial, invasive or megalomaniac is to fly in the face of all the facts.

The European Parliament

What has been said already about the Council of Ministers should suffice to demonstrate the powerfully rational and democratic nature of the European Union's institutional structures. But this structure is further reinforced in its democratic credentials by the European Parliament, the directly elected representatives of voters throughout the European Union. Since the first European Elections of 1979, the powers of the European Parliament have regularly and substantially been increased, not primarily by its own action, but by the national governments of the Union, who have amended the treaties of the Union to enhance the role of the Parliament. These democratically elected national governments have concluded, rightly, that a more powerful European Parliament makes for a more democratic and better-governed European Union. Those who see the European Union as simply the hollowing out of the member states of the Union to the advantage of overweening central institutions such as the European Parliament will struggle to find any remotely plausible explanation consistent with their basic analysis for the apparent eagerness of the governments of the member states to accelerate this process. The European Parliament is a central building – block of the democratic life of the Union. To deny as a matter of principle its capacity to fulfil this role is implicitly to reject a major component of the Union's political philosophy. It is becoming increasingly clear that many of the Parliament's critics in the United Kingdom do indeed reject that underlying supranational philosophy.

The European Union itself does not and probably never will possess precisely similar structures to those of a member state of the Union. In consequence, the European Parliament cannot fairly be criticized or even praised because its competences and working methods are not precisely those of the House of Commons. It may well be that in the

same way as those competences and working methods of the House of Commons have evolved over time, so the role of the European Parliament will evolve in the coming decades, reflecting the deepening of European integration which is the natural and wholly foreseeable path of development for the Union. A more integrated European Union will certainly call for a more developed parliamentary component to assure its democratic legitimacy than the European Parliament can currently provide, or indeed currently needs to provide. Controversy surrounding the desirability and possibility of such a development provides a uniquely illuminating insight into an intellectual divide, on the wrong side of which too many self-avowed pro-Europeans in this country find themselves.

The Parliament's most radical critics are not wrong when they say that the European Elections would confer greater democratic legitimacy upon the European Union if they were fought on the basis of European-wide manifestoes, by European-wide political parties and with demonstrable political consequences following from the results of those elections. Nor are they wrong in saying that the European Union suffers from the absence of a "demos" like that of nation-states, if by this they mean that there is at a popular level within the Union only a very fragmentary sense of a shared political identity which might make easier to accept as politically legitimate from the Union's decision-making processes decisions which are unwelcome or damaging in the short term to one particular country or region within the Union. Some of the Union's defenders are inclined to underestimate the force of this critique, either because they take as axiomatic the democratic legitimacy of the directly-elected European Parliament, or because (as is often the case in this country) they do not anyway understand the crucial contribution the Parliament needs to be able to make to the democratic legitimization of the Union.

For many of the Parliament's most virulent critics, their arguments are of course opportunistic, designed to demonstrate the supposed impossibility of European democracy rather than to help bring it about. For them, European parliamentary democracy at other than at the national level is simply inconceivable. Their contentions have recently received apparent support from a recent judgement of the German Constitutional Court, which casts considerable doubt upon the capacity of the European Parliament to act as an effective democratizing component of the European Union. This latter judgement represents a change of view from earlier findings of the German Court, where the role of the European Parliament was much more positively assessed. There is no reason why its assessment should not change again. For this

to happen, it will certainly be necessary and desirable to reform radically the European Elections and the political context in which they take place. The development of European political parties is a priority for the European Union and the linking of the Presidency of the European Commission to the European Elections, foreshadowed in the Lisbon Treaty, would also enable European electors to see a direct outcome to the casting of their ballots. In the longer term, simplification of the complicated decision-making of the European Parliament would also lead to greater political transparency. These steps would of themselves do much to help the emergence of a demos, not for Europe, but for the European Union. In the modern world, it is at least a necessary and often a sufficient condition for belonging to a "demos" that its members participate in common elections, which lead to decisions affecting the voters and which they regard as legitimate largely because of their participation in these elections. A supranational European Union demands for its full legitimacy supranational democracy. Unless we are to regress to the absurd proposition that the nation state is always and everywhere the fount of all political legitimacy, the European Parliament must always be at the heart of the European Union's political structure.

The European Court of Justice

The existence and activities of the European Court of Justice are a natural consequence of the institutional structure described above. While the European Commission has the task of monitoring the application of European law, agreed by governments and European Parliament, it is the European Court of Justice which has the final responsibility for interpreting this law in cases of genuine dispute. It is very difficult to see what other institutional arrangements could have been set up for the Union. For the member states themselves to sit as judge and jury on their own interpretation of European law would be plainly absurd. Those in this country and elsewhere who reject as a matter of principle the underlying institutional structure of the Union will naturally also question the findings of the Court, particularly when directed against the activities of the British government. It is hardly surprising national governments should on occasion resent unwelcome findings of the Court. Nobody enjoys losing a legal action. But it is only in Britain that such resentment normally stems from a fundamental rejection of the political philosophy on which the Court is founded.

The institutions matter

The above brief review of the functions and responsibilities of the European institutions should have sufficed to describe their relationships between themselves and the political logic which underlies them. These relationships and their political logic are not incidental to what the European Union is, but rather at the heart of its construction. It is not too much to say that the European Union is its institutional framework and that institutional framework is the European Union. Those who claim to support the European Union, but reject its institutional framework are either personally confused or deliberately misleading their audiences. It is no coincidence that decades of abuse of the European institutions by successive British governments claiming to act as protectors of Britain's position within the European Union have only had the perverse, if predictable effect of alienating further British public opinion from the Union itself. In more recent times, New Labour's favoured pose of the protector of the British public against the overweening ambitions of the European institutions was in no way reassuring to British public opinion, but simply encouraged the British misperception of the malignity of these institutions. Above all, it encouraged the misperception of the European institutions as entities entirely remote from the United Kingdom, in which British ministers, British officials, British members of parliament played no role.

It was an often deployed argument of New Labour apologists in the last decade that their unenthusiastic approach to the European institutions derived from the imperative need to convince the British public that the European Union was not on the way to becoming, as the Conservative Party feared and the United Kingdom Independence Party definitely predicted, a European "federal super-state." On this analysis, it was a precondition of reconciling British public opinion to the European Union that British voters should be persuaded that the British government which they had elected was firmly in the saddle of European decision-making, with the underlying structures of this decision-making predominantly intergovernmental in character. The European institutions were therefore to be seen as a colourful and self-important distraction from the real work of the European Union, which was to bring national governments together on a co-operative basis, allowing the good sense and political wisdom of national ministers and parliamentarians to establish and develop areas of common activity for the good of all. The European Union, claimed Mr. Blair and those who thought like him, should cease to concern itself with institutional questions and start "delivering" concrete material benefits to its concerned citizenry.

Nobody would deny the centrality of economic questions in the European Union's proper functioning. The Union's internal market is one of its most significant achievements and a major contributor to economic growth over the past twenty years. But it is a shallow and unrealistic analysis to believe that the European single market could have been realized without the institutional structure of the European Union to give it birth and to foster its growth. Without the greater use of majority voting in the Council of Ministers introduced by the Single European Act in 1986 and without the implementation of the Council's decisions by the Commission and the European Court of Justice, the single European market would have remained a purely theoretical aspiration. Far from needing to choose between the practicalities of economic integration and an abstruse concern with the workings of its institutions, the European Union knows from its history that effective and practical action can only result from strong and active central institutions. The almost total failure of the much-trumpeted Lisbon Agenda in the first decade of this century is very much a case in point. Presented by Mr. Blair and Mr. Campbell in the year 2000 as a programme whereby national governments would bypass over the coming decade the traditional institutional fetishes of the Union in order to "deliver" primarily by intergovernmental co-ordination a markedly improved economic performance in Europe, the Agenda had by 2010 become a laughing-stock. The Agenda's failure to comprehend the vital role of the European institutions in the Union's successes condemned it to ineffectiveness from the beginning.

To the original signatories of the Treaty of Rome, the failure of the Lisbon Agenda would have come as no surprise. They understood two basic truths, which many in the United Kingdom still struggle to understand, even if they regard themselves as being generally favourable to the process of European integration. The first of these truths is that economics and politics cannot be separated the one from the other. The Treaty of Rome sees European economic integration as serving an explicitly political purpose and political instruments are set up by the Treaty to bring about this economic integration. It is a fantasy to imagine that member states of the European Union can simply participate in the economic aspects of the Union without equal participation in its political structures. The second truth enshrined in the Treaty of Rome is an institutional truth, that a supranational organization needs supranational institutions which correspond to the scope of the organization's ambitions. The over-arching ambition of the European Union is to remedy the manifest inadequacies of the traditional European system of nation states, be these inadequacies

political, economic, environmental or security-related. It is inconceivable that this ambition should be realized only by the actions of nation states, without the intervention of supranational institutions.

A United States of Europe?

A recurrent lament of too many in the United Kingdom who certainly would not regard themselves as Eurosceptics, is that the European institutions regard themselves, or are regarded by others as being the supposed precursors of a "federal superstate." Ironically, the intellectual confusion which the latter concern reflects is probably more damaging to public perceptions of the Union in this country than is unvarnished Euroscepticism. When those who wish to advocate British membership of the European Union do so in terms which appear to accept much of the underlying radical Eurosceptic analysis, it is not surprising that British public opinion finds itself disoriented and uncertain in its perception of European affairs.

The truth of the matter is that in joining the European Union, the United Kingdom and other countries make themselves part of a particular political and legal structure in which the European institutions play a leading role. This structure can accurately be described in important respects a "federal" in character. The supremacy of European law, majority voting in the Council of Ministers, the single currency, the directly-elected European Parliament, the independence of the European Commission, the (small) central budget of the Union and its ability to sign international treaties are undeniably federal components of the Union's structure of governance. The Union would not and could not function without these components to its workings. To view these necessary components of a successful Union with suspicion simply because they can be regarded as "federal" in their nature is unreflective fetishism of the worst kind. Many British commentators like to regard themselves as pragmatic in their approach to the European Union. The frequent assumption in this country that patriotic citizens of the United Kingdom must always and in all circumstances be hostile to any evolution of the European Union which could be described as "federalist" is the polar opposite of anything that could be described as pragmatism.

Similar considerations apply to the intellectual laziness with which too many British politicians proclaim their opposition to a "European superstate," a studiedly vague formulation of populist rhetoric. In some respects, the European Union already resembles a traditional state,

notably those characteristics listed above as the "federal" elements of the Union. In other respects, it is very far from being a traditional state, without a substantial central budget, without an army, without a central government, without autonomous tax-raising powers and without bureaucratic structures capable of directly enforcing its decisions. It is extremely unlikely that the European Union will ever precisely resemble in its competences and capacities a member state of the Union such as the United Kingdom. It would be surprising indeed if the member states of the Union saw any interest for themselves in the creation of what would now be a twenty eighth member state to exercise domination over them. On the other hand, the Union is by its deepest structures an evolving entity. It is possible, indeed likely, that the Union will acquire more state-like characteristics over the coming years. To deny that it will, or any circumstances should undergo such an evolution is once again to abandon any promptings of pragmatism.

The reality described above is complex, and does not lend itself to the easy polarities of contemporary British debate. But its complexity does not in any way detract from its reality, a reality which the United Kingdom and its leaders need to confront in a more measured and less ideologically blinkered fashion than they have hitherto. The alternative is a continuation and probable exacerbation of the current bilious and self-centred debate on Britain's role in the European Union, a debate in which both the principal sides of the argument appear to take a perverse delight in misunderstanding and misrepresenting the nature of the Union. It is obvious why the Union's radical critics should have an interest in this misrepresentation. It is a historic miscalculation that too many of the Union's self-proclaimed friends in this country believe that acquiescence in substantial elements of this misrepresentation will add to their credibility with the British public in discussing European questions. All the history of the past twenty years shows the precise opposite is and will continue to be the case.

Agency and Global Democracy

Eva Erman

In 1999, thousands of protesters flooded the streets of Seattle. Protesting against the World Trade Organization's (WTO's) lack of democratic legitimacy, civil society actors representing a wide range of perspectives and interests called for globalized democracy. Up until the beginning of the 1990s, the justification of international organizations (IOs) was mainly measured in terms of effectiveness and efficiency, but since then the political climate has drastically changed. Today, many scholars and practitioners agree that global governance institutions such as the WTO suffer from a 'democratic deficit' and that prospects for democracy beyond the nation-state must be addressed in this context. In the academic debate there has been general dissatisfaction among empirically oriented political scientists and international relations theorists about what normative political theory and political philosophy have had to offer in dealing with questions of global democracy. In particular, cosmopolitan democratic theory has been under attack, accused of being too idealistic. What is called for is more imagination in the conceptualization and operationalization of democracy on the international political arena.

If democratic theory (applied to the nation-state) took a deliberative turn in the 1990s, deliberative democracy has in this inventive spirit taken a 'civil society turn' to address these shortcomings on the global level. In light of the present circumstances of world politics, consisting of an increasing asymmetry between rule-makers and rule-takers and inequalities among states, many deliberative democrats investigate the role of transnational non-state actors (TNAs) – ranging from social movements to interest groups and NGOs – for achieving more transnational or global democracy. Instead of emphasizing juridical aspects, this deliberative civil society (or stakeholder) approach to global democracy lays stress upon the core democratic qualities or mechanisms of participation, accountability, authorization and deliberation. It is argued that civil society offers a rich soil for re-formulating democracy globally since it is inhabited by a growing range of social actors that create new political spaces, which are not

delimited by territorial nation-state borders and therefore more suitable for confronting the globalized political problems that we face today. Another advantage of ascribing a major role to TNAs in global democracy is that they can do the work of crosscutting global power relations and hierarchies by giving voice to marginalized groups and local stakeholders.

This paper engages in the debate on global democracy as a normative ideal of self-determination, with particular focus on democratic agency in the deliberative civil society approach. Committed to the basic ideas of deliberative democracy, it investigates the concept of stakeholder built into this approach with regard to its democratic qualities (thus as much as possible leaving aside the so-called boundary problem in democratic theory, concerned with the question of who should be included in the decision-making, even if the two questions are related). The twofold thesis defended is that this stakeholder is not equipped to be a democratic agent insofar as the civil society view does not fulfil two necessary conditions of democracy, namely, political equality and political bindingness. Further, it is argued that to the extent that we wish to hold on to a deliberative conception of democracy, Habermas' discourse theory is still our best bet for accommodating these two conditions, also in an international or global context, even if this would mean to shift focus from civic solidarity, stressed by Habermas, to law-making connected to the interdependencies of interests. It is important to note that the paper does not criticise the use of the concept of stakeholder in theorizing democratic agency in global democracy, only the way it is conceptualized in this particular deliberative civil society approach.

The argument proceeds in three steps. First, the paper sketches the general features of the civil society approach and the role ascribed to stakeholders. Although this approach is rich and embraces numerous different perspectives, the purpose in this section is to illustrate its general characteristics mainly through the work of Terry Macdonald, who offers one of the most theoretically and conceptually sophisticated versions of this view in the present debate (I).

In a second step, I unfold a common feature underlying this view of democracy, what I call the 'separability premise'. In brief, this premise holds the twofold presumption that it is possible to define democracy as consisting of two or more separable democratic qualities or mechanisms – in Macdonald's case, accountability and accountability – and that democracy increases the more one or more of these are strengthened. Thereafter, I problematize the separability premise in an effort to draw out the implications for democratic agency. This is done

in light of a theoretical framework extracted from what I hold to be two necessary conditions of democracy, i.e. political equality and political bindingness. For political agents to count as democratic agents within this framework, they must be equal agents and actual agents: they are *equal agents* to the extent that it is equally possible for them to participate in egalitarian decision-making about political decisions or laws to which they are affected or subjected; and they are *actual agents* insofar as they have actual *influence* over the decision-making *process* as well as (at least some of) the *outcomes*.

Thirdly, while very different democratic models are able to satisfy these conditions, the paper argues that if we agree with deliberative civil society scholars on the strength of a deliberative approach, something along the lines of Habermas' two-track view of democracy is more appropriate (III). Rather than offering a full-fledged deliberative theory of global democracy, the task here is limited to sketching out the contours of such a two-track view in a transnational context in light of the analysis of democratic agency (IV).

I.   *The role of the stakeholder in the deliberative civil society approach*

In theorizing about how to re-establish a symmetry between rule-makers and rule-takers in global political decision-making, proponents of what I call the deliberative civil society approach commonly claim that cosmopolitan theorists keep too much of the Westphalian conception of the state in the translation from nation-state to global democracy, viz. treating democracy as a system of collective self-rule with supremacy within a territory, realized through elections. Even if cosmopolitans attempt to rethink sovereignty in functional rather than territorial terms, they still emphasize electoral representation and focus on the juridicalization of IOs through some idea of an overarching cosmopolitan law (Held, 2002: 32). Being skeptical of the import of these 'Westphalian' features into global politics, the civil society approach wishes instead to enhance democracy in transnational and global decision-making through the increased involvement of transnational non-state actors. Most importantly, such actors are supposed to represent (in a non-electoral way) and speak for poor and marginalized groups and as such give local stakeholders a voice, and, by acting as non-elected multi-stakeholder representatives, promote core democratic qualities or mechanisms such as participation, accountability, authorization and deliberation (Steffek and Nanz 2008; Scholte 2005).

As noted by Jan Aart Scholte, while under traditional international law, non-state actors did not have any particular legal status and their participation in IOs was at best informal, this is now slowly changing. In recent years, partly as a response to the criticism of the democratic deficits in global governance, there has been a strong tendency toward increased participation of non-state actors in global governance, and most IOs have opened up formal and informal avenues for political participation. In Scholte's view, civil society activism offers significant possibilities to come to terms with the major democratic deficit of IOs in an era when the conventional state formula of democratic legitimacy is not sufficient for expanding global governance arrangements. In fact, this is already happening, according to Scholte. Most notably, civil society actors have increased and continue to increase the democratic accountability of IOs by promoting transparency of global governance operations; by monitoring global policies and policy-making; and by pushing for the creation of formal accountability mechanisms to monitor and control the agencies concerned (Scholte, 2005: 93-8).

In a similar vein, perhaps offering the theoretically and conceptually most sophisticated version of this view, Macdonald argues that we have to abandon the traditional idea that democracy must take place within a 'closed' society if we aim to globalize democracy beyond the nation-state. Under non-ideal conditions, she suggests instead that a liberal democratic world order ought to be composed of multiple agents of public power held to account by their multiple overlapping stakeholder communities. Even though NGOs are the kind of agent generally discussed by Macdonald, it is argued that the model is applicable to other agents too, such as IOs and transnational corporations (see Macdonald and Macdonald, 2010). Against the tendency of using the term 'stakeholder' broadly, which is commonly done, Macdonald takes a more restricted view in the specification of the normative criterion for what makes a stakeholder a democratic subject. In brief, the individuals who have a relevant interest or 'stake' in a decision are those who are subject to problematic impacts on their autonomous capacities. With stakeholders as basic building blocks, she outlines a multi-stakeholder model that in her view has the potential of being applied within a global polity without a need for either formal electoral mechanisms or the establishment of state-like structures of global public power (Macdonald, 2008: 192). Again, recall that what is of interest in this paper are the presumptions made about the democratic qualities of the stakeholder in the political systems in which it is supposed to act, not about the justification of the boundaries of those systems.

Further, it is a deliberative model, such that the representatives of multiple stakeholder constituencies are required to deliberate among themselves and reach consensus on a final decision. This deliberative decision procedure is underpinned by a 'dualist' conception of equality. In the first instance, stakeholders should be accorded equal opportunities to identify the interests that are supposed to be represented in a deliberative decision process. Secondly, since these stakeholder interests are not aggregated to reach a decision, as is the case in traditional nation-state models, but rather are advanced by stakeholder representatives, they must be accorded equal consideration by these representatives in the deliberative process (2008: 143). Indeed, Macdonald admits that her deliberative stakeholder model has practical limitations, since it does not incorporate any aggregative procedures for reaching decisions. Therefore, she argues, we most likely would have to employ a hybrid representative model in global politics, in which deliberation among multi-stakeholder representatives are complemented with traditional aggregation among state representatives in cases where consensus through deliberation cannot be reached (2008: 162).

As Macdonald reminds us, the idea that multi-stakeholder constituencies should be represented within certain public decision-making structures is not new, but has been prominent in debates about corporate governance and corporate ethics. Principles for stakeholder participation were extensively explicated for the first time in 'Agenda 21' – a UN document about sustainable development agreed upon at the Earth Summit in Rio de Janeiro in 1992 – and have since then been institutionalized by the establishment of on-going 'multi-stakeholder dialogues' within the UN Commission on Sustainable Development. Ever since 'Agenda 21', the trend towards stakeholder representation has expanded into other areas of the UN system (2008: 141). However, the central question for our purposes is what makes this non-electoral stakeholder model democratic and, accordingly, its members democratic agents. Through a deep-going analysis of the normative function of elections in traditional models of democracy, Macdonald infers that the main reason why elections have been so attractive is that they can "provide stakeholders with a degree of political control over their public political representatives" and as such function as a mechanism for delivering legitimate representative agency (2008: 170). Nevertheless, she argues, they are not the only effective mechanisms for delivering such control. It is possible to provide alternative non-electoral mechanisms that are able to fulfil *equivalent normative functions*. In Macdonald's view, the two mechanisms through which elections deliver political control to stakeholders are

authorization and *accountability*. While authorization, viz. the act of giving authority to act, involves institutional arrangements which precede and initiate representation, the holding to account of representatives for their actions involves arrangements that follow and terminate representation (2008: 171).

In contrast to much contemporary literature, which tends to offer non-democratic justifications of these two mechanisms, Macdonald stresses the characteristics that are required of these mechanisms to deliver *democratic* legitimacy. Let me briefly illustrate what she has in mind here. Concerning authorization, two distinct elements are required: mechanisms of *delegation*, for specifying the public political tasks that the representatives are entitled to perform; and mechanisms of *empowerment*, for according them the appropriate capacity to do so effectively (2008: 180-85). While the latter mechanisms have to do with the NGO gaining trust from other political agents as well as resources, most notably from donors, the former mechanisms concern delineating appropriate NGO responsibilities. Since there is a general absence of established state-like constitutional structures for allocating appropriate responsibilities of NGOs in global politics, mechanisms of delegation must include broader 'constitutional' responsibilities, accompanied by more specific responsibilities for certain policy decisions, according to Macdonald.

Mandates of the former 'constitutional' kind can be accorded to NGOs through general codes of conduct, according to Macdonald, which can be applied by stakeholders within a wide range of functional sectors. In recent years, we have seen several examples of this. Within the humanitarian sectors, such codes include the Sphere project and the Humanitarian Accountability Project. Even though these standards are not examples of democratically established mandates, Macdonald argues, since they typically have been developed by UN agencies, states and NGOs themselves, rather than by involved stakeholders, they give some indication of the kind of reformist path that might lead to "fully democratic mandates of this 'constitutional' kind" (2008: 195).

Examples of mandates of the specific policy-relevant kind are "stakeholder signalling mechanisms", through which stakeholders can specify tasks for which they are delegating entitlements to NGOs. Even if existing forms of stakeholder participation are not "fully democratic", according to Macdonald, their involvement "embody some aspects of the participatory mechanisms that could constitute processes of democratic delegation" (2008: 196). Many development NGOs have incorporated processes for consulting stakeholders in the decision-making through the use of participatory methods such as Participatory

Rural Appraisal (PRA) and Participatory Learning and Action (PLA). Macdonald illustrates this with Oxfam's (UK) recent reforms to ensure that the NGO's trustees make decisions that are influenced by the views of its stakeholders through a stakeholder 'assembly', consisting of around 200 individuals deemed to be representative of the stakeholder community at large, and through regular 'Stakeholder Surveys' to identify stakeholder opinions (2008: 196-97).

Similar to authorization, accountability too is constituted by two elements: mechanisms of *transparency*, for transparently delineating public political roles; and mechanisms of *disempowerment*, for imposing sanctions that annul certain political resources that enable an actor to perform public political functions (2008: 185-90). Mechanisms of disempowerment are similar to mechanisms of empowerment in the sense that they concern trust and resources, according to Macdonald. However, in this case they work in the opposite direction. Through the withdrawal of trust or donations social actors are able to disempower NGOs by annulling the resources that enable them to perform public political functions. Stakeholders need not directly participate in this; rather, it can be done "by any agents", as long as it is done in accordance with stakeholder signals (2008: 215).

Transparency mechanisms in a global political context usually take the form of 'codes of conduct', which assist in demarcating transparently the responsibilities of particular NGOs by codifying them within some formalized international charter. Existing codes of conduct are typically characterized as 'technical standards' or organizational 'statutes', and some of the clearest examples of such formalization of NGO responsibilities are found in the humanitarian sector, where standards such as the Humanitarian Charter and the InterAction protocol of coordination have been developed (2008: 212).

Concerning the relationship between mechanisms of authorization and accountability, Macdonald claims that they are best understood as mutually *complementary*, since each can "operate effectively without the other, conferring democratic legitimacy on public political agents". Thus, in line with the separability premise discussed below, they can generate some degree of democratic representation and thus legitimation by themselves (2008: 191).

II. Is the stakeholder a democratic agent?

Insofar as one defends democracy as the ultimate foundation of legitimate political authority and has democracy as a normative ideal of

self-determination in mind, in line with the civil society approach, one has to specify in more detail what makes this self-determination *democratic*. For only by doing so can we identify what constitutes the basic elements of democratic agency. I argue that two conditions are conceptually necessary for democracy, both of which are fairly uncontroversial and weak enough to be accommodated by a wide range of different normative democratic theories.[1]

First, a condition that distinguishes democracy from other forms of government, such a dictatorship, monarchy, or aristocracy, is that it is egalitarian. Thus a necessary condition is *political equality*. While equality plays an important role in democracy in several respects (e.g. in terms of equal respect or equal concern for everyone's interest), what is of concern here is a specific conception of equality, according to which anyone who is affected by or subjected to political decisions or laws, has the free and equal possibility of participating (directly or indirectly) in egalitarian decision-making about them (Christiano, 1996). Second, democracy as a political system of self-determination requires that those that are affected by or subjected to political decisions or law as its addressees are simultaneously made authors of it, viz. that they 'bind' themselves to political authority through a particular kind of action. In other words, another necessary condition for democracy is *political bindingness*.[2] From these two conditions we are able extract a broad conceptual framework for analyzing democratic agency, consisting of (at least) two basic features: a particular kind of equal agency and a particular kind of actual agency

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[1] *Conceptions* share some central characteristics, without which they wouldn't refer to the same *concept*. Here, I use the distinction in a commonsensical way, which stays neutral with regard to the philosophical question whether one generally or even in the case of democracy can fully capture or define concepts through necessary and jointly sufficient conditions. Conceptions on this view are nothing more than different understandings of a concept. Further, the argument does not rely on a particular theory of how concepts and conceptions are related, although I personally find the normative pragmatic reading of this, along the lines of Robert Brandom, quite convincing. According to this view, concepts are not aprioristically generated general norms, rules or principles that are simply applied (i.e. conceptions). Rather, instituting conceptual norms and applying them are two aspects of the same process. In other words, the very process by which concepts become available to the agent, that is, by which they are created or established, cannot be separated from the practice of using them, that is, of applying them in communication with others (see, e.g. Brandom 1999).

[2] Note that the argument in this section does not hinge upon a certain reading of these conditions, for example, in terms of a specific version of the all affected principle. Rather, they are compatible with both an 'all affected' view (e.g. in line with cosmopolitan democracy) and an 'all subjected' view (e.g. in line with Habermas' principle of democracy).

Let me dwell a little bit more on these two conditions to develop the framework further. As we have seen, civil society advocates are sceptical of democratic self-determination interpreted as self-legislation, since the mechanisms that are supposed to secure this ideal are still intimately connected to the nation-state as the 'natural' container of politics, including a system of electoral representation within a unified territory. It is argued that such a system is not applicable to global politics. Indeed, I agree that it is far from clear why a territorial boundary is conceptually necessary for democracy. In fact, from the two necessary conditions outlined above, this doesn't seem to be the case. Conceptually, it would be odd to argue that democratic self-determination is premised on a system of elections connected to a unified territory, since we could reasonably call a small group of people democratic, a small political organization if you will, which fulfilled political equality and political bindingness. We have no reason to presuppose that its members would have to live near one another in order to determine their own lives and rule over themselves through egalitarian decision-making. In fact, it seems to be primarily an empirical, not a conceptual question, whether democracy is *best* realized within a territory or not.

However, even if the territorial boundary is not the *kind of boundary* on which democracy as an ideal of self-determination relies, democracy is not borderless. It presupposes a particular kind of boundary (or boundaries if we refer to a multilayered system) within which people have the possibility of participating in *egalitarian* decision-making and *bind themselves* to political authority as equals. In other words, decision-making or legislation has an inevitable spatial dimension attached to it (Arendt, 2005: 189-190; Lindahl, 2010).

Further, the reason why political equality cannot stand alone is because it would be odd to call a system democratic in which all those that had the equal possibility of participating never did. Democratic law- and decision-making draws its legitimating force, not only from equal agents but also from actual agents, i.e. from citizens' regulation of and agreements on matters of common concern. In other words, democratic legitimacy is premised on *citizens' exercise* of their political liberties, for only this way could they indirectly rule over themselves ('rule by the people') 'through' the political authority in question. Of course, such a condition of political bindingness must be interpreted in weak terms to be a necessary conceptual condition for democracy (compatible with a range of different conceptions). To begin with, it should not be interpreted in terms of obligations, either as an individual obligation in the Kantian sense, or as a collective obligation to

participate in a general or common will, in the Rousseaian sense. Further, the condition does not presuppose moralized political action in terms of doing what is right. Rather, democracy, as we know it, presupposes at minimum that a *majority* of the people (among those being affected by or subjected to the decisions or laws) at least *frequently* have an influence over the decision-making *process* as well as (at least some of) the *outcomes*. Built into this condition is also a requirement of 'positive responsiveness', presuming that the more people supporting a proposition, the more likely it is to become law (Goodin 2004; Goodin and List, 2006).

Political bindingness is thus to be understood in objectivist rather than subjectivist terms, for it is not enough that citizens feel that their interests are somehow being represented by the political authority in question. Since some factual political action is required, this bindingness cannot be hypothetical all the way, so to speak, relying solely on an idea of reasonableness or acceptability, because then we would not be dealing with democratic theory anymore but with some other normative ideal, e.g. a theory of justice. So, while the condition itself does not specify a threshold of participation in democratic decision-making – indeed, this obviously varies between different democratic theories – *it presupposes that there is such a threshold*.

Now, let us return to the stakeholders of Macdonald's model and examine their democratic qualities in light of this conceptual framework. To begin with, as we have seen, this deliberative model lodges a 'dualist' conception of equality, according to which stakeholders have *equal opportunities to identify the interests* that are supposed to be represented by relevant NGOs in the deliberative decision process (let us call this the 'equal opportunities condition'), on the one hand, and stakeholder representatives are then required to *accord equal consideration to these interests* in this process (let us call this the 'equal consideration condition'), on the other. Furthermore, both dimensions of equality are supposed to be satisfied through the non-electoral mechanisms of authorization and accountability, which are able to fulfil the same normative functions as elections, namely, to provide political control of the public political decisions to the stakeholders who are affected by them and thus deliver legitimate representative agency.

Even if these mechanisms are not supposed to be interpreted in formalistic terms, according to Macdonald, but rather be seen as elements of concrete institutional structures, I cannot see how these conditions are able to make democratic agents out of stakeholders. Concerning political equality, nowhere do these institutional structures

secure for stakeholders the equal possibility of participating in egalitarian decision-making. The authorization of an authority or a political agent is not primarily about the equal possibility of identifying the interest that one wishes to have represented in deliberative *processes* (equal opportunities condition). More importantly, it is to have the equal possibility of approving of this authority by participating in egalitarian decision-making and accepting its political *outcomes* (decisions and laws) as binding. In Macdonald's view, the equal opportunities condition is similar to the equality accorded to individuals on the liberal electoral model. In both cases, all individuals are given "equal opportunities to participate in the process of specifying the substance of the interests that their representatives must advance" (2008: 149). But specifying interests is not the only normative function of electoral mechanisms. It is a way to institutionalize the equal possibility of participating in decision-making and in the accepting of the agent or authority in question, as well as a mechanism to *disapprove* of and *disempower* it.

Indeed, the equal consideration condition is not able to satisfy this condition either. While the equal opportunities condition concerns stakeholders' possibility of defining interests to be represented, the equal consideration condition does not involve stakeholders at all, but the equal consideration of *their interests* by NGO representatives. The latter view harmonizes well with Macdonald's claim that her liberal pluralist ideal is compatible with a conception of equality "according to which individuals are treated as equal *persons*, in the sense that decisions are made through procedures that each individual has equally good reasons to accept" (2008: 150). But this means that the equal consideration condition is solely tied to some kind of hypothetical consent and as such seems compatible with the view that a benevolent dictator who accorded equal consideration to the interests of all stakeholders would be democratically legitimate. While both the equal opportunities condition and the equal consideration condition might play important normative roles in a democratic theory, *they do not causally connect to authorization* and cannot therefore replace political equality as specified by the present conceptual framework.

Concerning political bindingness, Macdonald acknowledges in line with the suggested framework that authorization is an *act* of giving authority to act. In order to be democratic agents, stakeholders are not only supposed to be equal agents, in the sense described, but also a particular kind of *acting* agents. However, it is difficult to see how her non-electoral mechanisms are able to achieve this. To further unpack the problems of political bindingness and political equality, let us

revisit the examples above. In Macdonald's view, two distinct elements are required to fulfil an act of giving authority to act, namely, empowerment and delegation. The most important mechanisms for empowerment are *trust* from other political actors and *donations* to have the appropriate resources for political action. As Macdonald points out, the increased influence of NGOs in global regulatory processes in recent years can partly be explained by the rise in levels of trust invested in them by other social and political actors (2008: 204). Likewise, the funding of NGO activities are rarely supplied by the stakeholder themselves but by other political actors.

But if empowerment is to constitute part of the process of authorization from a *democratic* point of view, it is the *stakeholders* who are supposed to empower the NGOs, not other actors. Even if Macdonald admits that the connection between the stakeholders and the other actors involved with NGOs "is not so straightforward", it is difficult to see how political equality and political bindingness could be fulfilled in this process of empowerment *even if* there was some kind of indirect 'mandate' involved of the kind Macdonald has in mind, viz. through the imposition of conditions upon these agents' empowerment of NGOs, which in turn have been established in dialogue with stakeholders (2008: 207).

Further, mechanisms of delegation, constituting the other part of authorization, are illustrated by 'constitutional' responsibilities accorded to NGOs through general codes of conduct, such as the Humanitarian Accountability Project. However, *even if* these codes had been developed by involved stakeholders (and thus constituted "fully democratic mandates", in Macdonald's words) rather than by UN agencies, states and NGOs, which is presently the case, what makes them part of an authorization lending NGOs democratic legitimacy? Again, for this act of authorization to be democratic, these stakeholders must not only be involved in developing such codes of conduct but must have an *equal* possibility to participate in decision-making about them as well as *actual influence* over some of the outcomes. Thus, against Macdonald, who argues that these non-electoral mechanisms can fill the same normative function as elections by way of providing stakeholders with a degree of political control over their public political representatives, I doubt that this is a political control *of the right kind*, since it has very little to do with democratic self-determination.

I am not suggesting that elections are the only way to achieve political bindingness, at least not on the conceptual level (recall the example of the small group of people organizing themselves democratically). But it is one way, and it is difficult to see how any

society could do without them if they are to fulfil this condition. For even if an electoral system does not itself guarantee any votes (unless voting is mandatory), it is an indirect warranty for bindingness in that we would know when an acceptable threshold had been reached and could do something about it if it hadn't. Thus, without it we wouldn't even know whether people in fact have had an influence over the decision-making.

Moving from authorization to accountability, the latter, as we have seen, is supposed to be fulfilled by mechanisms of *transparency* and of *disempowerment*. But similar problems are involved here as with authorization. Mechanisms of disempowerment also concern trust and resources. Social and political actors are able to disempower NGOs through the withdrawal of trust or donations, thereby annulling the resources that enable them to perform public political functions. As long as this is done in accordance with stakeholder signals, it can be done by any agent, according to Macdonald. But like empowerment, disempowerment from a democratic point of view does not only mean to remove the *resources* that enable representatives to act politically, as suggested by Macdonald. It means to remove them entirely from that particular *political position*. What is more, this political act cannot be done by anyone; rather, it comes about through a decision-making process in which stakeholders have the equal possibility to force the representatives to *leave office* and *replace* them in a common act of political bindingness. Concerning transparency, it faces similar problems as delegation, since it is supposed to be established 'democratically' by codes of conduct that codify NGO responsibilities within some international charter.

It is possible to get a more systematic grasp of the problems that have been identified in the deliberative civil society approach concerning democratic agency, and perhaps even one explanation for why they occur, if we take a closer look at the underlying separability premise. Recall that this premise accommodates the twofold presumption that democracy consists of two or more conceptually separable core democratic qualities or mechanisms – most commonly, inclusive participation, accountability, authorization and deliberation – and that democracy increases the more one or more of these are strengthened. The term 'separability' refers to the idea that they are conceptually and normatively detachable in two important ways: first, they potentially involve and bind different subjects, and second, it is possible to determine the increase of one democratic quality or mechanism independent of the others. The key mechanisms of Macdonald's model are accountability and authorization, regarded as

complementary but separate democratic mechanisms that are equipped to do the normative work of conferring democratic legitimacy effectively independently of each other.

The problem with the separability premise, or so I argue, is that if we detach accountability and authorization in this way, we cannot account for the crucial difference between 'the rule *by* the people' and 'the rule *for* the people'. For in order to make sense of the former, accountability and authority *must be knit to each other and to the same stakeholders through political equality and political bindingness*. Indeed, Macdonald admits that these two democratic mechanisms constitute different stages of the representative process, where authorization precedes and initiates representation, while accountability follows and terminates it. However, they do not only constitute two temporal stages but are causally related in normatively relevant ways. A citizenry, the group of relevant stakeholders, binds itself to an authority (or agent) through an act of authorization via egalitarian decision procedures. It is this very act of legitimation, which *causes* the demand for accountability. If this authority is successful in being accountable, this accountability is *directed back* at the very same subjects (even if others would benefit from it as well).[3] Similarly, if it is unsuccessful, this causes the subjects to de-authorize it and re-authorize another. If we hold on to the separability premise and conceptualize authorization and accountability as separate mechanisms, however, this essential normative two-way relation connected to the same subjects would get lost.

Once this premise is dismissed, we see that we cannot draw any conclusions about increased democracy through increased accountability independent of authorization, because they hang together and involve the same subjects. There are of course numerous ways for authorities and agents to be accountable in politics, but increased accountability without any authorization would not be *democratic* accountability and vice versa (see Grant and Keohane, 2005; Buchanan and Keohane, 2006). Macdonald's equal opportunities and equal consideration conditions discussed above can only capture some kind of 'rule for the people', in which political decision-making takes into account stakeholders' possibilities of defining their interests in a first step, and NGO representatives give these interests equal consideration in a second step. But making democracy into a matter of satisfying people's interests will not suffice to capture the 'by' in 'the rule by the people'

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[3] Of course, this must be interpreted at an appropriate level of abstraction, since people die, migrate and so on (which takes us to the boundary problem in democratic theory).

(see Erman, 2010; Rostboll, 2008: 45-77). This 'by' cannot be conceptualized without political equality and political bindingness, which turn people into democratic agents and thus into democratic rule-makers. Instead, accountability and authorization must be understood as *part of a conceptual and normative package* (see also Follesdal, forthcoming).

III. *Deliberative democracy and democratic agency*

As is evident from the broad range of existing democratic models, it is possible to satisfy the conditions of political equality and political bindingness in numerous ways. For example, some contemporary scholars have proposed a conception of global democracy constituted by a world government bound to a global demos through a 'formal track' in the form of aggregative procedures (Tännsjö, 2008). However, civil society scholars have directed forceful criticism towards such formalistic approaches to a world state or an overarching global political order. They argue that unsupported by an 'informal track' – consisting of civil society engagement, public debate and deliberation – a democratic global structure would uphold unjustified power structures by being incapable of identifying problems hidden from formal political decision-making and thus unable to place them on the agenda. While being allowed to vote on certain predetermined options, people would not be participating in the creation of these (or other) options themselves, thus in the very agenda-setting.

In Macdonald's view, the liberal individualist model of representation attempts to provide a basis for legitimating such aggregative procedures. However, as she rightly points out, this model fails to make theoretical provision for the establishment of legitimate deliberative structures that underpin them. One argument among liberal individualists is that a formal aggregative view of democracy need not incorporate provisions for deliberative structures since it can be reasonably assumed, as an empirical presumption, that the required informal deliberative structures function effectively within the civil society. However, even if these empirical propositions were true, it seems highly likely that the liberal individualist ideal is flawed even at a theoretical level because its institutional framework disregards the need for collective deliberative consensus in order to make aggregative decisions meaningful and non-arbitrary (Macdonald, 2008: 137).

A deliberative conception of democracy is attractive precisely because it ascribes the informal track an essential normative role for

democratic legitimacy. However, as I have tried to show, the deliberative path chosen by advocates of the civil society approach, such as Macdonald, conceptualizes this civil society engagement wrongly, through non-electoral mechanisms which are supposed to be a means for powerful global actors to establish democratic legitimacy. Indeed, we should be careful not to conclude that possible weaknesses of electoral mechanisms on the global level necessarily supply reasons for supporting non-electoral mechanisms, as Macdonald seems to suggest. Instead, it looks as if her strategy throws the baby out with the bathwater.

The alternative deliberative conception of democracy developed here starts out from the presumption that if we focus on societies under modern conditions, the two conditions of political equality and political bindingness must be interpreted *institutionally*, requiring that a political system *as a whole* secures these conditions through the appropriate institutions in order to be democratic, rather than moral-individualistically (i.e. that every single person that is affected/subjected should an equal possibility of participating in more or less every decision-making). From this institutional point of view, Habermas' discourse theory of democracy is an attractive deliberative approach, according to which democratic legitimacy is generated through two practices: *informal* processes of opinion-formation and *formal* institutionalized deliberative and aggregative decision-making procedures (Habermas, 1996a: 486-87). These two tracks are *complementary* in the sense that informal public discussions can identify social problems that lie outside the agenda of formal politics and bring them into political decision-making as well as critically examine political rule-makers and require accountability (Habermas, 1996a: 365). To the extent that the political community can foster relatively autonomous practices of opinion-formation, communicative power can flow from citizen activity to institutionalized decision-making and legislation (Habermas, 1996a: 375). But the tracks are also *interdependent*, since legally facilitated informal opinion-formation in the public sphere is channelled into legally institutionalized will-formation in terms of deliberations and bargainings, the outcomes of which are then combined with legally binding decision procedures, among which the most important is majority rule (Habermas, 1996b: 1494).

Thus, in line with the two-way relation discussed earlier, and against the separability premise, the normative relationship between governing authorities and those subjected to their decisions or laws consists of two interdependent tracks, which bind *the same subjects* through a common legal and institutional framework. By connecting

informal and formal deliberative processes in this way, creating a constitutionally established network of legitimating communicative processes, democratic majority decisions are regarded as temporary stops in an on-going collective activity of giving and asking for reasons. In contrast to the deliberative civil society approach, relying on the separability premise, this suggests that citizens who engage in civil society activities to push an authority (e.g. a global governance institution) for increased accountability *should also possess a formal equal status* as participants in its egalitarian decision-making. As a result, no matter how vital a global civil society, it cannot increase global democracy unless a global polity is developed as well, securing the necessary conditions for democracy through two interdependent deliberative tracks.

IV. Contours of a transnational deliberative two-track view

What could such a deliberative two-track view reasonably look like beyond the nation-state? We do not get satisfying answers from Habermas' own work, since he does not stretch the two tracks globally but rather recurs to a three-tiered system on the supranational, transnational and nation-state levels. On the supranational level, a reformed UN would perform the clearly delimited functions of securing peace and promoting human rights, according to Habermas. On an inclusive reading of human rights, this would certainly be quite a thick normative commitment for the political decision-making of the world organization, but it seems as if Habermas has a relatively minimalist conception in mind, in terms of "the clear negative duties of a universalistic morality of justice" (Habermas, 2006: 143).[4] On the transnational level, political decision-making would take place between the major powers and would no longer be restricted to mere coordination but also address problems of a 'global domestic politics', such as global economic and ecological problems, within a framework of negotiation (2006: 136). In Habermas' view, the reason why democratic legitimation is replaced by supranational coordination and transnational negotiation, respectively, is that the form of *civic*

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[4] On the unclear and ambivalent view of human rights in Habermas' proposal of a constitutionalization of international law, see Lafont (2008). Indeed, even a full-fledged set of human rights, including civil, political and socio-economic rights, would not be enough for global democracy, which in addition would have to consist of certain decision-procedures, processes and institutions, see Erman (forthcoming).

solidarity that the former requires cannot be extended beyond states or continental regimes such as the EU. Instead, a liberal type of constitution is more appropriate on these levels, which regulates the interaction among collective actors with the aim of restricting their power, viz. making sure that the exercise of power is governed by treaties that articulate and conform to human rights (2006: 138-39).

One problem is that the notion of 'civic solidarity' seems semantically too vague to have much explanatory force in this context, as it is unable to offer the kind of analytical tool we need to theorize democracy, within or beyond the nation-state. For example, even if it was empirically true, this seems fully compatible with the presumption that this solidarity would have to look different on a supranational level where political decisions are supposed to be made about very specific regional or global issues, in contrast to the state level where these decisions would concern most issues in the everyday lives of its members. It also seems compatible with the view that core elements of democracy, such as a constitutional framework, under certain conditions could promote the kind of solidarity that is required for democracy to emerge.

Even though I find it constructive to construe the global political system as differentiated in terms of three systems of organization, in line with Habermas, the advantage of taking our starting-point in the two conditions of political equality and political bindingness is that we are able to disconnect democracy conceptually and normatively from territorial units as well as from the nation-state as the sole democratic organisational form. Moreover, as I argue below, the shift of focus from civic solidarity to law-making connected to interdependent interests opens the possibility for theorizing the expansion of a deliberative two-track view beyond the state on the basis of what Thomas Christiano calls 'a common world' (Christiano, 2006).

What characterizes a modern political society, in contrast to associations such as clubs, commercial ventures and economic enterprises, is that members' interests in it are not partial. Instead, to a significant degree they share a common world. Such a world is a set of circumstances among a group of people, in which the realization of all or nearly all of the fundamental interests of each member is connected with the realization of all or nearly all fundamental interests of every other member. Thus, modern political societies consist of comprehensive systems of provision and regulation of the basic needs of all members, providing for public goods such as education, health care, redistribution of income and wealth and criminal law, often through a system or rights. All these activities are practiced in a relatively unified way, which looks to the overall interests of all

120

citizens and thus secures basic fairness of the system as a whole. To say that people share a common world in this legal-political and interest-based sense does not conceptually require that they share a culture or national identity, since multinational and multiethnic states could inhabit such a world. To be sure, the common worlds that we know of are products of highly morally arbitrary and highly contingent causes. But arbitrariness of origins does not take away that the fact of a common world is a morally relevant fact now (Christiano, 2006: 85-7).[5]

For a political society to be democratic, collective decisions must treat all members as equals in the sense that each and every member has an equal say in the decision-making. In contrast to a moral-individualistic reading of the condition of political equality, the proposed institutional approach does not require a *say* in each and every decision that relevantly (or significantly) affects our lives, in line with the all affected principle applied by cosmopolitan theorists, but an *equal influence* in the decision-making (process and outcome), i.e. in the structuring of this common world and the shaping of its institutions (c.f. Held, 1995; 2002; Archibugi, 1998; 2002). Indeed, as stressed by Christiano, we live in a world in which our interests are affected by what people do around the globe. However, the common world condition is distinct in that all or nearly all the fundamental interests of each person are implicated and citizens' interests are deeply interdependent and as a result connected in multiple ways, both legal-politically and institutionally (Christiano, 2006: 97).

For the present purposes, the strength of the common world condition is twofold. First, it is able to connect democracy to the *interdependencies of interests* without reducing democracy to a liberal ideal of satisfying people's interests. While the latter constitutes an interest-governed view of democracy, the idea of a common world is compatible with a norm-guided view such as discourse theory. Second, it specifies what is required to realize the conditions of political equality and political bindingness. The problem of democratic theories built up around the all affected principle, such as cosmopolitan democracy, is that they tend to replace political equality with a

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[5] Indeed, this doesn't mean that the borders of political societies could not be justifiably altered in cases of serious systematic injustices, but to answer the question of *when* and *why*, we would in my view need a normative theory that accounts for the normative relationship between moral equality and political equality, and thus between *contexts of moral justification* and *contexts of democratic legitimation*, which is not the topic of this paper (but which I think could be fruitfully pursued from a discourse-theoretical standpoint through the work of Rainer Forst).

moralized conception anchored to an egalitarian idea of the equal worth or dignity of all human beings. But it is far from clear how such a moral equality is supposed to translate into political equality. In contrast to arrangements such as organizations and associations in which people have very different stakes and are differently affected, in a modern democratic society, individuals have roughly *equal stakes* in the world in which they live. While they do not have equal stakes in each and every political decision, from the institutional and holistic perspective adopted here, as democratic agents they have equal influence over the political decision-making over time because they have roughly equal stakes in the *mutual effects of their interactions* (2006: 98). Indeed, if a political system only used democracy for deciding upon one issue and the rest was decided by, say, an elite or a dictator, the majority voting on this one and only issue would needless to say be undemocratic, as some would have a much higher stake in the decision than others, which would generate clear winners and losers.

Since almost all political societies today are states, a deliberative two-track view would primarily bet on a decentralized global political order. In light of the common world condition and the particular requirements of equal and actual agency in both formal and informal deliberative practices, the state will continue to be the political community of primary importance in the foreseeable future on the two-track view. At the same time, this does not imply that we should not opt for expanding our polities beyond the nation-state, for example, as is presently being done in Europe. Quite the reverse. In contrast to Westphalian conceptions of democracy, the two necessary conditions of political equality and bindingness open up possibilities globally since they do not presuppose that democratic self-determination must be territorial. Indeed, in the examination of alternative democratic units to the state, Christiano neglects important qualitative differences between international institutions such as the WTO, the IMF and the World Bank, on the one hand, and regional bodies such as the EU, on the other. He argues that "these institutions cannot be democratized… because if they were they would quickly become irrelevant", illustrating this point with the "fate of the General Assembly", which as soon as it became more inclusive of all nations in the late 1960s lost political power (Christiano, 2006: 94-6).

But when we look at prospects for securing political equality and political bindingness in connection with the common world condition, the EU cannot be compared to the WTO, the IMF or the UN General Assembly. What is more, I cannot see any reason why we should follow Christiano and look upon the relationship between the common world

condition and democracy as a one-way story, where we must await a common world to be fully established before developing democratic structures. Rather, it is better viewed as a dialectic two-way relationship, which is also supported by what we have seen so far concerning the history of the EU. Members of the EU increasingly have at a minimum similar stakes in the mutual effects of their interactions, at least in some areas, the more their interests have become connected in multiple ways through the development of common legal-political and institutional structures. It is argued that law can play a critical role in the creation of a common world. According to a discourse theoretical reading, law is at once normative and real (Habermas, 1996a). It is normative in the sense that it already and continuously mediates between interests, on the one hand, and cultural, political and ethical ideas and values, on the other. It is real in the sense that a system of legal norms, through positive law, has factual consequences for people in their everyday lives. On this view, following Hauke Brunkhorst, law is seen as the objective spirit of the civil society (Brunkhorst, 2009: 68-71, 2005). Accordingly, a constitutional framework at the supranational level, which allows diverging interests and values to conflict within a egalitarian institutional structure, could promote a common world and vice versa. In this respect, members of the EU would be members of several 'common worlds' rather than *a* common world, as argued by Christiano.

Now, a move from the regional to the global level global forces us to yet again acknowledge the qualitative differences between a body such as the EU and international institutions such as the WTO and IMF. Concerning global governance institutions, the prospects for democracy looks much more bleak, at least within the foreseeable. As a normative ideal of democracy, however, one purpose of the proposed two-track view is to be used as a critical and reflexive yardstick for elaborating which roads to take and which questions and problems to highlight when theorizing democracy beyond the state in a long-time perspective as well (Macdonald and Marchetti, 2010). On such a long-time outlook, a formal track consisting of institutionalized egalitarian decision-making procedures – including some kind of electoral mechanisms and a system of rights within a constitutional framework – would be mandatory on each of the three levels of the 'world society' for any global democracy to emerge. Such a multi-level transformation of parliamentary legislation would turn parliaments on all levels into what Rainer Schmalz-Bruns calls 'metasovereigns', assuming the responsibility for questions of sovereignty while at the same time

constituting the generic source of sovereignty (Schmalz-Bruns, 2001: 566).

I don't find it convincing that each of these polities would have to possess a monopoly of violence to succeed with this transformation, which proponents of a world state seem to suggest (Wendt, 2003; Scheuerman, 2008, 2009). Here I lean on empirical evidence, for at present nothing gives us reason to believe that a common system of effective enforcement necessitates a monopoly, or at least it seems that every monopoly is conditioned and thus circumscribed. In the EU, for example, member states are bound by European law without the EU possessing the monopoly of violence. However, what would be required in order for a global polity to eventually develop is the following: first, we must be able to define some specific delimited global issues in relation to which we have roughly equal stakes world-wide and as such share a common world. Candidates for such issues will probably concern world peace and the most sever environmental issues. Second, some level of 'stateness' must be developed, i.e. enough concentration of power to be able to ensure effective chains of representation, delegation and accountability that link world citizens to global governance institutions as well as mechanisms for compliance with the decisions taken (Koenig-Archibugi, forthcoming).

On the one hand, similar to cosmopolitan democracy, a deliberative two-track view stresses the role of the law as essential for any democratization within and beyond the state. On the other, while the strength of the cosmopolitan approach lies in the emphasis on a cosmopolitan legal framework, the weakness is that it tends to leave us quite empty handed when it comes to giving an account of democratic agency (Held, 2002; Archibugi, 2000, 2002). By emphasizing cosmopolitan principles which, transformed into cosmopolitan law, are supposed to specify the organizational basis of legitimate public power, cosmopolitan theorists seem unable to fully account for democratic agency, viz. the *practice* of political equality and political bindingness (Held, 2002: 32). As mentioned before, the use of the all affected principle seems to reduce political equality to moral equality; the same could be said about the principle of active agency, stressed by Held (2002: 24). On the proposed deliberative view, democratic agency cannot be a universally distributed status since it is something that must be achieved through formal and informal deliberative practices. If people didn't ever bind themselves to authority through egalitarian decision-making, but merely (at best) had formal (cosmopolitan) rights to do so, there would be no democratic agency, and consequently, no democratic legitimacy (Erman, forthcoming).

V. Winding up

In this paper I have examined the stakeholder of the deliberative civil society approach with regard to its democratic qualities, illustrated through the recent work of Macdonald. It has been argued that this conception of stakeholder does not fulfil the minimal requirements for democratic agency because the stakeholder model is not able to accommodate political equality and political bindingness. The conclusion is that if the concept of stakeholder is to be incorporated in the theorizing of global democracy, it cannot be conceptualized as is done by the deliberative civil society approach. In light of the tendency in the contemporary debate to define transnational political activities of all sorts in terms of democratic agency, this critique calls for a more careful conceptualization in this regard. The democratic agent is a specific kind of political agent, that is to say, an agent who has the equal possibility of participating in egalitarian decision-making and is among the majority which at least frequently influences the decision-making process as well as (some of) the outcomes. While these requirements are indeed demanding, they simultaneously open possibilities for innovative ideas of non-territorial citizenship, such as those discussed by cosmopolitan theorists.

Moreover, being convinced of the strengths of a deliberative framework, I have briefly sketched out the contours of a modified Habermasian two-track view, which in my view is able to accommodate democratic agency. As we have seen, this view refutes the separability premise and argues instead that democratic qualities such as accountability and authorization must be seen as parts of one conceptual and normative package. This certainly doesn't suggest that civil society actors cannot contribute better global governance by approximating normative ideals. For example, existing political practices show that NGOs are contributing to a more just world order by being 'agents of justice' or 'agents of democracy'. As the latter they can push international organizations towards increased transparency and accountability and as such improve the empirical prerequisites for global democracy. In fact, they have had a large impact in this role – undertheorized in Habermas' three-tiered system of governance – putting important issues on the agenda as well as influencing policy outcomes in a variety of policy fields. The point made here is only that they cannot be democratic agents the way they are conceptualized by the deliberative civil society approach, because in order to transform from *agents of democracy* to *democratic agents*, political equality and political bindingness must be secured.

Even if it is conspicuously idealistic to imagine the world in accordance with the proposed two-track view, I think such image can be useful to remind us that transnational or global democracy can be reduced neither to civil society activity nor to cosmopolitan law. It also reminds us that democracy as such is demanding and that we have nothing to gain by dressing all kinds of improvements of global governance in democratic clothing.

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A Global Climate Community

David Grace

A modest proposal for global governance for a global problem

Professor John Pinder has proposed the creation of a Global Climate Community as a practical response to climate change and a step towards world federation.[1] There is now a branch of political science devoted to examining ideas of cosmopolitan democracy but I must begin with a warning to the academic. Some years ago at a Lothian Foundation Conference in Oxford a young Italian woman presented her doctoral thesis which sought to explain why Federal Union, which flourished and grew dramatically in Britain from 1938 to 1940, then became much less active and influential. Her analysis of the archives led her to the conclusion that Federal Union declined because of doctrinal differences between world federalists and European federalists. Unfortunately for her, at the conference was the author and journalist Richard Mayne who was active in Federal Union in 1940. He told her that the decline in activity was caused by a more immediate priority, the fear and threat of invasion. Our theories must not overlook the simplest of explanations.

The paradigm of actual existing global governance is the United Nations. I attended the UN Conference on Science and Technology for Development in Vienna in 1980, where I witnessed several models, formal and informal, of global dialogue but not much decision-making. First there were the plenary proceedings of the conference where national delegates made formal introductory statements and formal exits from the room when others of whom they disapproved made theirs in turn. We heard of but could not see the smaller gatherings of influential nations in smoke-filled rooms behind the scenes where the final communiqué was negotiated. There was also a very formal assembly of International NGOs following a set agenda established by a core of well-financed western organisations and chaired by an American called Harvey Wallbanger. If anything, this was less exciting that the plenary

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[1] *Ventotene Papers* Vol. 5.

and certainly no place for new ideas or radical departures. Thirdly there was the alternative NGO forum in a less opulent venue and with more opportunity for spontaneity but none for decision. Finally there was the öko-dorf in the Prater, a temporary assortment of structures powered by wind, sun and methane from recycled sewage. This enjoyed a self-consciously anti-authoritarian mode of governance, despite the earnest attempts of the Vienna City fire and health authorities to regulate it. Decisions, if any, were taken by a lunchtime meeting of whoever happened to be there at the time. Everyone sat upon the ground and when moved to contribute jumped up and spoke in whichever language they preferred. They spoke without reference to the previous speakers and were followed by others who spoke without reference to them. There was of course no chairman nor agenda nor interpretation. Thus at one UN conference you could find in miniature, indeed in caricature, all the existing systems of global governance. Federalists are often accused of utopian thinking, but is it not utopian to imagine that global problems can be solved by existing international mechanisms which are only copies of those formats but in formal dress?

We know that history is full of proposals to overcome the anarchy of the world and civilise the discourse of nations. In the seventeenth century William Penn suggested a European Diet. As a Quaker he included one of the kindest and oddest reasons, that princes might marry for love instead of as diplomatic gestures of interstate harmony. Immanuel Kant offered his project for perpetual peace. Having seen an inn named *Perpetual Peace* with a sign depicting a graveyard, he presented a project for the living. After the Napoleonic wars the great powers tried to keep peace through the Concert of Europe, a series of congresses, which crumbled in 1848. The next attempt, the League of Nations, followed the vast slaughter of the First World War, which had also been known as the War to end all wars. The Second World War crowned the League's failure and from the ashes rose the United Nations. I do not denigrate much of the good work of UN agencies but let us examine how it has risen to the greatest global challenge other than peace itself – climate change.

What makes climate change such an intractable problem is its very scope. One may agree with Tony Blair – about this if nothing else – that the scope of the problem both in time and space escapes the capacity of national governments facing elections every few years. Our institutions do not measure up to the problem. Consider the time-lags in causing, understanding and responding to climate change. In 1820 Joseph Fourier recognised that the earth was 30 degrees hotter than it should be and hence something must be trapping the heat. In the 1850s John

Tyndall identified carbon dioxide and water vapour as the gases responsible and in the 1890s Svante Arrhenius calculated the effects of a doubling of such gases. Since that time the concentration of greenhouse gases in the atmosphere has risen from 285ppm to 430ppm. According to Nicholas Stern[2] if we carry on today with "business as usual" then by 2100 the figure will be 730ppm. There is now a 50% chance of the average temperature of the earth rising to 5 degrees above the temperature in 1850. Stern went on to calculate[3] the cost for Britain of taking action to avoid this outcome would be 1% of Gross Domestic Product whereas the cost of doing nothing would be 20%. Of course action by the British government alone would solve nothing.

Here in front of us now is the global challenge. How has the world's existing global institution, the United Nations, responded? In 1979 the first ever World Climate Conference took place. Nine years later scientists formed the International Panel on Climate Change, which produced its first report two years later in 1990. The world considered the report two more years later at the Rio Earth Summit and after a further two years the United Nations Framework Convention on Climate Change (UNFCCC) came into effect. The main meeting of the Conference of the Parties (COP) to the convention takes place before Christmas every year. The first meeting in Berlin in 1995 proposed a menu of actions which member-states might like to consider – the Berlin Mandate, but it wasn't mandatory. The next year in Geneva the conference only noted but did not agree a declaration. Indeed it rejected ideas of harmonised policies on climate change. In 1997 came a breakthrough, the Kyoto protocol, which set targets for signatory states to reduce emissions between 2008 and 2012 to 5% below 1990 levels. The protocol could only come into force when a minimum of nations had signed it and this didn't happen until 2004 after some diplomatic reduction in the target required of Russia. The United States has still not ratified the protocol. As each year passed it became clear that developing countries in the South blamed the industrial countries of the North for the problem and would not take action which they thought could undermine their own development. Meanwhile the richer northern countries feared that any action imposing costs on their industries would damage their competitiveness. This mutual suspicion bedevilled all attempts at agreement. In 2007 in Bali the parties were able only to agree a timetable of preparation for Copenhagen two years

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[2] *A Blueprint for a Safer Planet*, London, Bodley Head, 2009.
[3] *The Economics of Climate Change: The Stern Review*, Cambridge, Cambridge University Press, 2007.

later. Copenhagen was supposed to be the great occasion when all would be resolved and the countries of the world would finally face up to the magnitude of their common problem and unite in action from 2012 onward. Instead the outcome conformed to T.S.Elliot's poetic prediction, "*This is the way the world ends, not with a bang but a whimper*." 25 countries led by the USA and China ignored the patient work of the vast majority over the preceding two years, tore up the draft text and adopted instead a new accord, which contained no emissions targets and no binding commitments. The rest of the countries merely noted the accord.

Why after nearly twenty years did the UNFCCC fail to make progress? A worthwhile agreement would set out the size and distribution of cuts in emissions between countries and provide a method to scrutinise compliance. All these ingredients strike at national sovereignty and that is why the powerful nations who wrecked Copenhagen took action to avoid them. As one commentator wrote, "*Why use the world's worst decision-making methods to take the most important decisions?*" John Pinder draws the comparison between the establishment of the European Coal and Steel Community (ECSC) in the 1950s and a possible Global Climate Community(GCC) in the 21st century. Now as then the issue is security and the blockage is national sovereignty. The Schumann declaration called for pooling power on "*a limited but decisive point*". The ECSC involved a rule-based market mechanism administered by new institutions. Similarly the GCC would set up an emissions trading system agreed by a Council of Ministers and a parliamentary assembly. There would be an executive like the original High Executive and today's Commission to run the system, a task which the UNFCCC Secretariat is neither empowered nor equipped to handle. There would be a court to interpret and enforce the GCC's legislation. There might also be a central bank to facilitate emissions trading and a common market in low carbon technology. Crucially the six countries which set up the ECSC did not wait for all nations to agree and, in particular, for one powerful nation - the United Kingdom. They began with a coalition of the willing and in time the community of six grew into the union of twenty-seven. Today the GCC must overcome the North-South divide and not wait for the USA or China. The key initial partners could be the European Union itself and India, joined by Brazil and African countries. For those not willing to join immediately there could even be external association agreements.

The challenge of global warming has been growing over a century. We cannot wait a century to solve it. The idea of a Global Climate Community was launched at an international conference at the British

Foreign Office conference centre at Wiston House in 2004. A British civil servant commented on the proposal by saying that it was hard enough to negotiate international action. It would be almost impossible to seek further agreement on setting up new institutions. The federalist responds that with the existing institutions we have not and cannot reach agreement on action – "*The definition of insanity is to keep repeating the same action over and over again expecting a different result*." The UNFCCC has met every year for twenty years. Perhaps it is time to find another way.

Whose Rules? Globalizing Governance and the Great Disruption

Jody Jensen

Introduction: impasse capitalism

> We have reached an impasse. Capitalism as we know it is coming apart at the seams. But as financial institutions stagger and crumble, there is no obvious alternative. Organized resistance is scattered and incoherent. The global justice movement is a shadow of its former self. For the simple reason that it's impossible to maintain perpetual growth on a finite planet, it's possible that in a generation or so capitalism will no longer exist. Faced with this prospect, people's knee-jerk reaction is often fear. They cling to capitalism because they can't imagine a better alternative. (Graber, 2009)

The period we live in has been characterized as the end of history, empire, the nation state, neo-liberalism, and the end of the world system. Since the 1990s, the contradictions in terms of justice and democracy in contemporary globalization have also given rise to countermovements that attempt to reassert control over economic forces. The questions that are being clearly articulated by these multifarious and increasingly vocal counterforces are: Who is globalization benefiting? What should be the purposes/aims/goals of globalization today?

The period has also been described as "civilizational crisis," "consumer civilization," "business civilization" which underscores the emergence of new perceptions regarding the human condition (and the corresponding rights and responsibilities). Development and "accumulation" have become more knowledge-based, dematerialized and deterritorialized. Some have described the economy as becoming increasingly "weightless," as more and more of it becomes knowledge- and creativity-based.

We do indeed stand at a moment of transformation. But this is not that of an already established, newly globalized world with clear rules. Rather we are located in an age of transition, transition not merely of a few backward countries who need to catch up with the spirit of globalization, but a transition in which the entire capitalist world system will be transformed into something else. (Mittleman, 2000: 262)

Immanuel Wallerstein asserts that we are currently in a period of transition from one world system to another. Once in the lifetime of a world system, he claims, when contradictions, secular trends, and cyclical rhythms combine in such a way that the system can no longer reproduce itself, a world system ends and is replaced by another. According to world systems theory, the modern world system today is in structural crisis and has entered a chaotic, transitional period which will cause a systemic bifurcation and transition to a new structure. The nature of the new structure has not yet been determined and, furthermore, cannot be predetermined. It is only in crisis, however, that actors have the most freedom of action, because when a system operates smoothly behavior is determined by the nature of the structure. At moments of transition, individual and collective action become more meaningful, and the transition period to a new structure is more "open to human intervention and creativity." (Wallerstein, 2000: 251-252)

From the International Labor Organization (ILO) to the former chief economist of the World Bank, Joseph Stiglitz, complaints are voiced about the direction of economic globalization, its inherent injustices and lack of transparency, accountability and governing structures. Calls are made for the formulation of an ethical framework for governing global markets and the direction of global processes. In the words of Joseph Stiglitz, we need to bring "choice" back into the global equation, weighing economic efficiency against social costs. (Stiglitz, 2002) Karl Polanyi also reminds us that the economy should be re-embedded in society, rather than having society driven by the economy. (Quoted in Bello, 2004.)

The polarizing discourse of anti-globlization protestors and the heads of IMF and the World Bank have lead to the ideological entrenchment of opinions and perspectives. Yet it is the intensity of these globalization battles that has created the environment in which questions about the direction and ethics of globalization have been brought into the public domain for deliberation and debate.

The debate on global inequalities and social justice

From the International Labor Organization (ILO) to the former chief economist of the World Bank, Joseph Stiglitz, complaints are voiced about the direction of economic globalization, its inherent injustices and lack of transparency, accountability and governing structures. Calls are made for the formulation of an ethical framework for governing global markets and the direction of global processes.

In recent decades globalization has been associated with the "mean-spirited neoliberal project which is reinforced by the conditionality programmes of the IMF and the World Bank for developing countries." (Thorup and Sorensen, 2004) Not surprisingly, developing countries find the double standards in trade rules hypocritical since Western economies developed behind protective barriers that they are now requiring less developed countries and regions to lower. In developing countries economic liberalization often occurs before a social safety net is secured, causing an increase in misery, which I have termed "crucifixenomics," an abbreviated form of John Ralston Saul's "crucifixion economics". Erzsébet Szalai states that new capitalism is the "uncurbed reign of the economic elite over the other spheres of social existence" (Szalai, 2007).

> Soon these servants of the public good had memorized the new vocabulary and were calling citizens *clients* or *stakeholders* or *taxpayers*, using the narrow utilitarian word efficient … while losing the more relevant concept of whether a law or program was effective. (Saul, 2005: 111-112)

The discourse that had been pouring out of the West since the early 1970s was embraced by multi-lateral economic organizations (MEIs) and develpment experts and there was no shortage of Western consultants and academic economists eager to push developing countries into experiments with market purity. Imagine how exciting it was for these theoreticians to find countries prepared not merely to engage in reforms, but to risk the entire well-being of real people – of entire peoples – in order to act as existential case studies. (Saul, 2005: 113)

It is the publicly expressed consensus of the G8 that globalization should reduce global poverty, but quite the opposite has occurred. A study by Mattias Lundberg and Lyn Squire from the World Bank found that the poor are much more vulnerable to shifts in relative international prices that are magnified by a country's openness to trade. They conclude: "At least in the short term, globalization appears to increase both poverty and inequality." (Bello, 2001: 238)

According to the World Bank, the number of people living in poverty rose in the 1990s in all the areas that came under structural adjustment programs: Eastern Europe, South Asia, Latin America and the Caribbean and sub-Saharan Africa. This has pushed further the global public debate about the future direction and progress of economic globalization to increase equitable distribution of wealth and social justice. Zygmunt Bauman points to the central problem of

"glocalization": that rich and poor no longer sit at the same (distributive) table of the national state. (Bauman, 1998)

In response to these debates, we are seeing the emergence of new, hybrid forms of multi-stakeholder (public-private and private-private) governance, i.e., governance without government and the increasing role of civil society.

The emergence of multi-stakeholder, co-regulation of global markets

Besides international and intergovernmental treaties, there are increasing numbers of new *loci* of business regulation. Sources of regulation are varied and range from individual firms, and business associations to NGOs and public agencies. Those that have attracted scholarly interest are particularly global policy networks (Ruggie, 2001; Witte et al., 2000) and private inter-firm regimes (Cutler et al., 1999; Haufler, 2000), but there are many others that have not been sufficiently addressed or analyzed like the growing institutionalization of standard setting between for-profit and not-for-profit actors which needs more scholarly attention. Private actors are beginning to establish, maintain, verify, and monitor their own private regulations and these new rule systems are becoming the constitutive tools of global governance today in economic relations.

Whereas traditional forms of regulation emanated from national governments, and later also from intergovernmental agencies, we now see *hybrid* forms of regulation emerging in public-private and private-private governance structures.[1] These include multi-stakeholder approaches to co-regulation.[2] These relationships are arguably different from the historical alliances of NGOs and the private sector because, in contrast to the past where these different actors met as adversaries, today there is the emergence of shared norms and principles. This new and innovative development emerged in the late 1980s and 1990s. (Pattberg, 2006: 2)

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[1] Structural hybridization can be observed in the political economy, in the interpenetration of modes of production and hybrid economic formations; in space and time, in the coexistence of the premodern, modern and post-modern; and in the transformation of states, business regulation, and in public-private partnerships between business and society. It gives rise to a plurality of new mixed forms of cooperation and competition (Jensen, 2008).

[2] Co-regulation is defined in regulatory arrangements where at least one actor is not a profit-making entity; self-regulation is the arrangement where individual firms set their own norms of conduct.

Setting standards (both product and production standards) that are ethical, environmentally sound and socially sensitive are increasingly becoming the area within which hybrid partnerships are emerging. Verification, certification and reporting are also moving from self-regulation to co-regulation.

A variety of transformations set the stage for new multi-stakeholder initiatives and co-regulation in the early 1990s. "These changes include a transformation of the discursive field, a restructuring of the political environment and the correlation of social forces therein as well as a growing criticism against forms of corporate self-regulation" (Pattberg, 2006: 11). Analysts differ in their interpretations of how the "global financial architecture" should be transformed. Some only want "to upgrade the wiring and plumbing. More ambitious reformers want to break down walls and reconstruct the interior of the building. Radicals want to create an altogether new building on different foundations" (Scholte, 2003: 205).

A recent OECD report has surveyed 246 codes of conduct, defined as "commitments voluntarily made by companies, associations or other entities, which put forth standards and principles for conduct of business activities in the marketplace" (OECD, 2001: 3). These codes cover a range of areas like consumer protection, information disclosure, environmental and labor standards. Most of the codes are issued by the businesses themselves (48%) and business associations (37%), but an increasing number are constructed through a partnership of stakeholders (13%) (OECD, 2001: 5). Verification, certification and reporting are also moving from self-regulation to co-regulation.[3]

Many have designated this new direction as a trend towards private governance, shifting from public to private forms of governance through new institutional modes. This may be part of a cycle of developments that began in the 1960s and 1970s when mandatory regulation was implemented and enforced by states changed to self-regulation in the 1980s and 1990s which corresponded with increasing de-regulation by the state. This has led to cooperative rule making between NGOs and business actors in the late 1990s and 2000s. The current period of global financial instability will certainly show the increased role of the state in the oversight of global financial markets.

In the past, new institutions and initiatives arose from discussions around the New International Economic Order in the mid-1970s were: the UN's Economic and Social Council (ECOSOC), and its

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[3] Coregulation occurs when two or more stakeholders design and implement norms and mechanisms to improve the social and environmental performance of firms.

Commission on Transnational Corporations, the UN Center on Transnational Corporations (UNTNC), the OECD's Guidelines for Multinational Enterprises, and the ILO's Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy, etc.

Based on voluntary compliance and self-regulation, these initiatives were soon neglected during the period of neo-liberal, Reaganite and Thatcherite economic policies. There was little progress in this area until the catastrophic environmental accidents of the 1990s. The combined processes of globalization and de-regulation strengthened the position of TNCs in relation to states. One of the results was that civil society began to turn its regulatory eyes directly at TNCs and throughout the 1990s increasing pressure was put directly on business.

The reformulation of the political field in response to growing public criticism against self-regulation and changes in the discourse in the 1990s prepared the way for new multi-stakeholder initiatives and co-regulation. The change in sustainable development discourse emerged at this time. The Brundtland Report (1987), *Our Common Future*, brought the critical issues of environmental degradation and the failure of development programs to alleviate world poverty and hunger to the global agenda (The Brundtland Report, 1987). It is now recognized that sustainable development, in the words of the World Commission on Environment and Development, should meet "the needs of the present without compromising the ability of future generations to meet their own needs" and these environmental, social and economic concerns are incorporated within its scope (Pattberg, 2006: 12).

The discourse of corporate social responsibility (CSR) that proclaims ethical corporate behavior enhances profits emerged partly in response to the new claims. The European Commission in 2001 defined CSR as: "a concept whereby companies integrate social and environmental concerns in their business operations and in their interactions with their stakeholders on a voluntary basis" (CEC, 2001: 6).

Other definitions calls for "achieving success in ways that honor ethical values and respect people, communities and the natural environment" (Business for Social Responsibility). The basic notion of CSR is that not only do companies need to perform ethically in the communities where they are located, but that the community is also an important stakeholder in the companies' activities. The concept of the "triple bottom line" was employed to define profitability not only in economic terms, but in social and environmental terms as well. CSR and environmental responsibility could increase a firm's competitive advantage and create new markets. This discourse is prominent today from the UN's Global Compact to Socially Responsible Investment

(SRI). According to reports, socially responsible investing has skyrocketed.[4] Besides CorpWatch, there is also the influential Dow Jones Sustainability Index, and EthicalCorp, among many others, that regularly report on corporate behavior.

Companies that "learn" do better, especially since much of contemporary economic exchange is in the area of knowledge-production and transfer. The Commission on Global Governance in 1995 issued a broad statement for the building of partnerships: "networks of institutions and processes that enable global actors to pool information, knowledge, and capacities and to develop joint policies and practices on issues of common concern." It came to be felt in some business circles that they might profit from partnerships with civil society in terms of receiving expertise, feedback and support (and legitimation) on the ground in new and emerging markets.

New models of corporate-civil innovation

Countless new networks and networks of networks have emerged partnering business with society. The Social Venture Network, the Schwab Foundation, the Global Challenge are only a few that have taken up the gauntlet of CSR and as a movement it is clearly on the rise. The advocacy of such high profile personalities as Anita Roddick of the Body Shop and the multi-millionaire Stephan Schmidtheiny, founder of the World Business Council for Sustainable Development, has brought the discourse into the mainstream. It is a concept that is ignored by companies at their own risk. It has become the subject of books, seminars and even university programs and it is on the rise in the North and South.

CEOs and boards are finding that public relations efforts alone are not enough to satisfy the market. Rather, corporate leaders are discovering that by engaging stakeholders, adopting rigorous business strategies, and implementing reputation management systems, they can more effectively establish trust with stakeholders, gain a competitive advantage, mitigate the impact of crises, and preserve a company's most important asset – its reputation (PWC, 2000).

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[4] In the 1990s, the amount of money invested with socially responsible funds rose from USD 40 billion to USD 2.2 trillion between 1985 and 2000 in the US. By 2000, USD 1 in every USD 10 invested in the UK and the US was linked to some kind of social criteria. Since 1999, US investors have been able to track the Dow Sustainable Group Index, and in the UK investory can follow socially responsible companies on the FTSE4good index.

Civil society organizations are also becoming more savvy and less reticent to dialogue and partner with corporations. Environmental campaigners become environmental consultants, for example. It is through practice and the process of such encounters that informs both spheres of their increasing inter-dependence and increases trust. Privatized forms of regulation replace state regulation which many companies see as an advantage. Whereas public/state regulation relies on possible coercion, private authority relies more on persuasion.

Some of the successful strategies employed to regulate corporate behavior are direct action campaigns, i.e., naming and shaming, including boycotts that attract media attention and challenge the reputation and credibility of the corporations involved. There is an increasing correlation between good business practices and profit which is affected by both negative and positive publicity. Public awareness and information campaigns directed at consumers can have positive results when companies realize that lost reputations translate into lost profits. If you look at the recent AIG scandal, it is clear what reputation management or mismanagement can mean. The new CEO admitted that the AIG name name (which has come to stand for And It's Gone, Ain't I Greedy, All Investments Gone, Avarice Insolence Greed) is "so thoroughly wounded and disgraced" that they are probably going to have to change it. Roger Cowe writes that for a growing number of companies reputational risk is considered as important as the risk of fire or physical catastrophe (Cowe, 2001:6).

What may finally convince corporations about the validity of CSR are increased profits due to responsible business practices. Companies that have effective programs for corporate social responsibility have a rate of return that is 9.8% higher than companies that do not over a 10 year period (Oliviero & Simmons, 2002: 86-87).

Legal action by civil society organizations has also induced corporate accountability in the social, political and environmental spheres. International law and regulations have allowed for companies to be sued that do not conform to human rights and environmental standards.

Standard setting and monitoring are the areas in which civil society activity has increased the most in recent decades. The Global Reporting Initiative (GRI) was formulated in response to the growing outcry against corporate human rights and environmental rights abuse. The GRI is supported by major corporations throughout the world and is building a consensus for a voluntary standard of corporate reporting requirements that transcends specific industrial sectors or geographic areas.

Civil society has assumed a central role in monitoring the implementation of agreed standards. Global civil society organizations can report on the extent to which companies or whole industries are enforcing codes and standards. This is especially important in developing countries that often do not have the resources to monitor companies on a regular basis. Lessons are still being learned on the best ways to monitor the variety of corporations and industries in a number of countries and here the flexibility of civil society is an advantage. While civil society is now filling an important gap by monitoring and setting standards, in the future it may be better for this work to be led in partnership with official international agencies or governments.

This increases the potential influence and oversight of locally-based groups to monitor and report on corporate activity in the places they operate. NGOs are changing their attitude towards business and vice versa: from an adversarial relationship of confrontation to one that can be characterized as more cooperative. As much as concepts like CSR and ethical business practices can be seen by companies as simply marketing tools, it can never-the-less be stated that these new partnerships and hybrid constructions of regulation are playing a greater role in determining the behavior of global economic actors.

Business as unusual: the corporate citizen hybrid

There are over 60,000 active multinational corporations with over 800,000 affiliates worldwide. At least 37 of the top 100 economies of the world are corporations. Some economists have found that the combined sales of the world's top 200 corporations are bigger than the combined economies of all but the 10 richest countries. This represents enormous power. A European survey, however, has shown that most elites trust civil society organizations more than either business or government. Amnesty International, the World Wildlife Fund and Greenpeace outranked the leading multinationals and are among the top 15 most trusted organizations (Oliviero & Simmons, 2002). With this kind of legitimacy, global civil society organizations (GCSOs) can wield power in response to the negligence and irresponsible behavior of corporations. The global reach of civil society organizations and networks is emerging equal to the extent of global market penetration of corporations today.

Holding corporate players accountable for their actions in global economies is not a new idea and can be traced back to the late 18th century. Modern campaigns are similar they say in that they rely on a

broad coalition of people, media coverage, boycott, resulting in the reform of legislation. The debate on corporate behavior has increased due to:

1) the globalization of markets,

2) the establishment of the knowledge economy,

3) the global communications technology,

4) the coalescence of power, and therefore responsibility, in the hands of relatively few international and global corporations,

5) the need for new social partnerships between corporations, states and civil society seeking solutions to local and global problems (McIntosh et al., 2003: 15).

Corporate citizenship elicits a wide range of responses from business. Some embed CSR values from the ground up in the company's structure, like Jeffrey Hollender's *7th Generation*, Anita Roddick's *Body Shop*, Ben Cohen's *Ben and Jerry's*, Michael Kieschnick's *Working Assets*, Margot Fraser's *Birkenstock Footprint Sandals*, just to name a few internationally known brands. Many business leaders are coming to appreciate that corporate social responsibility makes good business sense in terms of employee relations, risk control, and reputation promotion which is increasingly emerging as a necessary competitive advantage in world markets.

The Aspen Institute outlines three types of corporate citizenship. The first includes those businesses that obey the law, operate in a transparent way, and focus on issues directly related to their business, in compliance with existing standards (Aspen Institute, 2001). At this level being a good corporate citizen is related to business and business strategy.

The second type of corporate citizenship includes businesses that move beyond compliance to address social issues and interface with society.

The third type encompasses business leaders who address social and environmental issues that may seem to be counter to their corporate interests. They view profit and profit-making in the long-term and understand that long-term business prospects require the protection of natural resources and the building of local infrastructures that will allow them to operate safely and effectively in the future.

Business leaders can have a substantial impact as unlikely allies when they speak up on issues such as climate change and working conditions. They can shift norms and gradually isolate those who do not participate (Oliviera & Simmons, 2002: 80).

In response to the question: Can the needs of society be met through the wealth creation provided by global capitalism? The Aspen Institute's discussions conclude:

No, not yet – as the foundation for the alignment between shareholder value and social wealth is almost entirely lacking. The global rules of the game for business are dangerously nascent. We've globalized the private sector, but we have not globalized the values and institutions of global governance. This situation runs the risk of eroding the rules of the game in individual countries, even in developed countries.

… The framework in fact defines a category of action where corporations cannot and will not work alone to achieve social progress. Yet rather than foreclose business as an actor, this framework illustrates the need and potential for multiple stakeholders – including businesses – to agitate and collaborate for change (Aspen Institute, 2001).

This multi-stakeholder approach is spreading and is evidenced in a number of regional and global initiatives like the Business Enviromental Leadership Council, The Global Reporting Initiative, The Prince of Wales International Business Leaders Forum, The Social Venture Network, Ethos in Brazil and MAALA in Israel, Transparency International, etc. But as the quote above reveals, business alone is not willing or able to address the global challenges and injustices brought about by economic globalization.

It is becoming increasingly clear that civil society is organizing effectively to ensure that companies that pollute and destroy the environment and that operate outside legally established labor codes are having a harder time doing business as usual. More effective partnerships between companies and civil society is also increasing the knowledge and trust between the sectors. This is not to underestimate the legislative and enforcement capacities of states and intergovernmental agencies. This tripartite coalition could form a structure for governing economic globalization by setting universal standards, monitoring corporate behavior globally and enforcing action where necessary. The corporate citizen, as a hybridization of the traditional business player, could help to bridge the gap between markets, states and societies.

Global economic institutions: quo vadis?

Globalization is … a project governed by the world's political and economic elites – the cosmocracy – for the benefit of a minority of humankind. It is this cosmocracy … centred on the United States, which promotes and organizes globalization principally

through the formal institutions and informal elite networks of global governance … Dominated by powerful vested interest, the institutions of global economic management constitute the core of a wider system of liberal global governance enslaving the world and its people to the dictates of a neo-liberal ideology and global corporate capitalism (Held & McGrew, 2002: 58).

The goals of global economic institutions have moved from enhancing global stability to serving economic interests and finally the interests of global financing institutions. It is not surprising that the global institutions set up to navigate the global economy have made mistakes and rightly have taken the brunt of the criticism about globalization. The complexities of the processes and challenges today require more than the efforts of global economic institutions, and political and social processes cannot be governed in the same way, by the same rules, as economics. Economic management cannot substitute for political leadership. Social cohesion is an important requirement for economic development and much of the criticism today arises from the kind of economic thinking that pushes all other concerns into the background.

An overview of the contemporary global economic situation and future forecasts reveal that the system generates financial fragility and instability. The growth of US deficits results in the rapid growth of international reserves which lead to financial crashes like the Japanese bubble in the 1980s, the East Asian bubble in the 1990s and financial crises in emerging markets have increased since the 1980s in relation to the post-war period until 1970. In the first months of 2008, we have witnessed market instability and increasing governmental interventions with measures to mediate this instability. The US Federal Reserve cut prime interest rates twice in a few days in the US to try to stabilize the US and global markets.

The system has also not produced higher growth globally. Wealth based on GDP per capita, fell from 2.7% to 1.5% between the 1960-1978 and 1979-2005 periods. The fall that occured between 1990 and 2004 is particularly revealing since it coincides with the effects (in the 1980s) of the policies of deregulation, privatization, and the liberalization of trade and capital movements. Growth in output (which rose to 2.3% for 2001-2003) may be the consequence of the liberalization that has occured over the past three decades or is the product of the boom in American consumer debt which draws on Chinese, Japanese and German trade surpluses (Milanovic, 2005).

Much of the world, especially the developing world, has experienced no growth at all, or even negative growth. Sub-saharan

Africa's average real income is below the level of the 1980s and 1990s; Latin America is about the same as in the 1980s even though many countries in the region adopted the neo-liberal policies of the World Bank and IMF. Eastern Europe's economic performance has clearly steadily declined and created, as elsewhere, social reaction ranging from apathy to unrest. Only South Asia, beginning from a low base, can be said to have improved, as well as China and India, albeit with periods of instability.

Daniel Altman (2007) estimated that there are roughly 1 billion people in the high-income countries; 3 billion people in countries where growth rates have been substantially faster than in the high-income countries; and 2 billion people – some living in middle-income countries, others in low-income countries – where growth rates have been lower than in high-income countries.

> The brutal fact is that after decades of self-conscious development and market liberalization, the average income for the South is still only around 15% of that of the North in purchasing-power-parity (PPP) terms, and more like 5% in foreign-exchange-rate terms. Also, growth in the South is typically much more erratic than in a typical developed country, with periods of relatively fast growth followed by deeper and longer recessions.

He concludes:

> In short, the Matthew effect is (still) operating with vengeance ("To him that hath shall be given, to him that hath not shall not be given"). There is deep irony here, related to the impact of the post-Bretton-Woods architecture on the lives of the poor (Altman, 2007).

Both the IMF and World Bank are experiencing what has been termed a "crisis of relevance" when faced with the rapid and fundamental changes that have occured in the market over the past two decades. Their traditional "products" – economic aid packages and policy advise to governments – are increasingly questioned as being outdated, targeted towards an earlier period of global economic development and are now subject to competition from a variety of new actors. These include global private foundations like the Bill and Melissa Gates Foundation and private banks. There has even been discussion to establish a similar institution to support the developing economies of Latin America, for example:

Finance ministers from seven South American countries met in Rio de Janeiro on 8 October to discuss the future structure, leadership and funding sources for the so-called Banco del Sur (Bank of the South).

Already, the idea of an alternative funding source for South American countries has been supported across the region … Once inaugurated, the multilateral financial institution will become an alternative to the World Bank, the Inter-American Development Bank and the International Monetary Fund for South American countries interested in loans for social and economic development – loans that come free of the conditions that South American leaders have associated with the failed neo-liberal economic policies of the 1990s (Logan, 2007).

"Debtonation" describes the systemic crisis that goes to the heart of the financial model and underpins economic globalization. More and more banks collapse from the pressure of consumers surviving on credit in the developing nations. As early as October 2007, it was reported in the UK that 10% of homeowners, one million people in the UK alone, were paying their mortgages with credit cards. There is no "invisible hand" even of the developing world. Since the demise of the world market as a result of the subprime mortgage crisis, there are more calls for the global economic architecture and a call for a new Bretton Woods. The underlying problem with the current global economic institutions is the problem of governance: who decides what they do and how they do it.

It is the intensity of the globalization debates that has created the environment in which questions about the direction and ethics of economic globalization have been brought into the public domain for deliberation and debate. This has only increased since the collapse of the neo-liberal model and capitalist markets.

Faith-based economics and heresies: the great disruption

This is the excellent foppery of the world, that, when we are sick in fortune – often the surfeits of our own behavior – we make guilty of our own disasters, the sun, the moon, and the stars. Shakespeare, *King Lear*

According to the World Bank, financial crises have become more frequent over the past thirty years. 93 countries experienced an astonishing

112 systemic banking crises between the late 1970s and the year 2000. Responsibility for the current financial crisis is avoided by two distinct processes, one in which individuals are blamed and the other in which the system as a whole is to blame. There is no question in the first case of blaming the system and none in the second of considering which individuals are to be held accountable for "financial crimes against humanity" _ although some may be identified as "financial war criminals" or "banksters", who end up with million dollar bonuses at the taxpayers expense. Their behavior has been described at the least as financial extremism and at the worst as financial terrorism.

Just as the markets and a few economists have shown us that we are living beyond our financial means and overdrawing our financial assets, scientists are warning us that we're living beyond our ecological means and overdrawing our natural assets, and as the environmentalists have pointed out: "Mother Nature doesn't do bailouts." The environmental business expert, Paul Gilding named this moment when both Mother Nature and Father Greed have hit the wall at once – "The Great Disruption" (Friedman, 2009).

Climate metaphors and terminology ("financial hurricane," "financial maelstrom," "financial cyclone," "financial tsunami") are being used to frame the financial crisis and the response to it. This is an easy way of framing the crisis as beyond human control and responsibility (Judge, 2008).[5]

It seems that those most aware of the extent and impact of the crises are quite defensive regarding their own role in generating it. An editorial in *The Economist* concluded that:

> Those of us who have supported financial capitalism are open to the charge that the system we championed has merely enabled a few spivs [criminals] to get rich (*The Economist*, 20 September 2008).

Its report the following week did not offer any insight on what action needed to be taken either (*The Economist,* 4 October 2008). There was clearly no reason for any form of apology – although an analysis was supplied for why apologies were not needed in the article "Who's sorry now: who should apologise to whom, for what and how?" (*The Economist,* October 2008). The *Financial Times* was equally confident about its own position – and presumably its inability to learn from a crisis whose dynamics it had sustained (*The Financial*

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[5] Anthony Judge argues that: "It is apparent that the earlier understanding of a 'climate of change' is now itself being confused with 'climate change'."

Times, 27 September 2008). These could be described as unprofessional failures of institutional learning.

Even in the context of systemic problems it is interesting that the judgement-free term "turbulence" in the market is used to describe the crisis. Such a metaphor frames the crisis as an act of nature or Act of God, clearly beyond human responsibility, whether individual or collective, which should instead be understood as a 50 or 100-year cycle problem, like flooding or hurricanes.

Even Donald Trump is creatively exploiting an Act of God clause. He defaulted in November, arguing he should not have to pay over $330 million he owes for the construction of his Trump International Hotel and Tower in Chicago because the world economic crisis constitutes a "Force Majeure" – equating it with war or an act of God. In fact, rather than paying, Mr. Trump thinks the bank should pay him $3 billion for undermining the project and damaging his reputation.

Thus, one view of the financial crisis, like the discredited view of global warming, is that it is not a consequence of human activity. As with natural disasters, the concern is to minimize irrational panic in response to such crises (*The Financial Times*, 25 September 2008; *The Guardian*, 11 October 2008). You can see this in *The Economist's* effort to relativize the dimensions of the crisis by comparing the cost of current bailouts to past bailouts as a percentage of GDP: USA (1988, 3.7%), Finland (1991 (12.8%), Sweden (1991, 3.6%), Mexico (1994, 19.3%), Japan (1997, 24.0%), S Korea (1997, 31.2%). The current crisis becomes trivial at a mere estimated 5.8%, but absolute amounts are curiously not cited in the comparisons (*The Economist*, 27 September 2008).

This reveals a dysfunctional pattern of thinking and the real challenge is not the particular crisis of the financial system which everyone is talking about. The real challenge lies in the pattern of derivitive thinking which sustained the system and denied its problematic nature. Is the subprime crisis, and its consequences for the financial system an indicator of a dysfunctional mode of thought in which we collectively engage today? Does this thinking deny the existence of other systemic challenges and represses consideration of their potential implications in other areas?

A major danger is the current assumption that the only "confidence" that needs to be (re)built is defined by market terminology. Why are "solutions" only being dreamt up after a crisis has struck? (e.g., Hurricane Katrina, the current financial meltdown). What does this imply for other crises whose possibility is authoritatively denied? It is curious the way "faith" is now vigorously encouraged by the most

hard-headed economists and businessmen at the focus of the financial crisis. It is seen as central to recovery of the health of the global economy.

Economists, and those with governance responsibility, argue strongly that people should have faith, trust and confidence in the financial system which has abused that confidence. We now see that all along neoliberal capitalism was a form of mythology. That's why the triumphalism was necessary – you could not afford to have anyone challenge the system. Thomas Frank in his book, *One Market Under God* (2001) explains how neoliberalism entrenched its triumphalism into the political system of the US; how it marginalized and delegitimized all challenge and established hegemony in the so-called free world.

How can reliance on hope be distinguished from a false sense of what has happened and what needs to be done? One response can be described as the "creative response of human ingenuity". This is exhibited in many writers like Homer-Dixon who subsequently recognized the inevitability of collapse of civilization as it is currently known (Homer-Dixon, 2006), and Jared Diamond in his book called *Collapse* (Diamond, 2005). These authors are among others who believe the crisis is a reason to be optimistic.

It is strange, however, that such creative ingenuity WAS not been employed to anticipate the present or future crises, for example, by extending the global modelling work pioneered in 1972 for the Club of Rome. These efforts to analyze the evolution of the world problematique were undermined. The original study provoked many criticisms which falsely stated its conclusions in order to discredit it (Turner, 2007). Despite the repeated substantiation of its conclusions, including warnings of overshoot and collapse, recommendations of fundamental changes of policy and behaviour for sustainability were never taken up.

If we take an earlier example of just such political-ideological orthodoxy, we need only look at the Karl Polanyi-Hayek debate.[6] Hayek became the founding father of a model of economic management which has brought us to the current crisis; Polanyi, with extraordinary prescience, warned that the crisis would come; he rejected the idea that the market is "self-regulating" and can correct itself. There is no "invisible hand" such as the neoliberals maintain, so there is nothing inevitable or "natural" about the way markets work: they are always shaped by political decisions.

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[6] *The Great Transformation*, published in 1944; *The Road to Serfdom*, also published in 1944.

At the time Polanyi was writing, there were many who agreed with him that free-market capitalism was chronically and destructively unstable, with terrible political consequences; but in the 1970s and 1980s, Hayek's neoliberalism took hold in the US and Britain. The mantra was: Keep the state out and let the economy take care of itself. Alan Greenspan wrote enthusiastically in August 2008 that "the past decade has seen mounting global forces (read: Adam Smith's "invisible hand" globalized) quietly displacing government control of economic affairs". He continued that the greatest danger facing the economy was that "some governments, bedevilled by emerging inflationary forces, will endeavour to reassert their grip on economic affairs". Greenspan has since made a gigantic *volte-face* as he pleaded for the nationalization of banks.

Another response to the crisis is connected to "rapture" in the religious sense.[7] "Rapture" is at least as important as creative response and human ingenuity. It is a response of faith-based governance, of the widespread belief in some form of "rapture", or divine "bailout by God". This may have been a factor in the US presidential campaign. It is widely believed that the more fundamental or dramatic the complex of problems faced by humanity, the higher the probability of divine intervention. Therefore, it is extremely ironic that economists call for "faith", "belief" and "trust" in an economic orthodoxy in a state of collapse today (Bunting, 2008). What if "Bailout by Jahweh" becomes "Bailout by Allah" who has a different conception of "Wall Street" and the system to be saved?

It is important here to identify the systemic role of actors (states), instruments (financial mechanisms and authorities), concepts and dynamics, as well as how long and short-term risk is managed in a context both fear and a false notion of what has happened and why, engendered and exploited by fact and rumour. By employing the reasoning tools of finance, and its crisis, can we reframe our understanding of other imminent crises – for which there is a similar lack of preparedness and similar excuses for such lack?

There are critical views of the financial crisis that can help us to look at what is behind the crisis. Larry Elliott argues that it is neither possible nor desirable to recreate the global financial system as it existed prior to the crisis (*The Guardian*, 3 October 2008). He states that clearly a Global Monetary Authority, equipped with the mindset that engendered the current financial malaise, would not have the observational skills or motivations to detect unfamiliar twitchings in

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[7] Bliss, beatitude; transport, exaltation; the experience, anticipated by some fundamentalist Christians, of meeting Christ midway in the air upon his return to earth.

the global system. In making a case for another Bretton Woods system of monetary management, Peter Mandelson recommends that we need to inject confidence by regulating to control excessive risk-taking and heavy leveraging, and to improve the way ratings agencies work; and that certain financial products have become so complex that they are not understood by the very institutions that buy and trade them. This is a regulatory and professional failure of the first order (*The Guardian*, 3 October 2008).

The question is whether more vigilant analysis of the financial crisis as it evolves, and the language used in "saving the system" can be used to develop a framework to analyze emergent crises that have been subject to the same neglect through "derivative thinking"(*The economist*, 11 October 2008). This is key to a new approach to global modelling.

Borrowing another financial metaphor, Anthony Judge claims that academic disciplines are the "banks" of the global knowledge society, and asks the questions: to what extent is it appropriate to see the array of disciplines as having irresponsibly taken on "excessive risk" in their negligent consideration of problems by which society is faced? Can their degree of ingenious specialization be fruitfully compared with what is now recognized as the problematically opaque nature of the derivatives market? Do these factors offer a useful explanation of why disciplines are so fearful of lending to one another, thereby reducing the "liquidity" of a global knowledge system that is so essential to sustaining creativity in resilient response to crises?

Conclusion: appropriately anticipating the crises to come

This stock collapse is petty when compared to the nature crunch: the financial crisis at least affords us an opportunity to now rethink our catastrophic ecological trajectory.

This is nothing. Well, nothing by comparison to what's coming. The financial crisis for which we must now pay so heavily prefigures the real collapse, when humanity bumps against its ecological limits. As we goggle at the fluttering financial figures, a different set of numbers passes us by. On Friday, Pavan Sukhdev, the Deutsche Bank economist leading a European study on ecosystems, reported that we are losing natural capital worth between $2 trillion and $5 trillion every year as a result of deforestation alone. The losses incurred so far by the financial sector amount to between $1 trillion and $1.5 trillion…

The two crises have the same cause. In both cases, those who exploit the resource have demanded impossible rates of return and invoked debts that can never be repaid. In both cases we denied the likely consequences. I used to believe that collective denial was peculiar to climate change. Now I know that it's the first response to every impending dislocation (Monbiot, 14 October 2008).

What will this crisis mean for us in terms of our daily lives? We are all beginning to sense the possible consequences of the crisis in terms of our own ability to provide for our families in the future. We feel the crisis, but don't know what it means – a bit more than average unemployment and homelessness or will we all be left homeless and jobless? There are countries like Russia and Argentina that we can ask advice from about what happens when economies collapse in this day and age. We no longer trust economists or politicians to give us answers anymore because we see that no one has any idea about what is going to happen. We further distrust those that think they do have quick and ready solutions. Their serial irresponsibility warns us that new bailout plans may be a ruse for "comforting the comfortable while afflicting the afflicted".

We are finally feeling, experiencing and learning what countries across the developing world have experienced for over three decades that unstable and inequitable neoliberal economics leads to unacceptable levels of social disruption and hardship that can only be contained by brutal repression.

Just look at the recent events in Greece, Italy, France, Thailand and even Hungary. Many, often contradictory, causes have been put forward: economic (unemployment and neo-liberal economic measures), political (institutinalized corruption and failure of education), cultural or ideological. But the most prominent reaction of commentators has been incomprehension. There is no one political organisation directing these insurrections, no single ideology motivating them, no overwhelming demand put forward. The persistent question, "What do they want?" often leads to the conclusion that the events were not political because they could not be integrated into existing analytical frameworks. What seemed to unite the protesters was simply refusal: "No more, enough is enough." A stubborn negativity characterised the insurrections. Is this a new type of politics after the decay of democracy? – Insurrection and righteous "indigNation" as a response of those who feel invisible to the political system.

The insurrections can be recognised as events of radical change only retrospectively, if the rules of politics change. This depends on

who will uphold the possibility of changing the rules of what counts as political. In a recent interview President Obama reflected that there are certain moments in history when significant change is possible. "It's not a certainty," he said, "but it's possible." He said he believed that it's very difficult for any single individual to actually set that kind of "momentum" for change in motion. But when that historical wave is there, he said, "I think you can help guide it." When asked if we are in one of those moments now, he said, "Yes. I firmly believe that."

This is the challenge that Athens, Paris, and Budapest pose to Europe. It is no wonder that "Slumdog Millionaire," which pits a hard-working young man in Mumbai against a corrupt nexus of money and privilege, has become America's movie of the year. Not just Americans are tired and resentful of people who benefit from a system dominated by insiders with the right connections.

The assertion of "incomprehensibility" is associated with an inability to integrate current events into existing analytical frameworks. Assertions of "incomprehensibility" do not just charaterize the current financial crisis, but are also consistently applied to the Middle East and even used to explain the Irish No Vote.

In addition to incomprehensibility and the insurrection that results from invisibility, unregulated capitalism can be charged with creating wealth but not effectively distributing it and that it takes no account of what it cannot commodify, neither the social relationships of family and community nor the environment, which are vital to human wellbeing and survival, and indeed to the functioning of the market itself. Ultimately, neoliberal capitalism is self-destructive.

We can now ask the questions why the critique of the neoliberal model which emerged in the late 1990s was ignored. The anti-globalisation movement argued that neoliberal capitalism was unjust, unstable and destructive to human and environmental wellbeing, but it somehow became associated with the anarchic street violence of radical groups. Broad networks of grassroots social movements were ridiculed, marginalized and ignored. There is no alternative, the politicians intoned.

We were distracted after 9/11 by the war on terrorism and ignored the second ground zero on Wall Street as a gathering storm next to the first ground zero. We are now witnessing the collapse of the economic orthodoxy that has dominated politics for nearly 30 years. For decades, we were told "There is no Alternative". Now we are being warned and told "There Is No Alternative to the Alternative."

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Global Governance and its Limitations

Lucio Levi

1. Introduction

In one of the most successful outlines of contemporary history, Eric Hobsbawm asserts that globalization represents the most "significant transformation" of the past century. "Between 1914 and the early 1990s the globe has become far more of a single operational unit, as it was not, and could not have been in 1914. […] Notably in economic affairs the globe is now the primary operational unit and older units such as the 'national economics', defined by the politics of territorial states, are reduced to complications of transnational activities." And yet, in spite of the prestige which the Hobsbawm's work enjoys, the sense of the globalization process remains, to the eyes of its author, indecipherable. The conclusion which he reaches at the end of his book is disappointing. "The Short Twentieth Century ended in problems, for which nobody had, or even claimed to have, solutions. As the citizens of the *fin-de-siècle* tapped their way through the global fog that surrounded them, into the third millennium, all they knew for certain was that an era of history had ended. They knew very little else." It is the admission to have failed in the achievement of the highest task of historiography: to exhibit the general tendency of contemporary history.

Since the future grows out of the past, the history of the past should give rise to a forecast concerning the future. It is worth recalling that a great British historian, John Robert Seeley, agued that "We study history that we may be wise before the event". Consequently, the event "will be the result of the working of those laws which it is the object of political science to discover. […] The students of political science ought to be able to foresee, at least in outline, the event while it is still future" (196-197). The explosion of the literature on globalization illustrates various attempts to renew political theory, in order to adjust it to the novelty of the phenomenon. It will be the task of a new generation of scholars to help us understanding the nature of globalization and renewing the studies in world politics. The globalization process is a deep change that upsets our lives and has an outstanding significance

as regards our future. And yet, we do not know if the concepts we use to grasp its nature and implications are sufficient to master the phenomenon intellectually and politically.

Investigation makes progress by dividing and subdividing the ground. An old saw says: "Qui bene distinguit, bene docet." Therefore, the starting point of my investigation is what seems to me the fundamental contradiction brought about by globalization, i.e. the contradiction between the dynamics of market and civil society (that develop the tendency to become global) and the resistance opposed by the states (that remain national). Then, I shall treat separately the important topics that stem from that hypothesis. If we are committed to disperse the fog surrounding globalization, first we should try to single out criteria to understand it and then attempt to govern it.

2. *Mode of production and global governance*

Before laying out the question of global governance in detail, it is worth devoting a preliminary reflection to the choice of the theoretical lens I suggest to use in the study of globalization. The economic approach, which is generally adopted in this field of studies, provides a limited and reductive view. Globalization is not promoted only by economic incentives, but also and particularly by an irresistible historical force, stronger than the will of any government or any political party: the force that is triggered by the evolution of the mode of production. It imposes on every sector of social life a much wider dimension than that of sovereign States, even the biggest. It is a mutation process that can be accelerated or delayed, but not accepted or rejected. It is over this objective reality that men's choices act, and such choices represent the moment of liberty in determining the course of history. The concept of mode of production, adopted by historical materialism as the key to the interpretation of history, enables to identify the most general law of the becoming of human societies. More precisely, the mode of production, since it creates the material and cultural environment in which states and international relations are immersed, enables to specify the impact of the structures of production on the political structures. This approach is in tune with a vision of history that Braudel defined as the "long term" perspective, which emphasizes the subterranean forces that determine the course of history: the constraints imposed by geography and the structures of material production. Among the contemporary scholars of international relations who adopt this approach it is worth mentioning Charles Kupchan, whose contribution is particularly significant as

160

regards the influence of the evolution of the modes of production on political institutions and processes.

The fundamental assumption of historical materialism is that the first condition of human history consists of concrete individuals producing their means of subsistence through which they satisfy their basic physical needs. If we utilize this conception of history simply as a "canon of historical interpretation" (this expression was coined by Benedetto Croce), the type of determinism exercised by the mode of production is not conceived as the sole factor influencing the nature of political, juridical, cultural and other social phenomena. According to this explanatory scheme, determinism does not proceed only in one direction (economic determinism), but is compatible with the mutual influence of political, juridical, cultural and social factors on material production. For instance, Max Weber, who defined historical materialism as a fruitful ideal type that can orient the work of social researchers, in his works on the sociology of religion highlighted how a cultural factor – the ethics of religions – influenced the evolution of the economic systems.

If we accept the idea of a mutual influence between the different factors that contribute to determine the course of history, we can consider the mode of production as the factor which exerts a decisive impact on the structure and the dimension of the state and international relations. More specifically, a relationship can be established between the mode of production and the state dimension, in particular between the agricultural mode of production and the city-state, between the first phase of the industrial mode of production (utilization of coal and the steam-engine) and the nation state, between the second phase of the industrial mode of production (utilization of electricity, oil and the internal combustion engine) and the state of dimensions as big as entire regions of the world. With the scientific revolution of material production (and the revolution in telecommunications and transport) the world federation becomes possible and necessary. There is, therefore, a specific relationship between the globalization process, which is nothing more than an economic and social integration process on a world scale, and the scientific mode of production. This process, as slow as its evolution may be, creates the economic and social basis for the formation of a global market, a global civil society and global forms of statehood.

3. *The erosion of state sovereignty and market fundamentalism*

The analysis of the relations between the evolution of the mode of production and the state structures allows us to highlight the fact that

the most significant aspect of globalization concerns the sphere of politics, and consists in the contradiction between a market and a society that have been taking global dimensions, and a system of states that has remained national. Globalization produces an ever deeper contradiction between the development of the forces of production that are going to unify the world, and the state, the organized power that should govern it and make it so that general interests prevail over the private ones. It subjects the state structures to a strong strain, and drives them to adapt their dimensions to the needs required by the new mode of production.

Those who maintain that globalization is not a new fact, but the evolution of a long term process started with American conquest (e.g. Immanuel Wallerstein), consider this concept equivalent to other more generic ones like "interdependence" or "internationalization". Those are terms designating a process that greatly increases and intensifies the relations between states and peoples of the planet; but it still is a process governed by the states, which remain the exclusive protagonists of international politics. In other words, their sovereignty is not subject to appreciable limitations by an increased interdependence.

Different is the nature of globalization, which is not a mere quantitative increase of social relations and exchanges at the world level. It is instead a qualitative change rooted in the scientific revolution of material production, and it creates, alongside the national societies and markets, a global society and a global market. Globalization is a process that escapes states control, limits their ability to act and dents the essential character of their structure and functions.

Owing to this contradiction, a vast movement of ideas arose, which asserted itself not only in economic thinking, but also in policymaking, in the last thirty years: "market fundamentalism". This expression was popularized by George Soros. The basic idea of market fundamentalism is that the free play of market forces promotes the universal spread of wealth, freedom and peace. According to this ideology, markets are capable of regulating themselves and therefore do not need any public regulation. Any interference in market mechanisms is rejected. Therefore, the globalization era would mark the withering of the state and politics. This ideology enjoyed great popularity in the Western World after the accession to power of Margaret Thatcher (1979) and Ronald Reagan (1970). These leaders represent a living reaction against excessive political activism, which was a dominant feature of the previous period. They did not confine themselves to abstain from intervening in market mechanisms, but practiced also an active deregulation. In this way, they abdicated their responsibility to regulate

the market and civil society. The consequence was the triumph of the economic and social potentates and the spread of violence of the organized crime and international terrorism.

Global governance is a form of reaction to this idea, since it represents one of the possible ways of extending the sphere of action of politics to the global level. But the financial and economic crisis has unquestionably shown the flaws of a lack of government and coercive rules to combat the abuses committed by the speculators. Joseph Stiglitz in 2008 argued that "the fall of Wall Street is to market fundamentalism what the fall of the Berlin Wall was to communism". The fact is that the economic order implies rules and a government, i.e. a political order. Without adequate institutions and rules, globalization cannot be regulated.

4. *Market, state and international order*

Economic forces alone cannot generate the social cohesion necessary to make the market work. The latter takes shape from the laws that regulate it and in the context of the political order that governs it. Only the state can guarantee real market cohesion among clashing economic interests. Even though we do not neglect the mutual influence between economic structures and law and politics, the fact is that the market order is shaped by political power that makes the laws obeyed within the state's territory.

Lionel Robbins observed that the market is an institution needing "a mechanism capable to defend law and order. But whereas this mechanism, if imperfect, exists *within* nations, there is no similar mechanism functioning *on the international plane*." Therefore, he defined anarchists those who believe in a spontaneous harmony among the market actors and came to the conclusion that, to govern the world market, there is need for political institutions that perform the same functions on the international level as the state performs towards the national market, i.e. a World Federation. This unassailable conclusion has a weak point nevertheless. It does not explain how it has been possible, ever since the 19th century, to establish an embryonic form of world market without world government. Scholars of international political economy, a new branch of economic studies, have pointed out that, in certain periods of history, hierarchies of power develop in international relations between states that perform the task of ensuring a relative international economic order, albeit with the precariousness and mutability typical of international relations. The role of the navy

and the trading hegemony of Great Britain ensured the cohesion of the world market during the nineteenth century and the corresponding role was played by the United States during the twentieth century.

This means that "a hegemon is necessary to the existence of a liberal international economy", as agued by Robert Gilpin. The theory of "international public goods without international government", elaborated by Charles Kindleberger, shows that the functioning of the international market requires a "stabilizer", a hegemonic power that guarantees that the international actors comply with common rules. This means that the dominant power exercises a military function, which assures a minimum of international order, and an economic function, which provides an international currency and the rules for international trade.

Braudel described the evolution of the world economy and politics as a process during which the center of gravity shifts (*décentrage*) from one economic system (what Braudel calls "world-economy") to another: from Venice at the end of the 14th century, to Antwerp in the middle of the 16th century, to Amsterdam in the 17th century, to London in the 18th century, to New York in the 20th century. The most well-known version of the world-system approach has been developed by Immanuel Wallerstein. Core countries focus on higher skill, capital-intensive production, and the rest of the world focuses on low-skill, labor-intensive production and extraction of raw materials. This constantly reinforces the dominance of the core countries. Nevertheless, because of the dynamics of the system, individual states can gain or lose the core (semi-periphery, periphery) status over time. For a time, some countries become the world hegemon. As we have seen, this status has shifted from Venice to the Netherlands, the United Kingdom and most recently, the United States.

The analysis of the relations between market and state makes it possible to come to a general theoretical conclusion that enables us to more clearly discern the respective roles of the economy and the mode of production. The economy is governed by politics, but the mode of production is the factor that determines, in the last instance, the course of history, despite the resistance offered by politics and economics. On the other hand, both politics and economics have relative autonomy as regards the mode of production and represent essential elements for the functioning of the system of production.

5. *What global governance is*

Governments' answer to globalization has been to pursue international cooperation, not by choice, but due to the absence of

alternatives. There is no national answer, in fact, to global problems. The ever more frequent creation of international organizations (the most significant is the UN for its vocation to universality) represents the road taken by governments for finding a solution to problems that they cannot solve alone.

A quantitative datum is sufficient to appreciate the importance of the phenomenon of international organizations: the incredible speed at which their number grew during the 20th century. According to a comprehensive criterion (utilized by the *Yearbook of International Organizations*) for international organizations, that includes not only the ones instituted by states, but also those promoted by other international organizations, they were 37 in 1909, and grew to 5387 in 2009. Considering the non-governmental organizations, the explosion of that phenomenon is even more astonishing. They were 176 in 1909 and have reached the number of 30.581 in 2009.

The most widespread formula for defining such a type of globalization management is the expression *global governance*. A World Commission, endorsed by the UN Secretary General Boutros Boutros-Ghali, drew up in 1995 a *Report on Global Governance*, which contains a definition of global governance and proposals for UN reform. Innumerable books have been published on the subject and in the United States is published a review under this title.

The hypothesis that lies behind this formula is that a function of global government is performed by the UN system without setting up a formal world government. James Rosenau and Otto Czempiel, who have coined the expression "governance without government", wrote that "Governance is not synonymous with government. Both refer to purposive behavior, to goal-oriented activities, to systems of rule; but government suggests activities that are backed by formal authority, by police powers to insure the implementation of duly constituted policies, whereas governance refers to activities backed by shared goals that may or may not derive from legally and formally prescribed responsibilities and that do not necessarily rely on police powers […]. Governance, in other words, is a more encompassing phenomenon than government. It embraces governmental institutions, but it also subsumes informal, non-governmental mechanisms […]. Governance is a system of rule that works only if it is accepted by the majority (or, at least, by the most powerful of those it affects), whereas governments can function even in the face of widespread opposition to their policies."

The notion of global governance defines a minimum amount of norms necessary to assure the global order without the support of an organized government. It manifests the need to assure guidance to

international politics and economy, without resort to new powers at international level or to a world government. Whereas it implies the existence of state governments, it considers non-essential the institution of higher levels of government on the regional and world planes.

Governments welcomed the idea of global governance, because it does not question state sovereignty. This formula is based on two dogmas:

– that it is possible to find a solution to the principal international issues exclusively through co-operation between sovereign states

– that states will never willingly and irrevocably delegate a portion of their power to a supranational authority.

Global governance justifies the present world order, which pretends to entrust to the sovereign states the regulation of globalization, but in reality it entrusts it to the strong powers that exercise their predominance over world politics (the big powers) and over the world market (the multinational companies), and also to illegal powers like organized crime and terrorism; at the same time, it excludes the peoples from participation in the making of fundamental decisions on which their destiny depends. In other words, it helped to dispel what governments fear most of all: the spectre of supranationality. These aspects of the globalization process will be analysed separately.

Here, it is to be stressed that there are different versions of the idea of global governance. For instance, the above-mentioned *Report on Global Governance*, is focused on UN reform, understood as the way to promote the security of humankind, to manage the global economy and to strengthen the rule of law world-wide. Even though it invites to avoid confusion between governance and government and underlines that it does not propose a "movement towards world government", it argues that "the UN cannot do all the work of global governance". It recommends the phasing out of permanent membership and the veto within the Security Council, the compulsory jurisdiction of the World Court, the creation of an International Criminal Court (which was established in 1998) and an Economic Security Council, the establishment of a global taxation (like a carbon tax or a Tobin tax), the formation of a UN Volunteer Force available for rapid deployment, the creation of an annual Forum of Civil Society, the establishment of a Council for Petitions in order to make the right of petition available to civil society. All in all, these are not radical but significant proposals for strengthening and democratizing the UN. Some of the above-mentioned recommendations, such as those for the establishment of an International Criminal Court and the recognition of the right of petition, are proposals which tend to overcome the current structure of

the international state system, where sovereign states remain primary actors of international relations. The meaning of those proposals is that globalization requires that the individuals, beside the states, become actors of international law and that international law must be applied to the individuals. This principle is born in the framework of the UN with the Universal Declaration of Human Rights and in some way contradicts the fact that the UN is simply a union of states not of peoples. In conclusion, it may be argued that those proposals are an implicit denunciation of the limits of the UN architecture and its institutional mechanisms.

6. The limits of the intergovernmental paradigm

In spite of those innovative proposals, the *Report on Global Governance* is to be located within the framework of intergovernmentalism. The price to be paid in terms of effectiveness and democracy for the adoption of this approach – i.e. the belief that international cooperation and international organizations can solve every global issue – is very high. On the one hand, executive powers able to give binding force to common decisions are lacking at international level. On the other hand, the decision-making procedures are based on the principles of unanimity and the veto power and exclude the democratic principle of majority decisions. The lack of a supranational juridical and political order able to face the problems posed by globalization has surely produced negative effects.

The first is the emerging of problems of such a magnitude that cannot find a solution on the national plane. The great issues of peace, security, the regulation of the global market, poverty, international justice and environment protection have taken on global dimensions. The states, which are progressively losing control of their essential functions – economic development and security – are not able to face up to problems of such a dimension. But also international organizations and international regimes are increasingly inadequate to this task. The failure of the negotiations on the main items on the international agenda confirm that. The IMF and G20 have been unable to open the way to a reform of the international monetary system, i.e. the replacement of the dollar as a reserve currency with a basket of currencies, conceived as a step toward a world reserve currency. The Kyoto Protocol has been unsuccessful in fighting against climate change and hopes that it could be supplanted by a World Environmental Organization endowed with binding powers have been deceived. The

non-proliferation negotiations have failed in the attempt to address the issue of a universal and controlled nuclear disarmament.

The second is the rise of global non-state actors, whose action escapes states' control. Banks, stock exchanges, rating agencies, multinational companies are taking the world market away from states' control. Religious organizations, research centers, Foundations, Universities are working out and spreading around cultural models on the world plane. Global TV networks (CNN, Al Jazeera, etc.) shape the global public opinion. The civil society movements are activating the first forms of citizens' mobilization at the world level. Criminal and terrorist organizations are threatening the monopoly of violence held by the states. In sum, globalization is digging an ever deeper ditch between the states, remained national, and the market and civil society, that are taking a global dimension. So, the states, having lost the power to decide on the issues that will determine the future of mankind, show their inadequacy to govern globalization.

The third is represented by the fact that the citizens feel that the most important decisions upon which their destiny depends are by now beyond their control, because they are taken at world level, while democracy stops at states borders. Beyond those borders dominate relations of force among states and non-state actors, competing with the states for determining the lines of world politics. There ensues a crisis of the consent towards the political institutions and of the legitimation of public powers. Consequently, the decline of the state brings about the triumph of private interests connected to the market and the decline of collective values on which political coexistence is founded.

For centuries the states have been regulating the market and civil society through a system of laws and bodies tasked with keeping order and the repression of behaviors contrary to the norms of civil coexistence. The answer to the loss of state's control over the enforcement of norms and public order cannot but come from politics. This is indeed the field where the efforts to govern the historical process may be successful.

7. *Glocalization, new medievalism and multi-level governance*

The globalization process is characterized by a tension between unification and fragmentation. The global and local do not exclude each other. On the contrary, they are two aspects of a single process. The trend toward globalization and world unification coexists with

decentralization and localization. At the same time, the nation-state is not destined to disappear. For this reason, Ronald Robertson coined the word "glocalization". Whereas globalization is a process of unification of markets, civil society, cultural models, styles of life and political institutions, it fosters, at the same time, the need to preserve differences, local cultures and institutions. Since it is the expression of a tendency to equalize and level social behaviors, it generates the requirement to defend and develop local cultures and identities.

The trend toward fragmentation shows itself in two different ways. The first is ethnic nationalism, which combats globalization, disintegrates old nation-states and tends to transform the world into a sum of closed communities divided by tribal hatred. The second is local and regional self-government, which is compatible with supranational powers and institutions. It is an aspect of a power distribution on different levels – sub-national and supra-national – of government.

The erosion of state sovereignty, which is the main political aspect of globalization, stimulates the need for new forms of governance, including the national level but overcoming it through the transfer of power toward higher and lower levels of government. The articulation of the architecture of the authority structures occurred in the globalization era has much in common with the medieval political organization. Hedley Bull's theory of "new medievalism" underlines the analogy between the reorganization of the international political space, in progress during the last phase of the Cold War (in 1977, when Bull wrote *The Anarchical Society*, the word globalization was just beginning its circulation), and the overlapping of different levels of government from the local to the universal community, typical of medieval times.

Whereas the formation of the modern state was characterized by the assertion of the concept of sovereignty, i.e. the progressive power centralization on the military, fiscal, administrative, legislative and judiciary plane, globalization brings about a process, which is developing in the opposite direction, of scattering of political power and legal systems. A growing number of power centers is escaping state control, and undermines state sovereignty. However, the observation of the effects of the globalization process shows the loss of authority of the old sovereign states, the scattering of political power, the lack of certainty of law, the clash between ill-defined rights pave the way to the abuse and encroachment of the strongest powers and groups against the weakest, the assertion of new privileges, the limitation of individual liberties, the spread of violence. All these phenomena, which are real aspects of the globalization process, represent a serious danger for the

values and institutions on which our civilization rests. The state represents an invaluable heritage and a building bloc of the civilization process. The supremacy of the common good over the private interests depends on it. Therefore, the problem is to rethink and reorganize the state, not abolish it.

This reorganization of political power at different territorial levels has been called in the contemporary political science literature "multi-level governance." This expression echoes the federalist vision of political institutions, which enables to rethink the traditional model of the unitary state. It is worth recalling that Kenneth C. Wheare defines the federal government "that system of power sharing that allows the central government and the regional governments to be, each in its own sphere, coordinated and independent."

It is a simple delusion to think that the destruction of the nation-state alone could be the vehicle towards more elevated forms of solidarity. It is true that the nation-state has been the expression of the deepest political division and the strongest concentration of power that the world has known. However, the examples of Yugoslavia and Somalia are well known and show how the collapse of the state is equivalent to a return to primitive barbarism, to ferocious, selfish tribalism and to the return to obsolete forms of solidarity based on ethnic or religious ties.

Faced with these phenomena, one can do no less than appreciate the positive aspects of national solidarity in overcoming local, regional and class self-interests and the great role that nation-states have played in our history. France, Spain, Italy and Germany have unified populations with a variety of cultural, ethnic, linguistic and religious backgrounds. To be sure, this unity has been achieved through centralization, i.e. by sacrificing pluralism. It is what the federalists of the past century, from Proudhon to Frantz and Cattaneo, untiringly denounced even if the federalist political proposal had no chance of influencing states such as France, Germany and Italy. In fact, the strong political and military pressure that these states underwent on their borders and the radical nature assumed by the class struggle created a drive towards power centralisation that no force could oppose. The fact is that democratic centralism has been a stage in the construction of democracy, of its extension to mixed populations with the same rights of citizenship; and a means of overcoming old political and economic institutions in which the privileges of the feudal guilds were concealed.

The contribution of federalism to understanding, and therefore to identifying the limitations of national experience, lies in the denunciation of the exclusive character assumed by the ties of national solidarity.

These do not tolerate any loyalty towards communities that are smaller or larger than the nation itself. However, national solidarity does not have to be cancelled in the globalization era, but it must be considered as a necessary step towards greater forms of solidarity between nations headed by continental-sized federations and between continents bound in a worldwide federation. At the same time, national solidarity does not exclude other forms of solidarity within regional and local communities, but can coexist with them.

The federal model is an institutional formula that allows for the coexistence of solidarity towards territorial communities of different size, that may range from small local communities to the entire world. The federalising process has become increasingly widespread until it embraces entire continents and potentially the whole of the planet (UN reform). At the same time, unitary states have been affected by federalism, which has determined a transfer of power towards smaller territorial communities. As a result of this process that is developing in two directions, one towards the top of the federal hierarchy and the other towards the bottom, it has become necessary to organize the federations with more than two levels of government, and so to supersede the traditional model that shared power only between federal government and federated states.

To these two levels of government must be added (with equal dignity within the state) the levels for the region, the province (or the county, i.e. the intermediate community between the region and town) and the local community, i.e. the borough of a large city or the town. Then, above the continental federation, there is the worldwide level.

In each of these territorial areas, institutions already exist that are a clear expression of governmental and organizational requirements. However, these institutions are not normally autonomous centres of power but are subordinate to the nation-state. Their reorganisation according to the federal pattern allows every level of government to be given an independent power. This implies full freedom for each level of government to have, within the framework of its own authority, relationships with all the other corresponding levels or with different levels, without being subjected to control (except for those of a constitutional nature) of the higher levels of government (for example, Region-European Union relationships, or links between bordering regions, and so on).

The federal model has to be seen as the overcoming not as the destruction of the national model. It is a change in two directions: towards the top and towards the bottom. In fact, the federalist design improves on the limitations of national democracy which is in decline

owing to its excessive concentration of power in the hands of national governments. This improvement is achieved by adding new levels of government, popular participation and citizenship, both above and within the nations.

On the other hand, the decline of power politics and the ever closer interdependence between peoples have erased not only the incentives towards centralisation, but they have also changed the traditional concept of border, which used to give states the unchangeable shape of a closed society with homogeneous characteristics. The new forms of federal organization join the coexistence of different levels of government with the openness and the overlapping of the individual territorial communities.

As an example, the removal of the military and economic divisions within the European Union has brought to light the artificial character of nation-states. From this comes the possibility for border populations to develop new forms of association within the European regions. For example there are the Basque Countries, Tyrol, Catalonia and Roussillon, Alsace and Baden, the French and the English region bordering the Channel and so on. It is possible to forecast that in the future there will be an institutionalisation of these regions that goes beyond mere cross-frontier cooperation. This would be a new aspect of contemporary federalism.

8. The decline of power politics and constitutionalization of international relations

The European system of sovereign states was codified with the Peace of Westphalia (1648) and supplanted in 1945, after the end of the Second World War, by the world system composed of two superpowers of macro-regional dimensions, the United States and the Soviet Union. The end of World War I saw the founding of the League of Nations and World War II saw the founding of the United Nations. These institutions represent the first attempt to ensure world peace through specific institutions, but they were not endowed with an independent power to pursue that goal. Therefore, the scourge of war has continued to lash the world.

The epoch of World Wars was a transition period from the European system of states to the world system, a political turmoil generated by the contradiction between the evolution of society toward closer and closer forms of transnational integration and the political structure of the European system of nation-states, whose revolutionary outcome

was the birth of the world system of states. After the end of the Cold War and the bipolar world system (1989), signs of the decline of the superpowers caused by globalization began to be evident. The American unipolarism after the collapse of the Soviet Union was a transient phenomenon, since the world hegemonic ambition of the US has been defeated in a decade.

There is an analogy between the evolution of the European system of states after World War II and that of the world system after the fall of the blocks and the end of the bipolar system. For a long time, the history of both systems has been dominated by the struggle for hegemony. After the failure of the attempt by the most powerful states at prevailing over each other through force, it became possible to take the road of cooperation, which in Europe opened the way to economic integration and political unification. And this happened because the reasons driving to cooperation were stronger than those of antagonism, and the existence has been acknowledged of higher common interests. World War II marked the defeat of the last attempt at unifying Europe under the hegemony of the mightiest state of the system (Germany), but also the decline of the sovereignty of the European winners of the war (France and Great Britain), and the start of European unification. Similarly, the end of the Cold War did not mark only the collapse of the Soviet system, but also the decline of the USA power. And these facts have been accompanied by the rise of the EU, China, India, Brazil and by the recognition of the need for a cooperative management of world politics.

What happened in 1989 was not merely a change in the world system of states (the end of the bipolar system). There began to shape up a new world order in which globalization started to produce its first visible effects on the international system through the erosion of states' sovereignty and the decline of power politics. The fundamental concepts we were used to attach to the state – sovereignty, independence, non-intervention – are now questioned. They do not reflect the reality of today's world any longer. The dominant political phenomenon is the end of the international order based on territorial states, whose sovereignty is questioned by the rise of non-state actors, who are undermining the primacy of the state over civil society. States are downgraded to the rank of actors of a global civil society, which compete with non-state actors for the decision-making power at world level. For these reasons Richard Haass suggests to qualify the emerging world political system as "apolar" rather than "multipolar".

It comes natural to acknowledge that the world will start its unification in much more difficult conditions than what happened with

the European Community countries. Those, in fact, could found their integration process on conditions of remarkable homogeneity as far as their development stage and their political regimes (industrial economies and democratic systems) are concerned, and in addition also under the protectorate of the United States, which eliminated the military antagonisms in Western Europe. However, European unification and world unification have to face the same obstacle: the resistance the states oppose to transfer their sovereignty to a supranational government. There is, anyway, one factor that played an important role in promoting the European unification and is not present, instead, in the world unification process: the threat of an external enemy. The incentive to build world unity cannot but come from a convergence of interests among the national governments to face up together to the problems that the states are no longer able to solve alone. It is necessary to build a common sovereignty at world level to enable the UN to promote the general interests of humankind. This is the only way to reestablish the primacy of politics over civil society.

If we ask ourselves how the crisis of the sovereign state will be resolved and how politics will be able to govern the globalization process, an important indication may come from an analysis of European unification. The institutions of the European Union are an expression of a general tendency towards constitutionalizing international relations. Institutions like the European Parliament, endowed with a legislative co-decision power with the Council and a control power towards the European Commission, or the euro, the single European currency, show that the Union has gone beyond the traditional forms of cooperation which characterize international organizations. The constitutional construction site of the European Union is the laboratory of a new form of statehood. It should be pointed out that this process creates a new level of government in Europe, which does not replace but rather joins those existing nationally, regionally and locally. However, it has the power to interfere in the domestic affairs of the states as regards its areas of competence, such as monetary, trade and competition policies. It is to be underscored that the latter is based on the bestowal of an antitrust authority on the European Commission.

In his reflections on constitutionalization of international law, Hans Kelsen stressed the strange analogy between the anarchy in primitive communities and that of the international community. On this similarity he based the assumption that the transition from primitive society to the state offers a guiding criterion with regard to the evolution of the international community. In other terms, the transition to the

world federation is a long-term process comparable with the formation of the state, which consisted in a continuous process of power concentration and constitutionalization of social relations.

"Long before parliaments as legislative bodies come into existence – he wrote – courts were established to apply the law to concrete cases. It is interesting to note that the meaning of the word 'parliament' was originally court. In primitive society the courts were hardly more than tribunals of arbitration. They had to decide only whether or not the crime had actually been committed as claimed by one party, and hence, if the conflict could not be settled by peaceful agreement, whether or not one party was authorized to execute a sanction against the other according to the principle of self-defence. Only at a later stage did it become possible completely to abolish the procedure of self-defence and to replace it by execution of the court-decision through a centralized executive power, a police force of the state. The centralization of executive power is the last step in this evolution from the decentralized pre-state community to the centralized community we call state. [This is his conclusion]: We have good reason to believe that international law […] develops in the same way as the primitive law of the pre-state community."

Kelsen assumes that the creation of an International Court represents the first step on the road leading to the World Federation. The institution of an International Criminal Court in 1998 seems to be a confirmation of that assumption. It is the sign that the world is approaching an order in which the subjects of international law are the individuals, and no longer the states only. Also the institutional evolution of the European institutions confirms this assumption. The first European Community institution which asserted itself as a supranational power was the Court of Justice; then the European Parliament, as a result of its direct election, increased its powers and progressively asserted itself as a supra-national legislative assembly; in the end the governing power of the European Commission will come.

If we want to govern globalization, it is obvious that like powers must be instituted at international level. Under the banners of free international trade (World Trade Organization) or the protection of human rights (International Criminal Court), international organizations govern what were once considered the domestic affairs of the states. But the main unresolved problem is that they do so without democratic legitimation. As argued Monbiot, in our age "everything has been globalized except our consent. Democracy alone has been confined to the nation state. It stands at the national borders, suitcase in hands, without a passport".

9. *The democratization of the UN*

After the extraordinary development of democracy, which has been experienced since the Portuguese revolution in 1974 – the beginning of "the third wave of democratization", according to the Huntington's formula –, by Southern and Eastern Europe, the former Soviet Union, Asia and Latin America, the democratization of the United Nations does not appear any longer as a distant ultimate goal. For the first time in UN history, a majority of member states' governments are elected through a democratic procedure. According to the latest Freedom House Report, there are in the world 119 electoral democracies and 89 liberal democracies, comprising respectively four and three billion people. After the fall of the fascist and communist regimes, it seems that democracy is prevailing.

Nevertheless, we should recognize that democracy has never shown such worrying signs of weakness as today. At world level there is a widening gap between the states, whose power remains substantially confined within national borders, on the one hand, and market and civil society, which have become global, on the other. The latter have become global while politics. This contradiction has a heavy impact on democracy. The decisions on which the destiny of peoples depends, such as those of security, control of the global economy, international justice or protection of the environment, tend to shift away from representative institutions.

The feeling widely shared among citizens is that the most important decisions have migrated away from institutions under their control and towards international power centres free from any form of democratic supervision. Globalisation thus brings about the crisis of democracy. In fact, seen from a global viewpoint, the decisions taken at national level, where democratic powers exist, are relatively minor. At the international level, on the other hand, where the most important decisions are taken, there are no democratic institutions. The danger we are facing is the depletion of democracy. More precisely, we should ask ourselves how long democracy can last in a world where citizens are excluded from participating in decisions which determine their destiny. Globalisation must be democratised before it destroys democracy entirely.

The followers of the theory of democratic peace have emphasized the fact that democracies do not wage wars, favoring instead a strictly domestic attention. They neglect that the progressive assertion of democracy on the national plane has not been accompanied by democracy in the relations among states. This limit shows how insufficient is the establishment of democracy only at national level.

That theory, in fact, does not consider the influence that international relations exert on the internal structure of the states. In particular, it does not take into consideration that the search of security often drives governments to sacrifice democracy. Democracy, just because it is fragmented in many nation-states, is not strong enough to avert an authoritarian degeneration of its institutions. Only the democratization of international organizations can subject international relations, which are still the field of diplomatic and military confrontations among states, to popular control. The establishment of federal institutions both at the level of the great regions of the world (starting from Europe) and at the global level offers the opportunity to combine international democracy with state independence.

We have seen that international organizations are diplomatic machineries within which the governments pursue cooperation. Recently, however, some of them have endowed themselves with parliamentary structures, that represent the answer of national parliaments to the globalization process and to the erosion of their own power. In other words, parliaments are trying to shift their control on governments to international level. Most of these assemblies are composed of national members of Parliament, but the European Parliament, which represents the most advanced example of this category of international assemblies, is elected by universal suffrage and has got legislative powers. The European Parliament is the laboratory of international democracy. After its direct election, it has increased its legislative powers and expanded its control power on the Commission, seen as the potential European government. This means that the democratization of the European Union has been a powerful instrument for strengthening European institutions and letting them evolve towards the goal of a federal union.

On the other hand, the European Union, being the laboratory of international democracy, is bound to become the leading country of this political experience and will be willing to extend that experiment to the world level. In other words, it has a strong interest to promote the democratization of the UN. This is the most revolutionary goal of our era, which would allow to take the government of the world away from the control of the big powers and other private centers of power, like the multinational companies, and to put it in the hands of all the peoples of the planet.

Forming a World Parliament is, of course, a long-term objective, that can only be conceived as a gradual process, as shown by the institutional evolution of the European Parliament. Initially it was composed of members of national Parliaments, then it was elected with universal suffrage, and finally it has progressively strengthened its

legislative and control powers. The institutional evolution of the European Parliament suggests that forming a Parliamentary Assembly can be the first step on the way to the democratization of the UN.

According to what Kant states in his essay on *Perpetual Peace*, the first necessary condition for creating the World Federation is that its member states have a republican government. That means that if democracy is lacking within the individual states, one of the essential condition is missing for the achievement of international democracy. The election of a World Parliament presupposes that free elections can be held at the national level.

The fact that the democratization process in some states in the world has not been completed does not represent an obstacle to starting the democratization process of the UN. Even if, according to an abstract logic, the democratization of the various states must come before the democratization of the UN, in history such processes have been overlapping each other. The six Western European countries that founded the European Community did not wait for democracy to be fully implemented in all the states of Europe to start the democratization process of the Community. The completion of European unification and the democratic transformation of its institutions have become possible today because fifty years ago a small group of states started off the process of constructing European unity. Similarly, a vanguard of democratic countries could take the initiative to constitute the first nucleus of a UN Parliamentary Assembly open to all the democratic states that will want to join.

As to the composition of the World Parliament, it should compound the representation requirements of the world population and a dimension not so great as to jeopardize its proper functioning. In a Parliament of 1000 deputies, which would be just a little bigger than the present European Parliament, each deputy would represent on average about six million citizens. As many states have less than six million inhabitants, it will be required to set up, when necessary, electoral districts including citizens of two or more states. But the most important innovation that the institution of the World Parliament will bring with it will be that the West shall abandon its pretense (which so far has been considered as a natural fact) to govern the world to its own advantage. That will be the inevitable consequence of attributing one vote to each citizen: so, in world affairs the Indian citizens will weigh more than twice the European Union citizens and almost four times the United States citizens. Therefore, the Europeans and the Americans will have to acknowledge that they are a minority with regard to two billion and a half Indian and Chinese citizens.

10. Tree answers to the critics of world government

The idea of a world government continues to raise distrust and hostility not only, as natural, on the part of the supporters of national sovereignty, i.e. the nationalist circles, but also on the part of many figures of the democratic thought (for example, Held and Beck). The fear is that an authoritarian and uncontrolled power, a kind of planetary Leviathan, can come about. Ulrich Beck, one of the most brilliant scholars of globalization, wrote on this matter: "A supra-national institution will either be inefficient or be monopolized in succession by the strongest, and will finally lead to a world State. This would be […] the most authoritarian solution". Three objections can be made to this thesis.

The first is that the lack of government, i.e. anarchy, implies war as inevitable consequence and this is an even worse evil than a world government. If we want to eliminate the use of violence and assert the principle of the rule of law on the global plane, it will be necessary to award the world government coercive powers. The supporters of cosmopolitan democracy pursue the objective of a World Parliament and an international Court of Justice, but consider impossible and anyway non-desirable the institution of a world government. A partial exception is represented by David Held who, although never using the expression "world government", admits that government functions can be fulfilled at the world level, first of all the use of coercive powers. He states that "to conceive of new international organizations as potentially self-regulating and not requiring the backing of any form of coercive power […] is mistaken because, unless there is general check on the right of states to go to war, the cosmopolitan model of democracy […] would continue to be thwarted by the logic of state conflict and violence, as is the UN today. […] In addition, it is dangerously over optimistic to conceive the cosmopolitan model without coercive powers, because tyrannical attacks against democratic law cannot be ruled out". For example, he believes that in order to keep global order it is necessary to make available to the world authorities "a part of the military apparatus" of the nation-states, and institute "a permanent independent corps directly recruited among volunteers from all countries".

The establishment of the organized peace is a process tending to constitutionalize that sphere of political life that still belongs to the state of nature, and that is the field of the diplomatic and military confrontation between states. By peace we mean here not just the absence of war or, more precisely, the "truce" in the interval between

two wars, as the term is understood to this day in common language (negative peace), but rather the situation, described by Kant in *Perpetual Peace,* that does not seek "merely to stop *one* war", but "seeks to end *all* wars forever" (positive peace). The transfer of the monopoly of violence to a world authority is the main instrument to eliminate war and solve all conflicts through law.

As a matter of fact, with a world government it will be possible to eliminate a traditional function of government, i.e. defense, which is necessary only in a world divided into sovereign states. This does not mean that the world government will be in a position to fulfill its functions without armed forces. Although it will not wage war, nor have foreign relations, it will have the obligation to keep public order. Thus, the armed forces will play only a police role. In addition, the elimination of war will weaken one of the strongest factors of tyranny and despotism, the search of security in the face of external threats, which often has driven the states to limit the freedom of individuals and to erode the institutions created for protecting human rights against the abuses of public powers. Authoritarian inclinations, in fact, prosper in a climate of international tension and preparation to war, which would disappear with the institution of a world government. Therefore, world government would be the weakest form of government experienced in human history.

Secondly, the world government is generally set in the context of the unitary state model, and not of the federal model. It is absurd to conceive a world government as a form of state endowed with the same characteristics that had so far the sovereign, independent and mutually competing individual states. The world government is presented by its detractors as the automatic projection on the planetary scale of the unitary state model, which would concentrate in its hands all the powers of the states and would exercise its functions from a single center. Actually, the unitary state, devised to govern spaces of national dimensions, is not the only possible form of power organization. So much so that most of the states that attained the dimension of a great region of the world (the United States, Russia, India) have a multi-national arrangement and adopted federal or quasi-federal institutions. Likewise, regional organizations, first and foremost the EU, show a tendency to evolve toward a federal arrangement. That is to say, more complex institutions than the national ones, and several nations and a series of coordinated and independent governments coexist.

World Federation will never possibly be a centralized political organization. It will not replace the individual states, but will recognize to them the right to exist as independent entities. Many powers and

functions will continue to be managed by individual states. The target of the peace building process will not be a World State (which, as Karl Jaspers observed, would be an Empire), but a Federation of Federations of the great regions of the world, which in turn will be Federations of States, which in turn will be Federations of regions, and so on. This articulation of sovereignty on several government levels allows to avoid the concentration of power in the hands of a single constitutional body, and to ward off authoritarian degenerations. The World Federation must be thought of as the summit of a pyramid resting on at least five democratic and independent government levels: the local community, the county or the province, the nation-state and the great region of the world. Most of the powers and functions will continue to be competences of the lower levels of government. That is suggested by the subsidiarity principle, which recommends to bring decisions as close as possible to the citizens, and to award to higher levels of government only those competences that concern problems that cannot be solved in the bounds of local communities.

Thirdly, if it is true that political coexistence is based on institutions tasked with preventing the resort to private violence, it is also true that in the world the idea is gaining ground that those institutions shall receive the consent of the individuals who are subject to them. There is no reason why the principles of freedom and democracy, that have enabled humanity to march on the road of ever more advanced forms of political coexistence, cannot be extended on the global plane and regulate international relations.

Actually, there is no democratic regime that holds itself without government. In order for democratic decisions taken by a World Parliament to be really enforceable, they must be supported by a strong government, able to win out over the opposition of the powerful industrial and financial multinational groups, organized crime, international terrorism and all sort of non-state actors, and to make the general interests of mankind prevail. The extension of constitutional democracy at world level through the institution of a world republic of a federal character represents a goal that cannot be sacrificed to the interests of global economy and finance, nor to the clash among national egoisms.

The world government is an institution that can be realistically designed only in conjunction with the reform of the UN. In this perspective, the General Assembly should be transformed into a World Parliament directly elected by all the citizens of the world, with another Chamber at its side, i.e. the Security Council transformed into a Council of the great regions of the world, which would allow to overcome

the senseless principle of equality between gigantic states like China and India and minuscule states like San Marino or Vanuatu. To those two chambers the supreme legislative power should be awarded. Finally, the Secretary General should play the role of head of the world executive, accountable to the World Parliament.

11. *The crisis of the state-centric paradigm in political studies*

The state-centric paradigm, which represents the essential aspect of the realistic approach to the study of politics, has constituted for centuries the ordering principle and the guide for understanding and interpreting politics. It is founded on two postulates. The first is the *subordination of civil society to the state*, which exercises the monopoly of violence and is the vehicle of peace within its boundaries. The second is that *the states*, for the fact that they do not recognize any power above themselves, *are the exclusive protagonists of international relations*, shape up the international order and are the vehicle of war. Globalization has shattered both pillars on which the building of traditional political science rests.

The most questionable aspect of political realism consists in the assumption that the nature of politics cannot change and that the future is the mere replication of the present. Waltz wrote on the subject: "The texture of international politics remains quite constant, with recurring models and events repeating themselves endlessly […] The continuing anarchical character of international politics explains the amazing uniformity of the quality of international life through the millennia". Actually, the concepts of state, power, national interest, security have an historical character and globalization is the process of the forming of a global civil society, a process which breaks the restraint of the subordination of civil society to the state and transforms the states into political actors who compete with the non-state actors for determining the decisions at the international level. When Hegel introduced in political culture the distinction between civil society and state, with the meaning that is roughly still in use today, the two realities had the same boundaries and civil society was subordinate to the state. Today, instead, in the face of the globalization of markets, politics continues in most cases to make use of national powers and institutions. This contradiction produces a retreat of politics, seen as the sphere in which the common good is pursued, and the crisis of democracy, seen as the set of institutions through which the peoples participate in determining their own destiny. In sum, *the states have lost control of civil society*

and are no longer the exclusive protagonists of international relations. They are no longer the sites of the great political choices.

This outlook is not shared, for instance, by Raymond Aron, whose work *Peace and War* is a reference for the studies of international politics. He wrote that "so long as humanity has not achieved unification into a universal state, an essential difference will exist between internal politics and foreign politics." This statement is important because it implies that the division of mankind into sovereign states is conceived of as a historically transitory trait of politics that will cease when a universal state is established. It is the objective that Kant had pointed out over 200 years ago in his essay on perpetual peace as the aim of man's path through history. But while the objective of the World Federation was an idea of reason that Kant placed in an indefinite future, gaining popularity with scholars today is the hypothesis that world unification is an event in progress, driven by the scientific revolution of material production and by globalization. The changes that have occurred in the sovereign state and the international system of states are by now recognized as the central political facts of our times. The consequence of this awareness is that the state-centric paradigm must not only be viewed as the theory of politics of a given historical epoch – that of the sovereign states –, but that it has also ceased being a guide for political research in our time.

The construction of a general theory of politics that unifies political science and international relations is a long term task that can be performed by an entire generation of scholars. Multitudes of scholars are working to reconstruct a theory of politics that adheres more to the evolution of contemporary history characterized by the globalization process. They are grouped together according to the nature of the research project they promote (global governance, world order models, world-systems theory, cosmopolitan democracy, peace research, theories of dependence, theories of global civil society etc.), but a universally shared model does not exist for the moment. I would like to mention one of these scholars, George Modelski, who indicated world politics as the object of study in his important book *The Principles of World Politics*. It concerns an approach that criticizes the separation between political science and international relations and in particular the supposed autonomy of political science compared with international relations. Modelski denounces the "ethnocentric" nature of the typical approach of political science, which studies "the state and (more recently) the political system […] as though they were isolated, self-contained and self-sufficient entities. They see political change as self-generated – that is, endogenous to the national community – while

influences from 'outside' the community are alien, illegitimate, if not positively subversive." On the other hand, continues Modelski, "international relations may be said to have functioned as an 'ideology' of the nation-state system, rather than as a 'social-science-type' explanatory theory." The renewal of politological disciplines demands that we overcome the state-centric point of view, which vitiates the studies of political science and international relations, and adopt a perspective that Modelski has called "geocentric." It is an approach for studying politics as a phenomenon of international dimensions in accordance with the changes that have taken place in world politics in the age of globalization. The adoption of this point of view allowed Modelski to perceive the advent of the era of globalization before others. As appears in the third chapter of *Principles*, he is the first political scientist to have used this word. The state-centric approach was justified when the states were independent entities and with their power governed the fundamental aspects of economic and social relations that used to be carried out within state borders. But today this situation has faded away forever. A comprehensive study of politics, according to the recommendations of Modelski, represents an important proposal of method and an ambitious research project, which is only developed in small part in *Principles*. It will be the task of a new generation of scholars to expand on these suggestions for renewing the studies of political science. In the face of the crisis of social sciences, and the obvious inadequacy of analytical tools at our disposal, we must not abandon hope that the sciences can help us understand the world we live in and identify ways to improve it. In order to continue on this course, however, we first need to clear the path of the ruins of outdated and useless theories.

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Lessons of 1989 For European Democracies Today. Outlines of a New Paradigm

Ferenc Miszlivetz

Evaluating 1989 has divided analysts from the outset. The majority of political scientists and sociologists saw the events as the victory of liberal democracy in Central and Eastern Europe. Thus, Jürgen Habermas or Timothy Garton Ash did not see the 'velvet revolutions' as offering anything new, they did not believe that any original or innovative idea appeared or even became institutionalized during the 'velvet revolutions'. According to this view, 1989 simply set things right and if we can talk of revolutions at all, even in the best of cases this is the process they served („nachholende Revolution", or „rectifying revolution").[1]

Others, like Andrew Arato, hold a sharply different view. They believe that 1989 delivered a radically new message in the praxis and potential conceptualization of democracy and civil society.[2] I myself share the view that the meaning and message of '89 places the previous history of Central European and European democracies in a very new framework and, as a consequence, opens new perspectives for social movements on the global level. This is true even if the results which the transition processes of the Eastern and Central European countries have produced over the past two decades have not met with the expectations and vision of supporters and activists of democratic change. The contrast is particularly sharp if we compare results to the historic chances and alternatives which arose on the regional, the European and the global level after the Berlin wall and the iron curtain were demolished.

The past two decades grant us a broad enough perspective to compare and re-evaluate the sharply diverging interpretations of 1989. More accurately, in the light of the past two decades we can weigh from a practical point of view the ideas and ideologies which served as guidelines for political action, or inaction. The recent multiple and

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[1] Jürgen Habermas, *Die nachholende Revolution*. Suhrkamp, 1990. (Kleine politische Schriften, 7.)

[2] Andrew Arato, Civil Society against the State: Poland 1980-81. In: *Telos* 47 (Spring), 1981, pp. 23-47.

complex global crisis reopened the path for a more critical and complex understanding of the cataclysmic historic change provided by 1989. Conventional theories of transition and democracy proved to be useless as intellectual tools of analysis. Social sciences in general are in need of a paradigm shift and a more complex understanding of the collapse of the bipolar world system and the speeding up of increasingly uncontrollable globalization.

1989 has several important implications which conventional mainstream political theory neglects or entirely ignores especially regarding the interlinkages and mutually emergent characteristics of democracy, civil society and the process of democratization.

The intellectual fermentation of the 1980's

The 1980's were a fertile and highly creative period both intellectually and in the sense that alternative movements and civil initiatives were flourishing and co-operating as living examples of the long time dormant capability of society for autonomous self-mobilization. A whole line of critical ideas, strategic, long term concepts and developmental alternatives emerged and became popular and broadly debated – only to sink in the turbulence of the early phase of the transition period. This relatively short time of fermentation and self mobilization was not enough for a politically autonomous civil society to erect and crystallize in larger parts of society. Retrospectively, it seems obvious that in the whirl of transformation and the rapid adjustment to the real or imagined constraints of the world market forces resulted in a similarly rapid change in the intellectual milieu. As a consequence, it was inevitable that a whole line of concepts should fall by the wayside, such as István Biba's 'self-restricting revolution' or the self-correcting capability[3] or self-therapy[4] of civil society (Miszlivetz 1989). The same happened to a number of newly born concepts reflecting a long term perspective, such as the project of crossborder networks of civil society. The reality of crossborder cooperation among dissident movements, and a large variety of independent groupings and autonomous initiatives contributed to the articulation of a new vision of not territorially bound democracy and to the formulation and dissemination of the concepts of

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[3] See footnote No. 2.

[4] Miszlivetz Ferenc, Látlelet: Kelet-Európa sérülései - Lehetséges-e a civil társadalom önterápiája? In: Miszlivetz Ferenc, *Békák a szárazon*, Múzsák, 1989.

European and global civil society.[5] The idea of Central European co-operation has also played a vital role in dismantling the system of closed societies and contributed to a large extent to the erosion of the Berlin wall. All these new visions and the interrelated concepts and projects were suddenly put out of use as naïve and even dangerous illusions, as if they'd never been in the centre of intellectual effervescence for almost a decade.[6] Naturally, they never disappeared completely and continued to exist as undercurrents or marginalized ideas. Their return to the center of public discourse and social scientific debates towards the end of the '90s and the first decade of the 21st century collides with the amounting negative and increasingly unmanagable consequences of unregulated global capitalism, the crisis of European integration including the growing unpopularity of Eastern Enlargement, and finally the breakout of the global financial and economic crisis.

Civil society as the guarantee of the self-correcting capability of democracy

The question I'd like to explore is, whether 1989 opened a new chapter in the history of democracies, whether it has contributed with anything radically new or simply joined the line of some of the existing liberal democratic traditions and thus, as it were, 'rectified' the course of the history of Central and Eastern European countries after a temporarily derailment.

Following in the wake of Habermas, Claus Offe is of the opinion[7] that since there existed no 'ex ante' revolutionary theory, we cannot expect any new, revolutionary social or political development which would demand to be institutionalized, nor any new concept of social organization. Ralf Dahrendorf explicitly states that 1989 is 'but an end to a long and painful detour'.[8]

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[5] *Democratization in Central and Eastern Europe: An Overview*, ed. by Mary Kaldor and Ivan Vejvoda. London, Pinter, 2002.
[6] See Borsody, István, Az új Közép-Európa (1998) [New Central Europe], Savaria University Press, Szombathely 1998, and Ferenc Miszlivetz (1993) *A lehetséges határainak újrafogalmazása* [Re-stating the Boundaries of what is Possible], Pesti Szalon - Savaria University Press.
[7] Claus Offe, *Varieties of Transition: the East European and East German Experience*, The MIT Press, 1996.
[8] Ralf Dahrendorf, After 1989: Morals, Revolution and Civil Society. – Basingstoke, London: Macmillan & Co.; Oxford, St Antony's College, 1997.

Bruce Ackerman is slightly more permissive regarding the innovative character of 1989. He speaks of a 'second wave of liberal revolutions' which 'will change the face of Europe and the world'.[9]

He believes that it is likely that a self-correcting liberal system will emerge which will be capable of radical transformation from within, through political means without relapsing into the world of violent revolutions. For him, the 'peaceful, democratic revolutions of 1989' mean the revival of the traditions of liberal revolution. In his view, the cyclic regeneration of the new political systems becomes possible in the spirit of the American tradition. Accordingly, what happened in 1989 is nothing more than the revival of the American constitutional tradition. In this case, again, we are speaking of a return to a particular tradition rather than a completely new phenomenon.

There is much in these analyses that deserves to be considered and accepted. Yet, the question remains open whether we can interpret 1989 (and all that we mean by this date) as merely taking recourse to a European or American democratic tradition or whether we are witnessing a new course in the history of democracies which need more insight and investigatation. Perhaps the case is that the new and innovative concepts and efforts for social and institutional reform which emerged in the region from 1956 onwards and were in some cases successfully implemented, as well as the innovative institutional developments or the traditions of civil society and that of the 'dissident' democratic opposition activity (some of which gained ground while others were sidelined and banned), also played a significant part in preparing and carrying through the turn-about which came in 1989-91.

I first formulated this idea in a paper written in 1988, *Látlelet: Kelet-Európa sérülései*, (The Injuries of East Central Europe), when some of the major civil society movements in East and Central Europe started to turn their organizations into political parties after they put great pressure on eroding Communist authorities. From the perspective of two decades my view remains unchanged.

The appearance and influence of civil society and the attempt to 'tame' it

The 'new evolutionism' formulated by Adam Michnik, or 'anti-politics' elaborated by East European intellectuals, is usually evaluated in the political science literature as an acceptable method in dismantling Soviet type totalitarian regimes. At the same time, the critical attitude and

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[9] Bruce Ackerman, *The Future of Liberal Revolution*. New Haven University Press, 1992.

power controlling activity of civil society organizations and initiatives within the post-1989 process of building democracy is seen more controversially. In other words: political science theory and international relations theory are still lagging behind with the elaboration and conceptualization of the relationship between civil society and democracy.

According to the dominant public discourse in transition countries and new democracies of East Central Europe, after 1990 the time when civil society could engage in politics is over, its place was taken over by regulated democratic competition of political parties. The Parliament is the 'House of Democracy', 'Politics belongs in Parliament' – this has been the creed of the overwhelming majority of political players during the past two decades. The unpredictable, chaotic, autonomous civil society, ready to intervene in political affairs, must therefore be 'tamed', to use Paul Blokker's phrase. 'We must find its right place, since there are certain areas where it is needed' (where the state and political parties, which otherwise see themselves as the primary, if not sole, guarantee of democracy, cannot and will not perform adequately). This commonly held attitude is based on a narrow and formal, conventional view of democracy. By employing and hammering this notion in a wide sphere it may be possible to paralyze or at least restrict imagination, social creativity and determination for a limited period of time. In the spirit of the above, which is voiced in considerable consensus by different parliamentary parties, civil society becomes degraded to a mere prop or décor of liberal democracy, which may be pulled out of the hat when needed. Thus conceived, civil society may act as a kind of supporter or supplement to democracy but can no way take its place as a factor capable of shaping or even further developing it through independent initiatives.

Supporters of the opposite view, of a broader and more complex view of civil society, believe that civil society is precisely the dynamic factor that is capable, through self-reflection and self-correction, to rejuvenate and, if necessary, re-interpret democracy. To put it more bluntly: it is capable of correcting the path of democracy and democratization.

According to this approach there is no rigid, clear and impermeable boundary between the political class and civil society. At the time of complex crises such as the present one, it is particularly important just how rigid and impermeable these boundary lines are perceived. This determines how open the political class might be to messages, invitations for dialogue, criticisms and proposals coming from society as a whole, whether it locks itself up inside the bastions of power or proves capable of self-reflection and self-correction. In crisis situations

the capability of civil society to transfer and translate messages and play the role of the interlocutor could be crucial. If intermediation fails, democracy might suffer serious damage. Therefore, in my view civil society certainly has potential as an agent of democracy even if its members and players are not necessarily democratically elected and/or missing formal democratic legitimacy.

While the post-communist political elite has done much in the line of marginalizing civil society, keeping it in financial dependency, co-opting it and in many other ways preventing its emancipation, it remains impossible to prescribe a depoliticized existence for civil society for any extended period of time. The activity and autonomous movements of civil society are unpredictable over the long run and cannot be forced to follow the track prescribed by the political and economic ruling elites, quite to the contrary. In cases similar to the complex crisis presently prevailing in Hungary, there is a broad societal need for the political self-organization and mobilization of civil society. New political actors today, just like in 1989, come from the arena of civil society. The political class is not only informed but also fed by the civil society and, in the ideal case, it is from the civil milieu that it becomes recharged with creative energies, ideas and stamina. According to the most undesirable scenario, the failed attempts of the political society to demarcate and isolate itself will cause it to fall into the trap of civil society and from there to the depth of political oblivion. This happened to several political parties in Hungary during the last election campaign.

The conventional theory of democracy is unable to handle the incredible richness which the societies of Europe, but particularly of post-communist Eastern and Central Europe, have produced in the field of democratization. Similarly, the new/old political class proved unable to deal properly with manifestations of direct democracy. It doesn't know how to relate in a creative way to civil organizations who may take an active role in the public or parliamentary arenas. It does not encourage network formation overarching national boundaries or even the institutionalization of already existing forms of co-operation. In the case of the Hungarian transition, the political class was unable to accommodate and handle the massive loss of credit which democratic institutions suffered in the past years, particularly as regards parliament, parliamentary parties and politicians.[10] One characteristic symptom of this moral and mental deterioration is when leading politicians marvel like

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[10] See Kis, János, A köztársaság válsága [The Crisis of the Republic] in: *Heti Világgazdaság*, 2009, No. 52.

outsiders at the 'crisis' and make statements about the problems that tower up in front of us as though they had played no part in their accumulation.

This frame of reference offers room for but one 'solution' – a total rejection of responsibility and the resulting tendency to find scapegoats. All responsibility is shifted onto the political opponents and their supporters. This kind of logic leads to nothing but the further worsening of credibility of parliamentary political parties and the elected representatives and ultimately to a dangerous erosion of democracy. A closed logic leads to the emergence of a negative spiral and restricts new democracies from understanding and resolving their problems of legitimacy, from placing the relationship of state and civil society on new foundations and settling them in a reassuring fashion. Denying reality on such a scale can lead to losing touch with reality, which can easily lead on to a genuine disappearance or self-eradication. This can be seen in a number of cases that caused the Hungarian political spectrum to become considerably rearranged over the years.

The birth of the paradigm of civil society

A line of inspiring essays by Andrew Arato have contributed in a number of respects to interpreting the process, agents and continuation of democratization from an entirely new perspective. 1989 has raised this approach to be of paradigmatic value. At the centre of the new paradigm we find civil society.

The lesson we learn is that whether democracy is able to make up for its deficit in legitimization and unfold its ability for rejuvenation and self-reflection mainly depends on the creativity, innovative potential and mobilizing force of the civil society.

Paul Blokker rightly points out that the two most crucial elements of this new paradigm are *self-restriction and civil participation*.[11] If it was possible before 1989 and in 1989-91 for the civil society to exercise pressure with a positive outcome on the political class, why should the case be different in 2010? The existence of orthodox liberal views and their deep-rooted global popularity cannot be sufficient cause, even despite the intransigence of their representatives. The economic crisis which broke out in 2008 has undermined on a world scale the once unquestionable dominance of this ideology.

At the same time, civil society has undergone a long maturation process in Hungary and the entire former Eastern Block over the past

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[11] See Blokker, op. cit, 6.

two decades. Despite a number of obstacles, crises, co-opting tendencies, attempts by political parties to colonize, marginalizing mechanisms, the indifference of the media which functions in dependency and without social control, civil society still exists and flourishes and its organizations and movements have serious successes to boast of. It is an inevitable part of civil society that it is fragmented, consists of small entities and is in many cases dependent upon local or national centers of power. In spite of all of this, several of its organizations have stood the test of time and often play a decisive role in the self-management, self-defense and self-representation of local societies. If social cohesion still exists, this is largely owing to the sustaining and organizing power of civil society rather than the power and prestige struggles of the political and economic class. In line with the interests of the economic, political and media elite, little or nothing is known about examples of great social achievements. Empirical evidence supports the hypothesis that with the spread of alternative media this situation is already changing.[12]

Organizations which work for their village, district, town, region, the sustenance of their job, for satisfactory education and further training, for a clean environment and clean air, for human and minority rights or the preservation of our cultural heritage etc. enjoy a far higher degree of legitimacy than political parties which do not even take their own campaign promises seriously. It is understandable that they do all in their power to keep as great a distance as possible from active civil society which is able to influence decision-making. Clearly, the guideline followed by this desperate tendency is 'civil society should not meddle with politics'. However, there is not one sober and convincing argument as to why not.

The Death of the Grand Narrative – the birth of parallel Grand Narratives

One great gain from 1989 is the twilight of the 'Grand Narrative'. In pluralistic democracies, in the constantly expanding world of difference, no ideology, philosophy or political theorem can claim a monopoly on offering universalistic explanations of the world. Gathering an adequate number of experts, academics or politicians who proclaim them to be scientific and indisputable truths is not sufficient

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[12] Hankiss Elemér: Igazságtalan ország? - Reménytelenség és remény [An Unfair Country? Hope and Hopelessness] http://www.ujreformkor.hu/hankiss-elemer-igazsagtalan-orszag-remenytelenseg-es-remeny-0

to sustain their legitimacy. This method may have been effective at moments of the political transition and the brief subsequent period characterized by an attitude of 'waiting for the miracle to happen'. However, reality burst in rather drastically on the world of theory when global and local crises set in, multiplying each other's negative effects. Institutions began to deteriorate and political classes lost most all of their former credit. Those representatives of mainstream political theory and economics who are more widely informed and have a shorter reaction time have already begun to retune their theoretical foundations; some are returning to the critical approaches they had believed hardly presentable before; while others, captive to their own system of views and beliefs, defend the indefensible with their swords drawn. These attempts are doomed to failure both in political practice and in the arena of political and economic theory. Conventional, narrowly interpreted liberalism and its neo-liberal correlative in economics are only one strand amongst a multiplicity of discourses. This clearly seemed a satisfactory explanation of the world with easy popular appeal amidst the insecure and disorientated atmosphere of the late 1980's, early 90's. Its present large scale loss of popularity is due to the rigidity of those who apply it and their weakening hold on reality. At the same time, we do find examples in the theory where the dilemma between political society and civil society has been resolved. The kind of thinking which looks for alternatives in this way has its roots in the early 1980's. Andrew Arato, while accepting the separation of political and civil society, finds it necessary that the political sphere should be open and receptive to civil society. In fact the constant and partially institutionalized interaction between the two spheres can carry the ability for self-reflection and self-correction demanded by a 21st century democracy. This kind of openness is particularly inevitable in the case of complex and extended crises. At times like this, and this is true in the current case, civil society is the guarantee of the healthy circulation and rejuvenation of democracy. In fact, it is able to democratize not only itself but also the political class, and thus the whole of the society.

This wider approach has managed to retain the political aspect of civil society and in this sense 'civil society is an aim in its own right'.[13] If we view democracy not only as a phenomenon reduced to the political sphere or a part in the overall political machinery, then, within a broader and more complex concept, civil society can be a natural part and active component of the concept of democracy. There is nothing to

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[13] See Blokker op. cit.

justify why the spirit of self-rejuvenation should necessarily vanish as democracy becomes institutionalized. An organized society has the right to participate continually in shaping its own fundamental laws and operative rules.[14] In fact, this is in its vested interest.

Despite all appearances, this spirit has not entirely vanished during the decades of transition. Petitions, referenda, civil disobedience, internet portals, blogs, civil networks and other individual and collective initiatives are intervening in growing numbers and with increasing effectiveness with political decision-making and are influencing the decisions of the political class. This is sometimes an indirect but, even more often, a direct influence. Ironically, they often provoke the outrage of politicians who otherwise call themselves liberals who once fought in the arena of civil society. When István Bib of the political class. This is sometimes an indirect but, even more often, a *civil autonomy*. Civil autonomy is nothing other than the alternative to becoming disillusioned with rigid and formally interpreted representative democracy (Castoriadis, 1987).[15] It requires a reflexive strategy. The components of this are:

- *Civil self-restriction* which includes rejecting fundamentalist projects;
- A *pluralist understanding of sovereignty*, a broad-scale acceptance of democratic practice, the use of persuasion;
- The 'ethics of disagreement', as opposed to merciless struggle for political power and party discipline at the cost of stifling individual views.

Permanent civil politics as a new form of democracy: Toward a deliberative democracy?

The pluralistic understanding of sovereignty, as opposed to the classic and closed concept of liberal democracy, entails the notion of an extended, 'high quality' democracy based on civil participation, and a methodology of democratic self-correction coupled with self-restriction.

In the case of earlier models, the emphasis was on the durability and stability of democratic institutions, while today the stress is increasingly on the depth of the democratic process, on the quality of democracy, on the sustainability of society and on preserving its cohesion. Instead of formal traits, those of content are moving

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[14] See essays quoted by András Arató and Ferenc Miszlivetz.
[15] Cornelius Castoriadis, Democracy as Procedure and Democracy as Regime. In: *Constella-tions*, 1997, Vol. 4:1, April, pp. 1-18.

increasingly into the foreground. This has led to a significant advance in the theories of democracy and to a continued refinement of the components, characteristic traits and criteria of democracy.

Of the latest, the Diamond-Morlino model proposes the use of 8 dimensions of democracy for comparative analysis:

• The rule of law (guaranteed by independent courts/legislative);
• The participation of the common citizen (a strong and vibrant civil society);
• Competition – intense political pluralism;
• Vertical accountability;
• Horizontal accountability.

The three 'substantive dimensions' are:
• liberty (political, social, economic);
• equality (its *de facto* appearance);
• responsiveness on the part of the government and the authorities.

'Responsiveness' moves to the foreground - The willingness of governments to co-operate

This is a cumulative dimension which is closely related to accountability and participation, competition and the idea of mutual dependency.

This criterion shows how satisfied people are with the democracy.

The cultural dimension enjoys priority in the model of quality democracy: every democracy prefers certain dimensions to others, in accordance with the cultural legacy, customs and value systems of different cultures.

The question of reforms is a good example: a democracy is capable of increasing its legitimacy through reforms if they improve the quality of democracy and strengthen the sense of sustainability. In Hungary, just as in most societies of Central and Eastern Europe, what has been happening recently is precisely the opposite.

A self-democratizing civil society: The token of social democratization

Despite all of this, or precisely as a consequence of the crises the initiatives, actions, collectives, critical and protesting potential and forms of institutionalization of civil society are testifying both in Hungary and throughout the region to an impressive formal variety,

social creativity, desire for autonomy and the new spirit of voluntary participation. This means that the social and political innovative potential which rendered the 1980's so unique (this is what became condensed in the concept of 1989) has not ceased to exist. Whenever we say 1989, we actually think of all those attempts at innovation in the intellectual and social field, in the organization of movements, in co-operation and solidarity which came under the umbrella term of civil society, experiencing its renaissance in the 1980's.

Along with organizing local societies and sustaining social cohesion, its functions include 'making politics' or at least participating in it, preventing bad decisions, negotiating for reasonable compromise, creating the framework and new forms of participation, 'producing' new political parties should the need arise and influencing the operation or possibly the eradication of existing ones through rational dialogue or discourse. This innovative potential, both in the social and the political sense, connects 'the social' with 'the political' through a thousand threads and assumes the emergence of political interfaces.

The broad democratization potential which showed itself in the 1980's is what seemed to get lost over the past two decades. In fact, however, the civil societies of Central and Eastern Europe went through a long and controversial learning process, the results of which are only partially visible today, owing to the causes described above. As the political classes eroded and corrupted and consequently lost a great deal of their credit, after two decades the pendulum has once again swung over to the side of civil society. We could quote a number of positive and negative examples to confirm or to question this statement. On the positive side of the balance, we find a rich formal variety, a multicolored spectrum, increasing professionalism and considerable network-building; while on the other side there is still an over-practiced, fixed dependency on politics, the operation of mechanisms of fear in both justifiable and unjustifiable cases and an inclination towards isolation. In other words, Eastern-type feudalistic behavior-patterns are being preserved. On the whole, the balance seems to tip toward the positive – increased social responsibility and the ambition to become more and more independent of politics and, on some occasions, intense self-articulation and responsible participation are clearly palpable upward tendencies.

Just as 1989 cannot be viewed as a revolution in the classic sense, neither could the waves and processes of democratization which it launched be squeezed into any of the existing ideological or philosophical categories – the clichés of conventional theories of liberalism are ill-fitted to describe them. This is particularly true of the

new agents, initiatives and networks which we summarily term civil society.

Universalistic concepts which claim to explain all and in fact cast uniformity over highly divergent 'realities' are increasingly replaced by theories which allow for more accurate and life-like distinctions and are able to distinguish cultural difference.

The Diamond-Morlino model or Philippe C. Schmitter's work regarding European democracy are good examples of this new mode of thinking.

The significance of '89 from the point of view of democratization

The *normative program of self-restriction* as the internal brake mechanism preventing violence and Jacobean revolutionary spirit worked successfully throughout the 1980's. Fundamentalist projects were successfully avoided, but facing up to the past has not yet happened. The particular merit of 1989 is that the country managed to avoid giving 'one great and final answer' to the flaws, sins and failures of the past. Instead, a dynamic, vibrant and oscillating civil society is engaged in constant self-reflection and self-correction in an effort to prevent the democratization process from foundering. On the theoretical level, this is substantiated, among others, by the concept of autonomy proposed by Castoriadis, which we referred to earlier. This notion is based on the freedom of different forms of thinking and political action, keeping alive the possibility of questioning and of breaking out of the frames provided by the existing institutional frames.

The lesson we need to learn from 1989 is that no single discourse can claim any more to convey an exclusive truth – today it is hard to question the fact that democracy has many different voices. We can safely declare that one of the most important goals of 1989 has been met. Instead of a uniform frame of discourse regarding liberal democracy it has become possible to guarantee heterogeneity. Structural conditions of political plurality are in place.

The other great achievement of 1989 was that it did not follow the classical logic of revolutions in so far as it did not invest a mythological 'people' with the right to create the constitutional order of the new political regime[16], in other words the homogenous 'will of the people' and the fiction of the 'sovereignty of the people' did not gain dominance.

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[16] See Blokker, p. 17.

However, as democracy becomes further eroded, this danger may surface once more.

The 'velvet revolutions' expressed a negative consensus – what they were rejecting was clear, but what they wished to create was not. This is often interpreted as a lack of revolutionary ideas.[17] The lack of a guiding revolutionary idea does not prevent us from claiming that this was a time when a great number of novel ideas, programs and thoughts surfaced. (The chief aim of the present paper is precisely to point out that these are returning in new forms.)

Ulrich Preuss offers an excellent summary of the main achievements of 1989. Accordingly, these self-restricting revolutions meant a considerable shift from the monistic model of political sovereignty toward a pluralist model which prioritizes civil society and guarantees a wide arena for its development.[18]

Carrying the idea further, Paul Blokker draws our attention to the difference and potential tension between legality and legitimacy. He is right when emphasiszing that democracy cannot be be reduced to a simple justification of proceduralism or legalism. However, if we wish to speak in terms of legitimacy instead of mere legality, we need constant endorsement of the society and the permanent re-evaluation of civil society.

Consequently, the rule of law cannot be a sufficient condition of democracy. I cannot agree more with Blokker and Priban that legal systems need permanent correction by 'dissenting' citizens so that the rule of law does not become a "herbal cure-all remedy".

Thus, there are several problems with a view which wishes to interpret 1989 (and by this we mean an entire collection of radical changes, transformations of political systems, in other words all that these 'velvet revolutions' entailed), as merely a confirmation and endorsement of liberal democracy. Of the authors we quoted, Arato, Ackermann, Castoriadis, Blokker, Preuss, Priban and other have convincingly shown that the contribution of '89 is more than a 'correlation' of liberal democracies.

The new language of civil society

During the 1980s the activities and new way of thinking of the democratic opposition groups and independent actors created a new

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[17] See Offe, 1996.

[18] Ulrich Preuss, The Rulemaking and Policy Actors in the Transition and the Issue of the Strategy of Transformation. In: *Studies in East European Thought*, Vol. 53. 2001, 183-195.

language which is now, after two decades, able to convey critical thinking even in opposition to those who were the first to use this language. The new discourse of civil society simultaneously represents the idea of legality and the insistence to the rule of law and the position of radical self-restriction and disagreement. The new language of civil society is the self-expression of a new paradigm.

This second aspect is perhaps the most innovative and most original product of 1989. This process is none other than the 'democratization of democracy'.[19]

This can provide a theoretical grip as well. It may offer a way out for people who have become disillusioned with democracy. It may help to discover new ways to rejuvenate democracies and overcome the present crisis which, at least in the case of the 'new democracies', has a lot to do precisely with disillusionment with democracy.

Thus interpreted, the concept of civil society will open up the 'democratic space' and leave it open. It will contribute to the intelligent plurality of democratic practice and at the same time enhance the democratic legitimacy of democracies.

The pluralistic character and increasing fragmentation and fragility of modern societies demand the further crystallization of new forms of social imagination which is self-reflexive and at the same time self-restricting[20]. Most importantly, it needs to view all forms of the institutionalization of democracy as by nature transitory. These forms must always be open to transformation in the future.

This approach radically points beyond the way in which democracy is interpreted today, which is essentially elitist and reduced primarily to questions of the rule of law and legality. It is based on the assumption that legality and formal, procedural stability in themselves cannot constitute a democratic regime in the 21st century.

The most innovative achievement of 1989 was perhaps the legitimization of the 'ethics of disagreement'. Any self-respecting democratic system which accepts and supports autonomy and a broad,

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[19] Bruce Ackermann, Juan Linz, Alfred Stepan as acknowledged and influential experts of transitology are, in my judgement, wrong at this point. By contrast, I believe that civil society as the guarantee of the self-correcting capability of democracy is a new definition which goes beyond the criticism of totalitarian regimes and the attempt to overcome this which was characteristic in the 1980's and can become organic part of a new theory of democracy.

[20] See works quoted earlier by Ferenc Miszlivetz, as wel as Jody Jensen, Ferenc Miszlivetz, *The Languages of Civil Society. Europe and Beyond*, Florence, European University Institute, 2005.

emancipatory concept of politics must be open to civil disobedience and at all times respect dissent. It should also reckon with the idea that civil movements, initiatives and social flows, starting up from the peripheries of the political community, are the most promising resources for reviving democracies which are in crisis or empty in terms of content: they are our best chance for democratizing democracy.

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Cosmopolitan Democracy and Federalism

Guido Montani

1. Introduction

The purpose of this paper is to overcome the theoretical gap which exists between the theorists of cosmopolitan democracy and the federalist movements. This gap is an obstacle to a common action. Of course, the federalists, the European federalists and the world federalists, are in favour of a world federation. But the theorists of cosmopolitan democracy consider the world federal state as something similar to an empire, a centralized bureaucratic or non-democratic body (Archibugi, 2008: Ch. 4). The problem of the nature of the world state has deep roots in the history of modern political thought. We notice that Kant's political thought is a landmark both for federalists and confederalists, i.e. people maintaining that a Society of Nations is better than a world federation, which is nothing but a "universal monarchy", a despotic centralized power. For instance, Jürgen Habermas is in favour of a European federation and supports Kant's project of a cosmopolitan union of states, but he maintains that a cosmopolitan union should be founded on a world constitution but not on a world state (Habermas, 2004).

In order to explore and clarify this problem, we begin by considering the European experience of supranational integration. Our aim is to show that, in Europe, it is possible to observe the birth of a supranational state, since the collapse of the European system of nation states after the Second World War. If properly understood, the supranational state has different features from the traditional national state, which evolved towards a total centralization of powers. Moreover, in Europe, democratic bodies, like the European Parliament, flank supranational institutions. A democratic supranational state is a federation. And, since the world system of states is entering a new phase – a post-national phase – some aspects of the European experience can be useful to explore the ways and means for a world political union and cosmopolitan democracy.

2. *The European supranational experience*

Before dealing with the theoretical problem of the supranational state, it can be useful to describe briefly how supranational institutions came out from the European integration process. Machiavelli warns people "taking the initiative in introducing a new form of government" that they should win "the sceptical temper of men, who do not really believe in new things unless they have been seen to work well (*se non ne veggano nata una ferma esperienza*)" (Machiavelli, 1989: 20-21). Therefore, we shall try to base our argument on the "*ferma esperienza*" (deep-rooted experience) of European integration.

Indeed, while the world international organizations where mainly shaped by the USA on the model of old internationalism, i.e. without overcoming the dogma of national sovereignty, in Europe, the process of integration was founded on the principle of supranationality. This principle is not only stated clearly in the Schuman's Declaration of May 9th, 1950, – where France and Germany affirmed that they were taking the first step toward a European federation – but it is embedded in the first European Community, the European Coal and Steel Community. All the main institutions of the present European Union evolved from this original "federal embryo" contained in the ECSC. The High Authority is today the European Commission; the Parliamentary Assembly, initially composed of members of national parliaments, is today the European Parliament, directly elected by European citizens; the Council of foreign ministers is today the Council of national ministers, with branches for a great number of sectors; the European Court of Justice has not changed its name and has greatly increased its powers over national legislations. The only new organ is the European Council composed of the head of states and governments, which is a kind of collective presidency of the Union.

Today, the political nature of the European Union is animatedly debated. Usually, politicians and academics say that it is an unknown object; some say that it is a new kind of international organisation and some a hybrid body, partially a federation and partially a confederation. The last point of view is correct, but it should be stressed that the federal content of the European Union is crucial, because intergovernmental policies can be proposed and implemented only insofar as the EU federal institutions work. When the national governments are not able to agree on a common policy – as happened on the occasion of the Iraq war – the EU is incapable of acting and Europe disappears as a subject of international politics.

For our purpose, it is interesting to remark that, thanks to real supranational powers, the European Union was able to provide crucial

European public goods, like the Common Market (later on the single European market), the Monetary Union and a certain number of common policies, like the Common Agricultural Policy, the Social and Economic Cohesion Policy (to promote convergence among rich and poor countries), the Galileo communication system and so on. The provision of a public good is possible only if there is a coercive power, which hinders the free-rider behaviour of some of the member countries. When the so-called "Community method" (i.e. when the European Parliament and the Council co-decide and the European Commission executes) is applied, the EU has the power to implement effective European policies. In such a case, we can say that the European Union is a federation, even if with limited powers, because not all national powers (as in every federation) are entrusted to the Union[1].

3. Internationalism and federalism

The *Ventotene Manifesto* (1941) states that the alternative to a world of national sovereign states is a "solid international state" endowed with limited but sufficient powers to impede war and promote the citizens' well-being. It is crucial to understand the historical background in which modern federalism was conceived because, even if the existing federations – like the USA, Australia, Canada, Germany, Switzerland, etc. – represent useful inspiring models, modern federalism has its own distinguishing feature: it is a supranational political project. All the existing federation are a form of political union of one national people. Modern federalism is the attempt to overcome national sovereignty by means of a supranational federal union of national peoples.

The *Ventotene Manifesto* was a critical reaction to the failure of internationalism, accepted by all political ideologies: liberalism, democracy and socialism. In fact, even if all political European parties acclaimed international ideals of peace and solidarity among national peoples, in 1914 and in 1939, they approved the will of their national governments to go to war. European citizens fought against other European citizens, in Europe and outside Europe, two bloody wars. At the end of the Second World War, the European peoples shared a

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[1] For a reconstruction of European integration as an evolutionary process from an original federal embryo and its capability to provide European public goods, see Montani, 2008.

common feeling: no more wars ever again. The breeding-ground for European integration is a radical conversion of the European peoples' way of thinking, from power politics to a peaceful international order.

Nevertheless, the construction of the European Federation did not happen according to the hopes of the authors of the *Ventotene Manifesto*. After the Second World War, the "revolutionary phase" – according to which the recent memory of the war's atrocities were a favourable ground for successful action for the European Federation – was closed in 1954 with the European Defence Community's failure. With the Treaties of Rome (1957), the European project was decidedly based on economic integration. The political goal of a European federation weakened, thanks also to the fact that the European governments accepted the USA's guarantee for European military security. The outcome of this semi-integration process is that the EU is today considered an important subject in international politics, but not a model for a new international order after the fall of the Berlin Wall and the making of a world multipolar system of continental powers.

The causes of this opacity of the European project are two. The first is that, even though the powers entrusted to the EU increased considerably from the time of the ECSC, especially with the creation of the Economic and Monetary Union (EMU), the EU lacks some important powers, such as a federal budget and a federal defence. In that sense, it is not a real supranational state, especially if one takes the centralized nation state as a model. The second cause is the fact that European democracy has only been realized partially, even though European citizens vote directly for their representatives in the European Parliament. The European Parliament votes the confidence for the European Commission, but the European Commission is not a real European government because some important powers are still in the hands of national governments. The lack of democratic participation weakens the EU institutions and provides the euro-sceptics with arguments.

After the French Revolution, the model of the nation state was adopted by the other European countries and, since then, in every corner of the world the great desire of all the people without a state is to become a sovereign nation state. The lack of transparency of the European supranational model is an obstacle to its adoption in other continents, where regional integrations are on the way, as in Africa, Latin America and in Asia. Moreover, it is an obstacle for its adoption at an international level, because political leaders, scholars of international relations and many NGOs, when discussing the reforms of the world order, consider the old internationalist model as the only

hand-book. Even an important scholar of political science, like John Rawls, has recently worked out a new theoretical framework of traditional democratic internationalism in his book *The Law of Peoples* (1999), where the main thesis is that national peoples can peacefully cooperate for common aims and goods without supranational institutions.

4. The supranational state

A more precise understanding of the notion of supranational state is required if we want to overcome the misunderstandings about the nature of the European Union and clarify the path towards a democratic world political order. Sometimes, Europe is considered a model for cosmopolitan democracy, but on the basis of doubtful assumptions and analyses. For instance, Beck and Grande (2004) judge the EU a new Empire, because Europe has the power to aggregate national peoples, but they regard the project of a European federation as a new kind of continental nationalism[2]. Other scholars, such as Jean-Luc Ferry (2010), see in European integration and institutions the attempt to overcome the nation state's politics and to build the first rules and culture of a cosmopolitan political community. But Ferry says also that the EU cannot become a supranational state[3].

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[2] The idea – put forward by Beck and Grande – that a European Federation will be a new continental nation misinterprets the history of European integration and is also an obstacle for the promotion of a cosmopolitan action of the EU. As we have already said, European integration is the outcome of the crisis of the European system of nation states after the Second World War. In a post-national age, as we shall argue in the following pages, nation states will never be able to recover their old powers, mainly the power to oblige their citizens to die for a modern Leviathan. What is true for nation states will also be true for a supranational state. Therefore, the European Federation cannot become a closed and centralized state, following the model of the nation state. Moreover, the real interest of the European Federation is to cooperate with the other world powers. Europe will be an open federal state, without sacred borders, as the present debate on the enlargement of the EU to Ukraine, Turkey, etc., shows. Even the powers of the European federal government cannot be compared to those of a closed state, since in an ever more integrated international system, the EU can obtain more economic stability and military security for its citizens by favouring a democratic and supranational reform of the UN.
[3] Jean-Marc Ferry is convinced that a federation of states can be built only by "subordinating" the member states. If that is the case, a federation cannot be a democratic government of democratic states (contrary to what the existing federations show), but a despotic or authoritarian government of democratic states, which is manifestly an absurdity. Unlike a centralized state, a federal government is built on the principle of subsidiarity, according to which a certain power is bestowed on the Federal Union when the Union is better able to manage it than the national governments. The European

On the contrary, on the basis of a more careful analysis of European integration, it is possible to show that the EU is a kind of supranational state in the making. The modern state was shaped along many centuries, since the Middle Ages, thanks to the strengthening of some monarchies, the birth of the nation state in the 18th Century, and, finally, the dramatic experience of the totalitarian state, in the 20th century (Reinhard, 2007). The supranational state can be understood as a new form taken on by the modern state, in a historical phase in which human relationships spill over the borders of the nation state.

Now, before discussing the idea of the supranational state, let us consider briefly what an organization is. According to Geoffrey Hodgson, an organisation is a special kind of institution, with the following features. An organisation should provide: "a) criteria to establish their boundaries and distinguish their members from non-members, b) a principle of sovereignty concerning who is in charge, and c) chains of command delineating responsibilities within the organisation" (Hodgson, 2006: 8). Firms, churches, tennis clubs, trade unions, political parties are all examples of organisations. The state is an organisation with very peculiar powers. In the next paragraphs, we shall discuss the powers of the nation state and the supranational state explicitly. For the time being, we will focus only on the definition of supranational state.

A good starting point for our exercise is Max Weber's definition of state, because it singles out the main feature of the nation state. According to Weber, a state is "a human community that within the borders of a certain territory requires the legitimate monopoly of physical force" (Weber, 1919, 1921). If we consider the history of the modern state, we can agree that the "legitimate monopoly of physical force" was a crucial achievement, in Europe, during the struggle for the control of a certain population on a defined geographical area. A king, a prince or a republican government can legitimate his power on the basis either of divine right or of popular sovereignty. In any case, the monopoly of physical force is necessary in order to enforce the law and the enforcement of the law is the starting point for the development of civil society, the birth of what we nowadays call the liberal, democratic

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experience showed that the nation states have given up some sovereign powers (such as the power to issue a national currency) when there was a clear advantage for their citizens. Therefore the new European powers (for instance the European Central Bank) does not "subordinate" former National central banks, but national sovereignties are pooled into European institutions. The euro has increased the purchasing power of European citizens without endangering their freedom and their democratic rights. On Ferry's point of view see Ferry, 2010, p. 122 and p. 143.

and social state. Thanks to the power to provide security – a public good – for its citizens, the nation state was also able to provide a certain number of other essential public goods, such as networks of railroads, courts, national health services, primary and secondary schools, etc.

Now, if we consider the history of European integration we can see that peace in Europe was achieved as a by-product of economic integration, thanks to the building of supranational institutions endowed with limited but coercive powers. The Common Market (later on, the Single Market) is a supranational European good, which can exist only if there is a European law system prevailing over national laws and if the European Commission has the powers to sanction national governments for supplying financial aid to national industries. The euro – a European public good – is the money of the European citizens because the ECB has the legitimate and monopolistic power to issue it; the former National Central Banks have lost the power to issue national currencies. The Galileo communication network is a European public good provided by the EU budget and so on.

Considering the European experience, we can therefore say that the supranational state is a special kind of organisation, built by a common and voluntary agreement among different nation states and endowed with legitimate powers to provide supranational public goods to the citizens of the Union[4]. The problem concerning "legitimate powers" needs a short clarification. The powers (a governance or a government) can be legitimated by an international treaty, a simple agreement among national governments or by a constitution. A supranational state is not necessarily democratic, i.e. founded on institutions based on the will of a supranational people: at the very beginning of the European experience, the ECSC was founded on the Paris Treaty among six countries, but the existence of the European Parliamentary Assembly was practically ignored by common citizens. Today, the EU is still legitimated formally by an international treaty, the Lisbon Treaty, since the attempt to base its powers on a Constitution and the popular will failed. Notwithstanding, the European Parliament is legitimated by the vote of the European people (the people of the European nations).

At this point, one could observe that also international organisations – like the UN, the IMF, NATO, etc. – can be considered a supranational state. For instance, the supporters of the doctrine of hegemonic stability say that an international order is based on the capability of the hegemonic power to supply some international public goods, such as international security, a fair system of trade and one international

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[4] For a wider discussion on the idea of supranational state see Montani, 2010.

money (Kindleberger, 1976). This remark is not completely groundless, because an empire or a colonial system could be considered a kind of international state. But, it is very unlikely that a hegemonic system can evolve towards a supranational democratic system of government. History does provide significant examples: the European colonial system collapsed (even though the Commonwealth continues to survive today as a cultural international community); the Soviet Union collapsed; NATO is looking for new aims after the end of the cold war and its future is uncertain. Therefore, it seems appropriate to call a supranational state a non-hegemonic community of states when they decide to pool national powers into common institutions even if legitimated only by a symbolic democratic system (like the ECSC), because in our age all political organisations can last only if they become a democracy. We assume that, in the long run, the trend towards equality among individuals and among states is an irresistible force. The state is a lasting organisation.

The democratic trend can be observed very clearly in the European Union. The Parliamentary Assembly established by the Paris Treaty as a second-degree chamber was directly elected by universal suffrage in 1979 and, since then, on the occasion of every reform of the Union, it has increased its powers. We can argue about the fact that the European Union is for 70 or 80 per cent a federation, but surely we cannot deny that a federal system of government (the so called Communitarian method) is in force for a great quantity of European policies.

5. *Politics in the post-national age*

In order to outline the features and powers of the supranational state and to compare them with those of the nation state, it is necessary to take into consideration some peculiar trends of world politics. The end of the cold war brought about a debate on the future of the international order. After the breakdown of the USSR, some maintained that the only surviving superpower, the USA, was doomed to shape the 21st Century; others maintained that the trend towards a multipolar system, with new great powers, like China, India, Brazil, etc., was inevitable. Today, this second point of view is more generally accepted, but a great problem is still unresolved: will the trend towards a world multipolar system involve more international cooperation or more conflicts and wars?

We will attempt to answer this complex question by outlining four general features of politics of the new post-national age. The aim of this analysis is to show the limits of the national sovereign states to face the

main challenges of international politics. In our opinion, the Westphalian paradigm, which is the basis of the *realpolitik* (or power politics) way of thinking, must be substituted by a new paradigm: the construction of a cosmopolitan federal union.

Military security – The traditional point of view is that the security of the citizens depends on the quantity and quality of military weapons at the disposal of the national government. The cold war consisted of an ideological and military struggle between two nuclear superpowers. Nevertheless, the collapse of the Soviet Union was not brought about by a military clash. The cold war ended without a hot war. The reason is that the availability of nuclear weapons radically changed the meaning of war and foreign policy. After the Second World War, the two superpowers were obsessed by the policy of "deterrence": it was unacceptable for each of them to have fewer nuclear weapons than their opponent, but at the same time it was clear that a nuclear retaliation was folly, because the quantity of nuclear weapons at the disposal of the two superpowers was enough to destroy their population. Moreover, a nuclear war was not only a suicide for both superpowers, but it threatened to extinguish humanity as a species. If the goal of a government is to win the war, in the atomic age this goal becomes impossible. For this reason competition between the two superpowers shifted slowly from the military field to the civilian and economic field. At a certain point, the Soviet Union was compelled to reform its economic and political system dramatically in order to face Western competition. But Gorbaciov's attempt to democratize communism failed and the imposing Soviet Empire fell to pieces.

Here, we are not interested in discussing the merits and faults of communism and nor in comparing it with capitalism, but only in remarking that nuclear war became impossible among great powers. Of course, this harsh statement does not explain nuclear proliferation. Why are so many emerging countries eager to get nuclear armament (and other weapons of mass destruction)? The answer may be that every country's ambition is to become, if possible, a great power and attain the same status as the other great powers. In fact, the old great nuclear powers want to maintain their monopoly and their old privileges, like their seat in the Security Council of the UN. Therefore, it is impossible to stop nuclear proliferation until a new world security system is established, founded on collective security and not on the supremacy of armaments.

The transformation of the UN in a system for collective security, where every state does not fear the aggression of some other state or coalition of states, is not a utopian project. In 1992, the General

Secretary of the UN, Boutros Boutros Ghali, proposed an *Agenda for Peace*, in which a UN standing army was proposed as a first step towards an effective system to prevent armed conflicts among member states. "The ready availability of armed forces on call – says the *Agenda* – could serve, in itself, as means of deterring breaches of the peace since a potential aggressor would know that the Council had at its disposal a means of response". Of course, this proposal does not solve all the problems, like nuclear disarmament. But in a post-national age conflicts among human beings are assuming more and more the form of civil wars. The real national interest of big powers – the USA above all – is to endow the UN with an effective "world police force".

Stability and development of the global economy – The birth of a global economy is not the result of a planned policy by a world government, but of the growing interdependence of national peoples who understand that they can increase their standard of living by more trade, international investments and cultural interchanges. Nevertheless, a global market cannot work, without engendering serious crises, if not governed. The creation of national markets, during the 18th and 19th Centuries, was possible thanks to the establishment of central means of government, such as a central bank and a national currency, a system of taxation, a national budget and custom duties to protect national industries. Every nation state was capable of choosing between more or less capitalism, more or less liberalism and socialism as far as its economy was independent of the world economy. But when, in the second half of the 19th Century, an international economy founded on free trade and the gold standard (a world currency) appeared as the most promising framework for the increasing welfare of all people, international crises became more frequent, until the Great Depression of 1929.

The financial crisis of 2007-8, if compared with that of 1929, not only shows how the main industrialized and emerging countries are more strictly interdependent, since in a very short time the crisis burst out in the USA infected the entire world economy, but also how the awareness of international cooperation is accepted as the only way out. As a matter of fact, no country dared to raise custom duties or devalue its currency, and the G20, of April 2009, approved a coordinate programme of national policies to sustain purchasing power and employment. Nevertheless, the deep roots of the financial crisis have not been faced yet. The debate is open. At present, we can say that the most important contribution is likely to be that of the Governor of the People's Bank of China (Zhou Xiaochuan, 2009), who emphasizes the negative role of the dollar, as the international reserve currency, for the

stability of the international financial system, including the US financial market. The USA had the privilege of drawing huge amounts of capitals from abroad which kept low interest rates, so contributing to the bursting of the American housing and financial markets. Zhou Xiaochuan proposes to substitute the dollar, as an international reserve currency, with the SDR issued by the IMF. This is certainly a step in the right direction, but it is only a provisional solution, since in the era of fiat money, a basket of national currency (such as the SDR) cannot deserve the confidence of international finance if not backed by a World Central Bank (this is possible if the IMF obtains the powers of a Central Bank).

The European experience shows that the road towards a Monetary Union can go through many intergovernmental stages, like the EMS, but that all these stages are precarious, since many national currencies inevitably enter into competition with each other and the strongest currency becomes the magnet for international finance, obliging the weakest to devaluate. The second teaching of the EMU is that monetary unification brings about financial unification too. In modern economy, money and finance are two essential and twin instruments of economic policy. A government can balance its expenses with taxes, but when taxes are not enough, it is necessary to issue either new currency or new treasury bonds to finance the deficit. The government of the world economy not only needs to control a world central bank but also a world budget, the size of which should be enough to face the main world problems, such as aid to provide public goods to developing countries and an environmental fund. The budget of the UN should not be the same size as national budgets. The EU was able to implement effective policies to reduce the gap between rich and poor countries of the Union and to provide some important European public goods, like the Erasmus program, with a budget of only one per cent of the EU GDP. A UN budget of the same size will represent an essential means for the good governance of the global economy.

The ecological challenge – All the aforementioned problems – war and violence among different peoples and the control of an anarchical economy – concerned relationships of human beings with other human beings. At the waning of the 20th Century a new dramatic threat appeared on humankind's horizon: the collapse of the biosphere, the major ecological system, and the end of life on Earth. This new challenge concerns the relationship of humankind with nature.

At the dawn of the modern age, the Industrial Revolution involved only a little part of the people (1 bn) living on the Planet. At the beginning of the 21st Century human beings amount to 6 bn and they

will be 9 bn by the middle of the Century. If we add to this impressive success by the human race – if compared with the stagnation or the disappearance of other species – the fact that, in all Continents industrialization is today considered the fastest way to guarantee modern standards of living to all people – from Latin America, to Asia and Africa – and that industrialization with traditional techniques involves the destruction and pollution of a great quantity of natural resources, it is reasonable to conclude that our industrial way of life is unsustainable. If nothing is done to change our unnatural way of life, the future of the Planet Earth could become similar to that of Mars, a wasteland we can observe today thanks to satellite pictures. Humankind is destroying rainforests, a great number of surviving species, the main fuel fields and ore deposits, and is polluting the air and water, long ago considered to be free and plentiful goods.

Is that really the future of Planet Earth devised by the most intelligent of all living species? Are we really reasonable beings? The answer to these questions cannot come from abstract philosophical thinking or religious faith, but only by carrrying out an effective policy for world sustainable development. Until now the signs that we are successfully facing the ecological challenge are very weak, not to say disappointing. After decades of UN conferences and debates, at last in 1997, in Kyoto, the first plan to stop climate change was approved. But until now very few steps have been taken to implement the Kyoto protocol. Only the EU has created an emission trading system (ETS) to reduce carbon emissions in the atmosphere. But the European effort is insufficient not only when compared to the European targets, but also in consideration of the fact that climate change is a global problem for which only a global solution is possible. Rich and poor countries, industrialized and emerging countries are still disputing over their responsibilities and duties. Meanwhile, the Planet is dying. Up to now, the real problem that needs solving is not technical: i.e. to discover the most appropriate means. Indeed, there is a wide consensus on the time table for mitigating air pollution and on the means to be adopted – a mixture of trading permits and carbon tax – but an agreement among all the peoples of the Planet on a common plan for sustainable development does not exist. These political problems are not insoluble, if the appropriate institutions are envisaged. We need: a) a world parliament, in order to take into consideration the needs, the capabilities and the possible contribution of all people for a global plan for sustainable development; b) the commitment of all people to adopt the emission trading scheme and the carbon tax required to reach the agreed target; a percentage of the tax revenues should be allotted to the

214

UN budget, in order to implement research for new environmental techniques and to help countries at a disadvantage; c) to bestow the UN with the powers (i.e. imposing a fine or reducing aid) to oblige every member state to respect the commitment made democratically.

The future of life on Earth is our responsibility. We have the power to destroy life or to save it, not to create a new Planet. The most intelligent and reasonable of the living species can behave like the most stupid and arrogant beast. Faced with a definite choice, the only guide is morality. Are we moral animals?

Science and technology – The myth of national sovereignty survives notwithstanding the catastrophes of the two world wars and European supranational integration. But this myth is shaky and it can be overthrown at any moment. Its bases are eroded by the development of social sciences and nature's sciences. Of course, modern federalism is in itself a political thinking involving a critique to the sovereign nation state. European integration was fostered by people looking for an alternative to the limits of the nation states in an interdependent world. Within the federalist movements, Mario Albertini (1960) put forward a crucial critique to nation state and nationalism, as the ideology of the "bureaucratic and centralised state". According to Albertini, the nation is not the basis of the nation state; on the contrary, the state – its ruling class – imposes the national ideology to its subjects in order to get their loyalty, even the sacrifice of their lives. Recently, Ulrich Beck proposed to overcome the "national methodology", i.e. the implicit national point of view adopted by all social sciences, which consider the "national society" as the natural horizon of their research, contributing in this way to reinforcing the national division of humankind in closed communities. Indeed, the dramatic problems of our age – the threat of mass destruction weapons, the management of global economy, underdevelopment and the ecological challenge – compel social scientists to elaborate solutions for humankind, as a community of national peoples, independently of their culture, religion, sex, political ideology and colour of the skin. The sovereign nation state is a human construction. Its history began in modern times and its future depends on the supranational institutions people will create to manage their common problems.

Moreover, the great achievements of nature and social sciences are, indirectly, the cause of the historical decline of the sovereign nation state. In the past, the subjects consulted the kings of divine right like wizards capable of restoring their health from certain diseases, such as scrofula. Today people go to doctors and nobody believes that the prime minister has the power to cure herpes or other diseases. Scientific

knowledge limits the capacity of politicians to promise non-credible targets and sets limits to the action of governments, which are in certain cases obliged to follow a precise path, even though reluctantly. For instance, the demographic forecasts on aging population obliges governments to postpone the retirement age and to face popular protests. Some other instances concern the environment: scientific consensus on the danger of climate change compels all governments to approve some policies, such as a carbon tax, while they promised to reduce taxes or to devote the public budget to other expenses. In general, the growth of scientific knowledge reduces the arbitrary area of politics and forces politicians to behave as good administrators, on the condition that public opinion is critical and attentive.

The conclusion of this paragraph is that international politics increasingly draws away from the Westphalian model. Even if the world is quickly moving towards a multipolar system of big powers, international politics is less and less obsessed by military confrontation and wars, while citizens, civil society and political parties are more and more concerned with the solution of important civilian problems (economic relationships, cultural and religious clashes, international migrations, etc.). In this new context, internal and external relations are blurred. The old foreign policy of the nation states is becoming the internal policy of the human community.

6. *Nation state, supranational state and democracy*

It is time to consider the relationships between the nation state, as a declining political community, and the supranational state, as the new emerging community of national peoples closely. Our aim is to show that they are not two opposing alternative choices. The need for security and social stability, which were the main roots of the nation state, are also the roots of the present supranational state, which therefore can be considered as a new phase in the development of the modern state. Of course, emphasizing the continuity of a historical process does not mean that nationalism and the defence of national sovereignty are not opposed to supranational federalism. As we shall clarify in the last paragraph, national politicians behave in a conservative, or even reactionary way, when they oppose the building of the supranational government. Here, we want to discuss the theory of the "withering away" of the state and the relationship of democracy with the supranational state.

In the concluding sentence of the previous paragraph we maintained that the military aspects of politics are becoming less

important than civilian problems that concern the everyday life of citizens. Of course, this is not true in every region of the world – for instance, in the Palestine-Israel region, in Iraq, in Afghanistan, etc. – but it is a general trend which is visible in many leading countries: the European Union is based on an explicit peace pact among its member states; for instance France, and many other European countries, after the end of the Cold War, decided to abolish compulsory military service, instituted by the French Revolutionaries. Outside Europe, compulsory military service was also abolished in Russia and in the USA and it is unlikely that it can be restored. We can therefore affirm that the nation state has lost its main power: to oblige the citizens to give their lives to the fatherland. This peculiar power was the basis for the building of the totalitarian state of the 20th Century. Today, the national Leviathan is dead. In order to go back to the time of the totalitarian state we should imagine a new world war with the deployment of weapons of mass destruction. No ruling class of a big power will accept a policy involving this risk.

One could say that this trend is nothing but the realization of the old Marxist thesis of the withering away of the state, which was opposed to the anarchical slogan in favour of the immediate abolition of the state. In *State and Revolution*, Lenin quotes with approval a sentence in which Engels affirms that after the victorious proletarian revolution: "The government of persons is replaced by the administration of things … The state is not 'abolished,' it withers away" (Lenin, 1966: 281). Our point of view is that there is something true in this sentence, but only if placed properly in a more general theoretical framework.

In a modern society, the state cannot be abolished or wither away, until its disappearance, for at least three reasons. First of all, civil society can work reasonably well if the division of labour is clearly regulated. Everyday we need to buy some goods, we need to know what to do for our job and how it is rewarded, we need to know that the advice of our doctor is reliable, etc. Civil society is founded on the shared confidence that certain rules are brought into use and are respected. Some rules are based on tradition, but usually a public authority should guarantee that the rules are observed. The second reason is that we continuously need the services of scientific discoveries and their technological applications. Electricity is necessary to light up our house, for our computer, for the elevator, etc. The quality of the water we drink and the air we breathe depends on the careful supervision of a team of experts, etc. We should trust a public authority which guarantees a lot of services we cannot provide by ourselves, most of all because we do not know the theory and the

technologies necessary for their provision. Scientific knowledge and its applications are public goods. Finally, there are some other public goods (i.e. goods the market has no interest in producing), such as streets, bridges, health service, justice, security, etc. which only a government can provide to its citizens, because a coercive power (usually the power to tax) is necessary to compel all citizens to contribute to their cost. The state is founded on John Locke's "trust" between the governed and the governors.

Therefore, a modern civil society needs a state, but the modern state is no longer a Leviathan, it no longer has absolute power on its subjects' lives. The nation state – the modern Leviathan – based its authority and its powers on sacred symbols, such as the sacred borders of fatherland, the sacred tomb of the Unknown Soldier, etc. In our age, we can observe a de-consecration of the nation state in the citizens' behaviour and the contemporary building of an earthly supranational state. The supranational state is simply an organisation endowed with the coercive powers necessary to provide supranational public goods to a community of national peoples, not a new monstrous Leviathan.

A modern civil society is also a democracy. Here, we want to point out two features of a democracy. The democratic citizen is critical of all existing powers; moreover, the democratic citizen cannot but have confidence in some power (authority). The democratic citizen is the son of the Enlightenment and the great revolutions of the 18th Century. Every fact concerning community life is discussed and criticized. Nothing is accepted only on the basis of the will of a certain authority. This implies that the democratic decisional process is slow and entails precise institutional rules. In order to be accepted, a certain decision should be legitimated by a law, approved by a majority of citizen representatives, and, in the last resort, by a constitution. The second aspect of a democratic community, apparently in contradiction with the first, is that the democratic citizen needs to trust a political authority. We have just seen that a state is necessary, because of the division of labour among different citizens, of the dependence on unknown technologies (in any case out of control of a single person) and of the services provided by public goods. A democratic society cannot exist without a state and a state is a motionless body without a democratic society. Therefore, the harmonious functioning of a democratic society depends on the confidence (trust) in its legitimate institutions.

Within the borders of the nation state, the political debate and the political decision making system are biased. The main problems of our age require a supranational solution. But the leaders of the national parties and of the national governments try to show that they have the

power to face the global challenges. Therefore, they multiply international meetings and summits, instead of creating effective supranational means of government. Of course, since the results of international cooperation without a supranational government are practically insignificant, citizens are betrayed and lose confidence in national politics. National institutions appear to be more and more useless and without value; their legitimacy appears dubious and not based on solid grounds. In Europe, the crisis of national democracy is producing a corrupted ruling class everywhere and risks eliminating the state itself. In Italy, Spain, Belgium and many other countries state unity is disputed by important political parties, which propose regional secession as an alternative. But the creation of micro-nation states is the best way, in a global market, to offer power to strong economic lobbies and mafias. The withering away of the nation state, without the development of a supranational democracy, threatens to wither away democracy itself.

The way out of the crisis of national democracy is to build a democratic supranational state: in short, a federation. In Europe this process has already started, since the European Parliament was directly elected by the European citizens in 1979. But the EU is not yet considered a supranational democracy because a legitimate European government does not exist. Confused and undemocratic governance is not a government. This is due to the fact that national governments maintain the veto right on some fundamental issues, therefore the Commission cannot act as a true democratic government responsible before the Parliament. At the world level, in the UN, the road to pursue is longer, but fundamentally not very different from what the Europeans have done after the Second World War.

7. Cosmopolitan democracy and federalism: two parallel routes

The European experience shows that the struggle to build a Federal Union has taken advantage of two parallel routes, in step with favourable historical occasions. Sometimes it was possible to ask for more supranational powers; sometimes it was possible to ask for more supranational democracy; sometimes for both targets. In any case, history is not a region we can pass through with just the aid of a precise map. Federalists should accept that the speed of these different routes can be different, even if they know that a supranational power should become a democratic power and that a supranational democratic institution, like the European Parliament, sooner or later, will claim

more legitimacy for the existing supranational powers, in the last resort, by means of a constitution.

There are two routes and not one because national governments will give up some powers only if they are obliged by a strong need, or a major political crisis. Monnet writes in his *Memoirs* that at the end of 1949 people feared the possibility of a new dramatic clash between France and Germany, and even a war. The Schuman declaration was the correct response to overcome the impasse, but the ECSC was only a first step towards a Federation and peace. Nation states were not willing to give up all the powers needed to build an effective European federal government. Therefore, the European construction was founded on a very weak democratic basis. As a matter of fact political parties and public opinion were not aware of the historical step carried out in 1950. Nevertheless, thanks to this first achievement, Spinelli cunningly exploited the occasions of the EDC and, later on, of the direct election of the European Parliament, in 1979, to give Europe a constitution; but he failed. The history of European integration went on. In the following years, bit by bit, the European Parliament was able to obtain more powers and, recently, it affirmed that the EU is a "supranational democracy". We should only add that, unfortunately, the EU is a supranational democracy without a supranational democratic government and a supranational constitution.

The path followed in Europe can be useful to understand what has to be done to establish a new world political order. The institutions of the old political order were based on the principles of hegemonic internationalism. But, the new subjects of international politics, like China, India, Brazil, cannot accept the hegemony of the USA and other Western countries, as shown by the composition of the UN Security Council. Radical reforms of the world political order are urgently required. The Chinese proposal to reform the international monetary system, by substituting the dollar with a new reserve currency, shows that the supranational principle is coming into view. But we must be aware that national governments, including the Chinese government, will do their best to find intergovernmental solutions to the world monetary problem. At present, they are certainly not thinking of giving up national monetary sovereignty and of creating a true world central bank. But, after the financial crisis, the confidence in the dollar is shaky. Moreover, the euro is not yet a currency strong enough to substitute the dollar as a reserve currency. A world monetary crisis, after the financial crisis, cannot be excluded.

In any case, we can affirm that cosmopolitan democracy and federalism are not two alternative political targets, but they are strictly

complementary. It is right to ask and to fight for a world parliamentary assembly. It is right to ask and to fight for new supranational powers, for the UN and for the extra-European regional attempts of integration, like the Mercosur in Latin America, the African Union and the ASEAN plus Three's attempt to build a monetary union in Asia. What we are able to do to overcome national sovereignty is useful for the future of humankind. A cosmopolitan federal union will become a reality if more generations of committed people will fight to build it.

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Legitimation in a Planetary Political Community: Is a Viable World State Possible?

Heikki Patomäki

General introduction

Social relations and practices of a world state, or any form of planetary political community (PPC), would require constant authorisation and validation in a complex and pluralistic world. All anticipations of a world state imply claims about its legitimation. Some of these claims are fairly weak. For instance, it is claimed that a number of trends and tendencies are pointing towards planetary integration, and ultimately, a world state. The number of units has been declining. Although developments have not been linear, the overall trend is striking: from perhaps as many as 200,000-300,000 units in 1000 BCE to mere 200 units in 2000 ACE. (Carneiro 1978) A parallel trend is towards larger-sized units. Christopher Chase-Dunn et.al. (2008) identify several major upward sweeps in the recent history of humanity. Upward sweeps are defined as instances in which the largest settlements and/or polities significantly increase in size for the first time in a given area or globally. So far the peaks have been the Mongolian and British empires. Assuming that these trends continue, humanity is likely to end up in a single political unit within the next 200-300 years.

However, a mere trend towards a world state would hardly provide any sustainable ground for its legitimation. Real tendencies are causal and transfactual and thus more profound than mere empirical trends. From a scientific realist perspective, Wendt (2003) argues that given the generic boundary conditions of the world system, the system is directed towards the realisation of a world state. 'The mechanism that generates this outcome is the interaction between struggles for recognition at the micro-level and cultures of anarchy at the macro' (ibid.: 507). Attempts to use violence in Hegelian struggles over recognition have become increasingly dysfunctional due to the development of technology, especially weapons of mass destruction.[1]

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[1] Also relatively small-scale and low-intensity wars overseas are becoming so expensive that even the richest states, federations, or military alliances find it hard to finance them,

Perhaps even more importantly, 'any social order founded on unequal recognition [is] unstable in the long run' (ibid.: 513). 'Territorial state sovereignty is by very nature a structure of unequal recognition' (ibid.: 515). Thus the logic of recognition must result in a global political community, involving a supra-national 'we'-feeling.

At the 'macro-level', the step-by-step problem-solving and learning through different 'cultures of anarchy' point to the same direction: from Hobberian state of nature, via society of states, world society and collective security, to a world state or republic. Moreover, by taking political economy into account as well, the cosmopolitan conclusion appears even stronger. Wendt (ibid.: 494) mentions in passing the significance of distributional struggles, but more generally, the mechanisms and contradictions of global political economy create dilemmas that are not easy to overcome, not even temporarily, without adequate collective institutions (cf. Chase-Dunn 1990; Markwell 2006; Patomäki 2008).

Claims about structural tendencies towards a world state reflect various normative arguments in favour of a more adequate system of global governance or, sometimes, for world government proper. In the late 18th century, Kant argued that we have a cosmopolitan moral duty to realise a league of nations. He envisaged a cosmopolitan legal order, but was opposed to a world state. Many later Kantians have thought that only a world state could truly resolve the dilemmas that Kant so perceptibly analysed. Since Kant (1983/1795), K'Ang (2005/1913) and Wells (1902; see also Wagar 1961), the choice facing humanity has often been presented in stark terms: the likely alternative to building common global institutions to overcome the problem of organized violence is an unthinkably horrific future catastrophe – or even the end of humanity.

The Hegelian metaphor of 'struggle for recognition', when applied to the planetary history of humankind as Wendt does, amounts to a cosmopolitan normative argument, which stems from the principle of

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especially given the electoral and other pressures for a wide variety of expenditures and rising levels of public debt. Economists have suggested that the long-term costs – taking into account the costs of taking care of wounded soldiers and rebuilding the military – of the Iraq war will ultimately be three trillion dollars; a similar calculation for the costs of the war in Afghanistan would indicate a long-term cost of 1.5 to 2.0 trillion dollars (Clifton 2010). These figures are comparable to the entire GDP of some of the richest countries in the world, such as Germany or the UK. Norman Angell's (2000, orig. 1909) classic argument is thus being confirmed in a new context: it is not only that territorial conquest is economically futile in a complex, interdependent and industrialised world economy but also that even a war with fairly limited and, at any rate, non-territorial aims is becoming excessively expensive.

equality of all humans. This equality can be expressed for instance in terms of political, social or civil rights. Likewise, political economy arguments for better global institutions are grounded on normative considerations. Political economy arguments for planetary unification profess, apart from peace, goals such as rational economic policies; distributive justice; autonomy; and democracy. The establishment of adequate global economic institutions would be a step in 'the long march of mankind toward its unity and better control of its own fate' (Triffin 1968: 179).

The research problem and structure of the paper

Every argument about the possibility, desirability and/or inevitability of a world state constitutes a standpoint for assessing its future legitimacy and sustainability. To pose questions about the possible basis of legitimacy of a world state does not imply a commitment to any particular *telos* of world history. Although I agree with critical cosmopolitans that world history is in some way directed towards further planetary integration (see Patomäki forthcoming a), it does not follow that the *telos* of this process is known. A planetary-scale community and its organizational structures may turn out an emergent phenomenon; something that cannot be deduced from *ex ante* reasoning or anticipated in essential aspects and regards, but known, only *ex post* to its emergence. Hence, the category of *state* may – or may not – be misleading in thinking about planetary political community and organizations. Furthermore, an ethico-political goal for the world history as a whole can only be set from within history; must be fallible; and can only make sense in terms of particular story or scenario told within a particular time-scale. Thus conceived, the process leading to an end-state must be more important than the *telos* itself.[2]

The point of posing questions about legitimation in a future PPC is to shed light on the possible ethico-political grounds for further global integration. Among other things, the analysis of elements and dynamics of legitimation also facilitates the assessment of the feasibility of different paths towards planetary-scale integration. What are the deep but historically evolving normative and institutional underpinnings that can make a sustainable PPC possible? What could provide legitimacy

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[2] Even more fundamentally, every *telos* is necessarily temporary and transitional in some scale of time. There are no ultimate ends in the world of multiple simultaneously on-going processes.

to a PPC and thus make it viable; and what are the potential and likely pitfalls of such an abstract, large-scale political community?

These questions have been posed before. For instance, Hans Morgenthau (1960: 522-4) defined a world community as a community of at least partly shared moral standards and political judgements and multiple but convergent political actions. He articulated the problem of legitimation in terms of three questions (ibid.: 511). (1) Are peoples willing to accept world government, or are they at least not so unwilling as to erect an insurmountable obstacle to its establishment? (2) Would they be and able to do what is necessary to keep world government standing? (3) Would they be willing and able to do or refrain from doing what world government requires of them so that it may fulfil its purposes?

Morgenthau thought he can settle these questions with a few 'obvious' examples. Would the Americans be 'prepared to give a world government the powers to open up the borders of the United States for the annual immigration of, say, 100,000 Russians, 250,000 Chinese, and 200,000 Indians?' (ibid.: 513). Thus, 'so long as men continue to judge and act in accordance with national rather than supranational standards and loyalties, the world community remains a postulate that still awaits its realization' (ibid.: 524).

Morgenthau frames his questions in terms of Max Weber's (1978: 31) empiricist approach: '[S]ocial action may be guided by the belief in the existence of a legitimate order. The probability that action will actually be so governed will be called the validity of the order in question.' However, the Weberian empiricist approach overlooks the underlying, structurally conditioned dispositions and liabilities, on the one hand, and the normative aspects of the problem of legitimacy, on the other hand. It is true that claims about legitimacy or its lack must be relatable, in some way, to the actual preferences of individual people, however formed. Further, those claims must be falsifiable by empirical means. It is nonetheless necessary also to explore (i) historically evolving and structurally conditioned dispositions and liabilities; (ii) processes of political will-formation; and (iii) normative aspects of claims about legitimacy in a way that makes it possible to build plausible scenarios about possible futures.

First I discuss the standard security and political economy arguments for a world state. Although these arguments are relevant and plausible, the question is whether they provide a basis for the possibility of a legitimate planetary political community? Could these arguments really constitute an ethico-political ground for a fully-fledged self-organizing planetary political system (i.e. democratic

world government or something analogical)? As indicated also by the example of the European integration, the security-military and functionalist political economy arguments for planetary unification may work to a point, but after that they may become irrelevant, counterproductive, or even self-defeating.

The problem of legitimacy concern also normative questions: whether and why a given order or system *deserves* the allegiance of its members. Mere security or functionalist benefits, especially if perceived in terms of rationally calculative orientation of action, are not enough. There must also be a belief in normative legitimacy, which may be anchored in the universality principles such as popular democracy and human rights. However, there is an internal relationship between democracy and identity, and identities tend to be particular. Global-democratic 'self'-determination would presuppose a 'we' and 'us'. Who is this 'we'?

Furthermore, what also matters are the moral standards and political judgements that constitute the multiple political actions and struggles over the definition of different 'selves' and ethico-political directions in the future PPC. I explore theories of civilizing process and stages of ethico-political learning and focus especially on their implications to the process of legitimation in a PPC.

Legitimacy and the standard arguments for a world state

Every argument for a world state is also a proposal for the basis of its legitimation after its establishment. For instance, those advocating the classical *security-military argument* try to convince the rational members of their audience to submit their wills to a central authority in order to avoid risking a major military catastrophe in the future (Deudney 2000, 2008: ch 8; K'Ang 2005; Morgenthau 1960: 530-9; Wagar 1961, 1999; Wells 1902; Wendt 2003: 516-28).[3] As anticipated

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[3] Although Kant did not advocate a world state, he was the first political theorist to apply the Hobbesian argument for a sovereign authority internationally. From K'Ang and Wells onwards, Kantians have relied on the Hobbesian strategy of argumentation, although most of them have been, and are, more democratically minded than Hobbes. Hobbes' *Leviathan* can be read as a rhetorical – but also onto-theological – argument that tried to convince readers to submit their wills to the sovereign authority of the absolute monarch. Unless they do this, they risk, under the conditions of a modern society, the peace of their society with devastating consequences. The 'state of the nature' was thus an imagined future possibility, meant to be a 'shock therapy' for those who doubted the validity of the rule of the Monarch. The argument was targeted against the Cromwellian reformers of Britain, who were, in Hobbes' opinion, causing civil war(s) and political violence. See e.g. Neal 1988; Connolly 1993, 16-40; and Hobbes' (1974: 101) about the historical non-existence of the 'state of nature'.

by Kant and H.G.Wells, the system of separate states is loaded with powers of destruction characteristic of the planetary-nuclear era: jet airplanes, rockets and missiles, satellites and nuclear explosives.[4] These powers may remain idle for a relatively long time, say until 2044, or 2100, or even further into the 22nd century, yet under particular – however exceptional – future circumstances they may come to be instigated, resulting in a global disaster.

It is also possible to construct a similar ecological argument: in order to overcome 'the tragedy of commons' (Hardin 1968) which may threaten our survival as a species, we need a common state. Especially when securitised in this manner, climate change and other critical biosphere-related issues can be framed as just as salient as the potential for a major military catastrophe in the future. Once a world-state is in place, every rational actor is then assumed to accept the validity of its rule out of (sheer or generalized) self-interest.

The *security-military argument* is conceptually ambiguous. It is ambiguous *ex ante* of the establishment of a world state (or anything analogical), because the Hobbesian argument is meant to justify obedience to an existing state (by warning people what would happen if they did not obey), not to justify creating a new one. From an *ex ante* perspective, the *security-military argument* is vulnerable to the collective action problem. (Fn 3 above; and Wendt 2003: 509).

Ex post, or after, the establishment of a global state, this argument would serve as a constant reminder of the potential threat posed by the others. The argument is conservative as it justifies any order against any claims to change. Yet, there will always be disputes and conflicts between social forces. There can never be a stable 'order', an eternally fixed set of practices and institutions. It is not possible to tame or freeze history for a long time. History is open. New interests and claims will emerge and new 'messages' demanding changes will be sent and made public.

The *security-military argument* may thus become counterfinal from the point of view of establishing a security community (Deutsch et.al. 1957; Lijphart 1981; Patomäki 2002: ch 8). To simplify: if, despite sustained efforts, there is no responsiveness from the side of *status quo*

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[4] Wells foresaw an aerial war before the innovation of aeroplanes. Furthermore, in 1913, Wells forecasted the development of the atomic bomb and nuclear power, and imagined a hugely destructive worldwide atomic war to be fought later in the 20th century: 'it is chaos or the United States of the World for mankind; there is no other choice'; this second-hand quote is from Wagar (2004: 141), published originally from the preface of a 1917 reissue of Wells' *The War in the Air*.

forces, a pathological learning process may occur among the advocators of changes. Over time, this may lead to the escalation of conflict and (threats of) violence. The preparedness to use large-scale violence inside and/or outside indicates non-integration and is a sign of an insecurity community – inside and outside. In contrast, security communities are characterised by the expectation that future changes are going to be peaceful; and that the others can be trusted in a generic manner. Regional or global integration *generates* non-preparedness to use violence. This can be explicated as follows:

A1. If a social system has become integrated, no relevant actor has any *reasons* to prepare for the use of political violence.
A2. As actors know (A1), they do not *expect anybody* to use political violence either to preserve *status quo* or to foster changes.
B1. Non-preparedness becomes a generally followed and rarely, if ever, questioned rule of action.
B2. In the course of social time, (A2) becomes an automatic, routine-like and self-evident presupposition of political thought, argumentation and action.

Thus in stage B, the security argument fades into the social background of the 'the-taken-for-granted'; and the security community becomes and *asecurity* community, in which security is no more an issue. The case of European integration seems to support this generic conclusion. The *security-military argument* is being used to legitimise the EU, and it has motivating power among some actors, but its factual role tends to be limited. Instead of just contributing to 'we'-feeling and collective identity, it can also reinforce the separation of different identities and 'public opinions'. Stage B2 is not reached.

These problems probably explain why – despite the dramatic force of the security-military argument – *functionalist* political economy arguments are usually more popular. The claim that also I have been making (see Patomäki 2008; forthcoming b) is that a number of contemporary issues and contradictions of global political economy require trans- and supranational co-operation and institutions, with at least some centralised direction. Practical-technical co-operations that imply *de facto* or *de jure* sharing of sovereignty and common institutions are steps towards a world state. (See Weiss 2009) Moreover, from this point of view, a world state may come to be organised along functionalist lines; it does not have to resemble existing territorial states (see e.g. Partington 2003; Wells 2002). The functionalist line of argumentation for a world state comes close to the Monnet-method of

European integration. The economistic expectation of many functionalists such as David Mitrany and neofunctionalists such as Ernst B. Haas is that political loyalties and, and thereby mainstream beliefs in the legitimacy of the system, should more or less automatically follow the transfer of technical, economic and welfare functions from the nation-state to international and supranational organizations.[5] Many critical political economists make similar assumptions, even if only implicitly.

However, the legitimation problems of the EU – as is evident from several unfavourable referenda to the 2010 crisis of the EMU – have also shown the limits of the Monnet-method (for a theoretical analysis, see Patomäki 1997). Although functionalist and neo-functionalist theories are motivated by critical-reflexive moral considerations, the basic thrust of the *economistic-functionalist* argument presupposes the fulfilment of Weber's scenario about the development of capitalism, in which the operations of the abstract, quantitative and most impersonal media, money, displace all action-orientations other than the rationally calculative orientation, and especially those that are based on ethico-political values or any meanings considered significant to the lives and actions of individuals and collectives (for discussions, see Weber 1978).

To the extent that (i) the instrumentalist orientation prevails in society and (ii) trans- or supranational co-operation is widely seen as more efficient than national, the *functionalist* argument – abstracted from a wider social context and its inbuilt normative principles – may possibly work to a certain point. However, these conditions can never be met more than partially. Although Weber has been right about the overall trend of the 20th century history, the displacement of other action-orientations can never be completed (see Habermas 1981, 1984; Connolly 1993). Moreover, there have also been counter-movements working against the tenets of Weberian modernisation (as well as against related processes of commodification in the Marxian sense). Thus attempts to push functionalist political economy integration beyond the limits of prevailing loyalties, solidarities and ethico-political sentiments become easily counterproductive, however moral the underlying motivation may be.

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[5] After the failure of the post-World War II federalistic projects, the Western European integration process started as a functionalistic system of cooperation loosely along the lines of the theories of Jean Monnet (as officially articulated by Schuman 1994) and David Mitrany (1943, 1975). Despite some attempts to introduce explicitly political notions such as citizenship, this approach still characterizes the development of the EU.

Another problem with the *security* and *functionalist* arguments is that they ignore the lessons of the historical processes of modern state-formation. Modern European states could not have succeeded in progressively establishing their legitimate monopoly over violence by just dispossessing their competitors of instruments of physical violence by stronger means of violence. Neither did they prove their worth by mere technical-functionalist means. They also engaged in what Norbert Elias (1978) calls the 'civilizing process', involving the adoption of religious pluralism among states and, often, also religious freedom within the state; and embraced new universalising principles while forging particular national imaginaries to justify and legitimise their territorial rule.

The 'civilizing' process and stages of ethico-political learning

Between 1776 and 1848 there arose on both sides of the Atlantic the familiar template of the 'nation' now no longer referring to the king at the pinnacle of the state hierarchy, but to an abstract 'general will' operating in free citizens. Although the emerging abstract principles of rights and justice were universalistic, the concept of 'people' in practice meant the citizens of a particular state – in a system of warring states. At this geo-historical moment, many people in Europe were still more than willing to sacrifice their lives for the divine rights of the dynastic rulers and aristocracy and thus fight the American and French revolutions and related universalizing principles. Moreover, production remained based on land and agriculture (the Industrial Revolution started to have transformative effects in Britain only from the 1820s onwards); and the speed of communication and transportation across the surface of the planet was limited to the velocity of humans, horses and sailing ships. Under these circumstances, universalizing principles could only be realized 'nationally'.

The collective identity of citizens developed under the abstract viewpoints of legality, morality, and sovereignty, especially through modern natural-law constructions and in formalist ethics. However, 'these abstract determinations are best suited to the identity of world citizens, not to that of the citizen of a particular state. […] This competition between two group identities was temporarily silenced through membership in nations: the nation is the modern identity formation that defused and made bearable the contradiction between the intrastate universalism of bourgeois law and morality, on the one side, and the particularism of individual states, on the other.'

(Habermas 1979: 115). Hence, the resources of the 'nation-state' were harnessed to forge and circulate prototypes, metaphors and frames that would legitimize its rule. The new national categories also captured the imagination of historians, philosophers and poets.

Thus, nationalism became a transformative force in the modernizing world. Nationhood found its concrete political expression in the transformation of subjects into citizens who laid claim to equal membership in the nation and institutionalized their autonomy within the modern nation-state. But who really counted as part of the people and what constituted the essence of the nation became the subject of fierce intellectual debates and social struggles. The 'national imaginary' corresponds to what Anderson (1991) has called 'modern imaginings of the nation' as a spatially limited and sovereign community of individuals. Their knowledge of each other was, in most cases, not direct, but mediated in 'homogenous, empty time' through the diffusion of discursive literacy and the prototypes, categories, metaphors, and framings cultivated within it. To a large extent, the national imaginary was made possible by the invention of printing technology embedded in nascent capitalism.

A world state or, more generally, a PPC is unlikely to emerge, or be sustainable, without a 'civilizing' and story-telling process appropriate for the identity of world citizens. A key question is: would this 'civilizing' and story-telling process resonate with deep tendencies underlying actual geo-historical events, episodes and trends? Are there reasons to believe that world history is somehow – inevitably or otherwise – taking humanity into a cosmopolitan direction; and that attempts to 'civilize' humankind further and cultivate planetary stories about the common fate of humanity are thus grounded on deep non-contingent logics or mechanisms? Wendt (2003: 510-16) relies on Hegel's metaphorical story about the 'struggle for recognition' in arguing that only a global political community can ensure an equal, symmetric and stable collective identity and solidarity. This Hegelian story is instructive, but its epistemological and ontological status is unclear. It is based on assumptions human desire and constitution of Self that may appear plausible to some, or even perhaps to many, yet they do not seem to be grounded on claims with falsifiable implications. Thus Wendt's interpretation of Hegel's story may be indicative of the possibility of a trans-historical logic taking humanity towards a PPC, but not much more.

Andrew Linklater (1982, 1990, 1998, 2007) has articulated an alternative – and more normatively oriented – account of the reasons for believing in the gradual emergence of a PPC. From the viewpoint

of ethical universalism (1982), he argues that the success or failure of the critical theory of international relations will be determined by the amount of light cast on present possibilities of change towards a universal human moral community (1991: 172). This project is emancipatory: by knowing those factors which contribute to state-centric particularism it should be possible to break the unnecessary, unneeded and unwanted invariances.

Linklater argues that there is a two-tiered and interconnected logic of geopolitics and capitalist world economy, which is to a great extent responsible for the current constellation of moral communities. In early modernity the nation-state was a response to the need for external security (geopolitics) and internal order (constituted as capitalist market society). Later, for instance the tendencies of unequal development have led to circumstances where nationalism and particularistic state-centrism have been legitimate and at least partially rational responses to immanent social and economic problems. In the late 20th and early 21st century, also the geopolitical dilemmas of nation-states and other mechanisms tend to reproduce or even reinforce the 'national' moral communities. However, Linklater's idea is that by knowing the factors contributing to the development of the moral community of humankind, or cosmopolis, it should be possible to strengthen, perhaps even in a somewhat instrumentalist manner, these alternative tendencies. For example, Linklater maintains that the capitalist world economy has generated complex interdependencies and various transnational forces that are assembling the conditions for a universal human community. (See Linklater 1991, 1998, 2007)

Linklater's account is constructed through reading various texts in philosophy, political theory and International Relations. The overall argument is, as in the case of Wendt, indicative; there seem to be a number of normative, sociological and geo-historical reasons to expect the emergence and, then, consolidation of a PPC. What is lacking is the simplicity, beauty and depth of the 'struggle for recognition' story on the one hand, and clear, falsifiable claims, on the other. Arguably, these lacks can be absented by (re-)introducing the critically important notion of learning. Both Linklater's project of critical theory and Wendt's Hegelian story are essentially about collective learning. Ethical universalism is a result of collective learning, although, for the time being, various geo-historical factors and social conditions and prevent it from being adopted widely enough. The Hegelian story about the dialectical movement of one moment of 'recognition' to another depicts essentially an ideal-typical human learning process. In real geo-historical time, each moment can last up to centuries, or even more.

Moreover, the 'civilizing process' is similarly an ethico-political learning process. A 'civilizing process' is based on increasing awareness and respect for other people's point of view (Linklater 2007: 162). In effect, the concept refers to the collective learning of humanity, but without any clear articulation of its basis. Collective learning can concern both (i) natural laws, mechanisms and processes and (ii) social relations and human history.

As Jean Piaget, Lawrence Kohlberg, Habermas and other have argued, there are good and empirically confirmed reasons to think that certain kinds of cognitive structures emerge in a logical order that constitute what can be called 'stages' (seen as iconic models of generic structures, idealized and abstracted from complex and in some ways also vague and ambiguous reality).[6] Stages are inner generative of cognitive processing embodied in the *habitus* of individuals.[7] Each higher stage is able to answer questions or problems unsolved at the next lower stage. A partial analogy can be made between individual and collective learning, although there are also major ontological and normative differences between the two. In both cases the sequence of cognitive stages is conceptual-logical rather than just empirically correct. This explains why an individual can reach higher stages in a sufficiently enabling context spontaneously and why the order of learning must be roughly the same in both cases. The generative structures of reasoning can become to be embedded in social practices and institutions, although this is always contingent on many things, including political struggles.

Collective human learning explains for instance the quest for democratization. Rules are not anymore taken as something external to

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[6] I am referring to well-known works such as Piaget (1977, 2002), Kohlberg (1971, 1973, 1981) and Habermas (1979, 1990a, 1990b). For discussions on the empirical validity of the Kohlbergian framework in particular, see e.g. Boom, Wouters and Keller 2007; Dawson 2002; Gibbs, Basinger, Grime and Snarey 2007; Krebs and Denton 2006; and Sonnert 1994. In Patomäki (forthcoming b), I discuss the criticism according to which any attempt to posit a particular discursive or cultural formation, or institutional framework, as 'progressive' implies (metaphorical or literal) violence and a new unjustified social hierarchy. This criticism can be read reconstructively as an important corrective and addendum to critical-reflexive ethico-political reasoning. Moreover, I also explore possible further stages of ethico-political learning: history has no end.

[7] The Bourdieun concept of *habitus* has its origins in Piaget's genetic structuralism and theories of learning; Lizardo 2004. The *habitus* of embodied actors is a generative dynamic structure that adopts and accommodates itself to a field composed primarily of other embodied actors and geo-historically situated practices and institutions within which actors are positioned. A *habitus* is made possible and constituted by the collective historical development of schemata of perception, prototypes, categories, metaphors and framings, and of explicit ideas and theories built upon these foundations.

individual actors and thus sacred or conventional in the authoritative sense; but rather come to be felt as the free product of mutual agreement and an autonomous conscience. In other words, actors come to understand that collective rules are the product of their autonomy and free, mutual agreement (Piaget 1977, 24-5; Kohlberg 1971, 164-5). Collective learning also points towards cosmopolitan moral sentiments. At the critical-reflexive level of reasoning, morality and general ethico-political principles must have validity and application apart from (i) the authority of the groups or persons holding these principles; and (ii) apart from the individuals own identification with any particular groups or institutions.[8] Critical-reflexive ethico-political orientation is thus fully apt only for world citizens.

Normative validity is of course different from the actual course of history. Collective learning occurs via political debates and struggles that can take the form of: consensus or compromise agreements; dialogues and debates; majority-decisions; manipulation of the background context; outright force; or a combination of these. Typically asymmetric relations of structural power favour quite systematically a particular outcome. Moreover, history is open-ended: even if an end-point should have been achieved, the future must remain open. In this critical-reflexive sense, there is nothing final about any particular historical *telos* such as global democracy realized within the framework of a planetary political community of some sort. Thus understood, global democracy is not the only purpose or the ultimate end-point of human history; but it provides a normatively compelling direction to the world history in the 21st century.

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[8] Kohlberg and Habermas use the term 'post-conventional' rather than 'critical-reflexive'. At the conventional level, maintaining the expectations of the relevant community is perceived as valuable in its own right. The attitude is not only one of *conformity* to personal expectations and social order, but at a higher level also of *loyalty* to it. Conventional-level reasoning does not enable law-making in any rational sense as there are no extra-conventional public reasons to draw on (only beliefs justified in terms of tradition or sacred texts etc.). At the post-conventional level, however, norms are justified from a universalising perspective that is independent from any particular group or identity, which nonetheless may remain relevant considerations in moral reasoning, but only through universalising principles. At the post-conventional stage 5, utilitarian and contractual considerations are possible; and at stage 6, right is defined by the decision of conscience in terms of self-chosen ethical principles, such as in Kantian ethics. Stage 6 also corresponds to the Rawlsian principles of democratic justice. Stage 7 – discourse ethics – stresses that also ego and conscience can be criticised. 'Only those norms can claim to be valid that meet (or could meet) with the approval of all affected in their capacity as participants in a practical discourse. […] For a norm to be valid, the consequences and side effects of its general observance for the satisfaction of each person's particular interests must be acceptable to all' (Habermas 1990b, 197).

Collective learning anticipates a *telos* of world history in which all others are recognised and constituted as fully autonomous subjects with a legitimate social standing in relation to the Self. This *telos* can only be realized within the framework of common planetary institutions. However, global solidarity and common institutions would raise a new problem. Can there be any solidarity without a common identity at some level of human beingness? Is a shared global political identity possible only if it implies different outsiders, understood largely in negative evaluative terms, perhaps antagonistically as enemies? Would a global identity thus require outsiders to the humankind as a whole?

Arash Abizadeh (2005) explains how many of the standard arguments, according to which collective identity presupposes human others, are fallacious. Followers of Hegel tend to commit the fallacy of composition. Even though individual self-consciousness may require recognition by others, and although the identity of individuals may be dialogically constructed, it does not follow that collective identities are constructed in the same way. Collectively, nothing else is required than the mutual recognition of, and dialogues among, the individuals and groups who form that collective identity. It is admittedly true that international legal sovereignty (which is a collective identity) presupposes recognition by another sovereign (another collective identity), but international legal sovereignty is a contingent geo-historical institution, not a metaphysical or trans-historical truth. Furthermore, the followers of Carl Schmitt infer the actuality and effectivity of collective physical violence from its abstract possibility and thus in effect define politics in terms of war. The Schmittians thus reify a contingent outcome as an eternal truth about the nature of politics.

However, I concur with the post-structuralists that in human language and reasoning negativity and thus some "othering" is inevitable. Thus it is essential to go beyond demonstrating negatively the possibility of a global identity; we should also ask 'possible yes, but exactly how?'. If some othering is inevitable, what are the possible structures of a global identity-construction? There are basically three options. Firstly, otherness can be placed outside the human species and planet Earth. The cosmic viewpoint provides an important source – even a foundation – for global identity although this is not a sufficient solution to the problem of identity (see Patomäki forthcoming a). For instance, calls for global solidarity in the face of rapid global warming (e.g. UNDP 2007) assume a shared planetary identity across the currently

prevailing differences and divisions. Environmentalists correctly maintain that all humans share an important thing in common: planet Earth and its sphere of life to which we humans essentially belong. Our cultural differences are built on a shared cosmic and biological basis. Thus a possible argument for global morality and thereby for planetary identity involves an idea that we should work together as a species to preserve and cultivate life and the human potential on a planetary scale, and even beyond, on a cosmic scale.

Secondly, otherness can be located either in our own past or, alternatively, in our contemporary being, when seen from a point of view of a possible future position in world history. As any process of identity-construction is temporal, this constitutes a fruitful perspective, but does not address all the key problems or tackle the onto-logical underpinnings of the standard identity-theories. There is thus, thirdly, a need to rethink the basic onto-logic of identity from a perspective that is compatible with an emerging framework called Big History (Christian 2005; Patomäki & Steger forthcoming). Utilizing the concept of a horizon of moral identification and developing further Todorov's axis of self-other relations, it is possible to outline a cosmic, temporal, and relational conception of global identity based on both positive and negative elements.

Temporalising identities

Any identity is always temporal, not only in the simple sense of being located in time (and space), but because ethico-political identity discloses itself as sameness over time that can only be established in and through narratives that the actors are telling (cf. Ricoeur 1992: chps 5-6). Modern collective identities are constituted through geo-historical stories of actions and characters. It is the identity of the story that makes the identity of the actor and character (ibid.: 148). From a temporal perspective, although othering may in some sense be inevitable, the most relevant identity-constituting others need not be those contemporary humans on the planet Earth who are in some regards different from us, whoever we are.

Otherness can also be located either in our own past or, alternatively, in our contemporary being, when seen from a point of view of a possible future position in world history. In other words, what we are can be defined, through stories, in terms of critical distance from what we once used to be. And what we may become and would like to become can be defined in terms of critical distance from what we are

now, in terms of stories involving possible and likely future developments. Critical distance from one's own past entails the possibility of normative improvement and ethico-political learning and development. A key to a successful overcoming of violent antagonisms seems to lie in collective learning via mutual self-criticism. If one looks deep enough, the history of every group, every class and every country is filled with episodes that not only could but also should have been otherwise. In that sense it is always possible to locate layers of negative otherness in one's own collective past – and from a universalizing perspective, we know that this applies to everyone on the planet. At this level of universalization, critical distance from one's own identity and from the prevailing ideas and practices of one's own society does not mean inverting established hierarchies or oppositions, but rethinking the hierarchies and oppositions in terms of higher-order identities.

A potentially even more important possibility is locating otherness in our contemporary being and identity, when seen from a point of view of a possible future position in world history. As Wendt (2003) argues in terms of the 'struggle for recognition' story:

> […A] world state could compensate for the absence of spatial differentiation between its present and its past […]. The past here is anarchy, with all its unpleasantness. In Hegelian terms we could say that 'history' becomes the Other in terms of which the global self is defined. Of course this Other does not have a subjectivity of its own, and so cannot literally recognize the world state. But a functional equivalent to recognition can be achieved by an act of temporal self-differentiation. (Ibid., 527)

For Wendt the temporal self-differentiation would occur in the future when the world state is established. However, the idea of temporal self-differentiation and otherness can be made concrete already now by imagining for instance a future historian or sociologist looking back. This device has been successfully utilized in some science fiction writings (e.g. Brunner 1971; Wagar 1999). The act of imagining a future historian generates far-reaching questions about his or her identity, about our identity, and about the truth of his or her historical stories and explanations. Arguably, our future historian is likely to identify with the planetary political community as a whole, possible extending his or her moral horizon even way beyond Earth, and looking at the human past from this kind of a global vantage point. A leap ahead into the future seems thus to suggest a standpoint of some sort of global history. This general standpoint does not stop interpretation of history from being

contested. As in any political community, history will be periodically re-interpreted and constantly debated also in a future global political community.[9] But in contrast to more limited histories, world history covers the planetary history of humanity in its entirety.

Already half-a-century ago, Karl Jaspers (1953) argued that the world is now a single unit of communications. This, he assumed, gives rise to a growing drive toward political unification, maybe through mutual agreement in a world order based on the rule of law. For Jaspers, this constitutes the beginning of the world history proper. It is 'the spiritual and technical acquisition of the equipment necessary for the journey; we are just setting out' (ibid., 24). This setting out can be a long process from the limited perspective of a human life-time. It started before Jaspers and continues in the 21st century. It also entails a new understanding of the human past. H.G.Wells worked on the idea of a universal history already after the First World War. In his two-volume *Outline of History*, Wells argued for the importance of shared historical ideas. "Swifter means of communication have brought all men closer to one another for good or for evil" and thus "war becomes a universal disaster". However, there can be no common peace and prosperity without common historical ideas; a sense of history as the common adventure of all mankind is necessary for peace. (Wells 1920: v-vi)

There had been universal histories – presentations of the history of mankind as a whole, as a coherent unit – before Wells, but most of them have told the story in Eurocentric terms, often assuming or suggesting that a particular (Christian or) Western society constitutes the end-point

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[9] To this extent I agree with Bruno Latour (2004) who criticizes objectivist cosmopolitanism and argues for explicit *cosmopolitics*. For Latour, cosmopolitics recognizes the radical pluralism of understandings and the fact 'that the parliament in which a common world could be assembled has got to be constructed from the scratch' (ibid., 462). This goes a bit too far, however, and ignores both the shared geo-historical background of the gradually evolving human capabilities and the recently emerged global industrial civilization. Since the inception of agriculture and early civilizations, common human learning has included fire, tools, characters of writing, numbers, the rule of three, numerical function, domesticated animals and, later, many other technologies and abstract cultural conceptions. The contemporary industrial civilization is more global and comprehensive than anything that has occurred before. (See Braudel 1995 8-14) Thus we have multiple histories and cultures in the context of a single scientific-technological and politico-economic global civilization that includes a number of international, regional and global institutions (for a discussion on the proposals for a practical world parliament from this perspective, see Patomäki 2007). Although Latour thus overstates his case for radical relativism and for the need to start from scratch, I concur that all attempts to narratize world or global histories are, and will be in the foreseeable future, mediated by the pre-existing multiple cultures. Indeed, it is a limitation of my paper that all examples of global histories/stories come in practice from within the Western culture.

of world history. In contrast, Wells framed the world history cosmic and biological terms and imagined a future world society, indeed a world state, thus providing an entirely new, future-oriented vantage point. Wells' angle remained unique for most of the century.

The late 1980s saw a systematic and globalist critique of Eurocentrism rising. The colonizers' model of the world – Eurocentrism – is based on a simple and yet false assumption: all important concepts, practices, technologies and capacities have emerged from Europe or from Europeanized parts of the world. Originating in Europe, the central concepts, practices, technologies and capacities have subsequently diffused to the rest of the world. Thus, world history is presented as the history of how the central dynamics of cultural evolution moved gradually from Mesopotamia westwards via Greece and Rome towards North-West Europe and, later, towards the United States of America. The decisive achievements of the great Eurasian civilizations of Arabia, China, India, Japan and Persia have thus been largely neglected and the parallel developments in Africa, Americas, and Pacific mostly ignored. (Blaut 1993; Blaut 2000) The critics of Eurocentrism have argued plausibly that this is a biased and one-sided account of the common adventure of all mankind (Amin 1989; Frank 1998; Hobson 2004; Needham 2004; Pomeranz 2000).

The starting point of the non-centric and neo-Wellsian Big History is that human societies remain part of cosmos and nature, 'properly at home in the universe despite our extraordinary powers, unique self-consciousness, and inexhaustible capacity for collective learning' (McNeill 2005: xvii). McNeill argues further that as natural sciences have been historicized at many levels, it is now the task of historians – and social scientists – to generalize boldly enough to connect their area of study with the history of the cosmos, solar system and life. David Christian's (2005) *Maps of Time. An Introduction to Big History* is a unified story of developments of the whole universe from the Big Bang about 13 thousand million years ago through the present into its distant future (see also Brown 2007). The story of Big History is about the emergence of new layers of qualitatively distinct beings and development of increasing complexity locally – against the background of the second law of thermodynamics that tends to work against complexity in the cosmos as a whole (see also Kauffman 1995; and Wheeler 2006). From this perspective, it is evident that life on Earth emerged from cosmic evolution (although we do not yet know the details as of how) and humanity from biological evolution (this part is better known). This amount to a modern creation myth with a cosmopolitan intent, told in scientific terms.

The so called modern time has been the most dramatic era in the common adventure of all humankind thus far. The Eurocentric waves of globalization – starting with the imperial reintegration of the American continent with Europe and continuing with the late 19th century and early 20th century waves of neo-imperial expansion – have intensified the new global coming together of humanity, even if characteristically under violent, oppressive and tragic circumstances. The Industrial Revolution led to a rapid global population growth from one to nearly seven billion people today; this growth continues at least until the benchmark of nine billion will be reached probably in the early 2040s. Simultaneously, the Industrial Revolution also complicated and obscured the connection between available resources and control over land.

From a Eurocentric perspective, the 19th century appeared exceptional because for the first time in centuries there were long periods of absence of war in Europe. Outside Europe the situation was different, not least because of the consequences of European expansion and competition. The core of the industrializing world economy seemed to have become relatively peaceful, although its outward expansion was violent. However, since Napoleon, imperialism had been a bad word. Many liberals anticipated the end of the colonial era. Although in industrial capitalism there are also mechanisms and processes that tend to generate analogical outcomes – imperial competition and wars – these remained, by and large, unrecognized by Europeans. In the background, industrialization created also new forces of destruction. The North-American civil war of 1861-5 and the Franco-German war of 1870-71 were the first modern industrial wars (for a discussion, see Giddens 1987b: 222-232).

Despite recurring wars in the colonies, the rise of neo-imperialism from the 1870s onwards, and subsequent armament race, the First World War came as an immense surprise to most Europeans. Thus the 20th century, 'the age of extremes' (Hobsbawm 1994), began with a largely unanticipated catastrophe, recurring on a truly global scale in 1937-1945. The Russian revolution is unlikely to have occurred without the war (and German support for the Bolshevists). Thus, also the Cold War was a co-product of the First World War and its aftermath. It was at this time that humanity reached the technological capacity to destroy itself and large parts of the ecological systems of the planet; and it was at that time that world history proper emerged for the first time.

In a rather Wellsian manner, Big History is necessarily oriented also towards the future. Among other things, it presupposes the possibility of collective learning and anticipates possibilities such as global

security community and much better governance of common global processes and problems. These kinds of anticipations amount to the process of unification of humanity at least in some form, although Christian (2005), like so many others, remains agnostic about the possibility of a world state. Big History frames world history in planetary and cosmic terms and imagines a future PPC that may also assume the form of a world state, thus providing a new vantage point for writing history and viewing ourselves. From that perspective, what we are now – whoever we may be in terms of our identity – constitutes a form of possibly negative otherness.

Redefining the three axis of self-other relations

Big History may provide a rough framework for thinking about who the 'we' are, but it cannot – and ought not try to – abolish historical and cultural differences within humanity. Moreover, togetherness not only creates new points of contact but may also engender new points of conflict. In view of the legitimacy potential for a PPC, there is thus a need to rethink the basic onto-logic of identity from a perspective that is simultaneously compatible with (i) the post-structuralist and other critics of false universalisms and (ii) the possibility of collective learning and Big History. Ontologically, as the world is differentiated, structured and layered, and since it is the condition of being in general that there are absences, level-specific voids, differences, contrasts etc, there must always be certain differences, contrasts and exclusions also within humanity. Among other things, these differences translate into contestations over the validity and substance of narratives about human history as a whole.

Usefully, Tzvetan Todorov's (1984) has distinguished among three axes of ego/alter-relations. The first is the epistemological axis. Ego can either know or be ignorant of alter's history, identity and values. Knowledge or ignorance of the other can also have deep epistemological roots. From many standpoints, differences are difficult to see. Answers to the question 'how can and should we acquire knowledge?' enable and constrain visions and knowledge of the others. Of course, there can be no absolute knowledge but an endless gradation of the lower or higher states of knowledge, including in self-knowledge. Nonetheless, in the contemporary world, the viewpoint of Big History means better knowledge of the others; it also gives grounds for refashioning systems of education along non-centric and globalist lines. At least in the epistemic and epistemological axis, Big History implies improvement in self-other relations.

Nonetheless, the axiological axis, the basis for value judgments, is partly independent of knowledge. The other can be seen as good or bad or neither (something else). How and on what basis this judgment is made varies significantly. Todorov discusses judgments of otherness and their grounds in the context of the 16th century Spanish debates about the Americas. The Spaniards had encountered radical otherness, humans who for a long time had been totally isolated from the Old World developments. In Todorov's (1984, 185) view, 'Las Casas knows the Indians less well than Cortés, and he loves them more […]'. Thus better knowledge does not necessarily imply more favourable judgments. Empirical descriptions can be unfavourable in relation to cultural background assumptions or prevailing moral reasoning, and especially a judgment on the ontological status of others. Thus, it is critical whether the other is judged to be an equal or a 'lower' being. Modern progressive time – and the idea of stages of development – has often defined the status of self (advanced) and others (inferior). This is ethico-politically as consequential as a set of standards based for instance on imperial or religious civilization.

Big History allows for learning and advancement in human history. Do claims to collective learning justify colonialism or imperialism? For instance, although especially advanced or original in some fields, by and large the American 'Indian' civilizations of the 15th century were quite similar to the ancient Eurasian civilizations of 3,000-1,000 BC. In that sense, the Spanish colonizers met something of their own past in the Americas. In this situation, Sepulveda saw a clear hierarchy of non-developing beings, justifying slavery, whereas Las Casas argued that the Indians have rights because they are in some ways actually, and in other ways potentially, Christian, i.e. ultimately the same as us. Is it possible to overcome the problematic the 16th century Spaniards faced?

Even if it was true that social and cultural developments of humans have gone through rather similar – but non-synchronic – structural phases in different parts of the planet, temporal advances in terms of ethico-political learning do not justify ethico-political hierarchies, violence or repression. To the contrary, with a sufficiently wide horizon of moral identification, Las Casas could have made an alternative argument in favour of the Indians. First, he could have deepened his argument about the shared core humanity. Las Casas (1992/1542, 127) talks about his 'fellow-men', but he could also have acknowledged that the socio-cultural development of the Amerindians had been slower and to some extent different because of contingent simply because of structural and path-dependent reasons. If anything, the parallels and advances were surprisingly similar.

Secondly, Las Casas could have pointed out that the Amerindians were not only less advanced in some ways but their civilizations involved characteristics that the Old World had either forgotten or had never developed, i.e. learning from the cross-Atlantic others remained possible. 'The destruction of the Indies' was not only a moral problem; peaceful interaction could have benefited both parties (moreover, the Europeans could probably have access to useful plants, silver and gold also by means of trade and voluntary contacts). And thirdly, Las Casas could have made it clearer that notwithstanding the backwardness of the local state-formations, the land in the Americas belonged to the Indians. As Kant later formulated the idea (see Muthu 2003: 172-209), the native people were only obliged to follow the principle of hospitability towards the Europeans; and this is all the Europeans could have legitimately expected (and perhaps not even that given how quickly they breached the rules of civilized guests). Why should temporally 'backward' and, at any rate, different humans be deprived of their entitlements even when there is no established private ownership of land?

Of course, the analogy to the 16th century situation is partial at best; the terms of the debate are very different in the 21st century context of global communications. In the early 16th century Spain it was natural for Las Cases to appeal to the Bible in making a case for the AmerIndians; in the 21st century debates the audience is much wider, often global, and this necessitates trans-cultural and ecumenical arguments (cf. Alker's 1996: ch 4, assessment of Las Casas relevance in contemporary international studies).

Fourthly, Las Casas could have argued for time to let the Indian societies develop gradually on their own terms. Over time, the Indians would have joined the rest of humanity anyway. It is likely that some of them would have turned fairly soon to the Europeans, perhaps in order to get support against their local oppressors and exploiters (violence, human sacrifice and slavery was common). Unfortunately, the real tragedy is that any contact with Eurasians would have exposed the Amerindians to the diseases of the Old World and thus led inescapably to a massive catastrophe. Vaccination against smallpox was invented only in 1796, three centuries too late.

Todorov's third axis, the praxiological axis, has to do with rapprochement with or distancing from other's real or imagined identity and values in practical terms. Neutrality or indifference is a possibility and this implies the capacity to take critical distance metaphorically and sometimes also literally. Todorov (1984, 185) argues that in the absence of distance-taking there are only two

possibilities: either the ego embraces the other's identity and values and identifies; or the ego identifies the other with himself. These options imply either submission to the other or the other's submission to oneself. Todorov fails to give ethico-political room to the idea that their identities can be co-constitutive but not exhausted by their mutual relations; and to the possibility that interaction between ego and alter may over time transform both.

Nevertheless, later in the book Todorov writes (ibid.: 249), albeit somewhat hesitantly, that 'we want equality without its compelling us to accept identity; but also difference without its degenerating into superiority/inferiority'. This opens up further positive possibilities but nonetheless ignores temporality and the idea of being as becoming. Any particular human ego and alter are moments in the common adventure and cultural evolution of all humankind. Thus the category of a co-constitutive and mutually transformative relationship between ego and alter should be included in the possibilities, and its centrality for the shared identity stressed. Within a higher level identity-in-difference, a co-constitutive and mutually transformative relationship between self and its others can involve letting many differences just be.

Conclusions

In this paper, I have argued that while the standard security-military and functionalist political economy arguments for planetary unification and political community may work to a certain point, after that they tend to become irrelevant, counterproductive, or even self-defeating. What ultimately matter are the moral standards and political judgements that constitute multiple political actions and struggles in a future PPC. Moreover, this is not merely an empirical, Weberian problem. The problem of legitimacy is also normative: whether and why a given order or system *deserves* the allegiance of its members?

Mere security or functionalist benefits, especially if perceived in terms of rationally calculative orientation of action, are not enough. There must also be a belief in normative legitimacy, which may be anchored in universal principles such as popular democracy and human rights. In this light, I have explored theories of civilizing process and stages of ethico-political learning. Collective human learning not only explains the quest for democratization but also points towards cosmopolitan moral sentiments. However, there is an internal relationship between democracy and identity, and identities tend to be

particular. Global-democratic 'self'-determination presupposes a 'we' and 'us'. Who is this 'we'? I have made a case, first, for thinking that otherness can be located in our own past or, alternatively, in our contemporary being, when seen from a point of view of a possible future position in world history. Second, within a higher level identity-in-difference, a co-constitutive and mutually transformative relation between self and others can involve letting many differences just be. Cosmopolitan, planetary identity implies the acknowledgement of irreducible differences within humanity itself, however unstable and changing they may be. Moreover, these differences can also be seen as drivers of further human learning – also concerning our place in the wider cosmic scheme of things.

Finally, it is important to stress the concrete political economy conditions of identity. In the early 21st century, global togetherness in the sense of practical possibilities of travel and communication remain possible only to the wealthiest part of humanity. Therefore concrete attempts to facilitate a global security community and build democracy should be based on an explanatory analysis of the (re)production of causally efficacious relational practices and structures of the global political economy. Adequate explanations can provide emancipatory knowledge and practical wisdom for actors, co-generating power to transform social structures and making them more empowering in the future.

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The Turtle that Came Too Late

Zoltán Pogátsa

Introductory courses into European integration, an immensely popular subject across Europe, generously supported from Brussels sources, usually mention the 1951 Treaty of Paris, establishing the European Coal and Steel Community as the starting point of the European project. The main heroes of the narrative are Jean Monnet and Robert Schuman, the two Frenchmen who initiated the setting up of this common organisation.

The presentation of events this way serves a particular purpose. To first time students across the continent the history European integration after World War Two is presented as a coherent, linear unfolding of events from the lessons learned from the trauma of the Great War, leading straight to the creation of the European Union in 1992, and beyond. Yet in reality this history is anything but coherent, and far from linear. In this chapter we shall argue that contrary to popular beliefs and the vehement propaganda of Brussels, the European Union has not developed into a supranational political unit. It does not possess most of the attributes ordinary citizens tend to read into it. In fact it is little more than what the business pages of British newspapers often call it – a European trading system.

The origins of the process can no doubt be traced back to the experience of the Second World War. Although there had been various ideas put forward to unite parts or all of Europe, it was only at the end of this tragic war that it really sank in in the minds of ordinary Europeans and their leaders that something needs to be done to leave behind the Westphalian rivalries that had plagued the continent for centuries. While other parts of the world, most notably the United States was advancing rapidly in all fields, Europe periodically destroyed itself in senseless wars, while being overtaken by others in terms of economic might. The first calls for unity were therefore really and truly federalist. Most notably amongst these, as it is well documented in countless histories of post WW2 Europe, were Winston Churchill, who gave a now famous speech on the subject, the former Italian resistance fighter Altiero Spinelli, who became the head of the European federalist movement

after the end of the war, or the first post-war German Chancellor, Konrad Adenauer, who steered his part of divided Germany firmly into the European integration movement. The federalist ideal was to transfer sovereignty from the level of the competing nation states, which, in view of recent history, could not be trusted, to a supranational level. Yet in view of such ambitious goals, the actual initial developments in the late forties and in the fifties might strike the student of European integration as being relatively modest.

A large number of initiatives were launched after the end of the war to create the desired pan-European political institutions. Yet nothing came of them. The most significant defeat was the abandonment of the Pleven Plan (championed by French premier René Pleven, but like the Schuman Plan, also drafted by Monnet) for a supranational European army within a newly created European Defence Community in 1952. The initiative would also have created a European Political Community as a wider framework. A similar organisation, the Western European Union had actually been set up in 1948, but it has been relatively dormant ever since. By the middle of the 1950s the continent looked more like a breaker's yard (McAllister, 1997) than a construction site, full of ruins of institutions that never took off the ground.

As we have already mentioned, the one institution which did become a reality was the ECSC of 1951, later curiously canonised as the origin of European integration. The agreement, a result of the famous Schuman Plan, named after the French foreign minister of the time, drawn up by his advisor Jean Monnet, outlines the shared production of coal and steel between Germany and France. Although the Benelux countries joined their larger neighbours in the initiative, as did Italy in an attempt to break out of international isolation, the European Coal and Steel Community was a far cry away from any superstate. What it really was can be explained in a number of ways. As a politically motivated venture, it was an attempt to monitor German production coal and steel, the two materials most needed for war, in order to make sure the defeated country does not rearm. The ECSC is therefore often sold in federalist integration narratives as a primarily political project, and can therefore be fitted in as a convenient, if somewhat strange, starting point. However, since the Allies were in effect occupying powers in the Western part, they would have had other means of making sure this Germany did not rearm.

An alternative description of the ECSC makes use of the typically French concept of *indicative planning*. This method of economic coordination had been developed in the United States, based on a British model. The immediate reason for its introduction was the war, the

necessity to manage the home economy, to turn civilian industrial capacities towards producing a gigantic amount of armaments in a very short period of time, and the need to stop prices from spiralling out of control due to steeply accelerating demand. As it is clear from retrospective analysis (Parker, 2005, pp. 146-152), it was also an opportunity to try out state intervention of a Keynesian inspiration in real life. Jean Monnet had worked in America during the war years, first attached to the British mission there, then as the regulator of aid to the free French forces fighting against the Nazis. After liberation, Monnet was appointed to head the new national development plan, the *Plan de Modernisation et d'Équippement*. The principle of indicative planning was widely applied in France in the initial peacetime years, helped not insignificantly by the fact that Monnet managed to channel American aid and loans towards financing projects in the plan he directed (Gillingham, 2003, p. 21.). Based on Monnet's intentions, the method was then also extensively used in the ECSC framework to control prices and production in the coal and steel sectors. A third explanation of the Coal and Steel Community refers to Monnet's approach of *sectoralism*, an attempt to forge better relations between countries by integrating certain economic sectors. This forms part of a greater project that is usually referred to as *functionalism*. This general approach has at its starting point the realisation that a political, federal Europe cannot be forged directly. This was simply too much for politicians in the nation states, whatever their initial leanings had been right after the war. A United Europe therefore has to be created by other means; almost by stealth. If we could integrate these states in areas which are less visible and less politically sensitive (such as trade, environment, etc.), they would be joined together by a thousand invisible threads, and at some point the realisation might arise that they might as well unite politically, since there is precious little to separate them in areas which matter but are less symbolic than culture or outright political institutions. There was even the assumption that one area of integration would pull with it another one, almost like an automatism (Haas, 1958). This was labelled a *spill over* in integration theory, a mechanism through which it was believed a federal Europe would eventually come about. Functionalism is therefore not a complete alternative to federalism, just a roundabout way of achieving the same thing.

The real alternatives were either a Europe of nations, *intergovernmentalism*, as it came to be called (Moravcsik, 1993), and radical nationalist isolationism, which meant total opposition to any kind of association between national states. This latter is sometimes referred to as euroscepticism, although this is a problematic term, since some

sceptics might actually be for cooperation, but not in its existing form. At the same time some of those who are opposed to the idea of the EU altogether (such as Le Pen, Haider, the BNP, or indeed nationalists from any EU state) are so vehemently against it, that scepticism seems a very euphemistic term to describe their zeal.

Pro EU			Anti EU
Supranationalism		Intergovernmentalism	Eurosceptics, nationalists
Federalism	Functionalism		

Table 1 - Different narratives of European integration

Whichever explanation or description of the Coal and Steel Community we accept, we are still left perplexed why this rather limited, sectoral organisation would come to be identified and canonised as the point of departure of today's European Union. Without a doubt it was the first organisation built on supranational principles, and it did establish the *High Authority*, the *Common Assembly*, the *Special Council of Ministers* and the *Court of Justice,* the seeds of today's defining institutional setup. However, the underlying principles of this particular organisation had little overall effect on the essence of cooperation, and after being merged into the European Communities in 1967, and into the European Union in 1992, the European Coal and Steel Community peacefully expired in oblivion on 22 July 2002.

The organisation that did in fact grow to dominate the narrative of the European integrative process was the European Economic Community (EEC), created in 1957 with the Treaty of Rome, until today the most important international treaty in post-war Europe. This organisation had a very different logic to it from what Monnet had wished for or advocated. The creation of the EEC was preceded by the famous Messina conference in Southern Italy. It is interesting to trace back what exactly happened at that famous meeting. The idea of the EEC, based on a free trade zone and a customs union, was actually proposed not by Monnet or the French, but by the Benelux countries, who had had such cooperation since 1948. European leaders gathered at Messina then appointed the Belgian foreign minister Paul-Henri Spaak to prepare a report outlining the possibility of creating a Europe-wide customs union. The French were originally even opposed to the idea, as they felt a free trade zone built on liberal economic principles would be incompatible with their dirigiste and plan based domestic economic policies. Monnet and his colleagues were focused instead on Euratom,

once again a sectoral agency overseeing the civilian use of nuclear power across borders. As much as they believed this area to be the key issue of the future, Euratom never really created any real excitement, and was later completely overshadowed by the Economic Community both in importance and visibility. Yet both organisations were ratified in the Treaty of Rome by exactly the same group of countries who had signed the Paris Treaty six years earlier.

 In reality, it was the free trade area idea that laid the foundations for future union as we know it. When the UK was kept out of the EEC, it organised its own trading system, the European Free Trade Association (EFTA), with a membership of seven. Hindered by geographical discontinuity, this organisation never really developed any further, and was later merged with its rival both formally (creating the additional entity of the "European Economic Area" to make life difficult for students of integration), and through most of its members eventually ending up inside the EU.

As opposed to the ideas of planning, sectoralism and functionalism that dominated the ECSC and Euratom, the underlying logic of the European Economic Community was market based and neoliberal. Although deliberately blurred by official EU hagiography of Monnet and Schuman today, it is really the Benelux and the free trade ideal that is the real source of European integration as we know it today. The Paris Treaty and the two Frenchmen, although clearly not without any merits, have been made centrepieces of the Brussels orthodoxy for two important reasons. On the one hand their presence helps portray France as being at the heart of European integration ("the engine"), and on the other hand it allows for insistence on the façade of the EU as a supranational institution, and much more than a European trading system. As we shall see in later chapters, in reality it is hardly more, even today. In the long run the ECSC and Euratom turned out to be mere inherited appendages to the Economic Community. They were merged in 1967 to create the European Communities – in plural.

This line of development, much like its alternative, EFTA, fitted very well into the general worldwide trend of liberalism after World War Two. On the global level there was the General Agreement on Tariffs and Trade (GATT), brought to life in 1948 as part of the Bretton Woods system. Its main objective was the reduction of barriers to international trade, achieved through the reduction of tariff barriers, quantitative restrictions and subsidies on trade through a series of agreements. GATT itself was a treaty, not an organization, but due to its continued success its functions were later taken over by the World Trade Organization (WTO). The European Communities became a founding member of the

WTO in 1995, and the European Commission continues to negotiate in representation of its members in matters of trade. As a step forward from the agenda of GATT, the WTO has expanded its scope from traded goods to trade within the service sector and intellectual property rights. Its European counterpart was the Organisation for European Economic Co-operation (OEEC, 1948), led by Frenchman Robert Marjolin, to help administer the Marshall Plan, for the reconstruction of Europe, after World War II. Monnet himself was associated with the OEEC, and at one point advised the organisation to allocate aid to recipient countries based on French style indicative plans (Gillingham, 2003, pp. 21-22). However, this never happened, and the OEEC actually became a high level discussion forum for free trade. It later widened its membership to non-European states to become the Organisation for Economic Co-operation and Development (OECD, 1961).

As for the European Communities, the federalists have never given up. The debate between the free trade intergovernmentalists and the political federalists has never ceased to exist, but the actual evolution of the formal corpus of the EU makes it little more than an economic regime. This is something that very few realise, and even less dare to point out. A significant victory was achieved by the first President of the Commission, German law professor Walter Hallstein. His team, made up of dedicated federalists, created a confusing and complex labyrinth of bureaucracy to include areas in the work of the Commission that went much beyond the originally intended functional areas of the EEC partner institutions. This was justified by the principle of spill over, the conviction that one area of integration would inevitably have intended and unintended consequences in other areas as well. This is the beginning of a rather problematic tradition in Europe of creating a large number of carton institutions, many of them empty behind the façade, generating intransparency, and a sense of perplexity in the European populace as to who does what and who really does anything. (This habit was taken to new extremes later, after the creation of the Union in 1992.) Hallstein's main contribution, however, was not so much the expansion of the activities of the Commission, but achieving general acceptance for the idea of European community law, hierarchically above national legal systems. Hallstein found the basis of this globally unique system in the Treaty of Rome, which turned the European Court of Justice (ECJ), set up at Paris six years earlier to issue rulings related to the coal and steel industries, into a community institution. The Court asserted the existence of community law through a number of decisive precedent cases. In the landmark case of Van Gend en Loos in 1963, the ECJ ruled that the European Community, through the will of member states expressed in

the Treaty of Rome, "constitutes a new legal order of international law for the benefit of which the states have limited their sovereign rights albeit within limited fields" (Van Gend en Loos ECR1, 1963). The creation of a pan-European legal system with direct applicability in the member states is probably the single most important contribution towards a future Federal Europe. It secures irreversible rights to the community bodies, the High Authority and the Assembly (later the Commission and the European Parliament) to increase their influence over European matters. These legal competencies, together with the activism of the Commission in the Hallstein style have allowed the expansion of community decision making into areas which had originally not been intended to be supranational. These areas include most notably agriculture, but also regional policy, employment policy and the environment. Decades later, the community even ventured into areas such as justice and home affairs, and became rather successful at it. There are also a number of policy areas into which the federal level has stuck in a foot, but has never quite managed to master it. These include a very wide range of subjects such as transport policy, energy, research, and even audiovisual policy. Monnet at some point even managed to convince the Commission that it should introduce indicative planning on a European scale. The Medium Term Economic Policy was launched as a means coordinating member states' policies, but by 1964 it was clear that it would fade away and not become one of the central aspects of European integration (Holland, 1982). However, the tendency to expand their competencies has inevitably locked the Commission and the Parliament into an ongoing struggle with the Council, the decision making body of prime ministers and heads of states representing members. The resulting compromise is a set of confusing decision making processes that combine both community and intergovernmental decisions in ways that are extremely difficult to grasp and keep in mind for European voters. Not only is this setup intransparent, adding to the so-called 'democratic deficit' of the Union, but as we shall prove, it also hides the fact that key decisions are in fact almost always made by the Council. In spite of the increasing power of the community institutions, even today's European Union is a dominantly intergovernmental (Moravcsik, 1993) organisation. Hallstein and his successors have been right in pointing to the famous opening passage in the Rome Treaty on 'ever closer union' in the sense that the powers of the federal level have indeed increased over time, but only to the degree and in the areas where the member states have felt convenient to let go of their privileges.

A further boost to the essentially liberal, economic nature of European integration came with the 1986 Single European Act (SEA),

agreed to by member states with the view to eliminate obstacles to a single internal market by 1992. Although usually connected with the name of Commission President Jacques Delors, a former French Christian Socialist minister of finance, the drafting of the SEA was actually the work of the lesser know British internal market commissioner, Lord Arthur Cockfield. In fact the SEA was the rare element of European integration that Margaret Thatcher wholeheartedly endorsed, calling it "the foundation upon which everything was to be built" (Thatcher, pp. 372-373). The central aim of the SEA complemented very coherently the neoclassically inspired domestic policies of Prime Minister Thatcher, of whom Lord Cockfield was a close associate. The SEA aimed at the removal of non-tariff barriers to trade, including domestic regulations, a move towards free trade in services, the elimination of customs procedures, harmonisation of industrial standards, the opening up of public procurement in member states to competition from within the community, as well as setting strict limitations to trade distorting state aid. The Treaty also endorsed the principle of mutual recognition of products, first stated in the notable European Court ruling in the Cassis de Dijon (Cassis de Dijon ECR 649, 1979) case in 1979. The only odd feature of the SEA not in line with free trade principles is the reintroduction of qualified majority voting, although limited only to matters of the internal market, and not pertaining to fiscal issues (a concession made admittedly to the British). This feature weakened the grip of the Council to some degree vis-à-vis the Commission, and was a step away from the 1966 Luxembourg compromise, when General de Gaulle had managed to de facto eliminate qualified majority voting in the decision making of the Council and substitute it with immobilising unanimity. Apart from this single feature, the SEA fits very well into the general zeitgeist of the late 1980s in the Western world, when the market principle reigned dominant.

In contrast to the SEA, which was not in line with his ideals, Delors did later score two successes that moved the community forward in the direction of a real federal superstate. One of them was the Delors Packet, which increased the Commission's competencies, the other the Treaty of Maastricht, which created the European Union and took the federal level into new areas of involvement. The Packet was an attempt by Delors to restructure the community budget managed by the Commission, in order to spend less on the Common Agricultural Policy and more on structural policy, including regional development and employment. This was a much welcome reform, unfortunately unparalleled ever since. Agriculture had grown to dominate the majority of overall community expenditure in a continent where farming was already of only marginal

importance within the economy. The rechanneling of spending to the much more relevant problems of regional disparities and job creation, to be based on the French indicative planning model after Delors, was also a positive development. Unfortunately this reform process has since stalled, CAP is still an enormous burden on the development of the EU, and structural policy has been unable to adapt to the new realities of global competitiveness.

Maastricht was even more of a success than the Packet. Firstly, it created the 'Union' itself. The term is clearly more political, more state like, more federal and potentially broader in content than 'communities', the previous label. It reminded people of the United States and the Soviet Union. All this in spite of the fact that the EU is not a state, and it has not gained that status in the international system ever since. What it really is has been a subject of debate amongst international lawyers and experts of international relations, since no similar elaborate supranational equivalent exists. Although the EU is still based on the member states' pooling of their sovereignty, the acceptance of the nomen was a huge success for euroenthusiasts of the supranational persuasion. It leaves citizens with the impression that their various states are embedded within a larger state, which will potentially grow to encompass all the usual fields of government life associated with a nation state.

And expand it did. The Maastricht Treaty laid out the famous three pillars structure, with all the previous achievements in the supranational first pillar (thereafter the European Community), plus two intergovernmental pillars, that of Common Foreign and Security Policy (pillar two) and Justice and Home Affairs (pillar three). This significance or indeed the mental map of this enigmatic setup has never really been grasped by people outside of the euro-profession. It owed its creation due to a historic compromise between the intergovernmentalists and the federalists. The latter would have wanted to communitise both foreign policy and internal security, but national politicians would not have it. The outcome was the compromise of the pillar structure, which hid the differences from the layman's eye, but provided guarantees of the national prerogative to governments. It has to be added that pillar two, foreign policy, has since turned into an acknowledged blunder, whereas pillar three, justice and home affairs, has silently crept into the first, communitarian pillar. This latter development, broadly connected to the Schengen process of eliminating borders, has led to what is arguably the most successful aspect of the federal EU. It is probably also its most visible and most popular aspect for ordinary citizens.

The Maastricht Treaty had one additional achievement. It laid out the rules for the attainment of the single European currency. The euro is

simultaneously a federalist political and a free trade project. On the one hand it symbolises the readiness of member states to give up a key aspect of their figurative sovereignty to create a world pioneer supranational currency unit. On the other hand it is a way of enhancing free trade between firms in the EU by eliminating conversion costs and risks emanating from exchange rate volatility.

Various waves of expansion have portrayed the EC/EU as an anchor of modernisation and democratisation. The accession of poor Southern European countries in the eighties, coming out of right wing dictatorships, and even poorer Eastern Europeans in the nineties, leaving behind socialist regimes, has elevated the standing of the 'Europe' as both means and end. This is not completely without reason, but as we shall attempt to prove, there is far less in democratic or modernising substance in the Brussels system than is commonly believed. Extremely crudely put, the EU today is essentially a free trade regime, with a huge agricultural transfer mechanism, and a federalistic façade of democratic credentials which it is unable to live up to or enforce. However, it is understood as something remotely different by Europeans in the East and the West. It is even more unclear what they would hope it would one day become.

The process of European integration was a struggle between narratives even before Eastern enlargement. There was a fight between federalists who wanted a European superstate on the one hand, and intergovernmentalists on the other, who wished to retain the power of the nation state. There was a parallel struggle between adherents of the European social model (of a Scandinavian, Rhineland or French etatist kind) and the neoliberal Anglo-Saxon model. The existence of the latter diversity, that of social models, meant that the extent of European co-operation was coded into the agreements. Even though the Treaty of Rome spoke of an 'ever closer union', which would theoretically enable a superstate as its finality, the prevailing system of intergovernmentalism meant that only those elements of the puzzle were put in place that enjoyed universally support from all governments. With the expansion of the organisation from the original six to nine and beyond, this became increasingly difficult. With the addition of Ireland and especially the UK in 1973 the community received its first members who were fundamentally opposed to the idea of going much beyond economic cooperation based on trade. Expansion into the Mediterranean in the eighties added members who were not directly opposed to the idea of a more social Europe, but they were not clearly in support of it either. The next wave of enlargement, usually dubbed Nordic, added countries that were once again fully supportive of ideals such as a socially active state

and sustainability. Thus Europe stood at the end of the milleneum already deeply divided and unable to move on. Everyone felt that the last major step forward was at Maasticht in 1992. There started a wrangling over institutions and decision making that still has not quite ended until today. One reform proposal after another has been put forward, alienating citizens and giving the EU an image of a pointless bureaucracy. While the key questions related to purpose, extent and competencies were still not answered, the EU gained an image that it spent its summit meetings discussing form rather than content. Of course those taking part knew exactly that form is in fact content. Behind debates that appeared to be focused on organs, positions and powers, there lay the question of the future of European integration. Those few in the know understood very well that preserving the never admitted priviliges of the member state governments would limit the EU forever to a liberal trade regime with a few add-ons such as Schengen and environmental policy. Transferring decisive rights and meaningful budgets to supranational organs such as the Commission and Parliament would on the other hand enable the various majorities to move forward into areas such as social rights and equality, sustainability and minority rights. These were the areas that were clearly identified by most analysts as the logical extensions of the already existing acquis, but the reasons for intransigence were also clear.

The EU today is just as much part and parcel of the global neoliberal architecture as the the WTO, the IMF and the World Bank. The reasons why this is not recognised by those opposed to neoliberalism is that there are still alternative hopes attached to it – though less and less. Supporters of European federalism/supranationalism, the European social model, defenders of human rights and the environment feel that the EU is just as much their project as the project of liberal free-traders. This stems either from their lack of understanding of how the EU functions and what it does, or from their unwillingness to abandon a ship they once commanded, turn against it and launch another one.

The EU has in fact been hopelessly hijacked by neoliberalism. Even with the Lisbon Treaty in force, the Council still has effective veto power in all forms of decision-making, including the co-decision procedure, where the European Parliament has the strongest powers. In the Council itself, states reign. Some crucial areas are exempt from majority decision-making altogether (e.g. taxation, foreign policy), while in others the internal culture of the EU prevents the majority principle from actually taking hold. In times when commitment to the Union is weak in most member states, and resentment towards it growing, it is unlikely that a majority of states are going to crowd upon a single member state

(or a small group of member states) in a certain issue, risking to impose a decision that is strongly rejected by the population of that state, risking total alienation.

As a consequence, the governance of the Union is increasingly left in the hands of the member states. The Commission has slipped in significance since Delors, with Barroso voluntarily playing a subservient role, and the Parliament has never achieved real significance in spite of its continuous and gradual strengthening. There has never been a breakthrough for supranationalism, and it is unlikely to happen. Advocates of federalism usually acknowledge this, but typically respond with the argument that building a federal entity takes time and patience. However, amidst circumstances of globalisation time is of essence. One can liken the EU to the slow moving turtle in the Disney cartoon. All the animals of the forest were running up the stairs to a party. The turtle was simply too slow making its way up the high steps. The rest of the animals were already nearing the end of their party by the time he finally made his way up the long flight of stairs. As he stood there at the top, relieved that he has finally made it, the herd of animals suddenly rushed by him the opposite direction. The party was over, the animals were running down the stairs, headed back home. Similarly, by the EU is likely to achieve federalism (if indeed it is headed that way at all), globalisation will make it questionable why solidarity should be organised on a continental basis at all? In the decades following the Second World War, the common characteristics of Europe (social model, welfare state, democracy, rule of law, human rights, sustainability) made it obvious to European federalists why an organisation based on Europe wide solidarity has raison d'être, legitimacy and a role to play both on the inside and the outside.

Amidst circumstances of globalisation, however, it makes little sense to extend and organise solidarity on continental basis and not a global one. This is especially true when the European project is hijacked by the member states, which in turn are captured by elites that favour the Washington consensus.

Turning around the EU is an illusion. Federalisation can only take place if it is accepted by the Council, that is, the nation states. Thus the question of the democratisation of the EU is decided at home, at the level of member states. Since European governments are captured by pro-neoliberal elites to varying degrees (more in the UK and Eastern Europe, less in Scandinavia), it is the intellectual debate between neoliberalism and its various opponents that will decide the fate of EU level democracy. Thus cosmopolitan/global democracy comes before European democracy.

Global Economic Governance and the Limits of Cooperation: Some Lessons from the Multilateral Trading System[*]

Michele Ruta

1. Introduction

In this article I will focus on the governance system of international trade, what is generally referred to as the multilateral trading system. My intention is to make a simple point. The current cooperative system was designed after World War II to achieve a specific goal: trade openness. This "original" institutional design had a quite impressive record in the past sixty years, but without reform it may be unable to address the problems that the new trade environment poses.

As economic history repeatedly confirmed, national governments are tempted to impose border measures – such as tariffs, quotas or other forms of import restrictions or export promotion – in a beggar-thy-neighbour fashion. In the absence of an international treaty that regulates trade policy (i.e. a trade agreement), this is the unilaterally rational thing to do, as it increases national income to the expense of trading partners. However, as this logic applies to all countries involved, the "equilibrium" of this interaction is a "trade war": a situation where trade is inefficiently restricted and global welfare is reduced.

The purpose of a trade agreement is precisely to allow member countries to dig themselves out of the bad equilibrium caused by a trade war. It achieves this objective through a contract: a set of pre-negotiated rules that bind the policies of the contracting parties and promote a collaborative behaviour. This approach has served well the multilateral trading system, allowing tariffs and other border measures to be dismantled or greatly reduced in most sectors over the past sixty years.

As a result, the new trade environment is much more open than it was in 1948, when the General Agreement on Trade and Tariffs (GATT), the precursor of the World Trade Organization (WTO), was signed. In this open environment, the channels of interdependence across countries multiply. Intuitively, as border measures are dismantled, purely domestic (or behind-the-border) measures such as subsidies, labour, sanitary or environmental regulations may affect the competitiveness of countries.

In this context, two main problems emerge that underline the limits of (single-issue) international cooperation. First, there is a tension between legitimate domestic objectives pursued through behind-the-border measures and their (frequently beggar-thy-neighbour) trade effects. It is often unclear how to regulate, and how to reach agreement on, domestic measures in the multilateral trading system. Second, the multiplication of the channels of interdependence between trade and non-trade issues, such as the delicate relationship between trade and the environment, creates a problem of coherence between the multilateral trading system and other international agreements.

The article is organized as follows. Section 2 sets up the general problem of global economic governance and discusses the fallacy of un-cooperative trade policy. Section 3 focuses on the role of trade agreements in achieving international trade co-operation. Section 4 describes the limits of co-operation in the current system. Concluding remarks are provided in Section 5. While the discussion is entirely focused on international trade relations, my hope is that some lessons may have some broad insights that go beyond the specificities of the multilateral trading system and could be relevant in understanding the limits of other forms of cooperative institutions.

2. Global economic governance: What is the problem?

The *global economic governance problem* in brief is quite simple to grasp. In several policy areas there are complementarities between economic and political integration. However, we inherited a political structure based on a system of fully sovereign and independent nation states (some refer to it as a Westphalian system, after the international order that was established in Europe with the Peace of Westphalia in 1648). This inconsistency between the extent of economic interdependence and the fragmentation of the political structure may lead to inefficient economic policies and, therefore, to welfare reducing outcomes. The tragedy being that national governments find it (individually) rational to

choose policies that, in the attempt to increase the welfare of their constituency, do actually reduce it.

The slide into protectionism during the Great Depression is often used as an example of the risks associated to the lack of appropriate economic governance. National governments reacted to the severe recession of 1929 by imposing tariffs, import quotas and exchange controls to restrict spending on foreign products and increase demand on domestically produced goods. While each government clearly intended to improve welfare of its own constituency by altering international prices and increasing domestic employment, the effect was rather the opposite. As all countries scrambled to impose higher trade barriers, world trade collapsed by around 50 per cent between 1929 and 1932. This fall in trade (and, hence, in the foreign demand for domestic goods) resulted in a further contraction of production, thus increasing the unemployment rate in each country. In an interdependent world, well intentioned (but uncoordinated) policies had a disastrous effect on national and global welfare.

The economic problem that lies behind non-cooperative outcomes such as the one in the 1930s is cross-border policy "spillovers" or "externalities". In economics, an externality is a situation where one agent's decisions make other agents better or worse off by changing their utility or cost. Externalities are market failures, in the sense that, precisely because they do not take into account the effects of their choices on others, agents make decisions that may be individually rational but socially inefficient. The story is not much different when the agents in question are national governments rather than individuals. A necessary condition for efficient policy making is that governments correctly perceive the costs and benefits of their choices. National governments, however, do not take into account the effects of their policy on citizens of other countries for the simple reason that they cannot vote in national elections. This creates the potential of policy externalities and, hence, may lead national governments to choose globally inefficient policy.

In the trade domain, there is a well-known cross-border spillover effect that is referred to in the economic literature as the "terms-of-trade" externality (Johnson, 1954). The terms-of-trade is the price of a country's exports relative to its imports. When countries are sufficiently large in international markets, they can use trade policy restrictions to increase the price of their exports in international markets relative to their imports – that is to improve their terms-of-trade. This trade policy action increases the national income of a country to the expenses of its trading partners that see the relative price

of their exports decline. As all countries set trade policy in an attempt to improve their terms-of-trade, the resulting outcome is inefficient. More restrictive trade policies by all countries have little net effect on the terms-of-trade, but lead to a contraction of trade volumes which reduces global welfare. This non-cooperative situation is defined in the economic literature as a "trade war" or, more specifically, as a "terms-of-trade driven Prisoners' Dilemma". The details are discussed in the Appendix.[1]

In sum, what I have argued in this section is that when there is some form of economic interdependence across countries (i.e. policy spillovers), unlimited national sovereignty leads countries to inefficient outcomes. Trade policy is characterized by a well-understood cross-border spillover effect, the terms-of-trade externality, which is the reason (or, more precisely, one of the reasons) why countries may fall into a welfare reducing trade war. The next section discusses how this situation can be remedied.

3. The logic of international cooperation

One of the immediate goals of the post-WWII period was to design institutions to promote international cooperation in economic matters. The architects of the new order agreed on two key ideas that formed the basic principles of the "constitution" of the post-war economic system. First, to achieve peace and stability, the international economic order had to be based on strong institutional foundations, which meant that countries had to surrender some freedom in the use of domestic economic policy. Second, these institutions needed to address the economic policy coordination problems that emerged during the depression of the 1930s. The basic idea was to limit the unilateral use of domestic policy instruments, but in exchange for the global welfare deriving from the increased efficiency provided by a cooperative policy environment.

In the intellectual debate that preceded the actual construction of the post-war economic governance system, the circle of Federal Union in London played an important role. Lionel Robbins was the first to

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[1] The terms-of-trade externality is not the only possible cross-border policy spillover associated to trade policy, but it has received large attention from the theoretical literature and has been shown to be empirically relevant. A second well-known externality in trade policy is the "production relocation" effect. In this case, a government imposes a tariff to shift demand towards domestic goods and, hence, increase production (and employment) to the expenses of foreign competitors.

identify in the unlimited sovereignty of countries the cause of the economic disaster that deepened the Great Depression (Robbins, 1937 and 1939). Incidentally, for one of those coincidences of history, he made this point in a series of lectures on the economic causes of war given in the 1930s at the Graduate Institute for International Studies in Geneva, just next door to the Centre William Rappard – the current house of the World Trade Organization (WTO).[2] James Meade, who was called by Lionel Robbins to work for the British government during the war period, wrote in 1941 a memorandum entitled "Proposal for an International Commercial Union", that was intended to lay down the foundation of the post-war trade regime.[3]

In the trade sphere, the initial plan on the table was quite ambitious: an International Trade Organization (ITO) was proposed to oversee the global system of commerce. The ITO Charter was supposed to establish an international trade regime aiming at disciplining trade policy, solving international disputes, as well as establishing global rules on investment, competition, employment. It was, in other words, a sort of "world single market" project. The Charter, however, never entered into force because was eventually rejected by the United States Congress. The ITO was abandoned in favour of the General Agreement on Trade and Tariffs (GATT), which provided a weaker institutional setting for the regulation of the trade regime.

The logic of the GATT is the quintessence application of the logic of international economic co-operation. By this I mean that sovereign actors write a treaty (i.e. a *contract)* to address a specific problem created by economic interdependence. The contract assigns property rights over actions, in the sense that it creates a sort of "market for policies" that allow to internalize cross-border externalities. Efficiency is achieved through a "diplomatic" process in which national governments bargain over policies.

This logic was successfully applied to trade negotiations. As it is well understood in the theoretical literature and in the practice of trade policy, cooperation among countries cannot be achieved in the absence of a treaty (i.e. a trade agreement). The reason is that, if a country unilaterally reduces its tariff, the trading partners would still have an incentive to maintain their level of protection. In the language of game theory, a "trade war" is a (Nash) equilibrium, as once high protection is in place, no country has an incentive to reduce its tariff unilaterally (see Appendix).

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[2] William Rappard himself had invited Lionel Robbins to give those lectures in Geneva.
[3] See Irwin et al. (2008) for a discussion of the origins of the GATT.

The GATT was based on two guiding principles: reciprocity and most favoured nation (MFN). The contracting parties of the GATT agreed to negotiate to grant each other mutual concessions in tariff rates (or other commercial restrictions). Under reciprocity, these concessions were intended to be substantially equivalent in terms of the value of trade created. Under the most favoured nation principle, any concession to a member of the GATT would be immediately extended to any other member. As shown in Bagwell and Staiger (2002), this set of pre-negotiated rules allowed governments to internalize the terms-of-trade externality. Intuitively, under the GATT system, governments "buy" tariff reductions from trading partners and "pay" with tariff reductions on their own. From a political economy perspective, the system worked because reciprocity implied that the opposition of import competing sectors was more than compensated by the support from exporters. MFN created an environment where no discrimination against other parties of the multilateral trading system could materialize

4. *The limits of international co-operation*

In the past sixty years the logic of international co-operation has served well the international community, but it has also shown the limits of the current system. The trade domain is paradigmatic of both the success and failures of co-operation.

The focus of the GATT on a clear objective – i.e. the reciprocal and non-discriminatory reduction of tariffs – proved to be an element of strength of the trade system. Tariffs have been progressively reduced through eight rounds of trade negotiations since the establishment of the GATT in 1948. In part as a response to this policy change, world trade has grown twenty-seven fold in volume terms, three times faster than world output growth. In particular, advanced country tariffs on industrial products have come down sharply since the inception of the GATT, from an average of some 20 per cent to 30 per cent to less than 4 per cent.[4] Today, tariffs in advanced countries can only be considered

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[4] Reductions in tariffs over the years have differed by sector, with less progress in labour-intensive industrial products and agricultural products. Textiles and clothing, leather and footwear, fish and fish products and agriculture typically face higher tariffs and more tariff peaks than other product categories. While much of the observed reduction in developed country tariff levels has occurred through multilateral bargaining, one should not lose sight of the reductions resulting from regional integration and preferential schemes in favour of developing countries. See World Trade Report (2007) for a detailed long-run view of tariff liberalization within the GATT/WTO system.

a significant trade barrier in a few product categories. Prior to the 1980s, developing countries made limited tariff commitments in accession negotiations. Binding coverage (i.e. roughly the number of sectors of the economy where countries choose to take tariff commitments) was relatively low and in most cases remained so until the Uruguay Round (1986-1995). Many developing countries, however, significantly extended their binding coverage in the Uruguay Round.

Notwithstanding this impressive record, the multilateral trading system also showed the limitations of international trade co-operation. The system expanded inexorably over the years in terms of issue coverage. As tariffs were reduced, countries' attention shifted towards non-tariff barriers, such as quantitative restrictions or voluntary export restraints. Soon a discussion also started on subsidies and how they can influence trade in an environment characterized by low tariffs. More recently, a number of domestic measures that affect, among other things, the competitiveness of countries in international markets have monopolized the trade debate: labour and environmental standards. These (and other) new issues are putting stress on the multilateral trading system and often create tensions among participating countries. The existence of these tensions makes it more difficult to find agreement within the WTO and erodes the legitimacy of the system.

What are the deep sources of the difficulties faced by the multilateral trading system? In a nutshell, the original institutional design may not be sufficient to deal with the new trade issues. As I argued above, the GATT system is a contract between sovereign actors and contracts face three sets of problems in an international environment: self-enforcement, incompleteness and coherence (discussed below). Over the past sixty years, the evolution of the institutional structure overseeing the multilateral trading system has addressed only part of these problems.

First, contracts need to be self-enforcing. Sovereign actors cooperate as long as it is in their interest to do so. In a repeated-game setting (i.e. when strategic interactions take place over subsequent periods), governments have a good reason to cooperate as the reputation costs of deviating from the agreement is potentially large. While this is generally understood, it is also true that politicians can be short-sighted, this can be particularly evident in the proximity of elections. In these circumstances, cooperation can be difficult to sustain. While this concern is certainly valid from a theoretical point of view, the reform of the dispute settlement mechanism, that was one of the main

achievements of the Uruguay Round, has substantially strengthened the enforcement structure of the multilateral trading system.

Second, contracts may be difficult to write. Contracts are by nature incomplete as it is too costly to describe all possible contingencies in an uncertain world. As interdependence increases, more domains of policy-making need to be included in the contract. This is essentially why tariff reduction called for rules on domestic subsidies and regulation. However, this creates a tension within the treaty between legitimate non-trade objectives that are pursued by using domestic measures and negative effects on partners. How to deal with this trade-off in a trade agreement is often far from obvious.

Third, property rights (i.e. the legally defined and enforced rules of ownership) may be difficult to define. As I argued, in the GATT system governments buy tariff reductions from other governments by selling their own tariff reduction. In this case, property rights over policies can be clearly defined. However, increases in trade volumes that derive from this process may create new forms of externalities. A classic example is the effect that an expansion of trade may have on the environment. This creates a problem of coherence across the multilateral trade regime and the (multitude of) international treaties that deal with the environment.

Two final considerations appear relevant. First, let me stress that the difficulties currently facing the multilateral trading system appear as a logical consequence of the process of increasing trade. As countries become more interdependent, what they choose to do at home has larger repercussions on other economies. In other words, the reason why domestic measures have taken momentum within the international trade community is precisely that the rules that governed this community were effective in opening markets.

Second, it would be wrong to portray the institutional structure of the multilateral trading system as static. The GATT evolved in 1995 into the WTO, which has a more comprehensive mandate and a more solid institutional base. In particular, the WTO has a non-Westphalian element in its dispute settlement mechanism, which has a judicial rather than a "diplomatic" approach. This reform has substantially strengthened the enforcement structure of the multilateral trading system, addressing the first problem discussed above. However, it is still true that the essence of the current system is to provide a framework to negotiate market opening, while there is an increasing and unmet demand for regulation of common markets (i.e. problem two above) and coherence of the global governance system (i.e. problem three above).

270

5. Conclusions

This article makes the following simple points. Cooperative institutions such as the GATT/WTO are somehow victims of their own success. The multilateral trading system was designed to address beggar-thy-neighbour policies in international trade, in particular the terms-of-trade externality (i.e. the imposition of tariffs to obtain terms-of-trade gains at the expenses of trading partners). Precisely because the system was well-designed, countries managed to cooperate towards a reduction of tariff measures and an expansion of world trade.

In this new environment, countries are more interdependent and the types of externalities that they impose on each other have multiplied. This implies that areas of economic policy-making that were properly managed in the domestic sphere now need some form of international regulation. This creates two types of unresolved tensions: between legitimate domestic non-trade objectives and beggar-thy-neighbour effects and between the multilateral trading system and other international agreements.

There are two symptoms of the current difficulties of the multilateral trading system. The first one, rather obvious and much debated, is the stumbling of multilateral negotiations. Bargaining on border measures in a context where much depends on behind-the-border actions by governments is inevitably complex. The second symptom of the ongoing institutional crisis of the multilateral trading system is the proliferation of preferential arrangements. Areas that are included in regional integration processes (but not in the multilateral trading system) involve, among others, investments, competition, immigration, environment. Similarly, regional agreements often manage to achieve "deeper" forms of institutional integration that seem to escape the multilateral trading system.[5]

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[5] Regional and multilateral integration are often viewed by trade economists as alternative processes. This is related to an out-dated view of trade integration which is limited to the reciprocal concession of tariff preferences. Regional integration nowadays is both broader and deeper than simple free trade areas (see, World Trade Report, 2011). In this context, it is easier to achieve the type of institutional integration which is required to go beyond single-issue co-operation. This is possible because countries in a single region generally share more similar preferences, legal structures, or simply more familiarity with each other. This implies that regional institutions complement the multilateral trading system as they provide public goods that would be difficult to supply at the global level. Creating consistency between the two processes is, therefore, in the interest of the global trade community.

What is next? The general lesson seems to be that, once border measures are dismantled, markets need non-market institutions for their proper functioning. These non-market institutions, in turn, appear to require more than a system of international cooperation on specific policy issues, but rather "deeper" forms of integration. The future of the WTO will depend on its ability to maintain its traditional role as an institution aiming at preserving open markets, while at the same time responding to this growing demand.

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Appendix: What Determines a "Trade War"?

This appendix provides a discussion of the determinants and the welfare effects of a "trade war". Namely, we examine why countries may be tempted to exploit terms-of-trade effects and why such unilateral behaviour leads to an inefficient (i.e. welfare-reducing) equilibrium.

Consider two large trading partners, country H and country F. These countries face two broad policy options: each government can choose free trade or impose a tariff on imported goods. What will be the welfare effect, let's say for country H, of a trade tariff on imports from F? How will the tariff affect welfare in country F?

When the government of a large country imposes a tariff on a imported good, it reduces the demand of that good in the international market as domestic residents will buy less of it at the higher domestic price. This fall in demand for the good produced in country F depresses its price in the international market, which in turn implies that country H obtains its imports at a lower international price relative to the initial situation. This positive effect of a tariff on the country's welfare is the terms-of-trade effect.[6] Government H will set this benefit against the costs of trade restrictions, which arise because of the distortion that the tariff introduces. Importantly, however, terms-of-trade manipulation is a *beggar-thy-neighbour* type of policy. The benefit to country H comes at the expenses of welfare in country F. The reason is that the tariff can be thought of as a tax which is partly paid by foreign producers who cannot fully pass it on to domestic consumers and, therefore, end up bearing part of the burden. As the government in H does not internalize the negative effect (i.e. the externality) that the tariff imposes on foreign producers, it will choose a policy which is inefficient from the point of view of global welfare.

The last step is to understand what would be the optimal trade policy in country F given the strategy of the government in H. If the policy maker in F chooses free trade, the country is hurt by the predatory behaviour of its trading partner. If, on the other hand, government F imposes a tariff on the good produced in H, country F will at least benefit from an improvement of its terms-of-trade. This is

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[6] More precisely, the terms-of-trade of country H *improves*, as the price of imports decreases while the price of exports is unaltered. This implies that country H can buy with the same amount of exports a larger amount of import goods from F.

why unilateral policy setting leads trading partners to retaliate on each other. In the equilibrium, both governments impose trade restrictions, a situation often called "trade war". In this equilibrium, the benefit of the terms-of-trade effect are generally offset (so that no country will gain from it), while the distortion that the tariffs introduce will reduce aggregate welfare.

The following table provides a simple numerical example. In the table, each country can raise its welfare relative to free trade by imposing a tariff through the terms-of-trade effect. However, as this welfare gain comes at the expense of the welfare of foreign citizens, trade restrictions will induce retaliation. In the trade war equilibrium, both countries choose protection and are worse off relative to free trade.

		F	
		Free trade	Protection
H	Free trade	10/10	-10/20
	Protection	20/-10	-5/-5

The passage of the Smoot-Hawley Act in the United States in 1930 and the retaliatory response it engendered are considered a classic example of the disastrous repercussions of unilateral protectionist actions on international trade relations and the volume of trade flows (as discussed in the main text). The protectionist measures introduced unilaterally by the strongest economy at that time, which was also the largest international creditor with a large trade surplus, did not produce the intended results. The measure had little effect on prices, while exports of agricultural produce and manufactures decreased. More importantly, Smoot-Hawley shattered the limited trust remaining in the trading system and wrought havoc on global trade flows.

Towards a World Federalism: Switzerland and Belgium as two Contradictory Examples

Nicolas Schmitt

1. Introduction

The third Ventotene Seminar is devoted to a possible World Federalism. And in order to comment on this huge and imposing concept, someone arrives with two tiny federations to speak about, Switzerland and Belgium. I shall also add a comment on Somalia. It sounds awkward, but I really think that *mutatis mutandis* these examples are of a high value.

It is quite obvious that the world faces two simultaneous processes of integration. On the one hand the regional integration, whose best example is the successful European Union, but in other regions there is NAFTA, ASEAN, African Union etc.). On the other hand, (economic) globalization paves the road to politic globalization, even if it is a long way off, as the current world organizations or world power remain quite unsuccessful (if we consider the long time it was necessary to create the UE it is not surprising). For the supporters of federalism to which we belong, it is also clear that this world organization, as will be the EU when it will be completed, will represent the coronation of federalism in the world history.

What do countries like Belgium and Somalia bring to this history? They remind of the fact that federalism is not a panacea. Federalism has experienced failures, and Belgium demonstrates in a very interesting way almost everything that has to be avoided in one wants federalism to be adopted successfully. It is the same in Somalia, even worse. Therefore the core of this presentation will be devoted to this rich and tiny kingdom of Belgium, which jumps from one political crisis to the other and in which federalism has never been able to become implanted.

2. Nationalism, the roots of the problem

The Nation state is a phenomenon that originated in Europe some 400 years ago. Its first goal was to try to maintain one faith per country, after Protestantism has smashed the unity of Christianity. After that,

from XVIIth century onwards, leaders like Colbert in France or Cromwell in England tried to unite their country economically. Two hundred years later, another ambition to create greater unity arose, for the purpose of administration and education.

Now we can see that this ambition was pathetic. But it was fuelled by rational thinking. At that time, the logic behind the process was that a state administration could not be organized efficiently without unity in the country, according to the motto: the more unity, the more efficiency. But it did not fully correspond to the reality.

So when, from the XIXth century onwards, democracy broke through, the ambition to create nation states turned into bloody conflicts. The worse is that the unification of Germany and Italy has been presented at that time as the most important events of the XIXth century. But if this century has been undoubtedly the most successful of the world history concerning science and scientific progress, it has also paved the way for the horrors of the first part of XXth century, which has been the bloodiest in the history of mankind with its two world Wars.

In Europe, nationalism generated ethnic cleansing in which millions of people were killed or obliged to emigrate. The great line of European history was in that last one and half century that wherever there was a religious, linguistic or even socio-economic dispute between peoples or territories, different nation states came to existence. In 1870 there were 14 states in Europe; 125 years later the number has risen to 40. It is then very rightly that Denis de Rougemont has written several books to describe nationalism as "the worse European illness, the epitome of anti-Europe."[1]

The importance of nationalism worldwide explains why great care has to be taken in any attempt of integration. Because of globalization, one can imagine that nationalism is mildering. This is not always the case, and the following examples should remind us of the importance of communautarism for the success of federalism in any process of unification.

3. Switzerland

We shall be very brief with Switzerland, because those who assisted to the previous Ventotene Seminars are currently perfectly informed about the foundation of the Swiss federal state[2]. In our context, the

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[1] Among others *Fédéralisme et nationalisme*, published in 1954.

[2] In 2008, *Towards a Federal Europe, to break the deadlock*, and in 2009, *Switzerland, a micro-example of mega-government*, presented the specificities of Swiss federalism.

point to note is that the modern Swiss state has been created in 1848, from the early beginning, as a federation according to the American model. Just as an example of this respect for multiculturalism, let's have a look at its linguistic constitution.

If multilingualism can be currently considered as a constituent element of Switzerland, this has not always been the case. The old Confederation of XIII cantons, created in 1513, was almost exclusively German-speaking, with the exception of the canton of Fribourg. There were some "Roman" languages, but not in the "full fledge" cantons, only in some subordinated territories. Only after Napoleon's invasion in 1798, and the introduction of the equality of citizens before the law, the country started considering its multiculturalism. During the "Helvetian Republic" (1798-1803) laws were written in the three languages. But this equality between languages was abandoned with the end of the Helvetian Republic, and after Napoleon's collapse in 1815 German was again the unique language. But the idea of equality of languages remained in the minds and was institutionalized in the 1848 federal system.

The 1848 first federal Constitution contained a provision enshrining the equality between the three national languages, and this provision has been preserved in the 1874 Constitution. In 1938, in order to strengthen the national unity in a troubled period, Switzerland recognized also Romansh as the fourth national language. This process (insisting on diversity in order to reinforce unity) is the best proof that preservation and promotion of cultural and linguistic diversities were the basement of the national cohesion. But the 1938 amendment created a distinction: for technical reasons which are quite easily understandable, Romansh was recognized as national language, but not as official language.

Another amendment of the linguistic constitution took place in the 1990s. Its aim was to enshrine the possibility to take measures in order to facilitate understanding and exchanges between communities, but also to safeguard Romansh and Italian. After the redrafting of the Federal Constitution in 1999, the provision concerning the four national languages became a provision *per se* at the beginning of the text (Art. 4), and the provisions devoted to the protection of linguistic diversity became also an article *per se* (Art. 70). Instead of opposing languages, everything is done to smoothen tensions and to promote multilingualism at the national level, even if the country – like Belgium – is marked by the territoriality of languages and therefore is constituted of overwhelming monolingual cantons.

4. Belgium

As I have said previously, the core of this presentation is devoted to Belgium, as this country seems to be the example of everything that has to be avoided for a functioning federalism. Therefore, instead of describing any element of this very complicated system, we shall concentrate of the failures of a completely polarized system.

4.1. In general

Belgium is a small Western European democracy (32'545 Km^2, also slightly less than Switzerland), with a population of just over 10 million inhabitants (also slightly more than Switzerland). The country's defining political feature is multilingualism.

In the Belgium's northern half, Flanders, we can find Dutch-speakers (almost 6 million; referred to as "Flemish") while the south, Wallonia (3.3 million), is French-speaking. This linguistic situation is complicated by the presence of a small German-speaking population in the southeast (70'000 people) and first of all by Brussels (1 million), which is located north in the heart of Flanders but is predominantly French. Tensions between linguistic groups have been a central feature of Belgian politics since the late nineteenth century but they are superimposed on and intersect with two other fundamental divisions in this complex state – religion and class. The perennial *problème communautaire*, as expressed through nationalist/regionalist politics, was the engine for the recent federalization of the Belgian state. *It means that federalism in Belgium has not been the cause of the union but the consequence of the disunion.*

4.2. A history of tensions driving to polarization

The territories of present-day Belgium were detached from the Dutch kingdom in 1830, and made into an independent state by a French-speaking bourgeoisie who opposed the linguistic and religious hegemony of King William I of Orange. Belgium was created as a strongly centralized unitary state which operated almost completely in French, despite the absence of any formal constitutional provision specifying language use. This situation proved unacceptable to a Flemish traditional lower-bourgeoisie who saw Belgium as a bilingual and bi-cultural nation. It is in this context that the Flemish Movement emerged and struggled to achieve Dutch equality with French. Despite

opposition from French-speaking elites, formal-legal equality was achieved in 1898 with the De Vriendt-Coremans law, although French remained the dominant language.

The Flemish Movement then proceeded to seek official bilingual status for Flemish-speaking provinces, but these claims, especially those pertaining to the south, met with strong opposition from French-speakers. In this context, the Flemish Movement re-directed its activism away from the larger Belgian framework to the northern part of the country for which it now sought monolingual status. This goal was largely accomplished in the 1930s with language laws that instituted territorial monolingualism. French-speaking elites formed the Walloon Movement to counter the claims of the Flemish Movement. Their first reaction was to call for a return to the Belgium of 1830 but as the Flemish Movement became increasingly powerful, they switched strategy, abandoning French-speakers in Flanders, and later in Brussels, to focus on Wallonia where French was dominant.

The *problème communautaire* became increasingly acute after World War II when a series of issues, ranging from the status of King Leopold III to school funding, pitted the two linguistic communities against one another. Politicians attempted to defuse this tension by strengthening territorial *monolingualism* through new linguistic legislation. Laws passed in 1962-63 created four linguistic regions: monolingual Flanders, monolingual Wallonia, bilingual Brussels, and a German-speaking area. A series of censuses determined linguistic borders and the *communes* (municipalities) were fitted into their 'proper' language region. The border was then 'frozen' in 1963 by abandoning the census as an adjusting tool and enforcing administrative unilingualism, all in the hope of increasing homogenization. From that point of view, Belgium did by law what nature had done in Switzerland.

This strategy proved a failure, because tension continued in the 1960s with the newly formed community parties *Volksunie* (Flemish nationalist), *Rassemblement Wallon* (Walloon regionalist) and *Front Démocratique des Francophones* (Brussels-based) applying considerable political-electoral pressure on the traditional parties (Christian-Democrat, Socialist, Liberal). Forced to become more militant on community issues, the traditional political parties developed linguistic wings and, in the 1970s, split upon linguistic grounds. Indeed, a peculiarity of the Belgian political system is its party system: there are no national parties in Belgium; they are all language-specific. The worse is that this transformation led to a further dichotomization of political *and* social life: trade unions, voluntary associations and many other civil society organizations, although officially unified and

presenting a common front to public authorities, have also adopted bipolar structures.

4.3. Introduction of federalism in Belgium

The federalization of Belgium occurred step by step – each step trying to solve another problem or crisis. There were constitutional-institutional reforms in 1970, 1980, 1988 and 1993. The main reason for the incremental nature of the process was that Flemish and Francophone parties favored different federal models. The Flemish side advocated a bipartite federalism structured around the two major linguistic/cultural communities. Francophone leaders argued for tripartite federalism in which both Wallonia and Brussels would be, along with Flanders, constituent units.

In fact, federalism has not been introduced in a process marked by scientific knowledge and serenity, but rather in the context of a children's playground. Crises in relations between linguistic groups were crucial in starting the federalization process when it appeared to be stalled. In the mid-1980s, the trigger came when the Mayor of Voeren (Fourons in French), a small municipality of 4'000 people which had been moved from Wallonia to Flanders in 1963, refused to use Dutch in formal proceedings as the law prescribed. The Voeren episode led to the constitutional revision of 1988 and a compromise over Brussels which was made into a federated unit as Francophone parties wished. In exchange, Flemish parties obtained protection of the minority Flemish population of Brussels and agreement that the city's borders would be limited to the existing 19 *communes*. In the early 1990s, it was the decision by left-wing Flemish parties to oppose an arms sale to Saudi Arabia, which would have benefited Walloon industries, that triggered a community crisis. This conflict led to the 1993 reform and the formal transformation of Belgium into a federal state. Belgian federalism is therefore the fruit of communitarian selfishness.

4.4. Constitutional provisions relating to federalism – we face a "communitarian federalism" between two blocks

The peculiarity of Belgian federalism – that makes the system at the same time very unique and very complicated – is that it involves *two different types* of constituent units: Communities and Regions (Articles

2 and 3). This complexity is also due to the fact that each step towards federalism was nothing else than a trial to solve a problem or to answer to someone's claiming.

There are three Communities (Flemish, French and German) and three Regions (Flanders Wallonia and Brussels). This intriguing feature has to be understood in the context of the Flemish Movement's historical struggle for cultural/linguistic preservation and the more recent fight of the Walloon Movement for economic autonomy. The Communities were created in 1970 and immediately provided with institutions (except for the German-speaking Community which was fully institutionalized in 1983). They have power over language, culture, education and *matières personnalisables*, Belgian constitutional jargon for social services such as health care (but not health care insurance which is part of federal jurisdiction) which involve direct contact between state-provider and citizen.

Although the *Regions* are clearly *territorial* units, the *Communities* are linked to *individuals* and *language* more than territory, which makes them one of the most complicated elements of Belgian federalism. Their membership is determined in reference to the constitutional distinction between the language regions (Article 4), and their existence stems from the Flemish objective to acquire cultural autonomy. Consequently:

– Dutch-speakers in Brussels belong to the Flemish Community as do those living in Flanders.

– Similarly, French-speaking residents of Brussels are members of the French Community just like Walloons.

There are, however, exceptions to the idea of language-based Communities:

– the substantial francophone minority in Flanders does not belong to the French Community, and

– the same is true for the (rare) Dutch-speakers of Wallonia.

Regions are territorial units that were formed *in response to Walloon concerns* over their region's economy. Flanders and Wallonia established institutions in 1980 – more than 10 years after the 1970 constitutional reform outlined the intention to create Regions – and Brussels did so in 1988. The Regions have power over regional economic development, urban planning, the administration of provinces and *communes*, housing, public works, water, energy, transportation, the environment and job training[3]. Another point

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[3] An agreement has *recently* just been signed to transfer power over international trade and agricultural policy to the Regions.

difficult to understand accentuates the asymmetry of Belgian federalism: in 1980, the Flemish Region and Community *merged their institutions*. This means that the two entities still exist from a constitutional point of view in Flanders, but there is a common Flemish government and Parliament (with certain exceptions relating to Brussels). It is not the case on the Francophone side, and this institutional difference makes the system difficult to understand.

And the federal government? It retains power over financial and monetary policy, justice, social security (employment insurance, pensions, and so on), some aspects of health care (eg., insurance, which represents approximately 90 per cent of the health budget), some public corporations, national defense and the direction of international relations (although the Regions and Communities can conclude international treaties, with some limitations). Overall, decentralization was quite substantial; in fact, Regions and Communities administer over 40 per cent of the national budget, although these financial resources are allocated by the central state (this proportion is not too high in comparison with Switzerland, but once again the process here is completely different).

The 1993 reform instituted two fundamental changes to central institutions and their relationships with Communities and Regions. The first change was the re-definition of the composition and role of the Senate, which is by the way far from looking like the classical Upper Chamber of federal countries. Its composition remains very complicated in comparison with senates for instance in the USA or in Switzerland, and the Belgian Senate enjoy few powers. But once again, everything turns around linguistic cleavages: for instance, for community questions (*lois votées à majorité spéciale*), the legislative process involves a special procedure that necessitates majority support within each parliamentary linguistic group (Flemish and French) both in the House and in the Senate as well as a two-thirds majority in each of the two chambers. Membership in a parliamentary linguistic group is decided by the linguistic regime of the constituency where a parliamentarian has been elected.

The second change brought by the 1993 reform was the introduction of direct elections in the Flemish and Walloon Parliaments where members were previously drawn from the House of Representatives.

Sensitivity to the protection of the French-speaking minority is reflected in the federal executive where there must be an equal number of Dutch- and French-speaking ministers (Article 99). The Prime Minister is exempt from that rule and is most often Flemish. The other component of Belgium's dual federal executive, the monarch (currently

Albert II), does not have a linguistic personality *per se*; his symbolic significance lies in his embodiment of a Belgian nation irrespective of cultural/linguistic differences.

As almost everything in the Belgian system, the procedure for amending the Belgian constitution is complex. The federal Parliament must be dissolved, an election held, and only then can the newly constituted Parliament hold a vote on the proposed constitutional revision. In order to pass, the proposal must receive support of a two-thirds majority in each chamber. This procedure is somewhat antiquated; it was devised when Belgium was a unitary state and, as a consequence, does not involve the constituent units or even include references to linguistic groups. Ironically, the legislative process, as it relates to community issues (*lois votées à majorité spéciale*), offers more protection for the minority linguistic group than the amending formula of the constitution.

Another famous constitutional provision deserves mention for its significance in the political accommodation of Community lingualism in the Belgian federalism. It is the '*alarm-bell*' procedure designed further to protect French-speakers. This procedure allows a federal parliamentary linguistic group, if it can present a list with the signatures of three-quarters of its members, to stop temporarily a legislative initiative it fears threatens its Community or endangers Community relations (Article 54). The legislative text is then sent back to the Cabinet (where there is linguistic parity) which can amend it, accept it as is (in this case it needs to show how the legislation would not have the negative consequences foreseen by the motion's backers), or simply resign. The alarm-bell procedure complements the legislative mechanism of 'special laws' and the principle of executive parity. It is also used in the bilingual Region of Brussels where it protects the Flemish minority.

4.5. *Some recent political dynamics*

Recent political dynamics in Belgium are not favorable at all to the reputation of federalism, as the country faces always more and more problems.

One of these problems – some describe this as the key issues facing Belgian federalism – stems from the 'community question.' At the top of the agenda is social security. Belgium is a decentralized federation, but most social policy programs remain with the federal government. In Flanders, there is strong push for the 'federalization' of social policy.

The rationale for this position is that the wealthier Flanders indirectly subsidizes the poorer Wallonia through social programs. Or, according to the rhetoric of Flemish nationalism, every Flemish family pays for a new car for every Walloon family every year! This discourse is indicative of the low level of inter-community solidarity in Belgium.

At this juncture in Belgian politics, the issue of social security is inseparable from the broader question of Belgium's political future. Flemish leaders view institutional reforms as just additional steps towards increased autonomy, the creation of a confederal model, or perhaps even the dissolution of the Belgian state into a new continental political order such as the "Europe of Regions." This vision is opposed by Francophones who tend to see each constitutional revision as the final one, and resist any further decentralization. However, in 2001, Francophone parties agreed to the 'federalization' of agriculture, foreign trade, parts of foreign aid as well local and provincial law in exchange for increased funding for the Communities. This newest package of constitutional reforms known as the Lambermont or Saint-Polycarpe Agreement also involved more fiscal autonomy for the Regions, and changes in the complex institutional structure of the Brussels Region designed to prevent the extremist Vlaams Blok from ever paralysing that political system (the so-called Lombard Accord).

Another continuing controversy involves the 120,000 or so Francophones living in Flanders, close to the linguistic border or on the periphery of the Brussels Region. These French-speakers enjoy "linguistic facilities" – which means access to municipal services, a very important issue in Belgium because the municipality is often the point of contact between citizens and federal services – the exact status of which has already been at the centre of several other controversies. For Flemish parties, the facilities are temporary and transitional measures, and the ultimate fate of these Francophone populations is assimilation into the dominant Flemish culture. Francophone parties denounce this position and view linguistic facilities as permanent fixtures. These polarized positions give the issue of the French-speaking minority in Flanders the potential to cause acute conflict in present-day Belgian politics.

Another source of tension in Belgian politics comes from the Vlaams Belang (previously Vlaams Block), a far-right Flemish nationalist party that opposes immigration and rejects the Belgian political framework. The Vlaams Belang is politically isolated from the other parties which generally refer to it as non-democratic or, in the case of Francophone parties, as fascist. The Vlaams Belang replies by arguing that the efforts of the traditional parties to silence its voice, in

284

cahoots with the media and other social actors, demonstrates the lack of democracy in Belgium. Instead, it presents itself, in a typically populist fashion, as a champion of democracy that supports referendums, parliamentary reforms and the like.

4.6. Likelyhood but disadvantages of a splitting

The Vlaams Belang and other nationalist movements favour the splitting up of social security but denies that this shows a lack of concern for Francophones; on the contrary, it argues, such a change would serve to make them more responsible which would prove helpful in the long run. Their goal of creating an independent Flemish state is, however, an unlikely outcome for a number of reasons, which contribute to exacerbate the tensions between pros and cons of a secession:

1. Brussels, with its large Francophone majority, would be too hard to swallow but impossible to forget for historical and symbolic reasons;

2. Secession would most likely be unwelcome by Belgium's European partners;

3. The Flemish fully control their regional institutions and can wield much power at the national level as a result of their numerical majority; and

4. Attachment to Belgium, among both Flemish- and French-speakers, remains substantial, despite, or perhaps because of, the massive decentralization process engineered by its elites.

4.7. Last minutes news

The very last news is extremely bad. The country is in a permanent political crisis.

In April 2010 the Prime Minister has presented its demission to the king. The was another conflict between Francophones and Flemish concerning linguistic questions in the circumscription of Bruxelles-Hal-Vilvorde, that kind of unbelievable conflict that can take place only in this kind of extremely emotional context. After having tried to find a mediation, the Kind Albert II has been obliged to accept the demission of the Prime Minister Yves Leterme.

Independantist movement win more and more seats in the elections. In June, even if the Vlaams Belang (which succeeded to the (in)famous Vlaams Block) did not get so many votes, nationalists movements made a triumph at the elections.

On July 1st, Belgium took over the presidency of the European Union with a government itself in a deep crisis. The Prime Minister is only in charge of current affairs. There won't be any new government before October; the Minister of Finance Didier Reynders has explained he would prefer that there is no new government till the end of the year in order to let this "provisional" team lead the EU.

Even the King, the last guardian of a united Belgium, lacks credibility, and Flemish do not appreciate at all his son, the Prince Philippe, Duke of Brabant, who was quite critic against Flemish nationalists in 2004. Opinion Polls are very bad for the monarchy, and a specialist of European Crowns could write that the Belgian monarchy is really endangered[4].

4.8. Why such a deadlock?

As we have seen, Belgium is the only other country than Switzerland in Europe with more than one official language. It came into existence in 1830 after a revolt in the Kingdom of Netherlands, in which the rebels no longer accepted the centralistic aspirations of the Dutch king who, for instance, wanted to impose Dutch as the only official language. But the rebels of 1830 made *the same mistake* when they became the leaders of the new country, the kingdom of Belgium, in which they wanted French to be the unique language for administration and education, although a slight majority of the population spoke Dutch.

Thus started a struggle between French-speaking and Dutch-speaking Belgians. It lasted throughout the XXth century. As democracy broke through the Flemings achieved equal rights for their language and culture, in such a way that the country is completely split along communitarian lines. Flemings and Walloons have their own regional authorities, with specific competencies, an own parliament, own revenues and even a certain role in foreign policy. Beside this, regional authorities have been created for the small German community of about 70'000 people in the East of the country, and also for the capital Brussels where both Flemings and Walloons live.

During the Conference on Federalism in St.Gallen in 2002, the Prime Minister of the Kingdom of Belgium Guy Verhofstadt, could argue "Tensions between Flemings and Walloons, which in the past have run very high, although they never became violent, have in the meantime been reduces to a level where they can be kept politically under control.

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[4] In the newspaper from Fribourg *La Liberté* dated July 19th, 2010.

Federalization has made it possible to defuse never-ending discussions – for instance about the allocation of money for French and Dutch schools and universities – by the devolution of the competence."

Obviously, this vision was too optimistic. Eight years later, Belgium is on the shore of the collapse.

4.9. Conclusion for Belgium

Paradoxically, at the beginning and at the end (even if it is not yet the "end" of Belgium), there is a question of lack of respect and tolerance for a minority language. When the problem has been too serious, it is too late to patch things up.

Therefore, the very important lesson given by the Belgian experience could be summarized as follows: federalism has to be introduced from the early beginning, as the core of the unification or integration process. If federalism is introduced later, as a remedy to a problematic situation, it does not have the same impact. From that point of view, the example of Iraq is also revealing. Americans wanted to introduce a kind of American federalism in Iraq, but it proved impossible, because this country has not been following the federalist pattern for centuries. Somalia provides another example of such a "federal disease."

5. A very short footnote on Somalia

Somali history starts on June 26th, 1960 when British Somaliland (Northern Somalia), which was a British protectorate since 1885, gained independence. Five days later, on July 1st, 1960 Somaliland joined Southern Somalia (Somalia) to form what was supposed to be a federal union, the Somali Republic. Previously Somalia was under a UN-Trusteeship since 1950 administered by Italy (with representatives from Egypt and Philippines).

The reason for the prompt unification of Somaliland and Somalia was to be the spearhead of the liberation and to provide for re-unification of all Somali territories still under colonial control: Northern Frontier District (Kenya); Djibouti (France) and Ogadenia (Ethiopia) under one (federal) country. Aside from the idealism and anti-colonial rhetoric, the Somali Republic *failed* to establish functioning political institutions. Leaders of Somalia and Somaliland did not form a federation or a con-federal republic but rather agreed to establish a unitary state.

Both entities inherited a unitary administrative structure from Britain and Italy respectively. Since South Somalia had more people and land, Southern politicians took the important posts of President, Prime Minister; Chiefs of Army, Police, Ministers of Foreign Affairs, Interior, Finance and Justice. Ironically Somali nationalism had blinded folded northern leaders and "Somaliland had forced the union on the South so precipitately that it paid the price of having to accept a southern constitution, southern flag, and a southern head of state".

Federalism works best between or among more or less equal entities. Although, numerically Somalia and Somaliland were not equals yet institutions based on equality were needed.

Exactly as in Belgium, the fact that a so-called "federation" has been created without taking into account any of the characteristics of federalism, has driven to a complete failure, which is in the case of Somalia much more serious than Belgium, as Somalia does not exist anymore, apart as a refugee for pirates.

5. Europe and more

Belgium, like Switzerland before it, but in a totally different evolution, buried the old obsession of uniting the people of a nation state. This is clearly not without relevance, as more and more nations are uniting into the European Union. This Union originated out of the need to co-operate in socio-economic matters (which are by the way always easier to regulate than more emotional topics like culture, language or education, which traditionally remain by the lower level).

Currently, these smaller and even slightly bigger European nations have become too small to play alone on the world stage.

The risk of course is that the need to co-operate generates a new ambition to create a European nation state. Should fiscal competition between the member states be tied up? Should beef meat be packed exactly the same way in Turkey as in Denmark? And above all, wouldn't it be easier and more cost-efficient to reduce the number of official languages in the UE to just two or three, or why not one, English?

This reflection makes it clear that if a democratic Europe ever wants to become a reality (but it is already almost a reality) it will have to be a federal Europe. What should be done together should be done together. What need not to be done together should remain apart. This is just principle of subsidiarity in its cleverest implementation.

British tend to cultivate the misunderstanding that a federal Europe will automatically turn into a monstrous European superstate. In reality

European will never become a superstate if it becomes "genuinely" federal. But of course the "genuinity" of Federalism is something really difficult to find. But Swiss and Belgium experiences can certainly inspire the federal Europe, as can obviously experiences of all federal countries associated for instance within the Forum of Federations. But these two experiences (not as could imagine the former Prime Minister Guy Verhofstadt) do not go in the same direction, as they seem rather be antagonistic.

This is precisely the core of the problem: the preservation of diversity in unity has to be carefully organized at the beginning of the integration process. Otherwise, as it is the case for Belgium, it is too late…[5]

Federalism will increasingly become the appropriate way of designing the institutional architecture of the XXIst century. The idea of unity in diversity, and also the notion of flexibility behind this idea (a flexibility that is often seen as the key for the success in the private management) make the system better suited for democratic institutions that have to represent different cultures and characteristics among the populations (and not the population) of a certain territory.

Federalism can lower the threshold for democratizing international institutions. One of the fears about creating a more democratic European Union is that it will again give a fee hand to nationalism rivalries. *It will not be the case if it is clear from the beginning that subsidiarity is respected, as well as minorities etc*. The only system to cope with that risk is federalism. It is obvious that EU will not become at all a "nation state" as it is already very difficult to make a quasi-federal state. If the EU is confronted with an issue that threatens to divide it, federalism gives it the opportunity to defuse the problem by sending it to decentralized structures. Of course, it functions only if decentralized structures are pre-existing. The only pain this would cause to Bruxelles institutions is that they would have to take their own official aim of subsidiarity seriously. The risk is not an overcentralization of the EU, but its communautarization.

6. *Towards a world government*

We could try to apply the same reasoning to politics on a world scale. It is not necessary to repeat how much more political authority is

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[5] As is has been the case in German after the difficult and tragic process of State disintegration, a new Federal Constitution has been carefully drafted and proves to be successful, even if the situation in 1945-1949 was not so easy.

needed for a world that is rapidly becoming economically "united", or rather "integrated", and in which globalization produces many beneficial but also some bad results. But how is it possible to realize such a global authority without creating another kind of enlightened despotism lacking any real legitimacy.

The answer again is: through democratic and federal institutions. But here federalism will play a more important role than democracy, as the latter is a very "western" concept that many countries (as far as it is question of world democracy) do not practice or even do not know. Organizations on a world scale will only have some legitimacy if they represent more or less both the diversity and the population numbers in the world, according to the rules of federalism. Some experts have been pleading for global political structures based on co-operation within each continent, like the UE and ASEAN. Such structures could be a first step in weakening the supremacy of the rich countries in the world organizations today. Each of this continental co-operation structure needs of course also to be as democratic and as federal as possible.

7. Conclusions

1) As the "World federation", like the "European federation" will be very difficult to achieve, the respect of the principle of subsidiarity is not in a first phase the most difficult question. If one consider federations in history, some of them have failed because of a lack of centralization, never because an excess of centralization. Therefore I think that the English fear that EU could be too centralized is a wrong fear. Centralizing institutions coming from sovereign states are quite difficult to create. The problem remains only for centralized states which want to decentralize or to federalize, as did Belgium.

2) From that point of view, the interesting point of the comparison between Switzerland and Belgium is that, if we want a federalization process to succeed, it is important from the early beginning to insist on the fact that diversity has to and will be preserved. In Switzerland, from the beginning (which was very difficult because a large minority of the country was against any centralization), it was clear that powers transferred to the center were limited to what was necessary. It was also clear that minorities and diversity would be respected, what has been enshrined in the very special form of collegial government and rotating presidency.

3) In Belgium on the contrary the process has been made *upside down*. The protection of minorities and diversity has not been a *primary*

goal, but on the contrary a solution proposed to solve a problem. Therefore it lacks legitimacy and this protection could not have enough time to become fully integrated in the political thinking of Belgium. As a result, instead of being of model of federalization, Belgium is rather on example of what is to not be done, as the country seems always close to the disaggregation.

4) Obviously, it will never be question of "decentralizing" Europe or the World, because it will take a lot of time before they can be "centralized" or take the form of a very hypothetic "nation-state." But nevertheless, it is important for the popular acceptation of the centralizing process and also for its good functioning to insist on the fact that minorities as well as diversity will be respected, and also that only those powers will be transferred to the center that are necessary for an efficient management of the new entity. It is essential to avoid the formation of blocks and communalities.

Changing the Current Institutional Setting of the Climate Change Negotiations. From Intergovernmentalism to Communitarianism

Joan Marc Simon

> "Rien n'est possible sans les hommes,
> rien n'est durable sans institutions" Jean Monnet

1. Analysis of the current system of governance to manage climate change

1.1. The current system

Climate Change is accepted as one of the biggest challenges of current times. This was already detected in the end of the 20th century and for this purpose the United Nations Conference on Environment and Development (UNCED) held in Rio de Janeiro in 1992 created the treaty establishing the United Nations Framework Convention on Climate Change (UNFCCC). The treaty entered into force in 1994 and set up an intergovernmental framework aiming at organising and coordinating the global actions to face climate change.

Under the UNFCCC, governments gather and share information on greenhouse gas emissions, national policies and best practices, launch national strategies for addressing greenhouse gas (GHG) emissions and adapting to expected impacts, including the provision of financial and technological support to developing countries and cooperate in preparing for adaptation to the impacts of climate change.

It is important to note that even though the UNFCCC recognizes that the climate system is a shared resource whose stability is affected by industrial and non-industrial emissions, no communitarian body was established to treat the issue as a common problem.

The UNFCCC established the Conference of the Parties (COP), as its supreme body which meets once a year since 1994. It has the role to examine the obligations, facilitate exchange of information, guide periodic refinement of methodologies and seek to mobilise financial resources.

The convention also established a secretariat with a pure administrative and facilitating role and a couple of subsidiary bodies (Body for scientific

and technological advice and a Body for Implementation) with the duty of assisting the COP.

One of the most well-known structures created by the Convention was the financial mechanism (art 11) responsible to organise the transfer of resources and technology between countries. The COP is responsible to decide on the policies and programme priorities of the financial mechanism. Next to the financial mechanism the convention leaves the door open to bilateral and multilateral agreements between states.

The Kyoto Protocol was adopted in 1997 and entered into force in 2005 and the rules of implementation were adopted at the COP7 in Marrakesh in 2007. The approach taken by the Kyoto protocol – a US initiative – to fight climate change was that CO2 was a commodity and if traded properly and by capping its stocks the prices would increase, pushing the companies to reduce their emissions.

The Kyoto protocol set targets for reduction of GHG emissions and 3 market based mechanisms were created to meet these targets: the emissions trading, the Clean Development Mechanism (CDM) and the Joint Implementation (JI)

The actions to fight climate change have been taking place in a pure UN intergovernmental style; that is without affecting national sovereignties and hence without a strong compliance mechanism to enforce the rule of law, as agreed in the treaties, conventions and protocols.

The enforcement mechanism of the Kyoto protocol has been a feeble compliance committee responsible to monitor who was infringing the commitments. For instance: Greece was excluded of the Kyoto protocol in 2008 due to unfulfilled commitment of creating mechanisms of monitoring and controlling emissions and reporting false data. However it is clear that excluding countries from the protocol does not help in any way to the aim of the protocol that is to reduce GHG emissions.

The International Court of Justice has been involved in settling legal disputes, in accordance with international law, submitted to it by States but has not dealt with non-compliance with treaty provisions such as meeting GHG reduction targets. Organizations, private enterprises, and individuals cannot have their cases taken to the International Court, such as to appeal a national supreme court's ruling. Likewise, U.N. agencies cannot bring up a case except in advisory opinions (a process initiated by the court and non-binding). The International Court of Justice has not been, and was not meant to be, the court in which the infringements of the climate-related treaties

would be dealt with. No court has had the international jurisdiction to rule in favour of protecting the climate agreements agreed in the COPs.

1.2. The failure of the current setting

The current setting to fight climate change has failed in two different ways; firstly the market mechanisms have proven to be inefficient in reducing emissions. Secondly, the governance mechanism has failed to facilitate significant progress since the Kyoto Protocol; the COP16 in Cancun showed the incapacity of intergovernmentalism to deal with the common problem that is global warming.

1.2.1. Failure in the functioning of the market mechanisms

So far the Kyoto protocol reduction targets have not been met and the total emissions have continued to increase. For the moment, the market mechanisms created in the Kyoto protocol to reduce emissions have failed to decarbonise the global economy.

The carbon markets created in Kyoto to fight what the Stern Report described as "the greatest market failure the world has ever seen" were set up in order to decrease emissions and encourage investment in cleaner technologies.

Carbon trading takes place in two main forms: 'cap and trade' and 'off setting'. The first is about setting a market of emissions with "capped" total emissions for the emitting country so that the companies that pollute more have to buy carbon credits from those who pollute less. The second is a system to allow polluting companies in the north to, instead of cutting emissions at source, finance "emission-saving projects" to governments and individuals outside the capped area. This is implemented via the UN-administered Clean Development Mechanism (CDM).

Cap and trade

The main example of "cap and trade" is the EU Emission Trading Scheme (ETS) which has encountered many problems and whose effects are, at best, unclear. After a failed ETS1 in which the carbon price collapsed and fell to 0, the ETS2 started in 2008 and although the emissions have decreased it is not clear whether this is due to the ETS or rather the economic crisis combined with outsourcing of industrial production.

The difficulties of the ETS are many; the number of "permits to pollute" awarded was calculated according to existing levels of pollution, which means that those who have polluted most in the past were rewarded with the greatest subsidy. This free gift of pollution rights to some of the worst industrial polluters amounts to one of the largest projects for the creation and regressive distribution of property rights in history. Also an equity and justice question arises when the EU and US plan to auction carbon rights and pay a proportion: are these their rights to sell?

In the end we find ourselves in a system whose aim is to optimise the emission trading but which fails to reduce emissions. The reason why carbon trading was chosen as "the tool" in Kyoto was because the US, the biggest emitter and with the lowest efficiencies in energy generation, saw that with other carbon-cutting options such as a carbon tax or a "cap without trade" option they would be paying the most. Instead Al Gore, who was leading the US delegation, pushed the rest of the world to accept a carbon trading system as a condition to have the US in the protocol. In the end the US didn't ratify the Kyoto protocol but the carbon trading stayed. A big market was created in which companies can make money speculating but no real obligations for reductions were set.

Currently there are efforts in the EU to "get the carbon prices right" in the ETS3 and lately also California approved a cap-and-trade plan. However having seen the results so far it is fair to ask whether simple regulation wouldn't have been simpler and more efficient than creating carbon markets?

Indeed regulation on reducing emissions has proven to be a lot more effective than carbon trade. For instance, from 2000 to 2007 SO_2 emissions in the US were reduced by 43.1% by the end of 2007 with a SO_2 market of cap and trade. Over the same period 25 members of the European Union saw a decrease in emissions of 71% thanks to a system of regulation.

The benefit of regulation is also that it doesn't have the externality of creating parallel speculative markets for GHG gases, which have proven to be endogamic and a lucrative business on its own, disconnected from the reduction of emissions. To put it short, if the goal is to reduce emissions it is easier and simpler to set caps and deadlines or taxes on pollution rather than creating artificial markets that favour speculation.

The clean development mechanism

The reason why the CDM is not properly working is because although off-sets are often presented as emissions reductions, they do not

reduce emissions. Even in theory, in the best case they merely move 'reductions' to where it is cheapest to make them, which normally means a shift from Northern to Southern countries. Pollution continues at one location on the assumption that an equivalent emissions saving will happen elsewhere. The problem is that the distance between the polluter in the first world, the financing mechanism and the monitoring of the industry of where the emission-saving is supposed to take place causes that many CDM projects not only don't reduce emissions but increase them. In practice "off-sets" hand a new revenue stream to some of the most highly polluting industries in the South, while simultaneously offering companies and governments in the North the means to delay changing their own industrial practices and energy usage.

To date, the UN's Clean Development Mechanism (CDM) has actually resulted in an increase of CO_2 emissions worldwide – displacing emissions cuts in the North in favour of offset projects that have already awarded billions in free subsidies to some of the world's most polluting industries.

This problem was acknowledged in the last climate negotiations in Cancun's COP16 and it was partially dealt with by introducing more transparency in the reporting of emissions. However it is not clear how such transparency rules can be accountable and to which body. The EU is also trying to address this problem with the recent ban on carbon credits for HFC-23 and nitrous oxide after the evidence that those credits were generating perverse incentives which caused a dramatic increase in pollution.

Carbon off-setting should not only be better monitored and more democratically managed; it should also play a lot more marginal role in the accounting of emissions. For instance, the EU is leveraging too much on carbon offsetting which distorts the reality about the real success in the emissions reductions.

Whereas since the creation of market mechanisms there has been little progress in the reduction of emissions, the carbon markets have created a new booming economy based on speculation on carbon credits. In fact, the business sector dependant on these carbon markets did an effective lobby in the last Cancun negotiations to obtain the commitment from the members to extend the financial mechanisms after the expiration of the Kyoto protocol in 2012. The countries have problems imagining a new Kyoto protocol – Japan and Russia oppose an extension because the US, China and India are not bound to mandatory emission reductions – but it is clear that the carbon business will continue.

A market price for carbon, says Sussex University's Energy Group's Jim Watson, "is a very poor weapon in what is supposed to be

a war to save humanity". Assuming that high prices for carbon will reduce the demand of fossil fuels and at the same time trigger alternatives to fossil fuels works in a simple economic theory that involves few variables but the world economy doesn't work like that, the reality is far more complex. For instance in the 1970s oil crisis, high price rises did little to wean industrial societies off oil.

Also, there is the problem that the carbon as a commodity doesn't exist as such. A commodity is necessary to create a market but a lot of assumptions are made in order to have a market that could work "in theory". A market where the products sold have no underlying asset is likely to be volatile and create fertile conditions for a market bubble like the derivatives market that created the last financial crisis. Traders don't know what they are selling and emissions reductions lose any relation with changes in industrial practice or energy production.

All in all; the fight against climate change, which involves the change of the whole global economic and productive system into sustainability whilst phasing out fossil fuels, has to be a lot more wide-ranging than the price GHG equivalents.

The European Union is the perfect example of how a trading system on its own can't reduce emissions. While the price of carbon remains low, measures such as improving efficiency of equipment and household appliances or mandating increased use of renewable energy sources – combined with an economic crisis and outsourcing of industrial production – helped reduce emissions in times when the low market price of carbon encouraged emissions to increase. However these complementary measures can be developed in a system where the sovereignties are shared and EU directives have an EU-wide scope. Unfortunately such tools do not exist at global level.

1.2.2. Failure of the governance mechanism

The COP15 in Copenhagen was advertised as the turning point; "the appointment with history that humankind couldn't afford to miss". Copenhagen was the place where the new emissions reduction targets would be agreed by all the countries as well as the commitments and tools necessary to decarbonise the world economy. The result of years of multilateral negotiations in several international forums between countries, civil society and other stakeholders amounted to a waste of time when the true nature of intergovernmentalism unveiled itself harsh and blunt: in the last day of the negotiations the US, Brazil, South-Africa, India and China sat behind closed doors to discuss the fate of

the fight against climate change. Not even the EU was invited. The outcome was not only irrelevant but also highly deceiving and politically discrediting for the UNFCCC as a whole. Copenhagen COP15 was followed by Cancun COP16 in which the agreement of the global community to keep working together and saving the UN process was seen as a success. Yet under the Cancun agreement it is possible to reach an increase of 4 degrees Celsius, more than twice what is considered as dangerous for our survival.

The main characteristic of intergovernmental processes is that the stronger players impose their views on the rest, regardless of what is the best for the common interest. In these cases the big polluters, have a "de-facto" veto power on any decision. A good example is the way the US played in the Kyoto negotiations, pushing forward the carbon market mechanisms and then backing-off, or the last COP15 in Copenhagen. The majority of states in the world and hence the majority of people were powerless to save themselves from global warming because the biggest world polluter refused to cooperate. Lately also China and India joined the club of countries who influence global decisions without being bound to emission reductions in the Kyoto protocol. The last negotiations in Cancun helped reinforce that intergovernmentalism is about the strong imposing their views on the weaker: when the last day of the conference Bolivia opposed the other 193 states agreement on the final text her opposition was noted but not considered important enough to block the process. As the conference president Patricia Espinosa said: *"Consensus does not mean that one nation can choose to apply a veto on a process that other nations have been working on for years. I cannot ignore the opinion of another 193 states that are parties"*. It is an unwritten rule that the UNFCCC works by consensus and countries like the US have often abused it. However the case of Bolivia shows that the rules seem to change depending on the condition of the actor.

The system is not only undemocratic – a selective minority *de-facto* blocks the majority from moving forward – but also extremely inefficient to achieve the common goal of decarbonising the global economy and pave the way to a sustainable future. And everything boils down to a profound failure of the governance mechanism to fight climate change.

To the lack of democracy and efficiency we have to add the few mechanisms in place to fight climate change – the market based mechanisms from the Kyoto protocol – which happen to be operating in an unaccountable framework. The lack of a democratic institutional setting opens the door to arbitrary political decisions to be taken by the

executive bodies of the CDM mechanism. In other words, in absence of a proper democratic and accountable system the bodies responsible for taking technical decisions end up playing a political role –not exempt of controversy and accusations of corruption-.

For instance; the Executive Board of the CDM, composed of 10 appointed members from different countries, is responsible for approving the projects that will receive carbon credits. The approval should be subjected to technical considerations in accordance with the established rules. In reality, like in any decision-making process involving lots of money and little accountability, and therefore susceptible to be target of interests, the Executive Board of CDM approves projects that, according to the rules, should not get the carbon credits. For instance projects of big dams in China get CDM funding although its viability was not dependant on this funding because the chinese government was going to build them anyway – because they were approved before getting the approval from the CDM executive board –. In these situations there is no possibility to raise the issue in any court and sets a precedent for further abuse of the system. Consequently, the political bodies exist within the UNFCCC but they are unaccountable, subjected to the corridor horse-trading between countries and losing sight of the real objective that should be reducing emissions.

Hence, on one hand we have a discredited governance structure of UNFCCC in which vital decisions are continuously pushed into the future and where the humankind is held hostage by the *de-facto* veto power of a handful of states and a counter-productive carbon market mechanism that is exacerbating the problems of climate change.

Summarizing, the main governance problems of the UNFCCC system are:

– lack of power – the power remains at a member state level and more concretely in the hands of some states that profit from the lack of governance to impose their will on the majority of world states and citizens,

– lack of legitimacy – even though the countries represented in the COP represent their national interests, the COP meetings are not legitimate because the global interest is not represented,

– lack of accountability in front of the world citizens – the system doesn't provide for citizen participation; there is no court to which the citizens can bring the UNFCCC or the states vetoing the negotiations for failing to deliver its targets,

– lack of enforcement – the only thing UNFCCC can do is expel a country from the protocol but has no means to enforce the emission reductions upon any country.

1.3. Summary of first part

The current system framing the global fight against climate change has undemocratic and dysfunctional governance. Although this system is not very different from all the other UN systems, in which democracy is always as present in the rhetoric as it is absent in the practice, it is a crucial point to consider when analysing why the current tools to fight climate change do not manage to reduce emissions, do not penalise the polluters and do not promote the innovation necessary to put the global economy into the sustainability track.

The current insufficient mechanisms in use to fight climate change are, to a big extend, the result of lack of appropriate governance in the global negotiations. Any future reform can only succeed if implemented in a framework that is democratic, legitimate and with limited but real power to look after the world common interest.

The same way the addition of national interests does not amount to the common interest; the current institutional set-up cannot deliver proper global solutions able to pursue the common good. A profound reform is needed.

2. Proposal for change to the current institutional setting

2.1. Intergovernmentalism or communitarianism

Intergovernmentalism has proven itself incapable to solve the challenges mentioned in the first part. A new approach that recognises the climate as a common good for humanity perspective is needed.

The guiding principles of the suggested change are both pragmatic – create a system that can deliver what the world citizens need – and moral – based on supranational democracy and not on power-politics of domination –.

The COP meetings and further similar gatherings will never result in effective policies capable of delivering unless an independent body is created, in which the countries share their sovereignty. If the sovereignty stays solely in the hands of the states the answer to the global problem of climate change will be national and not global. And without a global approach it will be impossible to effectively combat climate change.

The countries and world population need to understand that by sharing a little bit of their sovereignty they don't lose power but gain it. The current system *de-facto* implies surrendering to the power of the

big polluters. By keeping the 100% of its sovereignty the big majority of countries are effectively powerless to influence the fight against climate change. As a comparison; when Ireland decided to share its sovereignty with the other EU members it effectively gained power in a way it never had before, it could sit in the same table with Germany and France and be taken into account. A similar approach at global level would increase the power of small and middle countries whilst giving to the big countries the support and legitimacy to act.

The new institutional setting should include all the interests involved in the current climate change negotiations: the interests of the world states, the interests of organised civil society, NGOs and other interest groups and finally and most importantly the interests of the current world citizens and the new generations.

It can be argued that the cause for failure of the current institutional setting is precisely because it fails to represent the right balance of interests. Currently only the interests of the states are represented in the negotiations –Conference of Parties-. And as argued before the sum of national interests doesn't equal to the common interest. Nobody has the mandate to represent the interest of the world citizens which at the end is the real issue at stake. Like in any negotiation, the stakeholders that are not represented in the negotiation are doomed to lose. It is no coincidence that the bigger losers of Copenhagen and Cancun were the ones who were not represented: the world citizens.

Hence there is need to change the system in a way that:

– Pools enough sovereignty at global level to have limited but sufficient power to deliver concrete and efficient policies,

– Identifies global decarbonisation as a common good for humanity (or GHG as a common bad),

– Is democratic; i.e. the majority rules; any state can oppose any decision but they can't block the majority –be it of countries, people or both,

– Is legitimate; i.e. power derives from the people and from the agreement among the parts combined for the common good,

– It has the capacity to enforce the rules agreed in the protocols – power and budget –,

– It guarantees the application of the climate rules with an independent judiciary.

The importance of creating a system that is democratic and legitimate should not be underestimated; creating a central body responsible to take initiative, guard the treaties and guarantee enforcement risks giving an image of imposition from above that countries and citizens will not accept. The only way a supranational body with the task to promote and defend the common interest can be

respected, or at least tolerated, is if it is legitimate; i.e. the stake-holders (countries and world citizens) are properly represented.

2.2. A new institutional architecture to organise climate action

With these principles in mind the potential new supranational structure would be composed of a global authority replacing the current UNFCCC secretariat, a legislative branch/es replacing the Conference of Parties and a judiciary charged to guarantee law enforcement and open to accept cases from states, organisations, civil society and people. It is very unlikely that such an overhaul of world governance capable of creating a Global Community for the Environment would take place at once and in one single step. However the three different institutions can be set up separately and step by step move from intergovernmentalism to communitarianism.

2.2.1. The Global Authority for the Environment

The common good being the decarbonisation of the planet's atmosphere, a communitarian institution, a Global Authority for the Environment or a Global Commission for the Environment replacing the powerless and disoriented current UNFCCC secretariat, would be responsible for:
– looking after the common interest regarding GHG,
– setting up and managing the tools to fight climate change. I.e. the coordination of global research funding on real clean energy and the coordination of market incentives (carbon regulations, tax on CO_2 and CO_2 equivalent, renewables targets, technology sharing…),
– facilitating the negotiations on climate treaties and be the guardian of the protocols, conventions and any adopted international climate agreement.

2.2.2. The Assembly of Parties

It is very likely that the creation of a Global Authority for the Environment would imply the creation of a more structured Conference of Parties charged with legislative and scrutiny powers. The decision making on the reduction targets, tools and any international environmental law would take place in a bi-cameral system of representation.

One chamber would be representing the interests of the world states which would come to upgrade the current Conference of Parties (COP) and

another chamber representing the interests of the world citizens. These two chambers could work with a system similar to co-decision as currently used in the EU. The process to create a body that has more powers and is more representative of the world's interests than the current UN General Assembly or the Conference of Parties of the UNFCCC has been developed by the campaign for a UN Parliamentary Assembly (UNPA).

In fact, the proposed system of Global Environmental Authority complemented by a legislative power representing citizens and states is nothing else than an upgraded picture of the current UNFCCC institutional setting. It just requires giving power and vision to the UNFCCC secretariat and democratic and sovereign tools to the COP. The turning point and the milestone of the upgrade is the decision to share power that currently is inefficiently lying at national level and which can only be effective if activated in combination with the powers sleeping in the other countries.

2.2.3. World Environmental Organisation – an alternative?

The proposal of a World Environmental Organisation is not new; Miterrand was the first global leader to propose the replacement of the UNEP with the WEO. Later on, right before the Copenhagen summit and foreseeing the – then – potential failure of the meeting, Chancellor Merkel of Germany, and President Sarkozy of France, in a letter to the U.N. Secretary General, called for an overhaul of environmental governance, and asked for the Copenhagen climate talks to progress towards the creation of a World Environmental Organisation.

The Executive Director of United Nations Environment Program (UNEP), Achim Steiner, has stated that environmental governance reform was a key part of the discussions and that "*the status quo is no longer an option*". In view of the demand from some governments which raised the possibility of a World Environment Organisation, a high level ministerial group was established to continue the process with greater focus and urgency.

However there is a major problem with the concept of the WEO as it is demanded by Merkel, Sarkozy and Steiner and it is that although it allows a step forward in the right direction it stays in intergovernmentalism and fails to tackle the root of the problem. At worst, the WEO is seen as a forum where scientists, entrepreneurs, governments, companies and environmental organisations can voice its concerns and recommendations. At best, the WEO would follow the model of the World Trade Organisation (WTO).

The task of the WTO (the former GATT) is to administer the trade rounds and the subsequent trade negotiations, offer a forum to discuss trade policies and mediate to solve the breaches of the trade agreements. It can be argued that the WTO is the most democratic – one country-one vote – and well-functioning of the UN organisations; without giving away sovereignty the countries abide to international treaties and a system of settling disputes is in place that has worked quite successfully so far (from the moment the US accepted the mechanism to settle disputes).

However although there are several things to learn from the WTO, there are also several problems with using the WTO as a model for the WEO. Firstly, it only includes the interests of the countries but not of the citizens. Experience has shown how the implementation of some trade agreements have caused major destruction in some weak developing markets precisely because their government was either corrupted or obliged to accept unfavourable agreements. Meanwhile a communitarian approach would allow for representation of the state but also of the people in a second chamber.

Secondly, the WTO has a secretariat in Geneva that is well-staffed and efficiently coordinates setting the agenda for the meetings but it is very far from being anything close to a "global trade authority". In this sense the role is to mediate and facilitate but doesn't have the power to lead, finance and decide.

Finally, the WTO as a process that takes place between governments has either a negative or, in the best case, no image at all. People identify WTO talks with riots and demonstrations in Seattle, lack of transparency, high level negotiations where the north decides on rules to break into the developing markets whilst protecting their own markets from foreign intromission, etc… Meanwhile global warming is a public topic, everybody is aware of it, cares about it and is eager to participate. In this sense a reform of the institutional setting for climate change is an opportunity to reconcile people with politics, involve them in a global process that will affect them all and which can be the first step towards globalising democracy. Instead, creating a WEO on the model of the WTO would be a missed opportunity to advance in world governance process and to put the first stone in the UN reform.

2.2.4. International Court for the Environment

Yet another new body would need to be created in order to guarantee the enforcement of the climate policies; a global judiciary on climate issues – ruling on the jurisdiction provided by the convention

and protocols – is indispensable to avoid the current lack of enforcement of the policies. An International Court for the Environment (ICE) is a fundamental piece for the correct functioning of global policies on climate. So far there have been cases in which environmental crimes have been treated as violation of human rights, for instance in 2005, over 63 Inuit people launched one of the world's first legal actions on climate change, on behalf of all Inuit, contending that greenhouse gas emissions from the United States violated their human rights. The action was rejected by the Inter-American Commission on Human Rights but gained worldwide attention. Even though it didn't succeed its purpose we can envisage how powerful the tool of an ICE could be, even in its own, to enforce climate agreements.

The ICE would sit above and adjudicate on disputes arising out of the UN environmental treaties, including the UN Convention on Biological Diversity 1992 and the UN Framework Convention on Climate Change 1992 and it would have personal and territorial jurisdiction in the signing countries.

Although the idea of an ICE started to be promoted in the 80s by the Italian Supreme Court Judge (Amadeo Postiglione) it has not been until recently that campaign to create an International Court for the Environment has been recently launched – see http://www.icecoalition.com –.

2.2.5. Consultative bodies

Finally, it would be adequate to discuss the need to create a consultative body in which the interest groups could gather to express their opinions and recommendations on the global policies. These interest groups are already active in the current unstructured setting, lobbying the parties in the negotiations and being present in the corridors of the negotiations. Also the environmental NGOs have played a major role in bringing the climate change topic to the wider audience and as real cross-border movement deserve to have a voice in the future negotiations.

2.3. Making the change happen

How to change the current UNFCCC system – and the UN structure as a whole – into a system that is at the same time democratic, transparent, inclusive and capable to effectively deal with global warming? To frame the discussion we need to differentiate between change from inside the UN system or from without.

2.3.1. Change from within UN system

At first sight, pushing for a change from within the UN system seems to be the reasonable thing to do. For instance, the Campaign for a UN Parliamentary Assembly suggests that a world parliament on global climate policy, composed of 550 delegates from national parliaments, could be set up as a consultative body to the Conference of State Parties of the UNFCCC and with the time evolve from a consultative to a legislative role whilst its legitimacy would be increased by introducing direct election of representatives. This is the same gradual approach that has proven to be successful in the case of the European Parliament, which moved from a consultative non-elected assembly in the 50s and 60s to an elected body in 1979 with increasing legislative powers from 1980s to our days.

However such an initiative would require to either move away from the UN system or work towards a change in the UN Charta. Amending or changing the United Nations Chart would require a two-thirds majority support from the UN General Assembly and unanimity in the UN Security Council. It is hence really difficult to envisage a change of the institutional setting as long as it has to take place within the UN framework.

There are two major problems of trying to work within the UN framework; on one hand we have the lack of successful experiences to achieve anything substantial from inside the UN during last 60 years. On the other hand, and most importantly, there is the timing issue. Even if we would succeed to transform a subsidiary body of the UNFCCC into a more powerful body able to legislate this would take too much time – and, sooner or later, a change in the UN Charta –. There is scientific agreement that the next 10 years are going to be the most important in the fight against climate change; the decarbonisation of world economy has to be well in place within 30 years and the reduction of the emissions has to start as soon as possible. Hence, the urgency of the situation speaks against a long and cumbersome process whose success is, in the best case, uncertain. It took 50 years to have an influential European Parliament in a case where there were already experience of communitarian institutions – high authority and court of European Coal and Steel Community –, the current UN system hasn't managed to move from intergovernmentalism in 60 years and we don't have more than 10 years to reverse the climate degradation.

Strategically speaking it makes sense to start working for the change from within the current UN system but, given the time constraints, it is necessary to consider more possible options outside the system.

2.3.2. Change from outside UN system

The latest and more important changes in global governance have come from outside the UN system. The creation of the WTO and the G20 is a good example of how easy it is to relegate the UN when necessary.

Hence there is the option to build on the momentum provided by the system-failure of Copenhagen COP15 and Cancun COP16, on the lack of general credibility and trust in the continuation of the UNFCCC as it works at present, on the undemocratic and malfunctioning current climate-related finance mechanisms and on the urgent need to deliver solutions to the world citizens to promote a global reshuffle of the current climate institutional set-up.

In this sense a possible way forward is to create a process similar to the creation of the WTO. A multilateral commitment accepted by a majority of countries would be enough to launch a WEO. As it has been argued before (see point 2.2), it would be necessary to upgrade the secretariat into a kind of executive body and next to the ministerial conferences – what now are the COP – there should be a chamber where the world citizens would be represented. In essence the creation of a Global Community for the Environment (GCE) depends on the will of the countries.

Therefore it is important that the global civil society, counting with the support of many countries of the G77 (heterogeneous group of countries from the Global South) and some from the global north, starts a campaign to ask for a conference to create a GCE or alternatively a very ambitious WEO. The Campaign for the creation of the International Criminal Court can be a good model to follow.

Another proposal to break the current deadlock is to create a vanguard of countries willing to go further in sharing sovereignty and emissions reductions with the hope that this will show the way to others. J. Pinder suggests to start the process with a coalition of the willing and he suggests that the EU and India could kick off the process, both being the biggest democracies in the world. Pinder's proposal turned into the "Action for Global Climate Community" campaign –see http://www.climatecommunity.org/-. Pinder's proposal is very valid. However, because of what is explained in the part 1 of the paper it would probably be better to integrate more than just a carbon market in order to have a more consistent action on the emissions. Also, the current state of affairs shows that it would probably be possible to find a good number of countries willing to go forward into communitarianism if the goals and instruments would be shared

– carbon markets are not a tool that the G77 would accept with open arms because of its build-in speculative nature –. In fact, with the exception of the US and maybe China it should be possible to find a compromise between the interested countries to create a core of countries willing to explore the communitarian path.

2.3.3. From intergovernmentalism to communitarianism

Independently of whether the change comes from within or from outside the UN system a key question that remains is; should the new system remain intergovernmental or should it be the first step towards communitarianism at world level? We argued that a change that challenges the national sovereignties has more potential and positive externalities than a plain multilateral agreement to reduce emissions.

The question that arises then is how to reform an intergovernmental system into a communitarian one? The short history of supranationalism teaches us how from a limited communitarian core – for instance the European Coal and Steel Community – it is possible to expand communitarianism to other areas – the current EU –. Therefore fighting for a little space of communitarianism in the current system could be the way to trigger further changes in the UN system. Climate policy, for its relevance and popularity, can be the right way to start a communitarian approach in global affairs.

This first step into communitarianism can be the inclusion of a chamber of citizens in the new WEO, or the creation of an International Court for the Environment or the creation of a global carbon tax administered by a global authority.

However, the only jump from intergovernmentalism to communitarianism so far was in 1950 with the creation of the Coal and Steel Community (ECSC). The ECSC is the result of a very concrete and unrepeatable situation; in 1950 Germany was willing to cede a sovereignty they had not yet recovered after the Second World War and France was moved by the fear to commit the same mistake as in the post-WWI period. Today, although the whole human civilisation is at risk because of climate change, the sense of gravity is not such that could push the world towards a "unite or perish" option. These days all the countries are very fond and vigilant of their sovereignty and a spontaneous decision to share a part of it in a supranational institution is very unlikely. Unfortunately, if the *status quo* is maintained we will have to wait for the effects of climate change to push humankind to the "unite or perish" situation.

A second lesson to learn from the only jump from inter-governmentalism to communitarianism is that the ECSC was created by 6 member states and not by the whole of Europe. If it have had to wait for all the European countries to agree to join the ECSC it would have never happened. The jump from intergovernmentalism to communitarianism has to take place by those willing to engage in a supranational project of such characteristics; the EU some of the BRIC countries and a good number of G77 countries could create the first core. In the meantime it is true that the US will continue to pollute but it is a matter of time that the American economy will be victim of its inefficient energy production – half of electricity in the US is still produced in coal power plants –. The same way that in the end the sceptical UK joined the ECSC, the US would in sooner or later join the Global Community for the environment. A communitarian approach to GHG emissions, eco-efficiency, resource use, biodiversity, energy savings, transnational infrastructure and renewable energies as well as a progressive deal in worldwide converging emissions per capita are possible positive outcomes of setting up a communitarian system based on trust and equality between the members. The EU enlargement process is a good example of the positive and quick externalities and spill-overs of political and economic union. If a number of countries would decide to integrate their environmental and energetic policies it would increase the speed of decarbonisation and make them more competitive in the future whilst those who stay in old technologies would suffer from stagnation in innovation and progress which would push them to join the communitarian core.

The task is not easy and the change needs to be triggered somehow. NGOs and organised civil society have a very important role to play in raising the issue and organising a coalition of stakeholders to build a campaign for a Global Community for the Environment or/and an International Court for the Environment.

3. Conclusions

The indicators of climate change are unequivocal in signalling the urgency of taking action. However this will not be possible with the current climate governance.

Lester Brown, president of the Earth Policy Institute and author of the best-seller *Plan B: Mobilising to save civilisation* used to say that the gravity and urgency of the fight against climate change is so acute that we don't have time to build world institutions to organise the global response. Yet, after the failure of Copenhagen negotiations it is clear that continue

to negotiate in the current conditions is not leading anywhere; the need for global institutions is hence a lot more important than expected.

World GHG emissions continue to increase and the world continues to re-carbonise instead of de-carbonise itself. The Kyoto protocol is expiring in 2012 and the prospects of a new treaty continue to be pushed into the future.

There is a lack of trust in a system that is undemocratic, unaccountable and incapable to implement and enforce global climate policy. It is in the common interest to create a system that pools the necessary national sovereignty at global level in order to give enough power to a supranational body to implement and enforce agreements.

The fastest way to bring about this change is by triggering a process similar to the creation of the WTO; a multilateral conference in which the parties set up an organisation, embryo of an institution, with limited but real powers and democratic and accountable bodies. Together or in parallel to this WEO it is worth pursuing the creation of an International Court for the Environment. Another very valid and easier to implement option is the creation of a core of countries willing to build a community to manage the decarbonisation of their economies in the line suggested by Pinder.

The time is ripe for a change and change should not take place without the world citizens. It is necessary that the main stakeholder in the negotiations can be represented, which has not been the case so far. In today's globalised world there is a window of opportunity to globalise democracy and it should not be missed. Only durable democratic and legitimate institutions are able to deliver and implement the right policies and global civil society and NGOs have a very important role to play in paving the way from intergovernmentalism in the direction of communitarianism.

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Consolidated Democracy under Stress

Nadia Urbinati

1. For a new Montesquieu paradigm

Delivering a paper on the crisis of democracy in Ventotene is a moving and intellectually rewarding experience. The Manifesto that some leading anti-Fascists wrote in this island almost 70 years ago preserves its critical and utopian value intact. The Manifesto held the "principle of freedom" foundational of human society and put on trial "all those aspects of society that have not respected this principle". It declared Nazi-fascism responsible of the war and the despotic domination over the continent but was not so unsophisticated to suggest that the defeat of totalitanism would solve the problems that had caused it. The Manifesto claimed that nationalism and inequality would continue to threaten "the principle of freedom" also in future democracies if some radical changes in domestic and international order did not occur. Translating Immanuel Kant's paradigm into a political program, the Manifesto launched the following two step politics: a constitutional and federative transformation of each European nation, and the creation of a super-national federation.

A crucial role in this two step politics was played by freedom of speech and information. The Manifesto built its utopian project on this simple condition: that all the citizens should enjoy an equal opportunity to make their ideas heard and exercise their power of surveillance and critical judgment over constituted politics. Constitutional democracy and a frank public opinion were advanced as radically opposite to plebiscitarian democracy and the propagandistic manipulation of social knowledge. Peace and democracy, the Manifesto suggested, relay heavily on freedom of speech and information.

In the Manifesto, equal liberty and supra-national cooperation rest on a vision of democracy that pivots on the right to dissent. Indeed, on the one hand, the Manifesto linked freedom of speech and information to the dismantlement of economic and social privileges, thus suggesting that those who hold economic and social advantage tend to oppose the controlling function of public opinion.[1] On the other hand, it stated a

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[1] "The equal right of all citizens to participate in the process of determining the State's will is well-established. This process should have been the synthesis of the freely expressed and

straight relationship between the formation of a free public sphere of opinion and the advancement of international cooperation.

We may say that the Manifesto thought of democracy as the terrain of a permanent, regulated and civil conflict for the protection of equality and held freedom of the press and information as an essential means to it. This is the theoretical perspective that will orient this paper, whose leading thesis is that in consolidated democracies, the risks to "the principle of freedom" originate in the sphere of public opinion formation. The paper suggests also that democratic societies should extend to the negative power of critical surveillance a strategy of power limitation similar in kind to that that was devised in the 17th and the 18th centuries in order to contain the positive power of decision-making.

I will develop my argument through the following four steps: first I will briefly elucidate the three basic circumstances that constitute democracy; second I will discuss whether its global victory against external enemies in the past twenty years made democracy safe enough from its internal threats; third, I shall cast light on the role of opinion formation in the making of sovereignty in a representative democracy; and finally I will advance four proposals for subjecting the power of opinion to the Montesquieu paradigm.

2. *Three basic circumstances of democracy*

Twenty years ago, Francis Fukuyama published his essay on the end of history. His famous thesis, an application of a Hegelian-Marxist pattern to post-World War Two history, was that the end of Cold War marked the end of history insofar as it coincided with the actualization of liberalism or the leading idea of Western civilization. To Fukuyama, two facts proved the triumph of liberal-democracy: the "total exhaustion" of all alternative visions and the conversion to liberalism of its enemies (he was of course writing before the growth of Islamic fundamentalism). "What we may be witnessing is not just the end of the Cold War, or the passing of a particular

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changing economic and ideological needs of all social classes. A political organization of this kind made it possible to correct or at least to minimize many of the most strident injustices inherited from previous regimes. But freedom of the press, freedom of assembly, and the steady extension of suffrage, made it increasingly difficult to defend old privileges, while maintaining a representative system of government. Bit by bit the penniless learned to use these instruments to fight for the rights acquired by the privileged classes. Taxes on unearned income and inheritances, higher taxes levied on larger incomes, tax exemptions for low incomes and essential goods, free public schooling, greater social security spending, land reforms, inspection of factories and manufacturing plants were all achievements that threatened the privileged classes in their well-fortified citadels."

period of postwar history, but the end of history as such: that is, the end point of mankind's ideological evolution and the universalization of Western liberal democracy as the final form of human government."[2]

Alexandre Kojèv's pupil's thesis was engrafted within a non falsifiable dogmatic assumption belonging to the dialectical philosophy of history, an assumption in relation to which, moreover, any question of legitimacy was exogenous and inappropriate. In his view, if liberal-democracy was able to defeat all other political visions it was not because it embodied a normative value but because it proved to be better suit to the organization of modern society. Liberal-democracy was selected by the invisible hand governing history, which rewards functional consistency and is indifferent to human will and desiderata. Fukuyama's thesis pretended to be avaluative, a fact that reveals among others where the aggressive cynicism of the Bush administration's foreign policy derived its vital lymph in its ambition of becoming the midwife of liberty in the world.

Yet what interests me here is not a critical appraisal of democratic messianism (which Fukuyama himself rejected), but the exploration of some problems internal to the functioning of contemporary democracy, problems that its condition of planetary solitude makes perhaps more stubborn. Democracy does no longer have an elsewhere. Yet this is not because it is the final station of history, but for reasons that are intrinsic to its nature; reasons that can be detected whenever we reflect on the *three basic circumstances* that characterize democracy. Before elucidating them it is worthy to notice that they spring from the core value of autonomy as a claim of equality made by partners who freely agree to obey the same laws on condition that nobody exercises empire or domination. Not by chance, autonomy was claimed for the first time by the members of the Delian League when they accused Athens of breaking their voluntary relationship to cooperate for their mutual good in order to exercise its imperial superiority. Nothing is more outrageous to a democrat than being forced to obey the will of somebody.[3] This is the democratic meaning of freedom: voluntary relationship among equals which may entail sacrifice (for instance obeying laws) for a goal that is profitable to all. From here the three circumstances of democracy I am to elucidate come.

The *first* circumstance pertains directly to *equality*. It can be rendered as follows: it is hardly possible to hypothesize a form of government that

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[2] Francis Fukuyama, "The End of History", in *The National Interest* Summer 1989.

[3] In this sense, freedom from subjection can be interpreted in its classical meaning as a call for autonomy, a condition that is predicated on the nature of one's relation to others. In the Greek world "*autonomous* … is a quality 'objectively' predicated by others; it is not a quality 'subjectively' claimed by an individual as an inalienable or natural right with which he has been endowed by his creator"; it is a claim against despotism (Ostwald, *Autonomia,* 11).

is able to honor individual liberty with a distribution of power that is not based on equality. Isaiah Berlin argued that liberty from interference can be equally respected or violated in an autocracy and in a democracy. However, Berlin did not say that this holds true also in the case we take as our reference point the equal liberty of not suffering an arbitrary interference. Berlin had to circumscribe the notion of individual liberty in order to dissociate it from any form of government. But if we are consistent with the principle of autonomy, we cannot but link it to equality; yet at this point, the conclusion that the political order is indifferent to the protection of individual liberty cannot be sustained.

The *second* basic circumstance pertains to the *immanent nature* of democratic legitimacy, the fact that its foundations are not above or outside it but in the very political process that democracy out in action. The main contemporary theorists of democracy, John Dewey, Hans Kelsen and Jürgen Habermas have explained this radical immanence by arguing that democracy does not need to conjecture the existence of a pre-political nature as the site of some inalienable rights in order to justify and respect them. To the contrary, democracy shows itself (its history begins) precisely when a community of men and women adopts the instrument of rights in order to solve its internal conflicts and disagreements and to regulate their public relations. We cannot have democracy independently of individual freedom and what we call basic rights. The former and the latter implicate each other if it is true that in a democracy politics is made of an open, plural and public expression of opinions, a dialectic forum within which only political consent can emerge or change and dissent has full right to exist and be made public. Kelsen made this point in the 1940s: "The will of the community, in a democracy, is always created through a running discussion between majority and minority, through free consideration of arguments for and against a certain regulation of a subject matter. This discussion takes place not only in Parliament, but also, and foremost, at political meetings, in newspapers, books, and other vehicles of public opinion. A democracy without public opinion is a contradiction in terms. Insofar as public opinion can arise only where intellectual freedom, freedom of speech, press and religion, are guaranteed, democracy coincides with political – though not necessarily economic – liberalism."[4]

Finally, the *third* circumstance pertains to *self-containment*. It is intrinsically correlated to the previous two and claims that in no other political system as in a democracy it is crucial that *means and ends* are not in disagreement. Governments cannot be changed by means of elections

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[4] Hans Kelsen *General Theory of Law and State*, 1945), trans. Anders Wedberg, Union, New Jersey: The Lawbook Exchange, 1999, pp. 287-88.

and voting if civil liberty and equality are not respected (that equality is more or less broadly implemented is an historical fact that does not change the egalitarian foundation of legitimacy in a government based on freely expressed consent). Democracy is a correlation of means and end because both a goal and the process to reach it. And if it does not allow for shortcuts it is because it is not merely a functional way to reach some end or any kind of ends. The goodness of the end does not justify the violation of the democratic process of decision making. Material and formal aspects should always be conceived together if a process of decision is to be held democratically. This means that democracy is a self-containing regime that has within itself the condition of its own constitutional limitation. Contrary to a traditional view, which was originally sponsored by its critics, democracy is not an unbounded regime that needs to be tamed with externally devised strategies. To the contrary, as it was clear since its Athenian inception, it contains in itself the reasons and means for its limitations, and also, we have to add, of its violation. As Aristotle argued, who described six possible forms of democratic regime, democracy can go from a constitutional polity to a demagogical regime and this transition or change follows from the fact that the process of will and opinion formation becomes unbalanced. Keeping collective decision-making process in a balance with the power of opinion that spring from free participation is the most demanding work. Democracy develops within itself both its self-containing potentials and their violation.

These three circumstances together – equality, immanence, self-containment – make sense of Alexis de Tocqueville's maxim according to which democracy does not give us the certainty of excellent or good decisions (sometime actually its decisions are bad and unwise); what it gives us it is the certainty we can amend and change all decisions without calling into question or revoking the political order. In sum, democracy amends democracy; it corrects itself through direct and indirect strategies that are intended so as to make the conditions of democratic decisions less exposed as possible to being violated. Clearly, to be preserved, these circumstances require that political equality be enriched or complemented with other kinds of equality. The topic of this paper pertains to peculiar kind of equality: equality in the opportunity the citizens should have to participate in the process of opinion formation.

The aims of democratic self-containing strategies are essentially of two kinds, and are correlated: on the one hand, they act as *tonic*, and on the other hand they act as *depressant*. To clarify both the democratic creation of self-correcting strategies and their specific character – whether tonic or depressant – I need first to cast light on the originality not mainly of democracy but of representative democracy, because it is in relation to

the latter that it is not unreasonable to say that today democracy does not have an elsewhere. And it is in relation to it that we can detect problems of blockage or bad functioning of a democratic process of self-containment, or the violation of the above mentioned circumstances.

3. Democracy without an elsewhere

Democracy is a political order that has its Archimedean point within itself. However, only representative democracy has been able to fulfill this condition of immanence and neutralize its internal enemies by making them co-participant in the political game. The ancient demos never succeeded in incorporating the oligarchs and anti-democracy conditioned persistently the ideological and institutional identity of democracy as the myth of tyrannycide shows.

After the war against the Persians, Athenians erected a statue representing Armodio and Aristogiton in the act of stabbing Hipparcus. Critics such as Thucydides used the weapon of historiography to demonstrate that that myth was false because Hipparcus was not tyrant in the time of Armodio and Aristogiton. Actually, critics reversed against democracy the accusation of tyranny: still in the eighteenth century, Pierre Bayle, not an isolated voice on this issue, identified democracy with the hydra, a multitude of tyrants in one body. The forging of the myth of tyrannicide is telling of the limits that were peculiar to direct democracy. As Josiah Ober explains, it played a symbolic function as if it wanted to fix in the city's memory the idea of the enemy and the anti-tyrannical foundation of the government of the demos. According to Ober, that myth shows the liberal and tolerant nature of democracy, which did not eliminate its enemies nor denied them freedom of expression.

Yet that foundational myth tells us also that ancient democracy was never able to incorporate its enemies and the elsewhere remained always an effective and concrete possibility. Overturning democracy remained a legitimate goal for a portion of citizenry, which pursued it in the conviction they were struggling against a bad government (mob rule). "Athenian democratic ideology" never ceased to be confronted with the ideology of the aristocrats then, yet never stopped determining the fate of Athens, not even when the demos was dethroned.

Still in 337-336 BC, the Athenian ekklesia passed the Eukrates' *nomos*, by which the law regulated when the Areopagites (the highest magistrates) were and were not forbidden to climb the hill of Ares (where their meetings took place): they were, in order words, forbidden to act as magistrates when "the demos and the democracy were overthrown." The stele that

recorded Eukrates' law "served as a sort of boundary-marker" (*horos*) indicating the circumstance in which democratic magistrates were not allowed to perform political functions when democracy was not in power. "If Athenian magistrates (and other citizens) respect the law' restriction upon their participation in nondemocratic regimes, those regimes will be denied both the appearance of legitimacy and the expertise necessary to sustain them. And so antidemocratic interludes will be correspondingly ephemeral: short detours on the long democratic road."[5]

In Athens, democracy wanted to be the name for political legitimacy, not simply the name of a form of government. As such, it wanted to transcend the empirical fact of its juridical and institutional order. In this spirit, Ober reads also the inscriptions from democratic Eretria that set out the legal duties of citizens faced with the threat of obeying nondemocratic orders and the iconographic motifs of Aristogeiton killing the tyrant Harmodios. What is remarkable in these documents, writes Ober, is that they suggest that "the overthrow of the '*dēmokratia* and the demos' and the establishment of tyranny would not terminate the legitimate authority of Demos or the instrumental capacity of the Athenian demos to reward and punish the political behavior of individual Athenians."[6] Athens succeeded in becoming identified with democracy, although not all Athenian history was democratic, and not all Athenians thought democracy legitimate.

In direct democracy, the object of contention between democrats and anti-democrats remained unchanged and unsolved: the object was the right of adult male citizens to seat in the ekklesia and the dikastai that is to say to decide on laws and their applications. The problem was essentially numerical, as Aristotle admitted in *Politics* where he proposed to solve the anti-democratic threat by amending arithmetical equality with a system of plural voting. This would neutralize the objective discrepancy between the many (the poor) and the few (the rich).

Modern democracies succeeded in changing this condition of endogenous precariousness by drafting constitutions, or building the institutions on premises that all people in a hypothetical initial condition could understand and rationally accept. As Hannah Arendt wrote in *On Revolution*, the American Founding Fathers thought of their order according to an indefinite temporality; they put themselves to paraphrase John Rawls in the original position or *sub specie aeternitatis*. Modern democracies took away from their natural adversaries (the few) the object of contention, the radical dissent on "who" has the right of making decision and judge.

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[5] Josiah Ober, *Athenian Legacies: Essays on the Politics of Going on Together*. Princeton NJ: Princeton University Press, 2005, p. 22.
[6] Id., p. 224.

Since the start, thus, the *location of the few in the system of political decision was the problem* that threatened democracy. This was clarified very effectively by Niccoló Machiavelli, when in the *Discorsi* reminded the enemies of the government of the multitude that it is not the many that have the desire for power and an active participation in politics, but the few. To the many it is enough to know they are secure in their personal liberty, property and domestic tranquility. To be non-dominated is for the many sufficient. But it is not for the few or "i grandi", who long instead for power either because have substantive interests to protect or because have strong passion for ruling. For reason of class or individual character, the few, Machiavelli suggested, were the destabilizing force, not the many. In order to make popular government safe it would have been necessary to give the few a chance to satisfy their interests and passion for power.

We may see here anticipated the two strategies I have above mentioned – the tonic and the depressant –, because if the many need energizing stimuli in order to defeat their propensity not to take care of the *res publica*, the few must be instead moderated in their passion for power through containing strategies. The conclusion one may derive from Machiavelli's analysis would be that a good constitution is that which succeeds in containing the *hybris dominandi* of the few through a form of participation and control that involves the many – these are the successful answers the moderns were able to devise with the constitution and political representation.

Achieved this goal, it would seem we can say that the political order of the moderns does no longer have internal enemies because was able to make its potential enemies part of the game. Seen from this angle, not only representative government is not a violation of democracy, but is a means able to strengthen democracy by amending it from its endogenous weaknesses: making the power of the many essentially indirect and negative (power of control and surveillance first of all) and that of the few limited in time and function. Thus it is on representation as the devise thanks to which the few have been incorporated in the system that we should concentrate our analysis in order to cast light on the problems peculiar to contemporary democracy and devise some corrective strategies.

It is a consolidated idea in modern and contemporary political thought that representation is a violation of the democratic principle of direct participation. This idea is the daughter of a conception of sovereignty that had as its only axis the will, because was centered on the formal act of decision (the will of sovereign is the law) according to a juridical-political tradition that proceeded without substantial transformation from Jean Bodin to Jean-Jacques Rousseau to Carl Schmitt. If political liberty or autonomy is located in the act of decision

Rousseau was right because it is certainly true that "the will" cannot be represented.

Yet representation put into question the paradigm of the primacy of the will in sovereignty because activated the power of opinion or judgment, that is to say a political process of decision that is truly complex, not identifiable with the final fiat and, in turn, able to activate the "sovereign citizens" well beyond electoral authorization or the formal expression of their will. Representation has for this reason contributed to change the very concept of the "sovereign people" by making it plural and articulated, never an homogeneous mass that speaks with one voice at one time and is identical with the ideas of the elected leader; a people that is made of citizens who vote as singular individuals, do not practice their voting right as an act of acclamation of a leader, and participate through various venues in the formation of the public judgment over the functioning of the state and the behavior of their representatives. The will cannot be represented, but the will is only a small (although essential) part of what citizens can do in a representative democracy.

An important conclusion of this interpretation is that in modern democracy the violation of "the principle of freedom" can easily become a violation of political representation, a never abandoned temptation to transform it – as according to Schmitt – in the mystical representation of "The People", an entity that is intolerant of inner pluralism and discriminates against minorities and dissent; a kind of representation that is opposite of political representation, which is not only a means to unify a collective sovereign but also a complex process that filters, refines and amplifies ideas and interests emerging within society so as to make them contribute in the work of formation and expression of the political will of the demos. Political representation does not just pertain to the election of government agents and the building of state institutions; it designates also a form of political participation that is not confined to voting on the one hand and the decision-making inside of the lawmaking assembly on the other.

Clearly, although democracy requires that the right to vote is equally distributed – one head/one vote is the principle that defines the sovereign power of the citizens – it does not extend this principle to representative voice and indirect influence. If it is true that representation involves the activation of a more subtle and complex power than authorization, namely the power of judgment, or creating opinions and giving them political effectiveness, then for citizens to participate in the making of the political life of their country, some "extra efforts" are needed besides going to the ballot. In modern democracy, participation requires associational skills, time and financial means, along with advocates who are willing to engage in a cause and be effective in advancing it. Political

advocacy entails passionate and intelligent partisans, political leaders and representatives who are close enough to their citizens to feel their cause but distant enough from them to be able to envisage the best strategy for winning their cause. This mix of personal capacities, voluntary engagement and collective participation in social and political movements is an essential component of representation. An important consequence of this complex form of participation is that representation is not an alternative to participation. In fact, it requires participation; put in a different way, we might say that representation gives the best of itself if it is linked to participation. Indeed, it is actually at the level of advocacy organization that the disproportion in resources between groups of citizens turns out to be most radical.

Retrieving Condorcet's insight, I have argued elsewhere that the specificity and uniqueness of modern democracy is based upon, although not confined to the casting of "paper stones" by means of the ballot.[7] It lies in the *circulation* elections create between the state and society and the *continuum* of the decision-making process that links the citizens and their representatives.[8] Representation models the object, style, and procedures of political competition and action. It helps to depersonalize claims and opinions, which in turn allow citizens to mingle and associate without erasing the partisan spirit essential to free political competition, and the majority/minority divide.

Modern democratic society resembles a vast and webbed agora in which, to paraphrase Immanuel Kant, no deed or issue remains un-heard and cast away from peoples' eye of the mind and judgment. Representation is intrinsic to this world of attention and indirectness; it is intrinsic to the indirect power held by opinion and in fact very much subjected to it. In *this* sense, representation is a democratic form of politics although not democratic itself.

Should we conclude that modern democracy has won its battle against its internal enemies and neutralized all possible alternatives? The diarchy of will and judgment that lay at the core of the representative

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[7] I borrow this expression by Engels from Przeworski, "Minimalist conception of democracy," 49.

[8] This is also the rationale of the discourse theory of popular sovereignty, an important contribution to a democratic interpretation of representation. Yet the discourse theory provides still a partial picture of the political process of representation because while it stresses communication as "the socially integrating force" unifying the parliamentary and extra-parliamentary moments, it is insufficiently attentive to the moments of *rupture* of that communication, moments of *circuitry* that bring the contribution of *representativity* to the democratic legitimacy of representation to the floor by default; Habermas, *Between Facts and Norms*, 299; Cohen has proposed an even more organic and unitary view of deliberation in his many essays, but particularly "Deliberation and Democratic Legitimacy," 67-91.

system suggests, I think, an ambiguous and concerned answer, although not necessarily a negative one.

4. The diarchy of will and opinion

In ancient times the risks to democracy came from the side of the will. That risk translated into the few – the oligarchs – depriving the many of their right to seat in the assembly and the popular jury. Today, risks come instead from the side of opinion. They come not from the side of the authoritative will (voting) but from that of the indirect power of judgment. Rousseau presaged the tyrannical potential of speech when suggested that the citizens should, when gathered in the legislating assembly, vote in silence.

In making the assembly a place for voting but not talking, Rousseau wanted to prevent the emergence of demagogues and the fatal transformation of politics by consent in an arena in which some could use rhetoric to transform the "will of all" in the "general will" with people's consent. The tyranny of the majority would follow from here and would be a tyranny instigated or framed by a minority (as a matter of fact, no partial interest could meet with the rational agreement of the majority unless was crafted as general). Rousseau was operating in a direct government scenario, in which voting in silence could still be possible. But this would be wholly impossible in a representative or indirect democracy, a form of government that needs free speech and opinion as life needs oxygen: although the voting is secret and made in silence, the process that prepares it is public and vociferous.

This is thus today's dilemma: 'How to protect the political agon from the *indirect kind of despotism* that can grow from the power of words, without renouncing political representation and without violating free speech?' Like with ancient democracy, also in contemporary democracy the threats come from the few rather than the many. It is not the "tyranny of the majority" the problem that interests our democracies thus also because in a representative system it is at any rate a minority of citizens that hold in their hands the game of words or the means to influence the opinions of the large public. In consolidated democracy like in ancient democracy, the risks to equality and liberty come from the few, not the many, which are at the most an instrument manipulated by those who have more opportunity, economic and technological, to forge public opinion.

It is thus crucial we turn our attention to what has been called the tribunal of opinion. As a matter of fact, in representative democracy institutional and normative legitimacy is only a component of political

legitimacy. There is another aspect that partakes of political legitimacy, a power that is informal because not directly translatable into laws or the authorized will of the sovereign and that, for this reason, has been called *soft power*, a power that is not only indirect but moreover hardly containable and controllable: the power of opinion.

Democracy lives of a healthy and necessary tension between constituted power and the power in formation, or extra-institutional, which is political in broad sense or as public judgment that acts through indirect influence on the choices both of the citizens and the elected. It is not unreasonable to think of democracy as a political order that rests on a *disagreement* or better saying a never filled *distance* between institutional and normative legitimacy on the one hand and the trust or opinion by the citizens on the other. Actually, *distance* is a key word here, because a way to measure the relationship between individual judgment and collective judgment. The possibility and broadness of the public control and monitoring of what happens in the palazzo is predicated of this distance. The distance between the level of the will and that of opinion may vary: sometime is less pronounced like when the "the socially integrating force" unifying the parliamentary and extra-parliamentary moments is strong, and sometime is more pronounced like when we witness moments of *rupture* or *circuitry*. But the distance can never be made unimportant to the point that we reach a perfect coincidence or identification between the ideas of those who make decisions and the ideas of those who obey the laws. Trying to annul this distance or to achieve homogeneity – to transform political representation in a mystical identification of the people with a leader – is a dangerous temptation.

This temptation has never been tamed completely and in fact is internal to democracy, not external. Fascism, Caesarism, populism are an evidence that the temptation to fill the distance between the will and the opinion, between institutions and extra-institutions, can succeed. They are also an evidence that opinion is a dual power more or less like a two-face Janus: on the one hand, it is a site and condition for individual liberty and the monitoring power located within civil society; on the other it is itself a form of power, although never institutionalized and always indirect. Public opinion and the constituted power are the protagonists of a permanent struggle of concealment and disclosure. Constitutional democracies are part of this struggle, not its overcoming.

5. *Modern strategies of distance*

If in ancient democracy, the object of contention between democrats and anti-democrats was the right to seat in the assembly and popular

juries, in representative democracy the object of contention is much more elusive and difficult to prove because citizens' political participation in public life is always indirect, not only in the form of voting (for lawmakers rather than on laws) but also substantively, because it relies upon data and information, contents and interpretation that citizens do not produce by themselves directly. Modern democracy is wholly based on indirectness. It is certainly more inclusive (and, in principle, more egalitarian) than ancient democracy but at the cost of exercising political liberty indirectly. Athens was more exclusionary but relied heavily on the direct exercise of political power by its citizens.

Although rhetoricians and orators held an exceptionally broad power in ancient politics, yet individual citizens retained broad power over their own judgment. They retained the power to check the orator's words against their own direct and first-hand experience of individuals and events because their perceptions and judgment did not relay on means of information that some professionals held or activated, and some citizen own privately. Athenian citizens could do this not simply because their state was small but above all because there were no intermediary institutions between their minds and their will such as for instance parties and the media. As eighteenth century theorists understood, the technological factor of printing was a tremendously important component in the transformation of the role of judgment in politics, and thus the character of democracy. Let us return to the meaning Aristotle ascribed to an autonomous judgment in constitutional government.

Aristotle argued that the small scale of the polis and direct relations between citizens in their everyday life were crucial conditions of public liberty: a state "composed of too many … will not be a city, since it can hardly have a constitution. Who can be the general of a mass so excessively large? And who can be its herald, unless he has Stentor's voice?" A herald was considered crucial because the citizens' judgment, which was also crucial, depended on it. Athenian democracy was distinctive not simply because its citizens engaged in politics directly, but because they *judged directly* and made decisions according to their "ideological presuppositions and in the best interest of [their] state and of [themselves]."[9] Party machinery did not control their votes; commodified media did not shape their opinions.

Aristotle's claim that population and territory had to be limited in size was related to his requirement that the polis be socially and politically self-sufficient. The notion of self-sufficiency required to be extended to the

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[9] Aristotle, *The Politics*, 262. See also, Finley, *Democracy Ancient and Modern*, 17-18; Ober, *Masses and Elite*, 118-19, 123-27, 134.

production of ideas and opinions. Citizens needed independent judgment as well as economic independence in order to act as self-sufficient subjects. They needed both material goods and knowledge in order to make free and responsible choices in private as well as public matters. According to Aristotle, citizens formulated their judgments individually, rather than en masse, in the two spheres of public decision-making: the distribution of political offices and the execution of laws. Both the distribution of power (when citizens chose the magistrates) and the administration of justice (when judges judged people's deeds) required direct knowledge. Just as judges could not function with indirect or tardy knowledge of their case, citizens could not choose good magistrates or make good laws without firsthand knowledge of the candidates' qualities.

Whereas in ancient republics the only intermediary between the people and the politicians was the herald, in modern democracy information itself is a construction of intermediary actors, who run also the system for choosing representatives, developing political programs, forming opinions on the many issues that will become an object of public deliberation. In the past, the citizens could *see* and *check* over the orators' personal qualities and judge them directly. In modern society, the candidates' qualities are artificially constructed and transmitted to electors. Modern citizens are more passive not only because they choose political leaders rather than choosing laws directly, but also because they receive *both data and interpreted data* upon which opinion and decisions are to be made from the media and the parties. Citizens do not control the opportunity to see and be seen, to choose and be chosen, to have their ideas directly head and confronted. In a modern representative democracy, John Stuart Mill complained in 1861, Themistocles and Demosthenes would have to win seats in Parliament in order to be heard, and citizens would need the mediation of a party to know their qualities.[10] Even more than that, they would need a media system friendly enough to them and willing to make them pleased by the audience.

To paraphrase Aristotle, citizens' lack of self-sufficiency in gathering and interpreting information seriously curtails their opportunity to make autonomous judgments and *thus* exercise control over those whom they have chosen for government. In a democracy in which citizens' most important power is essentially a negative power – a power of controlling more than actuating, or criticizing more than making things done –, the fact that even the controlling power is a power held unequally entails that it may not an effective power of control but can be the source of a tremendously pervasive power. Because it is a kind of positive form of

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[10] *CW* 19: 457-60.

power although operated in a negative manner, this power would require to be subjected to strategies of control more or less like is the actuating power of the will.

In representative democracy, the broad system of political indirectness embraces both the will and judgment; this fact entails among others that, contrary to ancient citizens, it is for us very hard, if not impossible, to prove the existence of a violation or interruption of democracy.

In the strength of democracy – the fact that it does not longer have an elsewhere – the reason of its weakness is incubated. How can we answer to the escalation in the intensity and homogeneity of opinion, and above all an opinion we only very indirectly contribute in producing? How can we impede the annihilation of that *safe distance* between the citizens' mind and the mind of their leaders, who have at their disposal not only and simply political parties but now also means of information and propaganda that are meant to literally construct the opinion over political issues?

Modern liberal state has devised several *strategies of the distance*, institutional and procedural innovations that have contributed in shaping the identity of constitutional government: division of power, bicamenralism, the autonomy of justice from politics, individual rights that are separate from the norms that define the structure of government and protected by autonomous mechanisms of constitutional control, regular elections, secret and equal ballot, freedom of religion and of association, diffusion of the press as a means to collect information, express opinions, exercise surveillance and provoke disclosure of the activity of government. All these strategies together define what we call today representative democracy.

But among these several strategies, those that pertain or refer to the world of information and opinion are undoubtedly the most complicate to manage. If until the 18th century, when it was given a name and recognized as the influencing force of competent judgment formed in clubs and by journals and magazines, public opinion was identified with individual freedom of ideas and was given a protective role against the absolute power of the sovereign, with the stabilization of representative government and the conquest of universal suffrage opinion became gradually a means of government, in fact government by opinion was a term coined by 19th century liberals to call attention on this new insidious power. Beginning with the 19th century, the meaning and function of the public sphere have changed and from monitoring and checking power acquired gradually the nature of the agent and forger of an intrusive power, a mechanism that obfuscated power rather than unveiling it.

This transformation was timely perceived by liberals like Mill and Tocqueville. Mill, for instance, understood that, in allowing the many parts

of the country to communicate, and the many associations and individuals to interact, public opinion amend the individualistic pulverization of modern society by making all the citizens access to the same data in the same time. Public opinion plays two functions that can easily find themselves in a conflict: a preventive and protective function (public opinion is directly associated with freedom and individual rights) and a power creating function. The latter can easily escape citizens' control – it leads or guides indirectly political choices but it also homogenizes ideas and tastes both in public and private life. Opinion can easily acquire a formidable censorial character that relays upon the cooperation of the very citizens; it can act as a repressive code on our personal ideas and opinions by suggesting us what to contain or stress in our behavior, what to say or conceal in public, how to act in relation to even personal issues; and can do so with our direct complicity. Tocqueville and Foucault devoted immortal pages to the analysis of this modern form of domination and the repression of individuality it produces. Opinion can acquire the effective character of a positive power while its nature remaining unchanged, that is to say soft, invisible and never directly coercive. How can we intervene on this power without subverting its negative character and violating individual liberty? This is the amazing challenge facing a democracy that has defeated all its external enemies and does not have an elsewhere.

6. *Liberal strategies*

Liberals have been the first theorists to see this problem and tray to devise possible solutions. They have proposed strategies that I would call 'Platonist' in character because intended to exalt instead of containing the role of the few, for instance by suggesting the formation of a class of intellectuals or competent citizens that weakened the power of the many. The solutions they proposed were not in agreement with the circumstances of democracy above listed. These solutions were actually conceived in the view of introducing elements of inequality and breaking the rule of democratic coherence of the means and the ends. Liberal theorists located the threats to liberty in political equality. For instance, Mill went back to Cicero's idea of an open ballot as a means by which the wisest, more competent or more virtuous citizens could exercise their supposedly beneficial influence on ordinary citizens (a strategy that political parties have somehow adapted to representative democracy). More modern and less naïve, yet not less problematic from a democratic perspective, was the proposal advanced by Walter Lippmann in 1922: creating an independent class of experts in political and social questions

(i.e. graduates and doctorates in Political Science) that "make the unseen facts intelligible and known to those who are to make decisions" [check the original text].

Whereas Mill had proposed to intervene on the governed by inhibiting or taming their passions and prejudices through an electoral system that offered the more competent and virtuous more opportunities to exercise their influence on the elections (a proposal that lacks any empirical evidence and is itself the outcome of the prejudice according to which more scholarly culture translates into more political virtue), Lippmann proposed instead to intervene on the governing class by illuminating its job with the competent knowledge of a skilful class. Skeptical about the possibility of inducing the large public to formulate wise or competent judgments without jeopardizing individual liberty, Lippmann turned his attention on those who held in their hand the means of power, as he himself wrote. Yet regardless of their different targets, for both Mill and Lippmann the reference model to bridle the democracy of the public was Plato's guardians.

Although these old solutions cannot convince the democrats, the problems they raised are central and still awaiting for satisfactory solutions. Bernard Manin has written that while in the classical age of representative democracy electors were sacred, in the age of audience democracy "the public" is sacred, a tribunal that does not have a competent organ and for which nobody is directly or personal responsible. While the elector was an abstract entity that made possible the counting of preferences with mathematical certainty, thus deactivating any reason for contestation, the public is an entity that is not measurable and is only symbolic. Above all, contrary to the elector, which presumes the existence of a reference point that is real – the citizen –, the public does not presume an outside in relation to which be evaluated; it does not presume a dualistic perspective.

The public is total because is on the same time fictional representation and reality. Furthermore, it is on the same time a means (medium) that makes possible communication among individuals holding different cultures and interests and an actor endowed of its own conditioning and autonomous power. Above all, it operates indirectly and is not translatable into objective causal relations. In *mediatic democracies*, the imaginary environment which Walt Lippmann analyzed and discussed in 1922 is expanded to the point of being the environment tour court, a place that is inhabited by the public, which is itself immaterial and ungraspable. Actor and means for action, one might say, are identified in character and substance. In the democracy of the public, any distance between reality and fiction or reality and opinion seems to be annulled.

What are the answers we dispose of that are not in contradiction with democratic principles, that do not produce a competent class (which cannot be held accountable because is depository of a specialized authority), and do not depress the power of ordinary citizens? How to intervene by exalting rather than depressing the negative power of judgment, the power of control held by public opinion? Said otherwise, is constitutional democracy able to devise solutions that are consistent with its own circumstances of equality, immanence and self-containment? This conundrum was happily described by Tocqueville when he explained that freedom of speech can engender unpleasant outcomes but cannot be limited is democracy is to endure. The law cannot intervene directly or by coercion. Then, how can we solve the problem of preserving free speech and yet treating opinion as a sovereign power that needs checks and balances not to become absolute and oppressive? It is the nature of the power of opinion that can perhaps lead us to give a pertinent answer to this question.

This question can be answered once we reflect on the nature of *indirect power* that characterizes opinion; said it otherwise, once we reflect on the nature of *indirect despotism* that is incubated within the democracy of the public. To do so, we have to make a step beyond an electoralistic conception of democracy, a conception that has shaped political science after World War Two. Indeed, if we propose an interpretation of representative democracy that is nothing more than an electoral system of designation of a political class we cannot even speculate on how much representative our governments are. According to this approach, representation is not and cannot be even a political issue to begin with for the simple reason that, in Pitkin's words, representation would be "by definition" "anything done after the right kind of authorization and within its limits."[11] As Anthony Downs has candidly conceded in commenting on the effects of the application of the private (as contractual) model of representation to democracy he endorsed, "there is nothing for representatives to represent."[12] And, as we know, elections give representation a democratic face and democratic an aristocratic twist.

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[11] Pitkin argued that this theory makes representation look like a "black box", something it cannot understand nor define. "There can be no such thing as representing well or badly… There is no such thing as the activity of representing or the duties of a representative" (*The Concept of Representation*, 39.) John Locke is no exception because although the two contracts he theorized allowed the individual to retain his basic power of judgment, elections (the second contract) were essentially and solely a means of institutions creation not people's representation.

[12] Downs, *An Economic Theory of Democracy*, 89. But see in addition Manin's four reasons why allocating positions through elections has inherently discriminatory anti-democratic effects and moreover hardly representative implications (*The Principles of Representative Government*, 139.)

Their function, as Giovanni Sartori wrote, is "not to make a democracy more democratic, but to make democracy possible. Once we admit the need for elections, we minimize democracy for we realize that the system cannot be operated by the *demos* itself."[13] According to an electoralistic democracy, thus, what citizens do before or after their voting is absolutely irrelevant to the issue of formal and institutional legitimacy. But, as we explained until now, the informal world of public judgment and the formation of opinions is far from irrelevant; it is to the contrary part of the representative process and is essential to citizenship as much as voting.

If we follow the traces of the diarchy of the will and judgment we may find out that the formation of opinion though the press, the means of information and social and political movements are along with voting and the decision-making process within institutions that which constitutes the complex universe of modern democracy. In the moment judgment is contemplated as a component of democratic sovereignty – or, to say it with Amartya Sen, in the moment we no longer consider indirect liberty as an inferior genre of liberty –, constitutional democracy cannot avoid taking care of the *circumstances in which public judgment gets shaped*. Taking care of the circumstances of opinion formation and expression entails acting indirectly, or by incentive and disincentive. It means adopting the Montesquieu strategy of making power limit itself by activating internal mechanism of checks and balances.

The right of the citizens to participate on an equal foot in the determination of the political will through their votes should be accompanied by the right to have a non meaningless opportunity to forming political programs and opinion and making their ideas heard. Justice or criminal law cannot be the only checking strategy if we want public opinion and elections act effectively as deterrence and dissuasion on candidates and politicians. Criminal law intervenes after the deeds but politics needs to induce actors and shape their determination to act – this is what electoral competition is supposed to do. But elections have a partial role of deterrence because the parties play a leading role in governing electoral competition, a role that cannot be bypass. As I have elsewhere argued, representative democracy requires political parties, which are not an optional. Moreover, the incentive or disincentive function of elections work effectively on condition that the opinion making system is truly independent from politics and gives citizens all the information they need to judge as much as possible with their own mind.

Thus the electoral system works effectively if political judgment is capable of influencing and monitoring politicians' behavior. Or else, it can

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[13] Sartori, *Democratic Theory*, 108.

easily become a strengthening factor of power that installs a ruling class that is self-referential and pretty much above control. The same can be said for public opinion, which can become a means for manipulating citizens' political judgment in the view of making it acquiesce and consensual. Protecting the role of surveillance of public opinion – protecting its negative power – entails helping elections do their job and finally protect politics from the permanent risks of corruption and abuse without exiting from the political domain: without resorting to anti-egalitarian strategies of control as for instance those proposed by Mill and Lippman.

Turning our attention from electoral authorization to indirect forms of influence and participation is thus central. Democratic citizens and lawmakers should refine their *institutional imagination* in the view of endowing democracy of new means, legal and constitutional, that are able to strengthen and sharpen the function of transparency and control held by public opinion.

7. A democratic answer: four proposals

I would like to propose four fields of intervention in the domain of circulation of opinions between institutions and extra-institutions, all of which have to do more or less directly with the protection of right of information.

1) It would be necessary to make less foggy the interdependence between elected and citizens; this exigency is in agreement with the complex nature of the voting right, which does not entail only the right to form a majority but also that of being represented. Thus, the mode of formation and selection of candidates and the channels of communication between representatives and citizens through the electoral mandate are crucial issues to be taken care of. Political parties should not be allowed to steal the citizens of the right to voice their claims and reduce them to simply choosers of yes/no preferences. Citizens should have the chance to participate in defining claims and political goals as well as selecting them. The difference between electoral democracy and representative democracy consists mainly in the role the citizens are allowed to play: if they are treated solely as electors or as citizens who enjoy the right to vote.

2) It would be necessary to regulate and limit the use of private economic resources in electoral campaigns. This is a very tricky issue because while has a direct link with the equal opportunity citizens enjoy to co-participate in the formation of consent, it has also a direct link with their actual opportunity to express their voice and make it heard. Since the liberal inception in the 17th century, freedom of property and freedom of

expression have been hand in hand. Yet in a representative democracy in which, as we have seen, indirectness is a comprehensive system embracing both the will and judgment, the public control of private money in the formation of political agendas and information cannot be avoid. As a matter of fact, since ancient Athens, democracy begun as a compromise between the newly empowered "common people" and the already powerful wealthy ("a strong shield around both parties,") but it took several revolutions to become the rule of the many (poor or "ordinary"). With Solon, democracy meant that poverty was neither something the people had to be ashamed of, nor a reason for political and civil disempowerment.[14] Athens was a genuine democracy because it tried to break the continuity between the power of wealth and political power. It did so without imposing economic equality and making the equals equal; or without violating the voluntary nature of participation. Democracy means that each and every citizen should have an equal and meaningful chance to take part in lawmaking and to address the assembly. Since the inception of democracy, the citizen had the right to participate (*isonomia*) as well as to speak on matters of state importance (*isegoria*.) In our democracy, the equilibrium between economic inequality and political equality reflects heavily in the domain of opinion formation.

From this perspective the U.S. Supreme Court's recent decision of allowing corporations full freedom of financing politics and electoral campaigns introduces a serious disproportion in democratic equality and violate the golden rule of keeping powers separate (economic and political power in this case). This decision recognizes more power to the few; moreover, in guaranteeing equal political rights to juridical persona, the Court introduces a new conception of the citizen that is primed to overturn the individualistic foundation of democracy, a guarantee that each physical citizen counts as one.

3) It would be necessary to protect the independence of the public systems of information from the power of political majorities; this can be done by creating a public space accountable to and guarded by an authority that should be equally distant from the will of the majority and that of the minorities. The leading logic of this proposal is to disassociate the public system of information from the power of the will and make it an expression of the complex and pluralistic world of opinion.

4) It would be necessary to guard and defend the pluralism of the sources of information and opinions by impeding the growth of private monopoly in the media system and the press, but also by preventing

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[14] From Solon's Fragments, in *Early Greek Political Thought*, 26 and Pericles' "Funeral Oration" in Thucydides, *The Peloponnesian War*, 145-47.

citizens who own national media or television network to run for elections. We need to think of modern form of ostracism in the view of taming the power of the few. This may be perhaps the best example of an extension of Montesquieu paradigm of power separation to the domain of political judgment. Separating economic power and the power of opinion formation is certainly the most difficult and yet most needed exigency, an urgent answer to the most novel challenge modern democracy is facing. As the Ventotene Manifesto acknowledged, the tension between economic power and equality is the central theme in contemporary democracy, and freedom of speech is part of this conflict.

At any event, the defense of representative democracy should result in an action of containment (I have above used the analogy with medical treatments like tonic and depressant) of a never neutralized attempt by the few to monopolize political power. Not to repeat the errors of the liberals, we need to find some juridical and legal expedients, some constitutional solutions that operate indirectly and in accordance with the democratic principles. The goal would be that of perfecting a strategy of self-defense that protects precisely the indirect, invisible and informal power of public judgment.

The issue of regulating the power of opinion is, as I have said, very delicate and even dangerous, because in the very moment we claim that judgment is a components of sovereignty and not simply a question that pertains to the individual civil rights, we can arouse the legitimate objection of censuring a fundamental freedom. It is important that any intervention in the domain of the soft power of judgment is conceived and devised in the form of an indirect intervention. But it is evident that on the front of the guarantee of the right of information and of the equality of the circumstances of public judgment, modern constitutions are still weak or not well equipped. Written before the technological revolution of the means communication and the formidable power escalation of mass media, many constitutions have as their only instrument of self-defense the classical liberal rights, like the right of free speech and opinion and that of association. These rights have been created and vindicated as individual rights against the state, as strategies of self-defense against political power when the latter was held by absolute monarchs. But with the democratic transformation of the state, the actual enjoyment of these rights has meant, as we have seen, the creation of a new power, a kind of power that, moreover, is an integrant part of the process of formation of the sovereign will in representative government.

None of our Western constitutions is effectively equipped so as to protect the right of information and the pluralism of the sources of information as

much as it is in protecting the right to vote. Some constitutions are better equipped than others. The Article 5 of the German Constitution declares that "any body has the right to freely express and diffuse its opinions with words, written materials, and images and to be informed without impediment through sources that should be accessible to all". Also the 1978 Constitution of Spain contemplates the right to information; the Article 20 acknowledges the right "to transmit or receive freely truthful information with any means of diffusion". The Italian constitution is not equally explicit in proclaiming the freedom of the citizens to be informed in a "truthful way" (Condorcet would say with pre-digested data) although the evolution of the Italian jurisprudence (also thanks to the input coming from European legislation) has proceeded in the direction of the affirmation of the right of information both as freedom to express opinions and as right to be informed.

The Charter of Fundamental Rights of the European Union is a landmark, and I would say a revolutionary turning point on this issue. Article 11 is explicitly devoted to "Freedom of expression and information". Part 1: "Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers." Part 2: "The freedom and pluralism of the media shall be respected."

Approved in 2000, the Charter signals the risks that can occur to democracy because of the monopolization of the media by private potentates or corporations. Italy is a textbook of the growth of video-populism and the serious limitation on citizenship right when the domain of opinion formation is not seen and treated as a power. Italy is a case study of the risk of video-populism that a consolidated democracy can suffer if the legal system is not aptly adapted so as to prevent the birth of a private monopoly in the domain of video-information, and liberate public networks from the domination of Parliament.

To conclude, the democratic answer to the liberal critics of the power of opinion should consist in making information a *public good*, a fundamental component of citizenship. It is a good that allows citizens to acquire other goods, as for instance that of monitoring the constituted power and disclosing that which it tends to conceal with risks of corruption and an arbitrary use of state power. Information belongs to the honorable tradition of the negative powers even if its action is informal and its effects are indirect. Without constitutional forms of control that defines certain rules, that treats opinion as a component of the political right of citizenship, modern democracies are at risk even though the right to vote is not violated or at risk, and even though there is no longer, not even in the imaginary, the idea of an elsewhere from democracy.

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