

PONTIFICIAE ACADEMIAE SCIENTIARVM SOCIALIVM ACTA

4

# DEMOCRACY

## SOME ACUTE QUESTIONS

the  
PROCEEDINGS  
of

the Fourth Plenary Session of the  
Pontifical Academy of Social Sciences  
22-25 April 1998



VATICAN CITY 1999



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The opinions freely expressed during the presentation of papers in the Plenary Session, although published by the Pontifical Academy of Social Sciences, only represent the points of view of the participants and not those of the Academy.

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PONTIFICAL ACADEMY OF SOCIAL SCIENCES

VATICAN CITY

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## PREFACE

The Pontifical Academy of Social Sciences, established in 1994, quickly listed “Democracy” among the subjects which should be approached with high priority. To base the deliberations of the Academy on a world-wide view, the Academy arranged a workshop with reports not only from Western Europe but also from post-socialist Central and Eastern Europe, from Africa, Asia, and from Latin America. The workshop was held from 12-13 December 1996 in Rome. The proceedings of the workshop were published as no. 1 of the newly started *Miscellanea* of the Pontifical Academy of Social Sciences (Vatican City, 1998). On the basis of these discussions, the Academy decided to dedicate two Plenary Meetings to the subject of democracy. The first of these Plenary Meetings – which was the Fourth Plenary Meeting of the Academy – took place from 21-25 April 1998 in the Vatican City. The proceedings of this meeting are published in this volume. Not all English texts are the work of native speakers. For this reason, the English texts were looked through and revised by Dr. Matthew Fforde. The authors and editor thank Dr. Fforde very much for his help. The second Plenary Meeting on democracy – which will be the Sixth Plenary Meeting of the Academy – will take place in the spring of the year 2000.

HANS F. ZACHER

Chairman of the Academy's  
ad hoc Committee on Democracy

Munich, April 1999



## IV PLENARY SESSION: 22-25 APRIL 1998

### PROGRAMME

#### Tuesday 21 April

Meeting of the Committee of the Jubilee edition

#### Wednesday 22 April

OPENING

President's address

Self-presentation of the New Academicians

#### Part I - INTRODUCTION

Professor HANS ZACHER (Munich)

*Democracy as a Subject of the Academy's Deliberations - Programme and State of the Work*

Professor MICHEL SCHOYANS (Louvain)

*The Teaching of the Church on Democracy*

#### Part II - VALUE OF DEMOCRACY - DEMOCRACY AND VALUES

Professor JOHN J. DI IULIO (Princeton)

*Value and Justification of Democracy (Democracy: an End or a Means?)*

Professor TAKETOSHI NOJIRI (Kobe)

*Values as a Precondition of Democracy*

Professor FRANZ-XAVER KAUFMANN (Bielefeld)

*Democracy versus Values? (Democracy and the Relativism of Values. Democracy and the "Decline of Values". Democracy and the Dictatorship of the Majority. Democracy as a Chance for Values)*

Professor HERBERT SCHAMBECK (Linz)

*The Conflict of Values - the Protection of Values: Democratic Structures, Rule of Law, the "Verfassungsstaat"*

Closed session for Academicians

Thursday 23 April

Part III - "CIVIL SOCIETY" AS THE ESSENCE OF DEMOCRATIC SOCIETY

Professor PIER LUIGI ZAMPETTI (Genova)

*The Concept of the Democratic State and "Civil Society" as a Precondition*

Professor JEAN BETHKE ELSHTAIN (Chicago)

*What is "Civil Society" and how does it Develop?*

Papal Audience

Professor KLAUS VON BEYME (Heidelberg)

*Mediating Structures*

Closed Session for Academicians

Friday 24 April

Professor JOACHIM BONY (Abidjan)

*History and Culture*

Part IV - SUPRANATIONALITY, INTERNATIONALITY AND DEMOCRACY

Professor STEFANO BARTOLINI (Firenze EUI)

*Europe: Its International and its Governmental Structures and their Relation to Democracy*



Professor THOMAS MENSAH (Hamburg)

*International and Governmental Structures on other Continents and Sub-continents and their Relation to Democracy - Common Report on Africa, America and Asia*

Professor LOUIS SABOURIN (Montreal)

*The Global World: How is it Governed? (The Utopia of a Democratic World Government and the Fragmentary, Non-democratic Reality)*

Professor THIERRY DE MONTBRIAL (Paris)

*International Interventions versus National Democracies (The Tension between the Manifold International Institutions and Activities and National Democracies)*

Discussion of Prof. SCHOYANS' latest note

Meetings of two Programme Committees on "Democracy" and on "Work and Employment"

Saturday 25 April

General Debate about the Scientific Programme

Closed Session for Academicians

XI Council Meeting



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ADDRESS OF THE PRESIDENT  
OF THE PONTIFICAL ACADEMY OF SOCIAL SCIENCES  
TO THE HOLY FATHER \*

Holy Father,

Last year, when receiving the Pontifical Academy of Social Sciences, you instructed us as to the fundamental principles of the Church concerning the ethics which should inspire the economic and social organisation of the world. In relation to our studies on the right to work you reminded us that, in accordance with the teaching of the encyclical *Laborem Exercens*, human labour “is a key, probably the essential key, to the entire social question”. We certainly did not forget your speech when seeking to formulate the results of the first phase of our work on the important subject of labour.

We also undertook to study the subject of democracy. A year ago you indicated to us that you approved our embarking upon a second major subject. The first plenary session dealing with democracy as its scientific programme is currently under way. Our preparations began with a workshop held in December 1996 by the committee entrusted with the task of organising the work on democracy, in cooperation with Council members and two external experts. In the proceedings of the workshop to be published shortly, Professor Hans Zacher, the chairman of the committee, offers his conclusions as to which topics should be addressed by the Academy.

Since December 1996 our studies have been conducted with reference to the teaching of the Pontifical Magisterium. Our colleague, Father Michel Schooyans, has described developments in that teaching in a text which will accompany our present and future work on democracy. The initial workshop made it clear to us that the list of questions to study will indeed be long. Our committee then decided to select for the present session topics which form a coherent and important corpus of study. Our program-

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\* The following address was delivered by the President of the Academy, Prof. Edmond Malinvaud, at the Papal Audience on 23 April 1998.

me this year is thus organised into three sections under the general title of “democracy – certain relevant questions”.

The first section, entitled “the value of democracy – democracy and values”, seeks to determine the justification for democracy – is it an end or a means? This section also asks whether there are prerequisites for democracy to actually work, and if so what they might be. It also includes a study of the relationship between the development of values and political regimes. It concludes by examining the conflicts between values and the democratic structures which seek to cope with these conflicts.

The second section is concerned with “civil society” as the essence of democratic society. We intend to analyse in depth the role of civil society, the effects of its history, as well as those contemporary developments which influence it. We will also look at the role of the mass media.

The third section examines the supranational and international aspects of the question in Europe and other continents, as well as at a global level. It also deals with those tensions which exist between national democracies and numerous international institutions and activities.

We are well aware that this programme is merely a beginning. Having outlined our present position, Holy Father, we now await with careful attention the suggestions you have to give us.



ADDRESS OF THE HOLY FATHER TO THE  
PARTICIPANTS OF THE FOURTH PLENARY SESSION \*

Venerable Brothers in the Episcopate and the Priesthood,  
Distinguished Ladies and Gentlemen,

1. I am pleased to welcome you as you gather in the Vatican for the fourth plenary session of the Pontifical Academy of Social Sciences, which has as its theme “*Democracy - Some Acute Questions*”.

I extend a cordial greeting to each of you, and in particular I thank your President, Prof. Edmond Malinvaud, for expressing the sentiments of all and for explaining the purpose of this session.

In these four years since the foundation of the Academy, in plenary meetings and in study sessions you have chosen as the central themes of your research and analysis two questions of vital importance for the social doctrine of the Church: first, work and employment, and now democracy.

I congratulate you and express my deep gratitude for the fruitful work you have already accomplished in such a short time. The acts of the plenary session and the book on the problems concerning democracy, which you have already published and kindly sent to me, show not only a great wealth and variety of content, but at the same time offer concrete applications for making the world more human, more united and more just.

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\* The following address was delivered by His Holiness John Paul II on 23 April, 1998. It was published in *L'Osservatore Romano* on 24 April 1998.

2. I was able to note with pleasure how all the research you have carried out has always kept in mind the fundamental orientation on the *Church's social doctrine*, from the memorable Encyclical *Rerum novarum* of Leo XIII to the more recent *Laborem exercens*, *Sollicitudo rei socialis* and *Centesimus annus*.

The Church's teachings on social matters form a doctrinal corpus that is always open to new developments and applications. In fact, as I wrote in *Centesimus annus*: "The Church has no models to present; models that are real and truly effective can only arise within the framework of different historical situations, through the efforts of all those who responsibly confront concrete problems in all their social, economic, political and cultural aspects, as these interact with one another" (n. 43).

The Church's social doctrine is not called to concern itself with the technical aspects of the various social situations, in order to formulate her own solutions. The Church proclaims the Gospel and wants to manifest in all its richness the newness that characterizes it. The Gospel message must permeate the various cultural, economic and political situations. In this effort of inculturation and spiritual reflection, the Academy of Social Sciences is also called to make its particular contribution. As experts in the social disciplines and as Christians, you are called to play a role of mediation and dialogue between faith and science, between ideals and concrete situations; a role that is sometimes one of pioneers, because you are asked to indicate new paths and new solutions for solving in a more equitable way the burning issues of today's world.

3. A few moments ago, your President, Prof. Malinvaud, stressed how in this fourth plenary session your intention is to study the complex theme of democracy, which you have divided into *three great issues of investigation*: the relation between democracy and values; the role of civil society in democracy; the relation between democracy and supranational and international aspirations.

These are subjects that await study and guidelines suitable for

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directing researchers, political authorities and nations in this millennial passage between the 20th and 21st centuries. How important is this period of preparation for the Great Jubilee of the Year 2000, from which we expect a strong message of reconciliation and peace for the Church and for the world!

Distinguished and dear academicians, may the Spirit of the risen Lord accompany you in this journey of analysis and research. I am following you with keen attention and, as a token of my closeness to your work, I cordially impart to you, the members of the Pontifical Academy of Social Sciences, a special Apostolic Blessing, which I extend to the experts you have invited, your co-workers and all your loved ones.



ACTIVITIES OF THE ACADEMY SINCE THE  
THIRD PLENARY SESSION.  
NEW GUIDELINES DECIDED UPON AT THE  
FOURTH PLENARY SESSION

REPORT BY THE PRESIDENT

During the year following the close of the Third Plenary Session and the Council meeting of 26 April 1997, the Academy implemented the programme that had been decided upon. The high point of its activities was the Fourth Plenary Session held in April 1998 (22th-25th) on the theme of democracy. During that year the Council held three meetings, respectively on 8 October 1997, 5 March 1998 and 25 April 1998.

APPOINTMENT OF THREE NEW ACADEMICIANS

On 22 December 1997 the Holy Father appointed as members of the Pontifical Academy of Social Sciences two sociologists, Professor Pierpaolo Donati (Italy) and Professor Janusz Ziolkowski (Poland), and an economist: Professor Partha S. Dasgupta (India).

Professor Dasgupta, born in 1942, studied at the universities of Delhi and Cambridge and has taught at various universities such as Cambridge, London, Stanford, Harvard, Princeton, Delhi and Carnegie-Mellon. He is the author of a number of books and of many publications in internationally recognized scientific journals. He is Council member of the Econometric Society, of the European Society for Population Economics, of the Royal Economic Society, and of the European Economic Association. He is Chairman of the Board of the Beijer International Institute of Ecological Economics in Stockholm, member of the British Academy, of the American Academy of Arts and Sciences and of the Swedish Academy of Sciences. He is now Professor of Economics at the University of Cambridge.

Professor Donati, born in 1946, completed his studies at the universities of Bologna, Milano and Essex (UK). Since 1972 he has been Professor of Sociology at the University of Bologna and has taught at the universities of Illinois, Harvard, Geneva and Graz. President since 1995 of the Italian Sociological Association, he chaired, from 1984 to 1993, the Committee on Social Policy of that association. He is member of the editorial councils of five Italian journals and of various international journals among which *Innovation* (Vienna) and *International Sociology*, the journal of the International Sociological Association. Since 1983 he has been Director of the Centre of Studies in Social Policy and Sociology of Health at the University of Bologna.

Professor Ziolkowski, born in 1924, studied at the universities of Poznan, Liverpool and London. Delegate of the Commission of Economic Planning at Poznan Municipal Office from 1949 to 1956, he taught sociology at the University of Poznan from 1957 to 1994. Author of many books and articles, he has also been Director of the UNESCO Research Center on Social and Economic Development in Delhi (1965-67), (1972-80), Rector of Poznan University (1981-82), and President of the Polish Sociological Association (1983-89). He has also been Senator (1989-91) and Minister of State (1991-95). Since 1989 he has been a member of the Polish Episcopal Conference of Justice and Peace and Emeritus Professor of Sociology.

#### REVISION OF THE STATUTES OF THE ACADEMY

In January 1994 the statutes of the Academy were drawn up for an experimental period of three years. This period was extended by the Secretary of State at the end of 1996 so as to allow a review of the possible revisions to be made to the initial provisions of these statutes. A special committee, appointed in the spring of 1997 and chaired by Father Schasching, carefully examined a number of points concerning most of the main provisions. A first draft for the new text of the statutes was examined and discussed at length by the Council on 8 October 1997. A second draft was accepted by the Council on 5 March 1998.

At a closed session of Academicians on 22 April 1998 the President made an oral presentation of the proposals that he intended to send on the text of the new statutes to the Secretary of State in conformity with the decision of the Council. The General Assembly made some comments, approved the draft, and asked the Council to finalize the proposal to the Secretary of State. This proposal was decided on at the Council meeting of 25 April 1998. After examination and a few revisions by the Secretariat of

State, the new statutes were approved by the Holy Father on 25 May 1998. The text was distributed to all Academicians with a letter sent by the President on 1 September 1998. It is published in this volume.

#### PUBLICATIONS

As was reported by the President at the proceedings of the Third Plenary Session, work on publications of the Academy was much delayed in 1996 and 1997 because of delays in the decisions on the publication of discussions at the Second Plenary Session and because of a lack of adequate staff at the Chancellery. The publication plan of April 1997 was also explained in the report of the President.

Thanks to the expeditious work of the editors and the Chancellery this plan was implemented. The proceedings of the Second Plenary Session were available at the Fourth Plenary Session. The proceedings of the Third Plenary Session and of the workshop on democracy were then at the last stage of production by the printer. They were both distributed in May 1998.

Decisions were taken by the Council on 25 April 1998 about the publication of the proceedings of the Fourth Plenary Session to be edited by Professor Zacher. Thanks to the transcripts of the records taken at the session, fuller reports of the discussions would be published than was the case in the proceedings of the Third Plenary Session, but papers would have to be shortened.

#### PREPARATIONS FOR THE JUBILEE EDITION

In March 1996, when thinking about its contribution to the Jubilee Year 2000, the Academy decided to publish a book, to be produced and distributed by a commercial publisher, on the outcome of its reflections on the subject of work and employment. As was reported in detail by the President at the proceedings of the Third Session, precise orientations for the implementation of the decision were decided upon by the 1997 General Assembly.

Acting as chairperson of the committee in charge of preparing the Jubilee edition, Professor Malinvaud wrote a first detailed outline in the summer 1997 of what would be the final chapter of the book, namely a chapter in which the Academy would present the synthesis it would produce, for the Church and other readers, from its study of work and employment. This outline was distributed to all members of the committee

for comments and closely examined at a meeting of the European members of the committee on 9 October 1997. On the basis of suggestions then made, Professor Malinvaud prepared a provisional and incomplete draft of the chapter which was sent to all Academicians with a letter dated 27 January 1998.

Discussion of this draft was the single item on the agenda of a closed session held by Academicians on 23 April 1998, after its preparation by a meeting of the committee in the late afternoon of 21 April. On the basis of what was said at this General Assembly, it was thought that in order to reflect the positions of the Academy on points that were important for the social teaching of the Church, the draft had to be completed at several points, changes in the world of work ought to be more closely identified and more integrated into various parts of the draft; more should be said about the impact of globalization; more should also be said about the relations between capital and labour; a discussion about cultures of work should be added; and employment initiatives in the civil economy should be considered.

These various points confirmed the view that Professors Archer and Malinvaud had held since autumn 1997: the Academy had to examine additional papers which would complement those discussed in 1996 and 1997 on points that were not, or not sufficiently, addressed at that time. This view had been stated at the Council meeting of 8 October, with the suggestion that such additional papers might be presented at the Fifth Plenary Session of 1999. A final decision was postponed to the meeting of 5 March 1998 when it was then reached, Professor Archer being asked to serve again as chairperson of the programme committee. When on 25 April the Council examined the first draft programme presented by Professor Archer it was clear that it would cover all the time allocated to scientific discussions at the Fifth Session.

It was then also realized that a useful meeting in Rome of the committee responsible for preparing the Jubilee edition could not be held before the Fifth Session but would have to be held immediately afterwards given the proximity of the year 2000. The meeting was planned for 8-9 March 1999.

#### ACTIVITIES AFTER 1999

The subject of democracy was not meant to be fully covered in this first exploration of the Fourth Session, whose proceedings are published here. Quite naturally it was decided that the scientific programme of the Sixth Plenary Session, to be held in 2000, would again be devoted to the study of



democracy. But it was also necessary to plan activities farther ahead. The direction to be taken in new activities was indicated by the spontaneous wishes of the General Assembly of 1998 and went beyond what the Assembly or Council had previously decided.

Indeed, in a closed session held on 25 April, while Academicians were discussing the programme of future activities, several proposals were forcefully made which were connected with the same broad concern, namely how to civilize the global market economy. The subject was perceived as being particularly crucial for poor countries which deserved more attention than the Academy had devoted to them up to that time. One Academician pointed out that focusing on those countries was very advisable because it was possible to detect in them certain signs of hope: some promising initiatives were coming from civil society.

As the discussion developed, Professor Sabourin suggested that a group of particularly interested Academicians ought to gather in an informal lunch meeting and dwell further upon the subject of future activities of special interest to poor countries. At the end of the meeting, which had been called and chaired by Professor Sabourin, a few conclusions were reached and presented to the President. A committee was to be instituted with two main tasks: firstly, to establish a list of names of persons from Third World countries to be recommended as future Academicians or as experts to be invited to future sessions, and, secondly, to organize activities on topics of particular interest to developing countries. Preliminary suggestions on such topics were made. The informal meeting also recommended that a workshop, to be held preferably in the year 2000, should be the first activity to be organized by this committee.

At its meeting in the afternoon the Council heartily accepted the general spirit of these recommendations and decided to ask Professor Sabourin to prepare a written report on the informal meeting and to chair the proposed committee. Observing that a number of Academicians had argued during the closed session of the morning in favour of a thorough study of the social dimensions and implications of globalization, the Council agreed that this would be a good subject for the scientific programme of the 2001 Plenary Session and that the proposed new committee should be in charge of the programme if it could be as active as it had been that Saturday.



## STATUTES OF THE PONTIFICAL ACADEMY OF SOCIAL SCIENCES<sup>1</sup>

### *Title I - CONSTITUTION AND AIMS*

ART. 1 - The Pontifical Academy of Social Sciences was established by the Holy Father John Paul II on 1 January 1994 (AAS 86 [1994], 213), with the aim of promoting the study and progress of the social sciences, primarily economics, sociology, law and political science. The Academy, through an appropriate dialogue, thus offers the Church the elements which she can use in the development of her social doctrine, and reflects on the application of that doctrine in contemporary society. The Academy, which is autonomous, maintains a close relationship with the Pontifical Council for Justice and Peace.

ART. 2 - To achieve its aims the Academy:

- a) organizes congresses and study days on specific themes;
- b) promotes scientific surveys and research; helps and assists institutions and private individuals to execute them;
- c) publishes the results of its own consultations;
- d) issues publications of a scientific nature.

### *Title II - REGULATIONS*

ART. 3 - The Academy consists of not less than twenty Academicians and not more than forty. They are appointed by the Supreme Pontiff on the basis of their competence in social sciences and their moral integrity.

ART. 4 - To appoint new Academicians, candidates are proposed to the President by at least two members. Appropriate attention should be given to ensuring suitable representation of the various disciplines of the social

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<sup>1</sup> Ex "Acta Apostolicae Sedis, 10 Martii 1994".

sciences and the various geographical regions. The Council of the Academy presents to the Academy a list of candidates for each vacancy. The Assembly takes a secret vote to indicate the order of preference in which the candidates are to be proposed to the Supreme Pontiff.

ART. 5 - Academicians are appointed for a term of ten years and can be reappointed directly by the Supreme Pontiff after consulting the President and the Council of the Academy. Academicians may also resign.

ART. 6 - Academicians take part in the sessions, at which they make communications or present papers and scientific memoranda; they hold debates and vote on motions; they have the right to propose candidates for nominations and subjects for work.

ART. 7 - Well-known experts in the social sciences or in the economic, social and political world will sometimes be invited to participate in individual sessions of the Academy.

ART. 8 - The direction and government of the Academy will be the task of the President, with the assistance of the Council of the Academy.

ART. 9 - The President is nominated by the Supreme Pontiff, to whom he reports directly. The President remains in office for five years and his mandate may be renewed. He is directly assisted by the Chancellor, who is nominated by the Supreme Pontiff.

The President represents the Academy and directs its progress. He is responsible to the Supreme Pontiff and maintains contact with the Pontifical Council for Justice and Peace. He convokes and chairs the Council of the Academy as well as the sessions, and implements the Council's decisions.

The President can choose a substitute among the other Academicians who are members of the Council to preside at the sessions. The President may delegate one or more Academicians to represent the Academy, when and in the manner he deems fit.

ART. 10 - The Council of the Academy consists of the President and five Academicians appointed by the Supreme Pontiff, on the proposal of the President, after consultation with the Academicians. Their term of office lasts five years. They may be reappointed.

In addition the following are members of the Council *durante munere*:

- a) the Chancellor appointed by the Supreme Pontiff;
- b) the Delegate of the Pontifical Council for Justice and Peace;
- c) the President of the Foundation for the Promotion of the Social Sciences.

These three members attend the sessions of the Academy with the right to vote. The Council assists the President in everything concerning the direction of the Academy, especially in planning the work and preparing the meetings; it receives the reports on the financial resources.

ART. 11 - The deliberations of the Academy and its Council are valid when a majority of the members are present and when they are approved by a majority of those present. In the case of parity the vote of the President prevails.

ART. 12 - All the other norms concerning the activities of the Academy are determined by the Academy's Internal Regulations.

### *Title III - SCIENTIFIC ACTIVITIES AND INCENTIVES FOR RESEARCH*

ART. 13 - The Academy undertakes directly or promotes work and research in the area of the various social sciences.

With the objective of encouraging scientific study with regard to topics of particular interest, the Academy may institute prizes, promote competitions, establish internal committees and commissions for the study of specific issues, regarding which the Internal Regulations establish the number, value, duration and method.

ART. 14 - The Academy is responsible for the publication of the *Acts* and *Annals*.

The *Acts* are published in regular issues and their frequency is determined by the Internal Regulations. They contain the minutes of the sessions, communications and scientific notes, a list of publications received and a bulletin of the Academy's proceedings.

The *Annals* have no time limit for publication; they include scientific articles accepted by the Academy, and works for which prizes have been awarded.

### *Title IV - FINANCIAL MEANS*

ART. 15 - The Academy receives financial support from a special "Foundation for the Promotion of the Social Sciences",<sup>2</sup> from contributions of the Holy See and from donations and gifts.

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<sup>2</sup> On 17 August 1994, it was officially specified by the Secretary of State that this refers to the "Foundation for the Promotion of the Social Sciences" which has its headquarters in Vaduz, Principality of Liechtenstein.

ART. 16 - The Statutes of the Foundation and their possible modifications must be communicated to the Holy See.

The Holy See appoints its own representative to the Foundation's Council, whose task is to communicate its opinion and decisions in accordance with Art. 7 of the Statutes of the Foundation.

ART. 17 - The Pontifical Academy of Sciences and the Pontifical Academy of Social Sciences have both their legal headquarters and their secretariats in the Casina Pio IV and the same Chancellor is appointed to both.

ART. 18 - The legal status and the financial remuneration of the staff of each category as well as the norms for the functioning of the Chancery are established by the Internal Regulations.

ART. 19 - The President in collaboration with the President of the special Foundation will draft an annual report of the financial resources available to the Academy for its activities.

#### *Title IV* - FINAL AND TRANSITIONAL PROVISIONS

ART. 20 - The President, after consulting the Council, will present to the Secretary of State for approval the Internal Regulations which contain besides the norms to which the present Statutes refer supplementary directives concerning the organisation and functioning of the Academy.

ART. 21 - Possible modifications of these Statutes must be submitted to the Supreme Pontiff for approval.

From the Vatican, 25 May 1998.

SCIENTIFIC PAPERS

on

DEMOCRACY — SOME ACUTE QUESTIONS





I.  
INTRODUCTION



## DIE ARBEITEN DER AKADEMIE ZUM THEMA “DEMOKRATIE”

HANS F. ZACHER

### SUMMARY

In this meeting the general assembly of the Pontifical Academy of Social Sciences approaches the subject of democracy. After “the study of the tension between human equality and social inequalities from the perspective of the various social sciences” and “the future of work and work in the future” this is the Academy’s third subject so far.

How can the Academy tackle the wide and complex field of democracy? This question was dealt with by an ad hoc committee of the Academy made up of the President, Professor Malinvaud, Professor Mary Ann Glendon, Monsignor Diarmuid Martin, Judge Nicholas John McNally, Professor Hanna Suchocka, Professor Herbert Schambeck, Monsignor Renato Dardozzi as Chancellor of the Academy, and finally myself.

On the basis of this committee’s deliberations a workshop was first agreed upon and this was held in December 1996. Primarily, this workshop had three aims:

1. It was to examine the doctrine of the Church with regard to democracy. Professor Schooyans laid the foundation with his report.

2. The workshop was to work towards making the Academy understand the regional differences of the conditions under which democracy functions and should function. Corresponding reports were given by Judge McNally and Professor Zulu for Africa, Professor Villacorta for Asia, Professor Floria for Latin America, Professor Suchocka for Central and Eastern Europe, and Professor Rémond for Western Europe.

3. Last but not least, the workshop was to help in developing a general idea on relevant questions as a whole. I have tried to describe this survey under the title of “Common Questions” in the publication on the workshop.

On the basis of this preparatory work, the Academy defined the focal points during the plenary assembly of spring 1997, and these are now the subject matter of the present plenary assembly. The Academy chose three interrelated topics: “Democracy and Values”, “Civil Society”, and “Internationality”. On the basis of the preliminary decision, the ad hoc committee – with the participation of the

Council of the Academy – worked out a programme which corresponds in essence to the programme of the present conference.

Today and in the next few days we shall deal with the main points already referred to. In the final discussion, however, we shall have to raise the question of whether the work of the Academy on the subject matter of democracy should be continued, and if so, in which way this should be done.

Mit dieser Tagung wendet sich die Vollversammlung dem Thema der Demokratie zu: nach “The study of the tension between human equality and social inequalities from the perspective of the various social sciences” und “The future of work and work in the future” ihrem bisher dritten Thema.

Daß sich die Akademie entschlossen hat, die Demokratie zu ihrem Thema zu machen, hat so viele Gründe, daß ich darauf verzichten muß, sie hier darzustellen. Lassen Sie mich nur das Folgende anmerken.

— Die Überzeugung, daß die Staaten Demokratien sein sollen, ist so allgemein wie nie vorher in der Geschichte der Welt. Überall in der Welt sind deshalb seit der Mitte des Jahrhunderts neue Demokratien entstanden. Aber die historische Situation, in der die Demokratien aufgebaut und weiterentwickelt werden sollen, ist nicht immer ein günstiger Boden dafür. Im Gegenteil. Postkoloniale, postautoritäre und postsozialistische Verhältnisse bereiten der Demokratie mitunter größte Schwierigkeiten. Wie kann die Demokratie gleichwohl verwirklicht werden? Diese Frage wird mit größter Dringlichkeit in fast allen Regionen der Welt gestellt. Auf der anderen Seite haben auch die alten Demokratien — wie wir sie vor allem in Großbritannien, in den Vereinigten Staaten von Nordamerika und in vielen Ländern des europäischen Kontinents finden — ihre Probleme mit der Demokratie.

— Sodann: Die moderne Demokratie war in den Jahrhunderten ihrer Entstehung ein nationales Phänomen. Die zweite Hälfte dieses Jahrhunderts ist jedoch — mit immer größerer Beschleunigung — durch Transnationalität des gesellschaftlichen und Internationalität des politischen Lebens gekennzeichnet. Damit entstehen zwei Fragen. Die eine: Ist Demokratie auch im internationalen Rahmen denkbar? Die andere: Wie verhalten sich die transnationale Offenheit der Gesellschaften und die Macht der internationalen Strukturen zu den nationalen Demokratien?

— Für die Entscheidung dieser Akademie war auch bedeutsam, daß die Lehre der Kirche zur Demokratie noch nicht lange ein positives Verhältnis hat. Erst um die Mitte dieses Jahrhunderts beginnt dieses

positive Verhältnis der Kirche zur Demokratie. Mit größter Dynamik hat die Kirche seitdem erkannt, welche Möglichkeiten für die Menschen und für die Kirche in der Demokratie liegen. Zugleich aber muß die Kirche auch immer wieder Gefahren wahrnehmen. Was kann die Kirche in diesem Spannungsfeld von Chancen und Risiken der Welt sagen?

— Endlich darf auch nicht verkannt werden, daß der demokratische Geist der Zeit immer nachdrücklicher auch Fragen hinsichtlich des Inneren der Kirche stellt.

Wie kann die Akademie dieses weite und komplexe Thema der Demokratie angehen? Damit befaßte sich ein ad hoc-Komitee der Akademie, dem der Präsident, Professor Edmond Malinvaud, ferner Professor Mary Ann Glendon, Monsignore Diarmuid Martin, Judge Nicholas John McNally, Professor Hanna Suchocka, Professor Herbert Schambeck, Monsignore Renato Dardozi als Kanzler der Akademie und schließlich ich angehörten.

Auf der Grundlage der Arbeiten dieses Ausschusses wurde zunächst ein Workshop konzipiert, der im Dezember 1996 stattgefunden hat. Dieser Workshop profitierte sehr von der Gastfreundschaft des Päpstlichen Rates für Gerechtigkeit und Frieden, in dessen Räumen er stattfand, und von der Kompetenz seiner Vertreter, die daran teilnahmen. Dieser Workshop hatte vor allem drei Zwecke:

1. Er sollte die Lehre der Kirche zur Demokratie aktuell und differenziert vergegenwärtigen. Die Grundlage dafür legte Professor Michel Schooyans durch seinen Bericht.

2. Der Workshop sollte darauf hinwirken, daß der Akademie die Verschiedenheit der Bedingungen bewußt wird, unter denen die Demokratie in den verschiedenen Regionen der Welt wirkt oder wirken soll. Entsprechende Berichte erstatteten Judge Nicholas J. McNally und Professor Paulus M. Zulu für Afrika, Professor Wilfrido V. Villacorta für Asien, Professor Carlos Alberto Floria für Lateinamerika, Professor Hanna Suchocka für Zentral- und Osteuropa und Professor René Rémond für Westeuropa.

3. Nicht zuletzt sollte der Workshop dazu beitragen, einen Überblick über die insgesamt anstehenden Fragestellungen zu gewinnen. Ich habe versucht, diesen Überblick unter dem Titel "Common questions" in der Veröffentlichung über den Workshop festzuhalten.

Die Verhandlungen des Workshop liegen Ihnen allen vor.\*

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\* Proceedings of the Workshop on Democracy (12-13 December 1996). Pontificiae Academiae Scientiarum Socialium, *Miscellanea* 1, Vatican City 1998.

Auf der Grundlage dieser Vorarbeiten hat die Akademie im Rahmen ihrer Vollversammlung vom Frühjahr 1997 die Schwerpunkte definiert, die nunmehr den Gegenstand dieser Vollversammlung darstellen. Die Akademie wählte drei Themenkreise aus: "Democracy and Values", "Civil society" und "Internationality". Auf der Grundlage dieser Vorentscheidung hat das ad hoc-Komitee — unter Beteiligung des Councils der Akademie — ein Programm ausgearbeitet, das im wesentlichen dem Programm dieser Tagung entspricht. Nur eines der ursprünglich vorgesehenen Themen konnte in der verfügbaren Zeit nicht besetzt werden: das Thema "Minderheiten in der Demokratie". Und das Thema "Familie" wurde intensiver in allgemeinere Überlegungen zur "Civil society" einbezogen als ursprünglich geplant. Sonst konnte das Programm realisiert werden wie vorgesehen. Ein besonderes Verdienst kommt dabei Professor Mary Ann Glendon zu, die immer wieder mit Rat und Vermittlung geholfen hat, um kompetente Autoren zu finden. Ich danke allen Berichterstattern, daß sie bereit waren, die entsprechenden Papiere zu erstellen. Ganz besonders natürlich denen, die der Akademie nicht als Mitglied angehören: Professor Stefano Bartolini, Professor Klaus von Beyme, Professor John J. Di Iulio, Professor Jean Bethke Elshtain, Professor Franz-Xaver Kaufmann, Dr. Thomas A. Mensah und Professor Thierry de Montbrial. Die Akademie weiß Ihre Unterstützung, verehrte Kollegen, wohl einzuschätzen. Seien Sie unseres großen Dankes gewiß. Nicht weniger danke ich Ihnen, daß Sie auch bereit waren, diese Papiere rechtzeitig abzuliefern, und schließlich danke ich Ihnen, daß Sie es auf sich genommen haben, zu uns zu kommen und an der Tagung aktiv teilzunehmen.

Wir werden heute und in den folgenden Tagen uns mit den erwähnten Schwerpunkten befassen. In der abschließenden Diskussion werden wir uns aber auch die Frage vorlegen müssen, ob die Arbeiten der Akademie zum Thema "Demokratie" weitergeführt werden sollen — und wenn ja: in welcher Weise sie weitergeführt werden sollen.

Zunächst aber wollen wir uns nun die Lehre der Kirche zum Thema "Demokratie" in Erinnerung rufen.

## DROITS DE L'HOMME ET DEMOCRATIE A LA LUMIERE DE L'ENSEIGNEMENT SOCIAL DE L'EGLISE

MICHEL SCHOOPYANS

### SUMMARY

The Academy originally wanted to prepare for this plenary meeting by making sure of the social teaching of the Church on democracy. As Father Schooyans, a member of the Academy, had already opened the Workshop on Democracy (see Proceedings of the Workshop on Democracy, 12-13 December 1996, Pontificiae Academiae Scientiarum Socialium, *Miscellanea* 1, Vatican City 1998) with a preliminary report on "Democracy in the Teaching of the Popes" (*loc. cit.* pp. 11-40) it was agreed that he should also introduce the plenary meeting to the subject. A revised version of his report was distributed to the participants. It was also thought that Father Schooyans should open the discussion with a short statement recalling the central points of pontifical teaching on democracy and by directing the attention of the Academy to acute contemporary challenges. But this turned out to be impossible. Father Schooyans, for personal reasons, could not attend the meeting. Thus Monsignor Minnerath, who is also a member of the Academy and who was to chair the discussion on Father Schooyans' report, was asked to open the discussion with a statement which replaced Father Schooyans' oral introduction. The following text is his contribution. (H.Z.)

### LA DÉMOCRATIE FORMELLE

Les discussions sur la démocratie ont souvent été caractérisées par des études comparant les mérites de différents régimes. Cependant, ainsi que Marx et Tocqueville l'ont remarqué, la démocratie formelle, coulée dans des Institutions, ne permet pas de préjuger de l'aloï démocratique d'une société. L'étude comparée des Institutions est donc utile et indispensable, mais elle présente un intérêt limité pour l'analyse de ce qui est essentiel à la

démocratie. Le cœur des débats se situe désormais à un autre niveau. Sans toujours être mesuré à sa juste importance, *un débat considérable se déroule actuellement*; il porte sur les rapports entre démocratie et droits de l'homme.

#### LES DROITS DE L'HOMME DANS LA TRADITION RÉALISTE

Dans sa forme contemporaine, ce débat est issu de la IIe Guerre mondiale. La Charte de San Francisco (1945) et, plus nettement encore la Déclaration universelle des Droits de l'Homme (1948), ont voulu bâtir la paix intérieure des nations, la paix mondiale et le développement sur du roc. Ces documents ont surtout réactivé les meilleurs acquis de la tradition du Droit naturel. Cette tradition, déjà honorée par Cicéro, comporte deux contributions majeures et successives, qui se caractérisent par un réalisme commun: l'homme ne se prouve pas; il existe et est sujet de droits antérieurement au pouvoir politique.

Selon la *tradition médiévale*, ces droits sont liés à la nature de l'homme, personne, être unique dans le monde créé, puisqu'il est le seul à participer à l'existence de Dieu, à sa raison, à sa volonté libre. C'est de sa *dignité* intrinsèque que l'homme tire ses droits fondamentaux à la vie, au jugement personnel, à la décision libre. Les hommes sont capables de découvrir certaines vérités concernant leur vie et leur mort, et d'en tenir compte dans leur conduite.

Dans cette vision éminemment réaliste, les droits de l'homme ont donc d'emblée une portée universelle: dès qu'un être humain existe, il a droit à ce que lui soit reconnue la même dignité que celle de tous les autres êtres humains.

Cette conception du fondement des droits de l'homme est consolidée par la doctrine complémentaire de la *destination universelle des biens*. L'affamé qui dérobe un pain ne doit pas être excusé de voler, car il ne vole pas; il exerce son droit primordial à la vie, droit qui l'emporte sur le droit à l'appropriation privée. La société politique doit être au service de ces personnes; son rôle doit être "subsidaire"; elle doit aider les personnes à s'épanouir, ce qui ne peut se faire sans le respect des familles, des corps intermédiaires et notamment de la nation.

A l'*époque moderne*, les droits de l'homme font l'objet d'une nouvelle approche de la part des *jusnaturalistes*. Ceux-ci laissent entre parenthèses la référence à Dieu. Ils observent la société; ils analysent la nature de l'homme, confirment sa sociabilité naturelle (Grotius), proclament qu'en entrant en société civile l'homme ne perd pas les droits, inaliénables, qu'il avait dans la société de nature (Locke).



Cette conception moderne présente donc une réelle parenté avec la conception médiévale, mais elle s'en détache sur un point essentiel: la mise entre parenthèses méthodique de Dieu.

Il n'en reste pas moins vrai qu'en dépit de cette divergence, *les deux Écoles* du droit naturel, la médiévale et la moderne, *vont alimenter toutes les grandes déclarations de droits et par là, toutes les démocraties libérales modernes puis contemporaines*. Cette double tradition a imposé l'idée selon laquelle les droits de l'homme doivent être *proclamés* et que cette proclamation est le pré-requis logique de toute société démocratique.

La *Charte de San Francisco* et la *Déclaration universelle des Droits de l'Homme* sont les point d'aboutissement les plus remarquables de cette évolution. Mais ce qui, précédemment, était perçu comme l'apanage de sociétés *particulières*, est désormais reconnu comme le *patrimoine commun* de toute l'humanité. Sans doute de tels documents ont-ils une valeur essentiellement morale, mais les droits qu'ils proclament ont, par leur nature-même, une force exécutoire. La force même de ces documents, c'est de n'être point des documents législatifs, ce qui les exposerait aux périls des réécritures et des herméneutiques politiciennes. Cependant, qu'elles soient antérieures aux lois, insinue déjà que ces déclarations doivent être traduites dans des lois. Les États sont ici appelés à instaurer une société juste en jouant pleinement leur rôle subsidiaire, au sens le plus riche du terme.

Il faut reconnaître que cette Charte, cette Déclaration, ainsi que les Conventions et Pactes qui les ont suivies, ont, depuis cinquante ans, imposé, dans la pratique politique, l'idée qu'il y a un lien essentiel entre démocratie et droits de l'homme et que, du respect de ce lien, dépendaient, avec le développement, la paix intérieure des nations et la paix entre les nations.

#### LA RÉINTERPRÉTATION VOLONTARISTE DES DROITS DE L'HOMME

##### *La disqualification de la raison*

Aujourd'hui cependant, cet héritage prestigieux est battu en brèche sous l'influence de trois facteurs. Le premier et le plus évident, c'est l'exaltation de l'*individu*, de sa raison comme lieu ultime de vérité: c'est l'héritage typique de la Renaissance. Le second, c'est la tendance au *scepticisme* et même à l'*agnosticisme* métaphysique. Le troisième résulte de la combinaison des deux premiers. Chacun de nous est totalement libre de choisir sa vérité et d'agir selon sa conscience. Il n'y a que des individus, plus ou moins doués, plus ou moins forts, non plus des personnes parta-

geant la même nature. La signification des mots dépend des définitions que chacun veut bien en donner. Ce qui caractérise cette nouvelle vision des droits de l'homme, c'est la primauté donnée à la volonté plutôt qu'à la raison. Face à cette disqualification de la raison, il faudra tenter de trouver d'autres bases pour fonder les droits de l'homme et la démocratie.

*La nouvelle voie qui est choisie dans ce double but détruit dans ses fondements la conception des droits de l'homme, et donc de la démocratie, qui sous-tend les grands documents contemporains depuis 1945.* Nous allons le montrer à partir de deux exemples: le consensus et la tolérance.

### *Vers la "tyrannie du consensus"*

Depuis les grandes théories du contrat social, et spécialement depuis Rousseau, la société politique est considérée comme issue du vouloir des individus qui renoncent, totalement ou partiellement, selon les auteurs, à leur volonté individuelle. Ils consentent librement à obéir au peuple souverain et à ses lois, expression infaillible de la volonté générale, laquelle s'exprime à la majorité. Il y a donc une "religion civile" qui commande l'obéissance aux lois, lesquelles sont dotées d'un sainteté civile. Au regard de la religion civile, celui qui ne respecte pas ces lois est coupable et doit être châtié impitoyablement.

A beaucoup d'égard, l'oeuvre de John Rawls a contribué à raviver l'influence de Rousseau et d'ailleurs celle de Kant. Il est vain de vouloir s'entendre sur quelques vérités fondamentales, sur quelques normes morales universelles. Les nécessités de la pratique sont cependant là: nous devons agir justement. Et pour agir justement nous devons engager une *procédure* au cours de laquelle nous, qui devons décider, ferons attention courtoisement aux positions de chacun, puis nous trancherons, nous déciderons. La décision sera juste, non parce qu'elle honore des droits de l'homme que l'on aurait reconnus, auxquels on se soumettrait — mais parce qu'elle est l'expression d'un consensus, éventuellement au terme d'une vote majoritaire. Il suffit d'observer les discussions parlementaires contemporaines sur des questions vitales, comme l'euthanasie, l'avortement, la stérilisation en masse, l'homosexualité, etc. pour se rendre compte de l'influence envahissante de cette tournure de pensée. Mais celle-ci est surtout devenue dominante dans les grandes organisations internationales. *Sur ce point fondamental, l'ONU des origines est méconnaissable dans l'ONU d'aujourd'hui.*

En effet, le recours au consensus est constamment invoqué pour surplomber les législations nationales qui, elles, continuent dans la plupart des cas à se référer à l'objectivité des droits de l'homme, typiques de l'autre

tradition. Gouvernants et juges nationaux sont ainsi intimidés et discrédités. *La communauté mondiale et les nations signataires de la Charte de 1945 et de la Déclaration de 1948 sont en train de basculer dans une conception des droits de l'homme qui n'a plus rien à voir avec les documents fondateurs de l'ONU. Cette conception, si elle devait se consolider, signerait l'impossibilité d'une société démocratique.* Ceci mérite plus qu'un mot d'explication.

### *Nations et États: débilites*

Ce qui est grave dans la situation actuelle, c'est d'abord que l'ONU *débilit* les nations de multiples façons. Le consensus est invoqué pour faire pression sur les nations afin que celles-ci signent *pactes* ou *conventions* portant sur les matières ayant fait l'objet d'un consensus. Une fois ratifiés, ces instruments *juridiques* auront force de *loi* dans les nations participantes. Par ce biais, il est aisé de faire tomber progressivement en désuétude d'abord la Déclaration de 1948; ensuite, les législations nationales. En plus et surtout, il est aisé de faire passer comme "nouveaux droits de l'homme" ce qui n'est que le produit d'un consensus, lequel donne lieu à des conventions, etc.

La distinction si importante, d'une part, entre des droits de l'homme proclamés dans les Déclarations et, d'autre part, les législations nationales qui en concrétisent l'expression est ici totalement abolie. Seul subsiste un texte juridique, produit à l'initiative d'une organisation qui abuse de plus en plus de son mandat.

A terme donc, ce qui est en jeu, c'est l'existence-même des États et des nations, lesquels en seront réduits, si cette dérive n'est pas contenue, à ne plus être que des chambres d'entérinement (pour les parlements), des exécutants privés de toute responsabilité (pour les gouvernements) ou des juges dont la tâche principale sera d'exténuer la force de la législation nationale.

Cette conception purement "positiviste" ou volontariste des droits de l'homme ruine évidemment le principe de subsidiarité, clé de toute pensée démocratique. A condition d'ouvrir les yeux, nous voyons émerger un *Système de Pensée Unique*, totalitaire dans son inspiration, dans ses moyens et dans ses buts.

Pour comble d'inquiétude, déjà organise une *Cour criminelle internationale* (ICC) qui à coup sûr aura à connaître des infractions aux "nouveaux droits de l'homme" obtenus selon la "procédure consensuelle", fixés dans les conventions et indéfiniment remodulables au gré des intérêts et des forces en présence.

*De la tolérance doctrinale à l'intolérance civile*

Nous trouvons hélas une confirmation de ce diagnostic en examinant l'insistance avec laquelle il est fait appel, aujourd'hui, à la *tolérance*. Ce thème a été fort développé depuis le XVI<sup>e</sup> siècle, surtout à l'occasion des guerres de religion. Peu à peu, cependant, l'Illuminisme traite ce thème pour lui-même. Ces développements résultent de l'affirmation de plus en plus claire de l'autonomie des individus, de leur liberté de pensée, du "rejet de tout dogme", de toute autorité. Il résulte également du scepticisme ou de l'agnosticisme philosophique: à partir du moment où nul n'est en mesure de connaître le vrai et le bien, chacun doit respecter les opinions et les décisions des autres. La tolérance ainsi conçue implique évidemment un relativisme moral, dont l'individu peut sortir en choisissant, "en totale liberté", ce qui lui plaît, ce qui lui est utile.

Cette tolérance, qu'on peut appeler "doctrinale", doit cependant être distinguée de la tolérance "civile": celle-ci a pour objet, non des position philosophiques ou morales, mais des hommes et des femmes concrets. Ces hommes et ces femmes, je dois les respecter quelles que soient leurs opinions.

A première vue, la distinction entre ces deux formes de tolérance, doctrinale et civile, est très claire. Je puis, par exemple, respecter parfaitement M. Dupont, même s'il ne partage pas mes opinions philosophiques. En réalité, les choses sont souvent bien plus complexes. En effet si je pose en principe que la société en général, la société politique en particulier, doit être tolérante doctrinalement, c'est-à-dire indifférente face à toutes les questions relatives à la vérité, au bien, au mal, etc., cette même société se trouve dans l'incapacité totale de dire ce que sont les droits de l'homme.

En raison même de l'agnosticisme qu'elle implique, la tolérance doctrinale peut donc déboucher rapidement sur l'intolérance civile: si, selon *ma* conception de la morale, je puis exploiter ou éliminer autrui, les autres doivent faire preuve de tolérance à mon égard et admettre que j'exploite autrui. Il n'y a plus d'interdits, puisqu'il n'y a plus rien à transgresser, ni de prescrits, puisqu'il n'y a plus de devoirs.

Or, précisément parce que les théoriciens de la tolérance posent au principe que "toutes les idées se valent" et que, dès lors, le spectre de l'anarchie n'est pas loin, il faut trouver une issue à cette *aporie*, à ce chemin sans issue. On sait ce qui se passe alors. En une première démarche, il s'agit de vider de sa substance la Déclaration de 1948 et les autres documents appartenant à la même tradition. On commence par introduire des dérogations, puis ces dérogations sont érigées en "nouveaux droits". Il n'est

plus question de considérer que l'homme et ses droits sont des donnés premiers. La tolérance *civile*, qui pousserait à reconnaître ce sujet de droits, est ici disqualifiée au nom du relativisme subjectif et de la tolérance *doctrinale*. Alors, pour sortir de cette aporie, on construit une nouvelle conception des droits de l'homme, qui n'a rien à voir avec la conception traditionnelle, ainsi que nous l'avons déjà expliqué ci-dessus dans notre analyse du *consensus*.

### *Une révolution anthropologique*

Or, à l'origine de cette nouvelle conception des droits de l'homme se trouve une conception *réductrice* de l'homme. *Nous sommes en train de vivre une révolution anthropologique*: l'homme n'est plus une *personne*, un être ouvert à autrui et à la transcendance; il est un *individu*, appelé à se donner des vérités, à se donner une éthique; il est une unité de force, d'intérêt et de jouissance.

Cette anthropologie entraîne aussitôt une conception purement empirique de la *valeur*. Les valeurs s'expriment dans la fréquence des choix que l'on observe entre les individus. Les valeurs, c'est finalement ce qui fait plaisir aux individus. Or ces valeurs-là ne peuvent que diviser les hommes, car par mimétisme je pourrai fréquemment désirer ce que l'autre désire. Cette conception de la valeur est donc, à terme, non seulement destructrice du tissu social mais elle est également le prolégomène à une nouvelle barbarie.

### *De la violence individuelle à la violence institutionnelle*

Il s'ensuit que chaque fois qu'au nom de cette nouvelle conception des droits de l'homme on propose de "nouveaux droits" individuels — droit à l'homosexualité, à l'avortement, à l'euthanasie, etc. — on avance d'un cran dans la marche conduisant à la sacralisation civile de la violence.

Cependant, pour faire bonne mesure, le *droit* à la violence individuelle devra être *protégé* par la violence des institutions. Cette violence-ci sera d'ailleurs double: elle portera, certes sur les corps, devenus "disponibles". Mais elle portera surtout sur le moi psychologique des individus. Car la meilleure façon de juguler la contestation et la déviance, c'est de les prévenir en imposant à l'universalité des hommes la même "nouvelle éthique" consignée dans des conventions ayant force de loi. Par sa nature-même, cette "nouvelle éthique" sera donc intolérante, sans quoi, elle ne pourrait procurer aucune uniformisation sociale ni aucune unidimensionnalisation des individus. Elle appellera donc une inquisition dont la Cour criminelle internationale, citée ci-dessus, sera sans doute le tribunal.

## CONCLUSION: L'ÉGLISE, SON TRÉSOR ET SON TÉMOIGNAGE

Face à cette situation toute nouvelle, que *peut* faire, que *doit* faire l'Église? Que *peut* faire, que *doit* faire notre Académie en cette année où nous étudions la démocratie et où ce célèbre le cinquantième anniversaire de la Déclaration de 1948?

Il est d'abord urgent de *prendre conscience* de la situation sans précédent à laquelle elle est confrontée et du trésor dont elle a le dépôt. Les droits de l'homme tels qu'ils ont été déclarés dans la tradition occidentale classique doivent à l'Église une impulsion absolument décisive. Un trésor que l'Église a reçu, qu'elle doit partager et faire fructifier.

*La liberté inventive de l'amour*

L'impulsion de l'Église se résume à deux mots: *personne et subsidiarité*. Développée d'abord dans un contexte théologique, la notion de *personne* a rapidement fait l'objet d'une réflexion approfondie, qui se poursuit jusqu'aujourd'hui, surtout, mais non exclusivement, dans les courants personnalistes. Cette conception de la personne, capable de discerner le vrai du faux, le bien du mal, rappelle à l'être humain qu'il est responsable face à des valeurs qui s'imposent à lui mais aussi aux autres. D'où la centralité du principe de *subsidiarité*: les instances supérieures ne doivent pas se substituer aux corps intermédiaires, ni aux familles, ni aux personnes.

*Tel est le noyau dur de l'enseignement de l'Église sur la démocratie*

De lui découlent des corollaires: *l'autorité est service*. Elle est une nécessité découlant de la nature sociale et raisonnable de l'homme; elle est service de ceux qui ont donné librement procuration, qui l'ont *constituée*. Nul homme n'est fondé à commander qu'en vertu d'une délégation de ceux qui se disposent à obéir librement à des ordres raisonnables.

L'enseignement social de l'Église sur la démocratie comporte donc un double principe de *modération* du pouvoir. D'abord, le pouvoir ne peut être ni immoral, ni même amoral: il est au service de la dignité des hommes. L'interface entre le pouvoir et la morale se concrétise dans le respect et la promotion des droits de l'homme. Ensuite, l'Église suggère que le pouvoir soit *divisé* pour éviter qu'il soit confisqué, dans sa totalité, par un individu ou un groupe particulier.

C'est aussi par sa conception de la *justice générale et du bien commun* que l'Église fortifie la démocratie. Il s'agit pour les gouvernants de s'efforcer de créer des conditions favorables à l'épanouissement personnel

de tous ses membres. Les lois humaines doivent être justes, non d'une justice définie par décret, mais d'une justice venant d'un cœur ouvert à la liberté inventive de l'amour.

*Face à l'imposture, le témoignage efficace*

La conception des droits de l'homme qui s'exprime dans la Déclaration de 1948 fait actuellement l'objet d'une contestation de plus en plus affichée et très radicale. Avec ses agences multiples et l'appui de certaines ONG, l'ONU est en train d'essayer d'imposer une "nouvelle éthique", de "nouveaux droits" qui *semblent* dilater la liberté chez les individus — entendons la liberté de faire n'importe quoi. Cette "nouvelle éthique" se présente comme tolérante, chacun choisissant sa vérité et ses normes éthiques au gré de ses convenances. Moyennant cette tolérance doctrinale, la paix serait — dit-on — assurée entre les hommes.

Mais cette tolérance doctrinale est inconciliable avec la tolérance civile, qui demande le respect de tout homme. Cette tolérance doctrinale prive les hommes de toute protection contre la violence des individus qui ont choisi une morale de la violence. Dès lors, pour contenir cette escalade, il faut un pouvoir public plus violent encore, qui dispose non seulement des corps mais aussi des esprits.

La "nouvelle éthique" et la nouvelle conception des droits de l'homme sont les signes annonciateurs d'une *violence sans précédent* dans l'histoire, visant le moi physique et psychologique de chacun. Avec une telle conception de l'homme, de la morale, de la société et des droits de l'homme, la démocratie devient totalement impossible.

Il n'est pas sûr que tous les milieux chrétiens fassent preuve de clairvoyance face à l'envahissement de cette conception nouvelle des droits de l'homme. L'Église se doit donc d'être vigilante; elle doit aussi se préparer à la persécution, qui en fait est déjà en cours.

L'Église ne saurait toutefois se cantonner dans une posture défensive. Attirer l'attention sur les errances de l'ONU est un service urgent qu'elle doit à la communauté humaine. Son courage ne manquera pas d'éveiller d'autres courages. Suite à la métamorphose de l'ONU, l'Église apparaît aujourd'hui comme la seule institution qui soit porteuse d'une conception de l'homme appelant des régimes démocratiques et faisant de l'instauration de tels régimes un devoir moral. Ainsi que cela apparaît dans *l'Apocalypse*, dès ses origines l'Église s'est insurgée, au nom de Dieu et au nom de l'homme, contre l'imposture d'un pouvoir usurpé. Elle doit aujourd'hui déclarer qu'une guerre nouvelle a commencé: *une guerre totale contre l'homme*. Une guerre qui veut d'abord mutiler l'homme pour ensuite le

détruire. Une guerre qui veut aliéner l'homme de sa raison et de sa volonté, dans lesquelles s'exprime sa prodigieuse ressemblance avec Dieu. Une guerre insensée où la mort de Dieu aurait pour prix la mort de l'homme.

C'est le privilège et la mission de notre Académie d'être une assemblée de veilleurs appelés signaler à l'Église, mais aussi à tous les hommes, les impasses et les pièges, d'indiquer les balises, et surtout de rendre compte de l'espérance dont nous sommes à la fois porteurs et témoins.



## INTRODUCTION TO THE DISCUSSION

ROLAND MINNERATH

Je remercie le professeur Zacher pour sa présentation qui nous donne une vue d'ensemble de la manière dont la discussion va être menée sur le thème de la démocratie. Pour introduire le sujet traité par le Père Schooyans, l'enseignement de l'Eglise sur la démocratie, je vais improviser et je suppose que les uns et les autres vous avez eu l'occasion de lire ce texte qui existe aussi bien en anglais qu'en français. Le Père Schooyans s'est limité à présenter l'enseignement du magistère pontifical sur la question de la démocratie. Il est évident que c'est la référence majeure pour la pensée catholique, mais le magistère est aussi plus vaste et il existe des prises de position très intéressantes, très approfondies souvent de la part des évêchés nationaux sur ce sujet. En français, aux éditions du Cerf/Cujas, a paru en 1995 un recueil de textes de l'épiscopat relatifs à des questions d'éthique sociale. Egalement à Fribourg en Suisse une collection rassemblant des prises de position des évêchés mondiaux sur la démocratie vient de paraître. Donc il y a un matériel assez abondant que l'on peut utiliser lorsqu'on veut connaître la pensée de l'Eglise catholique sur la démocratie.

Vous avez remarqué, en lisant le papier du Professeur Schooyans, qu'il y a une prise de conscience progressive de la part du magistère pontifical du phénomène de la démocratie qui commence à se développer en Europe au XIX<sup>e</sup> siècle. On peut comprendre que les premières réactions aient été des attitudes de suspicion. Il faut, en effet, se replacer dans le contexte du milieu du XIX<sup>e</sup> siècle. Les pays qui, comme l'Angleterre, la Belgique, la France, le Piémont, avaient adopté des régimes libéraux dont on ne peut pas dire qu'ils étaient démocratiques. D'autre part, se réclamer de la Révolution française signifiait rejeter l'ordre ancien certes, mais aussi le rôle social de l'Eglise. Depuis la Restauration surtout, l'Eglise paraissait liée à l'ordre monarchique ancien. L'Eglise avait trop souffert de la Révolution pour se réjouir a priori des gouvernements libéraux qui se multipliaient.

Généralement elle en faisait les frais. Les idées de liberté étaient revendiquées contre l'influence de l'Eglise sur la société.

Il faut aussi se rappeler que les premières expériences de régimes parlementaires dans l'Europe du XIXe siècle, n'étaient pas ce que nous appellerions des régimes démocratiques. Il s'agissait d'élire une chambre des représentants souvent par une partie infime de la population: c'était le suffrage censitaire qui ne reconnaissait un droit de vote qu'aux citoyens disposant d'une certaine fortune. Par exemple lorsque l'Italie a eu son premier régime parlementaire au royaume du Piémont par l'octroi du Statut Albertin de 1848, trois ou quatre pour cent seulement de la population masculine formait le collège électoral. On s'est dit quand même qu'il y a quelques professeurs d'université qui enseignent le droit public qui pourraient aussi être électeurs. Alors on a admis d'autres catégories d'électeurs, sur le critère de leurs diplômes. Les premiers régimes libéraux n'étaient pas démocratiques et on ne saurait reprocher à l'Eglise de ne pas les avoir soutenus pour cette raison.

Mais il y a beaucoup d'autres distinctions très importantes à faire, me semble-t-il. Vous avez vu que l'enseignement magistériel de la papauté sur la démocratie commence en fait avec les premières remarques de Léon XIII. Léon XIII ne parle pas de favoriser le régime politique de la démocratie, mais il est un des premiers à affirmer d'une manière assez systématique ce que nous considérons comme les pré-requis, les conditions de la démocratie. Longtemps l'Eglise catholique insistera, comme lui, sur ce qu'on appellera plus tard la société civile. Son enseignement appelle l'Etat à ne pas s'absolutiser et à donner sa place à la société civile. Je fais référence, par exemple, au fait que Léon XIII a insisté sur la nécessaire liberté des corps intermédiaires: la famille, la corporation de métiers, les syndicats, la vie municipale. Plus tard, avec Pie XI, ce souci s'exprimera par le concept de subsidiarité qui va clarifier toute la conception catholique de l'armature de la société civile, et qui contient en germe l'idée de démocratie. Par conséquent ici nous avons une première approche qui n'est pas souvent relevée.

Si vous le permettez, j'irai encore plus loin pour découvrir la familiarité de la pensée catholique avec l'idée démocratique. Je n'envisage pas le système ou le régime politique qui se mettra en place beaucoup plus tard sous ce nom, mais l'idée de participation de tous les citoyens au destin qui les concerne. Ceci ressort des enseignements de Saint Thomas d'Aquin au XIIIe siècle, en un temps où la pensée chrétienne trouvait dans la philosophie d'Aristote le moyen de mettre en valeur sa rationalité universelle. Saint Thomas affirme que parmi les cinq *inclinaciones naturales* ou tendances fondamentales inscrites dans la nature de l'homme, il y a celle

qui consiste à vouloir vivre en société. Or, pour organiser leur vie en société les hommes sont fondamentalement égaux. S. Thomas ici ne suit pas Aristote, mais l'anthropologie biblique. Dans l'approche catholique, c'est sur ce fonds d'anthropologie que pourra se développer la pensée démocratique. Saint Thomas, par contre, suit Aristote lorsqu'il dit — toujours sur le plan théorique — que le meilleur régime c'est un régime mixte, à la fois monarchique, aristocratique et démocratique, où chaque élément donne le meilleur de lui-même. Le propre de la *democratia*, de la démocratie, c'est de pouvoir élire le prince. A partir de la conception de la cité qu'il trouvait chez les Grecs, chez Aristote notamment, S. Thomas conçoit, en une époque de monarchies généralement héréditaires, que, virtuellement au moins, le prince est délégué par le peuple. Car la souveraineté réside dans le peuple qui la délègue. Par conséquent, Saint Thomas maintenait, d'une part, ce qui est une donnée de la tradition chrétienne biblique, à savoir que "tout pouvoir vient de Dieu" (cf. *Rm* 13,1), et l'idée que ce même pouvoir est conféré par Dieu par l'intermédiaire du peuple. Dans sa pensée, le peuple élit, désigne celui qui va exercer le pouvoir, pouvoir dont l'origine est en Dieu.

Donc nous avons un ensemble d'enseignements chez Saint Thomas qui sont d'une grande portée. De plus, si l'on regarde ce qu'on appelle les siècles de chrétienté, on ne peut pas dire que l'Eglise catholique soutenait des régimes autoritaires. Du XIIe au XVe siècle, selon les aires géographiques, nous assistons à l'éclosion de véritables îlots de pratiques démocratiques. Dois-je rappeler que dans le domaine ecclésiastique, on élisait les évêques. C'était la tâche du chapitre cathédrale de chaque diocèse. Le pape a toujours été élu. Les ordres mendiants, les dominicains et les franciscains, ont développé des formes de démocratie interne très avancées, puisque le responsable du couvent local était élu par ses membres, lesquels élisaient le provincial, lesquels à leur tour élisaient le maître général. Il y avait une pratique élective qui paraissait naturelle.

Ne l'oublions pas, les monarchies du moyen âge n'avaient rien d'absolutiste; l'autorité n'était pas concentrée dans la tête. Les corporations avaient leurs privilèges, le clergé avait ses privilèges, les Universités aussi. Il n'était pas question d'uniformiser, de centraliser ou d'imposer une norme d'une manière non consentie par les intéressés. Ceci ne s'est évidemment pas encore fait sous la forme de ce que seront plus tard les parlements, mais il y a déjà des débuts en ce sens — je cite la *Magna Charta* de 1215 pour le Royaume d'Angleterre, qui fait toujours partie de la constitution non écrite de l'Angleterre, et par laquelle les barons ont imposé au roi de devoir les consulter pour lever les impôts sur ses sujets. Le moyen âge a inventé des formes de participation des citoyens à la vie qui les concerne. N'oublions

pas non plus le phénomène des cités libres en Italie du Nord et dans le Saint Empire, qui étaient des républiques, sans doute pas des démocraties au sens où nous l'entendons; c'étaient des républiques ploutocratiques où les riches marchands gouvernaient la cité, comme les Républiques de Gènes ou de Venise. C'étaient des oligarchies, mais tout de même, il y avait des formes de participation des intéressés au pouvoir.

Le pensée chrétienne a mûri l'idée de démocratie en tirant les conséquences de l'anthropologie biblique. Elle a côtoyé dès le moyen âge d'authentiques expériences de participation au pouvoir. Si la Révolution proclame, à la fin du XVIIIe siècle, que la société doit être fondée sur la liberté, l'égalité, la fraternité, ou encore la solidarité, ce sont là des thèmes profondément chrétiens. Et l'idée que les hommes sont égaux est évidemment le don de la révélation biblique, où homme et femme sont créés égaux à l'image de Dieu (cf. *Gn* 1, 27). Cela n'a pas été inventé; ce sont des archétypes qui ont imprégné les valeurs des hommes pendant des siècles et qui, à la faveur de changements historiques, ont fini par se traduire dans des réalités institutionnelles et même constitutionnelles. En véhiculant ces archétypes qui ont l'autorité de la révélation, l'Eglise a, pour sa part, fourni une contribution très forte à l'idée et ultérieurement aux systèmes et aux valeurs démocratiques.

Avec l'avènement de l'ordre libéral, né dans le contexte des révolutions qui ont voulu écarter l'Eglise du débat public, l'idée puis les réalités démocratiques vont prendre corps dans un monde en rupture avec la pensée chrétienne. On ne comprendra plus le "tout pouvoir vient de Dieu" de S. Paul, à savoir que le pouvoir est un service, qui ne peut pas être exercé contre la nature de l'homme et ses droits fondamentaux. La tradition chrétienne dit: il y a égalité de tous les hommes d'une part, mais attention, le pouvoir est quelque chose qui engage la relation entre les hommes en tant qu'enfants du même Dieu. Ils ne peuvent pas donc faire n'importe quoi lorsqu'ils exercent le pouvoir. Que ce pouvoir procède des élections ne change rien à son origine en Dieu. Lorsque Paul écrivait sa lettre aux *Romains*, c'est Néron qui était empereur. L'Eglise ne lèvera pas d'objection contre les détenteurs du pouvoirs s'ils sont légitimes, mais rappellera toujours que le pouvoir est inscrit dans un "ordre" voulu par Dieu, pour le service de la justice et du bien.

Lorsque le monde s'est acheminé vers des constitutions de type démocratique, disons, vers la participation populaire aux choix des gouvernants, l'Eglise n'a pas été réticente sur la procédure démocratique, mais sur les principes qui étaient invoqués par les philosophies libérales pour la justifier. Il n'y a pas, à ma connaissance, de textes chez les papes du XIXe siècle jusqu'à nos jours, qui condamnent radicalement la démocratie

comme régime politique. Ce qui a été le sujet de la crise au XIX<sup>e</sup> siècle, c'était la prétention de ces nouveaux régimes de se passer de toute référence à Dieu. En 1790, le pape Pie VI a été mis devant le fait accompli de la "Constitution civile du clergé". Ce n'était pas la séparation de l'Eglise et de l'Etat, c'était l'étatisation de l'Eglise de France à laquelle on imposait de se séparer de Rome et à laquelle on imposait une constitution votée par une assemblée politique. On ne s'attend évidemment pas à voir le pape se réjouir. Il a réagi, avec quelque retard, par le Bref *Aliquantum*. Mais qu'est-ce qu'il condamne, le Pape? Il ne condamne pas la démocratie. Ce qu'il condamne, c'est la prétention d'une liberté qui va contre Dieu et contre l'ordre voulu par Dieu, et qui va contre la liberté innée de l'Eglise, qui fait partie de l'ordre voulu par Dieu. Donc Pie VI condamne la compréhension que l'on avait alors de la liberté publique comme révolte contre l'ordre ancien et surtout comme révolte contre Dieu.

Les premières condamnations concernent la liberté de conscience, la liberté de presse et la liberté de religion. Le magistère ne pouvait envisager, à ce moment, que ces libertés pouvaient avoir un sens positif. Pourquoi? Parce qu'elles étaient utilisées justement pour relativiser la vérité à laquelle l'Eglise a toujours cru. C'est essentiellement cela: les condamnations des libertés par le pape Pie VI et puis ensuite notamment Grégoire XVI et encore Pie IX dans le *Syllabus* rejettent un ordre dans lequel Dieu et l'Eglise n'avaient plus de place, et où il n'y avait plus de relation entre le pouvoir humain et Dieu qui en est l'origine. Si Dieu est l'origine du pouvoir, c'est la meilleure garantie pour que le pouvoir ne s'absolutise pas. S'il est lié à la loi naturelle, loi voulue par Dieu, il ne lui est pas permis d'agir arbitrairement, même en se basant sur le suffrage populaire.

Les papes ont hésité devant ce monde nouveau qui naissait, auquel ils n'étaient pas habitués. Ils ont condamné les "libertés effrénées", pas la liberté tout court. L'adjectif est important. Il signifie: nous ne voulons pas de ces libertés illimitées qui prétendent, par exemple, que la conscience individuelle est au-dessus de la loi naturelle, que la conscience individuelle est juge suprême de tout. Transposée dans le domaine politique, cette prétention signifie que la majorité, qui exprime la "volonté générale", est absolument souveraine, qu'elle est juge du bien et du mal, qu'une loi est loi parce qu'elle a été votée. Non. La tradition chrétienne et antique disaient qu'une loi positive oblige si elle ne contredit pas la loi naturelle. Une démocratie qui fonctionnerait selon la seule fluctuation des consciences subjectives ignorerait les limites au pouvoir humain qui sont pourtant inscrites dans la nature.

Il a fallu un bon siècle pour que l'Eglise s'accoutume à ce monde nouveau, attendant qu'il donne des signes de plus grande maturité. C'est

pourquoi, vous voyez dans le papier du Père Schooyans que c'est essentiellement après la seconde guerre mondiale et les expériences totalitaires, que l'enseignement des papes développe une approche résolument positive de la démocratie comme système de gouvernement et comme valeur. Devant les abus des régimes autoritaires et totalitaires, le meilleur régime humain n'est-il pas celui où tous peuvent participer à l'élaboration des lois, où le peuple tout entier est consulté, où est abolie la dictature du parti unique et le règne des idéologies. Alors on peut faire un parallèle entre l'entrée du magistère dans la culture des droits de l'homme en général, et dans l'acceptation de la démocratie comme régime politique souhaitable et meilleur que tous les autres.

C'est devant les ravages causés par les idéologies totalitaires que Pie XI et Pie XII ont commencé à accepter l'idée de droits de l'homme subjectifs, y compris le droit à la liberté religieuse. A partir de ce moment-là le chemin est tout-à-fait tracé et le premier grand document pontifical sur l'acceptation de la culture des droits de l'homme et de la démocratie comme régime normal favorisant justement cette conception de l'homme et de ses droits, c'est la grande encyclique de Jean XXIII, *Pacem in terris* de 1963. C'est un document d'une grande qualité qui n'a rien perdu de sa vigueur. Parce qu'il était nouveau, il a vraiment marqué un tournant. Si l'Eglise à partir de ce moment se rapproche de la philosophie des droits de l'homme et des idéaux démocratiques, c'est que la philosophie politique qui a prévalu après la guerre prônait partout l'État de droit, limité par le droit et placé au service des droits de la personne. Ainsi réapparaissait, dans les constitutions et les instruments internationaux, cet horizon normatif transcendant, que la tradition catholique appelle la loi naturelle, et qu'une certaine philosophie politique issue des Lumières avait toujours nié.

*Pacem in terris* a même été plus loin, d'une certaine façon, que le concile Vatican II, qui pourtant traite aussi des droits de l'homme dans la constitution *Gaudium et Spes*. On a relevé que dans cette constitution qui est très longue, le mot démocratie n'est jamais prononcé. Cela ne veut pas dire qu'il y ait là une suspicion ou un rejet par rapport à la démocratie. Il y avait de la part du concile un autre souci, celui de ne pas prendre position par rapport aux régimes alors en vigueur. La fonction du magistère est de parler des valeurs, de parler de l'homme, de sa dignité, des implications de cette dignité, de cette vision anthropologique qui exige aussi la participation. Ainsi le mot participation est-il abondamment employé par le concile. La réserve par rapport au mot démocratie peut s'expliquer à partir du contexte des années soixante. Nous avons dans le monde pas mal d'États qui se décoraient du titre de démocratique et qui n'avaient rien de tel: la Deutsche Demokratische Republik, le Kampuchéa démocratique, et beaucoup

d'autres. Les Etats communistes se proclamaient "démocraties populaires", alors qu'ils imposaient le parti et l'idéologie uniques. Il n'était pas prudent pour le magistère de prononcer des généralités sur la démocratie comme étant le meilleur régime, alors que des pseudo-démocraties pouvaient récupérer ces propos.

C'est pourquoi il était plus important, aux yeux du magistère, de préciser les conditions d'une vie en société qui rende compte de tous les droits de l'homme, de sa dignité, tout en soulignant les limites que doit se fixer le pouvoir politique. Il y a un paragraphe très important à ce sujet dans *Gaudium et spes*, au paragraphe 75, où il est question des limites du pouvoir politique. C'est un point essentiel. Division et limitation du pouvoir par le droit, indépendance du judiciaire, sont des conditions du bon fonctionnement de la démocratie. Une démocratie ne peut pas, par exemple, supprimer les corps intermédiaires; elle ne peut pas se substituer à la nature humaine pour décider des grandes questions de la morale. Elle est liée par ce qui est inscrit dans la nature de l'homme. L'enseignement catholique a toujours insisté sur ce point.

Si bien que nous arrivons à l'encyclique *Centesimus annus* de 1990, consacrée au centenaire de la grande encyclique de Léon XIII *Rerum novarum*. *Centesimus annus* est le premier document du genre contenant des développements explicites sur la démocratie. Ainsi nous lisons la phrase suivante (le Père Schooyans cite la page 21 du texte français) soit au paragraphe 46 de l'encyclique: "L'Eglise apprécie le système démocratique". Jusqu'alors l'Eglise disait plutôt que les systèmes se valent pourvu qu'ils soient conformes à la loi naturelle. Mais l'encyclique précise: "comme système qui assure la participation des citoyens aux choix politiques et garantit aux gouvernés la possibilité de choisir et de contrôler leurs gouvernants ou de les remplacer de manière pacifique lorsque cela s'avère opportun". Le système démocratique lui-même, comme participation de tous les citoyens, comme contrôle des pouvoirs, selon la définition classique de l'Etat démocratique, est approuvé dans ce texte. Cependant, il y a la réserve suivante.

Dans les textes du magistère, la démocratie, pas plus que la monarchie ou d'autres systèmes, ne peuvent être absolutisés en tant que systèmes. Car il ne peuvent prétendre disposer de l'homme, de la finalité de la vie, d'une manière absolue. Les systèmes ne sont que les gestionnaires du bien commun. Ce qui est mis en relation, ce sont deux notions souvent difficiles à faire accepter de la part d'une société pluraliste. Mais l'Eglise doit le faire. Il s'agit de l'idée de démocratie d'une part, et de l'idée de vérité objective d'autre part. L'idée qu'il existe un horizon normatif valable pour tous quant à la structure morale essentielle de l'humain, n'est jamais séparable de l'idée de liberté et de démocratie. Aucune démocratie ne peut disposer de la

structure essentielle de l'humain, pas plus qu'une autre forme de pouvoir. Cette limitation-là vient des origines mêmes de la pensée chrétienne, où elle reprise dans la formule de S. Paul: "tout pouvoir vient de Dieu".

Dès lors, lorsque dans les sociétés pluralistes, on ne parle surtout pas de Dieu, le pluralisme démocratique consistant à traiter Dieu comme une opinion individuelle, où il n'est plus possible de dire que Dieu est la référence commune, il faut trouver la manière d'exprimer la limite de l'humain universel dont aucun pouvoir ne peut disposer. L'Eglise n'a pas de difficulté à rejoindre, sur ce plan, la philosophie des droits de l'homme, qui représente un effort, toujours à reprendre, de l'humanité, dans cette direction. Pour l'Eglise, la démocratie n'est pas une fin en soi. Elle un moyen au service de la promotion de la dignité et de la liberté humaines, biens qui transcendent toujours le pouvoir confié aux hommes.

Voilà peut-être, Mesdames et Messieurs, quelques remarques qui peuvent introduire à l'étude de l'enseignement du magistère sur la démocratie. Je les ai rassemblées un peu en vrac, mais vous les trouverez très bien documentés dans le papier de Professeur Schooyans. Maintenant nous avons encore dix minutes. S'il y a des interventions, nous pouvons discuter cette présentation. Père Utz.



*Discussion of the papers*  
*by M. Schooyans and R. Minnerath*

UTZ

Ich möchte nur auf den Grund hinweisen, warum die katholische Kirche sich so spät für die Demokratie als Staatsform eingesetzt hat. Die Kirche war immer mit Thomas von Aquin in dem Grundsatz einig, daß die Entscheidung für das Gemeinwohl wesentlich moralischer Natur ist. Der Mehrheitsentscheid kommt aber durch eine technische Methode zustande. Es gibt kein bestimmtes Subjekt, das man für den Entscheid verantwortlich machen könnte. Das ist der tiefste Grund, warum sich Thomas für die Monarchie entschieden hat, wenngleich er auch die gesamte Mehrheit (tota pluralitas) anerkennt, aber nur unter der Bedingung, daß die Mehrheit die gleiche moralische Orientierung hat. Dies setzt voraus, daß in der Abstimmung nicht über moralisch gut oder böse, sondern über zwei unterschiedlich gute Objekte abgestimmt wird. In der modernen Demokratie gibt es den moralischen Konsens nicht mehr. Man spricht vom neutralen oder pluralistischen Staat. Vom moralischen Gesichtspunkt aus kann die Demokratie zur Destruktion der gesamten gesellschaftlichen Moral führen. Trotzdem befürwortet die Kirche heute die Demokratie, weil diese ihr wenigstens die Freiheit garantiert, ihre Moral zu verkündigen.

SCHASCHING

Studying the origins of the encyclical *Quadragesimo Anno* it is fascinating to see how Pius XI tried to solve the question of "civil society". He did not trust the political parties because they were strongly influenced by ideologies. He preferred the corporatist system as an intermediate force between the individual and the state. The principle of subsidiarity constituted the philosophical basis of this system.

FLORIA

I would like to make two comments on the text by Father Schooyans. It seems to me that the Church did have a very reticent reaction to democracy for many years. I think recognizing this is simply a question of

intellectual honesty and the acceptance of history, and I don't think it's particularly surprising that this was the case because the democracy that we're speaking of today is not an old system – it's a modern democracy, a contemporary type of democracy, and that is what we should focus our attention on.

Now, I would like to mention by way of reference some ideological movements; I'm thinking now of a French example: Action Française and Charles Maurras. This was a very anti-democratic type of movement with ideas which argued that democracy was an “obscene system”, and there are other types of literature by Maurras that are very similar. Many Catholics followed this type of thinking and followed the thinking of Maurras who was a brilliant man, but who believed in an élite type of authoritarianism.

The final comment I would like to make is that in the social teachings of the Church, and particularly those of Pius XI, as I understand it, you do find ideas, intuitions and precisions which were very profound for their time, and there was really a type of warning about the danger of the thinking of Maurras in 1926. There was a type of mission that was given to certain Jesuits, a draft encyclical on human beings that was really quite anti-semitic, and this is something that I recently read last year, and I was very surprised nonetheless by some of the intuition and profound thought that was part of that text. And then, if we look at *Centesimus Annus*, there's a type of thinking which is a “systemic” way by which to deal with democracy in a way which is easier to understand for people of all beliefs of good will who want to take political questions seriously.

It's a kind of systemic approach where democracy is seen not as something which creates truth, but rather as one of the better, or best, political systems created by human thinking, particularly Western thinking and Western society, which could try to make life more just for mankind. And finally I think I would like to come back to what you said: the quote you gave us of John the XXIII. *Pacem in Terris* was a great encyclical and I believe that in it there was a distinction made, which was then repeated by Paul VI in his own apostolic letter, between ideas, ideologies, historical movements and political regimes.

VYMĚTALÍK

I would like to observe that there are many different approaches to democracy in politics and economics. While political democracy is usually accepted, the possibility of economic democracy is often denied. I mean by this intra-corporate democracy, the democratic participation of managers and employees in an enterprise. Is it necessary? Can it bring about greater

economic efficiency and under what conditions? Economic democracy – should it be supported or rejected? These questions deserve our attention as well.

BETANCUR

Thank you very much, Mr. Chairman. When Father Schasching was reminiscing about the disasters created in large part by the encyclical *Quadragesimus Annus*, when you look at the procedural form of the political parties, I must say I felt a very cool breeze, because I remembered some twenty years ago when we looked at the terms and contents found in *Quadragesimus Annus*. In Latin America a group of political leaders who then were young, we were young then, we were twenty years old ourselves, started fighting against the traditional political parties, and we were successful, and we obviously based many of our activities on pontifical thinking, because in our countries there is a majority of Catholics, so we were able to use that encyclical as a type of cane, or support, a tool, and we have seen what happened in those cases, because many errors had been made, they had used and abused certain powers, after having taken advantage of what they could find in Roman law. They had used and abused the almost blind acceptance of the community there, and the community in society drew some of its loyalty from loyalty to the family, to religion, and loyalty to the party. Then *Quadragesimus Annus* arrived and proclaimed a certain scepticism. Father Schasching: with regard to the existence of the political parties and their forms, and the members of some minority parties, and I am one of them, who were obviously thinking about obtaining power within our countries, and this was my own case, had no possibility of gaining power at that time, because we were members of minority parties, and what we did was to have very enjoyable discussions in our universities and elsewhere trying to increase confusion, so to speak, so that chaos would arrive within political parties, so that everything would explode. So, I was able to benefit from that catastrophe, so to speak, because the traditional discipline of political parties in Latin America was broken and new movements were able to begin.

VON BEYME

I think Father Schooyans was rather too defensive in his paper in relation to the problem why the Church did not recognize “democracy” early enough. The Church in this respect experienced the dilemma of all governmental systems of the nineteenth century: democracy was perceived along the lines of Aristotle, who had deeply penetrated the political teachings of the Church, as a deficient form of government, a *parekbasis*.

Secondly, democracy was a textbook type. In real life it was either marginal (Switzerland) or not yet taken seriously as a new political system (for example in the USA after the Jacksonian revolution which puzzled even Tocqueville). Thirdly, democracy at the time was identified with republicanism. The Vatican, after all, was a monarchy as most other political systems were in Europe until 1918. Therefore I would plead for "*miser cordia*" for the pardonable sin that the Church considered the democratic principle as a danger – in the light of the democratic revolution in Rome under Mazzini and Garibaldi (1848).

After the encyclical *Rerum Novarum* (1891) no form of government *per se* was considered as leading to "sin", as long as it respected the rights of the Church. The only thing we have to criticize *ex post facto* is that the Church at the time of rising Fascism expressed its concerns in "*Non Abbiamo Bisogno*" (1931) and "*Mit Brennender Sorge*" (1937), but was cautious in her favorable plea for the principles of democracy until the end of the Second World War.

#### MINNERATH

On observe que la lente et prudente approche de la démocratie par le magistère de l'Eglise se décante à partir des évolutions de la démocratie elle-même. Ce n'est que lorsque la démocratie politique est apparue comme l'antidote des régimes totalitaires qu'elle a été valorisée et promue. En même temps, la démocratie comme système politique est placée dans le cadre de la conception globale des rapports entre la personne et la communauté: famille, milieux de vie, Etat. Si la doctrine sociale de l'Eglise n'a expressément souhaité la démocratie que si tard, elle a au contraire énoncé très tôt, et en avance sur les pratiques contemporaines, quelles devaient être les conditions d'une vie sociale respectueuse de la dignité humaine et de la liberté. Elle a enseigné l'égalité fondamentale des êtres humains. Elle a promu une vision de la société distincte de l'Etat et insisté sur le rôle des corps intermédiaires. La "société civile" a sa place dans l'enseignement catholique depuis au moins Léon XIII, qui parle de la nécessité de l'organisation syndicale sur le plan professionnel, et depuis Pie XI qui lance le concept porteur de subsidiarité. Même l'idée de l'Etat de droit n'est pas nouvelle. Depuis le XIIIe siècle, l'Eglise enseigne que le pouvoir politique est illégitime s'il est arbitraire et qu'il est lié à l'ordre naturel. Ces dernières années, Jean Paul II montre clairement vers quelles dérives va la démocratie lorsqu'elle se prend pour une valeur absolue en elle-même — par rapport à laquelle toutes les autres valeurs devraient être relativisées. Démocratie, comme liberté, ne va pas sans recherche de la vérité ni sans responsabilité.

II.

VALUE OF DEMOCRACY — DEMOCRACY AND VALUES



## THREE QUESTIONS ABOUT CONTEMPORARY DEMOCRACY AND THE CATHOLIC CHURCH\*

JOHN J. DI IULIO, Jr.

### SUMMARY

Since the end of World War II leading political scientists have increasingly understood democracy as a means, procedure, or method. This understanding of democracy was powerfully advanced by Joseph A. Schumpeter in his book *Capitalism, Socialism, and Democracy*, published in 1942, and lives on in such recent works as Samuel P. Huntington's *The Third Wave: Democratization in the Late Twentieth Century*, published in 1991. Understanding democracy as a means has certain intellectual advantages, but that is not, in fact, how the actual leaders of many modern democracies have understood – and fought for – it. Rather, they have generally valued democracy as integral to the public or common good, and, as often as not, have pursued democracy as both a method and a mission inextricably linked to human rights. Recent studies by Robert D. Putnam and other leading political scientists can be read to suggest that understanding – and valuing – democracy as both a method and a mission is a necessary but insufficient condition for establishing the norms of reciprocity and civic engagement that make democracy work. Finally, the history of representative democracy in the United States, including the role of religious ideas and ideals, suggests that those who understand and value democracy only or mainly as a means are unlikely in the end to achieve what Pope John Paul II, in *Centesimus Annus* (1991), termed “authentic democracy”.

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\* In the programme the subject of this paper was “Value and Justification of Democracy”. Professor Di Iulio presented his paper under the title “Democracy: An End or a Means?”. For this volume Professor Di Iulio delivered a revised version bearing the above title.

*Authentic democracy is possible only in a State ruled by law, and on the basis of a correct conception of the human person.*

Pope John Paul II, *Centesimus Annus* (1991), 46

There are at least three large, complex, and overlapping questions to be raised about contemporary democracy in relation to the Catholic Church:

Conceptually, is “democracy” best defined and valued as a means, an end, or both, and how does the Catholic Church now conceive it?

Empirically, what, if any, social and other conditions are generally most favorable to democracy and what, if anything, has the post-1970 Catholic Church done to foster those conditions?

Morally, what, if any, special capacity and responsibility do Catholics have to protect and promote what Pope John Paul II has termed “authentic democracy” both at home and abroad?

My main purpose in this paper is to outline preliminary but pointed answers to these three questions, and to do so in a way that provokes the critical interest of social scientists, moral philosophers, Catholic theologians, political leaders, and others from whose diverse expert knowledge and mutual dialogue might result a more definitive conceptual, empirical, and moral understanding of contemporary democracy in relation to the Catholic Church. My corollary purpose in this paper is to indicate that over the last several decades the Catholic Church has played a major and positive role in protecting and promoting democracy around the globe, and that this role springs naturally from official contemporary Catholic Church teachings.

#### DEFINING AND VALUING DEMOCRACY

One of the most widely used introductory political science textbooks in the United States conceives democracy as follows:

Here we define democracy as both ultimate ends and instrumental means, both as *goals* basic to humankind and as a *method* – for example, free and fair elections – best calculated to realize those human goals. The means and the ends, the goals and the method, are closely interrelated.<sup>1</sup>

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<sup>1</sup> James MacGregor Burns, J.W. Peltason and Thomas E. Cronin, *Government by the People*, ninth edition (Englewood Cliffs, New Jersey, Prentice-Hall, Inc., 1972), p. 9. Italics in the original.



Both in the United States and elsewhere, however, more advanced scholarship conceives democracy as a means, not as an end. The most influential scholarly argument for conceiving democracy primarily or solely as a means was made by Joseph A. Schumpeter in his classic study, *Capitalism, Socialism, and Democracy*, the first edition of which was published in 1942.

Schumpeter has been widely cited for his ideas about capitalism's "process of creative destruction" and his (as it turned out false) predictions about "perennial inflationary pressure" and the triumph of predominantly socialist economies over predominantly capitalist ones.<sup>2</sup> Today, however, it is his ideas about "the democratic method", not his ideas about "the march to socialism", that continue to have real intellectual currency:

Democracy is a political *method*, that is to say, a certain type of institutional arrangement for arriving at political – legislative and administrative – decisions and hence incapable of being an end in itself, irrespective of what decisions it will produce under given historical conditions ... (B)eing a political method, democracy cannot ... be an end in itself.<sup>3</sup>

Setting aside the "classical theory" in which democracy is conceived as intrinsic to "the common good", Schumpeter declared that "the role of the people is to produce a government, or else an intermediate body which in turn will produce a government, or else an intermediate body which in turn will produce a national executive or government":

And we define: the democratic method is that institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the people's vote.<sup>4</sup>

Schumpeter hoped that his definition of democracy as a procedure for promoting "competition for political leadership" would soon be accepted as *the* definition of democracy among serious "students of politics".<sup>5</sup> He did not hope in vain.

Consider, for example, how democracy is conceived in one of the most widely-debated recent works on the subject by an internationally recognized political scientist, Samuel P. Huntington's *The Third Wave: Democratization in the Late Twentieth Century*, which was published in 1991.

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<sup>2</sup> Joseph A. Schumpeter, *Capitalism, Socialism, and Democracy*, third edition (New York, Harper Torchbooks, 1962), see especially chapter 7 and pp. 415-425.

<sup>3</sup> *Ibid.*, p. 242. Emphasis in original.

<sup>4</sup> *Ibid.*, p. 269.

<sup>5</sup> *Ibid.*

Huntington, a Harvard University professor and past president of the American Political Science Association, credits Schumpeter with “(e)ffectively demolishing” previous concepts of democracy:

For some while after World War II a debate went on between those determined, in the classical vein, to define democracy by source or purpose, and the growing number of theorists adhering to a procedural concept of democracy in the Schumpeterian mode. By the 1970s the debate was over and Schumpeter had won ... Sweeping discussions of democracy in terms of normative theory sharply declined, at least in American scholarly discussions, and were replaced by efforts to understand the nature of democratic institutions, how they function, and the reasons why they develop and collapse. The prevailing effort was to make democracy less of a “hurrah” word and more of a commonsense word.<sup>6</sup>

“The procedural approach to democracy”, Huntington avers, “accords with the commonsense uses of the term. We all know that military coups, rigged elections, coercion and harassment of the opposition, jailing of political opponents, and prohibition of political meetings are incompatible with democracy”.<sup>7</sup> For future “democracies to come into being”, he argues, “future political elites will at a minimum have to believe that democracy is the least worst form of government for their societies and for themselves”.<sup>8</sup>

Huntington is right, but, as with many a powerful and worthwhile concept, the “procedural” concept of democracy as a means or method obscures even as it elucidates and loses in generality what it yields in precision.

How well, for example, does the procedural concept of democracy comport with the actual words, deeds, sentiments, and motives of the political and religious leaders and ordinary persons all across the globe who have spoken out, struggled, and sacrificed to oppose military coups, establish free and fair elections, institutionalize legitimate party competition, encourage freedom of association, and otherwise institutionalize the rule of law? Historically, have all or most of those who have started or sustained democracy understood it mainly or solely as a procedure for institutionalizing legitimate, non-violent political competition, “the least worst form of government”, a political ticket to economic growth, or a way to serve themselves? Or have many or most such leaders, including many of the last three decades, defined and valued democracy as integral to what

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<sup>6</sup> Samuel P. Huntington, *The Third Wave: Democratization in the Late Twentieth Century* (Norman and London, University of Oklahoma Press, 1991), pp. 6, 7.

<sup>7</sup> *Ibid.*, p. 8.

<sup>8</sup> *Ibid.*

James Madison, the chief architect and defender of the United States Constitution and hence of America's representative democracy, variously termed "the permanent and aggregate interests of the community", the "true interest" of the people, "the good of the whole", and "the public good"?<sup>9</sup>

Consider what Huntington himself observes about the crucial post-1974 role of religious leaders and organizations in advancing democracy. Citing the *1988 Catholic Almanac*, Huntington quotes Pope John Paul II "(c)onfronting Pinochet in Chile in 1987" as follows: "I am not the evangelizer of democracy; I am the evangelizer of the Gospel. To the Gospel message, of course, belong all the problems of human rights; and, if democracy means human rights, it also belongs to the message of the Church".<sup>10</sup>

Of course, Pope John Paul II, Catholic clergy, and other religious leaders were hardly alone in defining and valuing democracy as inextricably tied to "human rights". Over the last several decades, a wide variety of secular leaders from Chile to Czechoslovakia, from Panama to Poland, from South Korea to South Africa, have pushed for democracy. Surely, the efforts they made in the name of democracy were not wholly or even mainly in the spirit of self-interested bets on democracy's potential as a means for reducing social strife, improving economic performance, or securing power or wealth for themselves.

Rather, for many of these leaders, even for the most worldly and calculating among them, democracy was no doubt understood and experienced as a "hurrah" word. In many cases, their struggle for democratizing reforms, while in the nature of things often taking shape as a game of political alliances, bargaining, and coalition-building, was nonetheless a game they played with a genuine regard for democracy as necessary to the dignity of the human person. In many cases, their working definition of democracy was probably closer to the transcendent concept of "authentic democracy" than it was to the technical concept of "procedural democracy".

Thus, while contemporary scholars have fruitfully defined and studied democracy as a means, method, or procedure, we ought not thereby to lose sight of the reality that many contemporary leaders, both secular and religious, have defined, valued, and pursued democracy as both a method and a mission. As is discussed below, the Catholic Church itself has

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<sup>9</sup> James Madison, Federalist Paper Number 10, in Clinton Rossiter (ed.), *The Federalist Papers* (New York, Mentor, 1961), pp. 78, 80, 82.

<sup>10</sup> Huntington, *op. cit.*, p. 84, citing Felician Foy (ed.), *1988 Catholic Almanac* (Huntington, Indiana, Our Sunday Visitor Books, 1987), p. 34.

conceived and promoted democracy as both instrumental and intrinsic to the formation and maintenance of polities that respect the dignity of the human person and need for human community.

#### EXPLAINING AND EXPANDING DEMOCRACY

Since the end of the Second World War, political scientists and scholars in other fields have made tremendous progress in identifying the conditions under which democratic political institutions arise, persist, and change. One of the leading analysts of democracy, Charles Tilly of Columbia University, has recently and succinctly summarized what decades of empirical research indicates about “possible mechanisms of democratization”:

Not just one, but multiple paths to democracy exist. Most large-scale social environments that have ever existed and the majority that exist today include major obstacles to democracy ... If democratization occurs, the process does not take place on the scale of millennia ... or on the scale of months ... but at a scale between, most likely over years or decades. Democratization has rarely occurred, and still occurs rarely, because under most political regimes in most social environments major political actors have strong incentives and means to block the very processes that promote democracy. Prevailing circumstances under which democratization occurs vary significantly from era to era and region to region as a function of the international environment, available models of political organization, and predominant patterns of social relations.<sup>11</sup>

While Tilly is right that democracy has been, and continues to be, rare, he and other leading empirical researchers and theorists of democracy have made numerous efforts to explain the post-1974 global expansion of democracy. For example, Seymour Martin Lipset, Professor of Public Policy at George Mason University in the United States, has been a leading student of democracy for nearly a half-century. In his most recent series of public lectures on “the preconditions of democracy”, Lipset offered the following observation:

In the past two decades, democracy has spread throughout the world for the first time in human history. It is hard to recall, but just a few years ago the overwhelming majority of the members of the United Nations were not democratic. By 1996 ... 118 of the 190 (member) nations (had) competitive elections and various guarantees of political and individual rights, a figure which is more than double the number from twenty-five years earlier. Despite the proliferation of

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<sup>11</sup> Charles Tilly, ‘Defining Democracy’, *Public Affairs Report*, University of California, Berkeley, May 1998, p. 4.

democracies, it is still important to inquire why free polities are taking root in some nations and not in others and why they took place in some earlier than elsewhere.<sup>12</sup>

Lipset considers a wide range of economic, cultural, religious, and other factors that may have contributed to the post-1974 expansion of democracy worldwide. In the course of his analysis, he notes that, “(h)istorically, democracy has not done well in countries dominated by Catholicism, Orthodox Christianity, Islam, and Confucianism”.<sup>13</sup> But what is most striking about the latest wave of democratization, he suggests, is how the “inverse relationship between democracy and Catholicism has largely disappeared”:

Catholicism changed after World War II in ways that positively affected the potential for democracy. It has become more accepting of religious and political pluralism, has forbidden the clergy to engage in electoral politics, and has grown more approving of social reform to reduce inequality.<sup>14</sup>

In his aforementioned book, Huntington, whose explanations of political development have rarely been at one with those of Lipset, makes a virtually identical case about contemporary Catholicism and contemporary democracy. He explores the global fortunes of democracy during the period 1974 to 1990, identifying some thirty-three instances of democratization and three instances of “democratic reversal”.<sup>15</sup> He estimates that in 1990 some 58 of the 129 countries with a population of more than one million were “democratic states”.<sup>16</sup> He attempts “to explain why, how, and with what consequences a group of roughly contemporaneous transitions to democracy occurred in the 1970s and 1980s and to understand what these transitions may suggest about the future of democracy in the world”.<sup>17</sup>

Huntington’s analysis touches upon virtually every major body of contemporary social science theory about the conditions that foster or retard democracy. Like Lipset, he gives all schools of thought their due, and concludes that the Catholic Church has played a major and positive role:

In many countries, Protestant and Catholic church leaders have been central in the struggles against repressive countries ... All in all, if it were not for the ...

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<sup>12</sup> Seymour Martin Lipset, ‘1997 Julian J. Rothbaum Distinguished Lecture in Representative Government’, *Extensions: A Journal of the Carl Albert Congressional Research and Studies Center*, July 1998, p. 3.

<sup>13</sup> *Ibid.*, p. 5.

<sup>14</sup> *Ibid.*

<sup>15</sup> Huntington, *op. cit.*, pp. 21-30.

<sup>16</sup> *Ibid.*, p. 26.

<sup>17</sup> *Ibid.*, p. 30

actions of the Church against authoritarianism, fewer third wave transitions to democracy would have occurred and many that did occur would have occurred later ... Catholicism was second only to economic development as a pervasive force making for democratization in the 1970s and 1980s.<sup>18</sup>

Other informed observers including non-academics have reached much the same conclusion. For example, Adrian Karatnycky, president of a U.S.-based research organization called Freedom House, has noted that “dictatorship has been virtually eliminated in countries with a Catholic majority”:

When Karol Wojtyła acceded to the pontificate, 22 of 42 countries with a Catholic majority were tyrannies. Most of these dictatorships have now collapsed ... In fact, Catholicism’s democratic influence now reaches beyond Catholic countries. For example, Catholic activism in support of democracy played a central role in South Korea ... There are other factors — including the growing transparency of borders, innovations in technology that increase access to information, and the emergence of robust middle and working classes — that have helped propel the remarkable march of democracy ... But there is no question that the Pope’s teachings on human rights and freedom of association ... have played a central role in the democratic wave of change.<sup>19</sup>

All true, but there are at least three reasons to qualify and refine this understanding of the Catholic Church’s role in expanding contemporary democracy.

First, there have been, and continue to be, “democratic reversals” and stunted democratic reforms in both Catholic and non-Catholic countries.<sup>20</sup>

Second, a new generation of quantitatively sophisticated analyses suggest that economic prosperity, independent of religious or other influences, is an even more powerful predictor of both levels of democracy and rates of democratization than most previous analyses had suggested.<sup>21</sup> Even if, as Huntington argues, the Church’s role was “second only to economic development”, it might well be a distant second.

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<sup>18</sup> *Ibid.*, pp. 73, 85. Huntington also credits the Church with supporting opposition groups that “pursued democracy through nonviolent means” and vigorously espousing nonviolence, which, he argues in turn, largely explains the (by historical standards at least) “low levels of violence in these regime changes” (pp. 196, 200-201).

<sup>19</sup> Adrian Karatnycky, “Democratic Church”, *National Review*, May 4, 1998, pp. 38, 40-41.

<sup>20</sup> For example, see Kurt Weyland, *Democracy Without Equity: Failures of Reform in Brazil* (Pittsburgh, University of Pittsburgh Press, 1996); Mark Falcoff, ‘Paraguay: The Tail End of the Democratic Revolution’, *American Enterprise Institute Research Brief*, Washington, D.C., June 1998.

<sup>21</sup> For example, see Robert J. Barro, *Determinants of Economic Growth: A Cross-Country Empirical Study* (Cambridge, MA, MIT Press, 1997).

Third, arguably the single most influential recent book on democracy is Robert D. Putnam's *Making Democracy Work: Civic Traditions in Modern Italy*, published in 1993. Putnam, a Harvard professor of political science, examines the experiment begun in 1970 when Italy created new governments for each of its regions. He analyzes the records of these governments in such fields as agriculture, housing, and health services. His analysis offers compelling empirical evidence for the importance of "civic community" in developing successful democratic institutions:

Some regions of Italy have many choral societies and soccer teams and bird-watching clubs and Rotary clubs. Most citizens in those regions read eagerly about community affairs in the daily press ... Inhabitants trust one another to act fairly and to obey the law. Leaders in these regions are relatively honest. They believe in popular government, and are predisposed to compromise with their political adversaries. Both citizens and leaders here find equality congenial ... The community values solidarity, civic engagement, cooperation, and honesty. Government works.<sup>22</sup>

Putnam's book has been widely read by policy makers and civic leaders in the U.S. and other nations as powerful evidence that making democracy work requires "a substantial stock of social capital, in the form of norms of reciprocity and networks of civic engagement" that can "improve the efficiency of society by facilitating coordinated actions".<sup>23</sup> Metaphorically speaking, his thesis is that leaders can open and make the initial deposits in a democracy's bank of social capital, but for a democracy to remain institutionally solvent requires ongoing social contributions from both leaders and average citizens. Echoing Alexis de Tocqueville, he concludes that "(d)emocratic government is strengthened, not weakened, when it faces a vigorous civil society", and the ability of democratic institutions to help achieve other desirable ends is "facilitated by the social infrastructure of civic communities and by the democratic values of both officials and citizens".<sup>24</sup>

If Putnam is even half-right, then the fact that southern Italy, a region of the world where the Church of Rome is indubitably a major presence, lags so in "making democracy work" might reasonably raise larger doubts about the Church's relationship to social capital, civil institutions, civic engagement, and democracy itself.

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<sup>22</sup> Robert D. Putnam, *Making Democracy Work: Civic Traditions in Modern Italy* (Princeton, New Jersey, Princeton University Press, 1993), p. 115.

<sup>23</sup> *Ibid.*, p. 167.

<sup>24</sup> *Ibid.*, p. 182.

## PROTECTING AND PROMOTING DEMOCRACY

There is, however, no doubting the positive role that the Catholic Church has played in the post-1974 global expansion of democracy. In a sense, this is “nothing new”. Historically, democracy has often been the offspring of active Christian belief. This has been true even in the experiences of a modern democracy such as the United States, a pluralistic polity in which the so-called doctrine of the separation of church and state has always had its adherents.

As Paul Johnson has noted in his provocative history of the American people, published in 1997, “(n)ext to religion, the concept of the rule of law was the biggest single force in creating the political civilization of the colonies”. Many of the country’s early democratic leaders argued that “the law was not just necessary – essential to any civil society – it was noble. What happened in courts and assemblies on weekdays was the secular equivalent of what happened in church on Sundays”.<sup>25</sup>

By the time of the debate over the U.S. Constitution, Madison and many other leaders had concluded that the only way to representative democracy work in America was, in effect, to trade strongly on the neo-democratic civic traditions of ever larger segments of the American people, and, in turn, to establish a large republic. As explained in the introductory American government textbook that I co-authored with UCLA’s Professor James Q. Wilson, by “favoring a large republic, Madison was not trying to stifle democracy”:

Rather he was attempting to show how democratic government really works, and what can make it work better. To rule, different interests must come together ... (H)e was arguing that the coalitions that formed in a large republic would be more moderate than those that formed in a small one because the bigger the republic, the greater the variety of interests, and thus the more a coalition of the majority would have to accommodate a diversity of interests and opinions if it hoped to succeed.<sup>26</sup>

Madison and the other Founding Fathers of the American republic valued representative democracy as both symbol and substance of the rule of law, and, ideally, as a form of government under which the “whole society could seldom” come together or exert domestic force on “any other principles than those of justice and the general good”.<sup>27</sup>

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<sup>25</sup> Paul Johnson, *A History of the American People* (New York, Harper Collins Publishers, 1997), p. 147.

<sup>26</sup> James Q. Wilson and John J. Di Iulio, Jr., *American Government: The Essentials* (Boston and New York, Houghton Mifflin Company, 1998), p. 37.

<sup>27</sup> Madison, Federalist Paper Number 51, in Rossiter, *op. cit.*, p. 325.



Like most of the other American Founding Fathers and early defenders of representative democracy in the U.S., Madison was not a deeply religious person. But, as Johnson notes, Madison “saw an important role for religious feeling in shaping” and sustaining a democratic society.<sup>28</sup>

Madison believed that popular assumptions about the rights and dignity of the human person that can spring from a civil society’s religious traditions were vital to representative democracy. He was one in a long line of essentially secular political thinkers and analysts who have viewed the relationship between Christian belief and democratic government as morally and practically symbiotic.

James Bryce’s *Modern Democracies*, published in 1921, stressed the role of Christianity in Western democratization. “What, then”, asks Bryce, “is the relation to democracy of the fundamental ideas of the Gospel?”:

Four ideas are of special significance. The worth of the individual man is enhanced as a being to whom the Creator has given an immortal soul, and who is the object of His continuing care. In that Creator’s sight the souls of all his human creatures are of like worth. All alike need redemption ... Supremely valuable is the inner life of the soul and its relation to the Deity ... It is the duty of all God’s creatures to love one another, and form thereby a brotherhood of worshippers.<sup>29</sup>

The first of these ideas, argues Bruce, implies “spiritual liberty” and “freedom of conscience. The second implies human equality”, and the third and fourth ideas together imply an ideal of civic “brotherhood” which “points to the value of the collective life” and one’s moral obligations to others and to “the community”.<sup>30</sup>

Huntington, too, makes a case for the proposition that a “strong correlation exists” between Western Christianity and Western democracy. “The correlation”, he is careful to stress, “does not prove causation”.<sup>31</sup> Other religious traditions are clearly compatible with belief in “the dignity of the individual” and other democratic beliefs, norms, and values. But – or so I would argue – Christians, most especially Catholics, have a special historical and moral writ to protect and promote democracy in the future. As Huntington argues:

Democracy will spread in the world to the extent that those who exercise power in the world and in individual countries want it to spread ... History ... does not move forward in a straight line, but when skilled and determined leaders push, it does move forward.<sup>32</sup>

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<sup>28</sup> Johnson, *op. cit.*, p. 207.

<sup>29</sup> James Bryce, *Modern Democracies*, vol. 1 (New York, The Macmillan Company, 1921), p. 89.

<sup>30</sup> *Ibid.*

<sup>31</sup> Huntington, *op. cit.*, pp. 72-73

<sup>32</sup> *Ibid.*, p. 316.

For over two decades now, the “skilled and determined leaders” of the Catholic Church have done much to protect and promote democracy in accordance with the Church’s own official teachings – its teachings not only on democracy itself,<sup>33</sup> but on “human community,” including “the person and society”, “participation in social life”, and “social justice”.<sup>34</sup>

It is true that the “magisterium of the Church was slow to speak about democracy and did so even then with considerable circumspection, if not suspicion”.<sup>35</sup> It is also true, however, that the Christian ideas that are most often identified as moral springboards of democracy (most especially those that turn on organic conceptions of “collective life”) have discernibly Catholic intellectual roots.

Finally, while it is true that many early efforts to advance democracy were more orphans than offspring of the Church, that should not blind one from recognizing that the Church has demonstrated a unique capacity and willingness to articulate, protect, and promote “authentic democracy” in the contemporary era, or from voicing rational moral hopes that it will continue to do so into the next century and third millennium.

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<sup>33</sup> For a most useful summary see Michel Schooyans, ‘Democracy in the Teaching of the Popes’, Pontifical Academy of Social Sciences, *Proceedings of the Workshop on Democracy*, December 12-13, 1996, pp. 11-40.

<sup>34</sup> *Catechism of the Catholic Church* (Urbi et Orbi Communications, 1994), pp. 459-472.

<sup>35</sup> Schooyans, *op. cit.*, p. 11.

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*Discussion of the paper by J.J. Di Iulio*

ARCHER

Since democratic participation is always contested, I would like to question the radical role which has been assigned to the Church in the promotion of enfranchisement. I suggest that there are only two conditions under which it has played this radical part. The first is when the Church and its members have suffered severe political discrimination, as in England until the nineteenth century. The second is where Catholics previously enjoyed democratic representation but then suffered exclusion, as in Communist Poland where the Church then acted as the only alternative organisational base from which to advocate inclusive citizenship. Unless these conditions hold, can one really argue that the Church played a radical role in the historical promotion of democracy?

FLORIA

I would refer to one of the quotes that Professor Di Iulio gave us regarding Richard Putnam and Italian democracy, where he describes how there are historical, institutional and cultural differences when you look at North and South. In the North you have a more horizontal form of power, in the South you always have the master, the “padrino”, the “mafia” type of structure, a vertical structure instead of a horizontal one.

Now, I was rather severe and critical of the Church’s role and what it said regarding democracy, but I think that when you look at the transitional phases of this, if you refer to Latin America, the Church has played a very important role and, generally speaking, with episcopates of different strength. Let’s say the Church was a fundamental bridge to bring us back to democratic regimes after the authoritarian or military regimes that covered almost all of Latin America in the sixties or seventies.

Now, I think the Church was able to discover that if they didn’t conform to a political theory, they did try to push for greater pluralism, greater flexibility and basically moved toward democracy. Thank you.

MORANDE

I would like to say that the difference between democracy as a procedure and democracy as an end in itself is something that needs to be considered in

its relation to human rights. If basic human rights are respected in a given period of history, in a given society, democracy can be understood as a procedure. But if this is not the case, the legitimization of democracy needs something which is more than just an efficient mechanism of decision making. I would have liked to have heard from the previous speaker some reference to the encyclical *Evangelium Vitae* which I think is very important to our understanding of democracy today. What seems to be at stake now is human existence itself, when, for instance, the cause of pro-abortion presupposes that the most defenseless and innocent human beings one could imagine can be considered by society as unjust aggressors. In this case, the value neutrality of democratic procedure implies a hidden option against the human right to existence. So, whether democracy is an end or a means depends on the ways in which this difference can be considered neutral in relation to human existence itself.

ZIOLKOWSKI

His Holiness, on his first visit to Poland in 1979, spoke of human rights and by the same token of democracy. Without his pilgrimage to his native country most probably "Solidarnosc" would not have been born. It was with good reason that the Pope in his first encyclical *Laborem Exercens* referred to workers deprived of human rights. You speak rightly about the mission of the Church in this regard. Therefore, it would be advisable to say something about the dynamic process which has led to the introduction of human rights and democracy in countries of Central Europe over the last ten years or so.

VON BEYME

This statement crashes in an open door. I would, however, challenge the use of Huntington's waves of democratisation. His first wave extended over the 100 years after the 1820s. The changes in this period – with few exceptions, such as France in 1848 – were aiming at parliamentarisation and liberalisation of the legal state but not democracy proper, for which the minimal criterion must be universal suffrage. Most principles in representative governments are taken from the liberal legal state, such as human rights or division of powers, or even federalism.

Even in the twentieth century, in the self-description of democratic constitutions to be found in the preambles from Spain to Russia, we find variations of the self-definition of the Basic Law of the Federal Republic of Germany: a democratic, federal, social and legalized state. Democracy is hardly the central notion, rarely parliamentary democracy is mentioned – from Bulgaria to Sweden. Sometimes a "Repubblica del Lavoro" is invoked, as in Italy, but this is only another sweet sounding variation of the welfare

state. This little comparison raises the suspicion that democracy is somewhat considered in a procedural and instrumental way and the substance of liberty is taken from the principles of the “*Rechtsstaat*”.

VILLACORTA

Thank you. I think nowhere more than in the Philippines can we appreciate the importance of democracy as a value, as an end rather than as a means. For too long in the Philippines we have regarded democracy as a method for elections and policy making. We sometimes forget that democracy has the ultimate objective of choosing the right kind of leader – the right kind of leader defined in terms of competence, morality, commitment to human rights, the human person, as well as social justice. Now, it seems that discussing the philosophy and ideology of democracy is a much simpler exercise, but if we look at the realities of Third World democracies it is a much more complex matter. It is more complex than just the choice between authoritarianism and democracy, and more complex than the democratic choices that people in a highly developed country such as the United States face. For example, in a developing country where the media determine to a great extent the popularity of candidates, you find the preponderance of show-business people, actors, sports heroes, as aspirants for public office. There, you find a situation where electoral mechanisms are controlled by the government, where money, political machinery, political influence and rampant cheating determine who the winners are.

In many Third World countries the traditional notions of democracy do not always apply, especially if we are going to confine these notions to democracy as a means. This is because there are intervening factors such as the poverty and powerlessness of the majority. Even in many countries in Eastern Europe, liberal democracy has shown its deficiencies in terms of the security of the livelihood of the citizens. In many cases, this has led to the return to power of socialist parties. More and more, we hear from both the Right and the Left in many countries in the Third World, as well as in Eastern Europe, counter-arguments to liberal democracy. They come from the former socialist groups which used to be in power, and, in Third World countries, from the apologists for strongman rule.

So, I wish this seminar to address these issues and inject the Church’s teachings on human rights and social justice, which go beyond the traditional notions of liberal democracy.

BETANCUR

I wanted to congratulate Professor Di Iulio on his presentation. Professor, for me it’s very moving to see that there are Catholics who do not

just read the pontifical documents and look at their teachings, but also look at what our neighbours are writing on, in your reference to Professor Huntington.

However, I am concerned: how do we decide the moment when we need to establish a dichotomy between concepts, the ideas for example presented by the Holy Father in Cuba, and the praxis, the political praxis, because I'm afraid that in the praxis of politics we begin to involve the Church as an institution in religious struggles, and that's what I'm a bit concerned about. Thank you.

DI IULIO

Thank you very much for your comments. We're focusing here again and with justification on the role of the Church in particular in democratizing reforms. If you look at what actually is happening on the ground of the countries *vis-à-vis* democratizing reforms and the strengthening of civil institutions and civic traditions that favour democracy, the Church's role is to me at least that of a bellwether.

MENSAH

In view of the shortage of time, I was merely going to say that the proposition that democracy is a value appears to be contradicted by the facts on the ground. If one goes around the majority of the world's democracies one cannot find a common system everywhere. There are differences, even fundamental differences, in the various systems. Now, if democracy itself were a value one would expect it to have more or less the same face in the societies in which it is clearly accepted as operating. This proposition that democracy itself is a value can create problems for Third World countries, as my colleague from the Philippines has noted. For if we operate on the basis that democracy is a value in itself, there is the danger that we identify the so-called value with the localized form of democracy we find in the country we take as our model. This could lead to complications especially if certain of the local procedures and symbols come to lose their relevance or appeal in the new habitat. I myself believe that it is more helpful to consider democracy as a process and I wish to congratulate the Professor for so clearly articulating that idea. It is also important to stress that what makes a process democratic is the objective which it seeks to achieve for society. Of course we know that throughout history those in power have always claimed that their aim is to improve the lot of the people over whom they rule. But even where this is in fact their aim, the method – the process – used for achieving the aim may be wholly undemocratic. Democracy is not

merely about the ultimate objective – the value – which a government is supposed to seek: it is also about the means, the process by which a society tries to attain values on which there may be no disagreement. The reason why democracy, as it has come to be understood since the eighteenth century, and especially since the end of the Second World War, has been supported is that it emphasizes certain basic requirements which satisfy the natural inclination of most human beings: the idea that every person must be treated in a democratic society as worthy of respect, in his or her own right, somebody who has the right to play a part in decisions affecting him or her. If you look at it in that way, democracy must be considered primarily as a process which enables this aim to be achieved. It also means that the process will not necessarily have the same form in every society: it will have different forms according to the circumstances and histories of different people, but the major characteristic will be present everywhere. If we keep that basic ingredient in mind we do not have to be “relativist”, in the sense that we accept every system that claims to be “democratic”, but we will ask in each particular situation, in each particular process – whether elections are by universal suffrage or through electoral colleges or whatever – whether the process enables the individuals in the society to feel that they are in fact able to participate effectively in shaping the system that determines how their lives are run. I think that this criterion for evaluation is very, very important. The proposition that democracy itself is a value can, I think, create a serious problem in societies where basic values and opinions differ between different sections. For instance, we have been speaking of the role of the Church, but what happens when you have different religious groups in the same society? By what yardstick do we determine the “democratic value” in that state? Which value of which religion is to be the predominant value? In my view, without having to select one overriding value, it is still possible to develop a process which will make individuals feel that they count. That, I think, is the most important element, indeed the main element of the democratic system.

ZACHER

I would like to contradict you when you separate the rule of law from democracy. There was a long history during which the democratic elements, rule of law elements, sometimes federalist, sometimes finally welfare state elements, came together to improve what government can be. This model of a modern *Verfassungsstaat* (constitutional government) cannot be thought of without democracy.





## VALUES AS A PRECONDITION OF DEMOCRACY

TAKETOSHI NOJIRI

### SUMMARY

#### I. TWO DEMOCRACIES

When we speak of democracy today, this word has at least two meanings: democracy in form and democracy in the mind, i.e. democracy as a form of rule and democracy as a mental attitude.

#### II. DEMOCRACY AS A FORM OF RULE AND PREREQUISITE VALUES

2.1. Democracy as a form of rule is an institution to administer a social group, and in particular to decide the will of the people as a whole. The value-criterion for choosing this institution, therefore, must be adaptability or suitability for this purpose. To employ M. Weber's terminology, it is "*Zweckrationalität*", not "*Wertrationalität*".

The purpose here lies solely in decision-making and effective administration of a social group. Democracy is a means to achieve this. Whether democracy or autocracy is more suitable largely depends on the time, the place and the people. It would be impossible to *a priori* attribute an absolute superiority to either one.

Granted that the democratic system contains a sort of self-control mechanism of social powers which does not exist under dictatorship, this mechanism does not always function justly and effectively. In order for a democracy to work successfully, certain ethical conditions must be satisfied.

2.2. Firstly, the formation of the group-will in a democracy must be carried out through discussion or dialogue. This dialogue involves decision-making and value-judgement, and can be based neither upon absolutism nor upon relativism in terms of values. If an absolute and universal truth could be accepted without reservation by anyone, dialogue itself would become quite unnecessary.

It is precisely for this reason that democracy is frequently associated with value-relativism. However, if there were no common value-criterion to be recognized by its members, and if value-judgement were thus utterly relative, dialogue would become meaningless and, in addition, logically impossible.

The dialogue indispensable for democracy can thus be based neither upon absolutism nor upon relativism in terms of values. The view of value which makes dialogue possible stands between the two extremes. The view considered here proposes that there is certain universal truth but that no one can grasp it completely. The principle that must prevail in dialogue is the consciousness of the imperfect nature of human perception.

2.3. Secondly, democratic decision-making is carried out by means of such institutions as voting, participation and, in a large group, representation, and, in order to allow them to operate justly and effectively, certain ethical conditions must be met in each institution. Among the most important requirements, at least two must be mentioned here.

One is respect for the opinion of the minority. The reason for this lies in the fact that a decision by the majority is only an expedient which has been devised in order to decide the general will. Since no one knows the absolute truth, it is thus entirely possible that the truth can in fact have been grasped by the minority.

The other is that under indirect democracy representatives and leaders must be trusted by their supporters and followers. Whether a society can be really democratic or not ultimately depends on the presence of trustworthy relations. Confucius's words "a state can not continue to exist without trust" apply to democracy as well.

### III. DEMOCRACY AS A MENTAL ATTITUDE AND PREREQUISITE VALUES

3.1. Nowadays democracy is not only adopted as a form of rule, but often as a mental attitude as well. In this case, democracy denotes a way of thinking where everyone is equally a person precisely because they are human beings. Democracy in this sense is good in its own right, i.e. an end in itself, beyond being an instrumental value.

What, then, is a person? According to the well-known definition by Boetius, it is the "*rationalis naturae individua substantia*". Although all beings with the exception of man are individuals, each man is a person beyond being a mere individual. The decisive factor which distinguishes man from other beings, therefore, must be the rational or spiritual nature of human beings. It is here that the dignity of man must also be found.

3.2. In the ancient Greek polis, where countless slaves were kept, such an idea did not exist, and precisely for this reason Athenian democracy was only a democracy in terms of political form. This idea of the person was provided and consolidated in a religious sense by the Christian teaching that man as a person is an "*imago Dei*". The personal elements of man, however, have been naturally recognized by almost all nations, however different their forms of expression may be.

3.3. Among the social-ethical values that modern democracy has constructed together with the idea of human dignity and rights, are liberty, equality and fraternity. These concern the way man as a person exists.

As man is a person with rational nature, his conduct comes to be characterized by its autonomy, i.e. by the human being's ability to recognize, compare, judge and

decide his conduct by himself. Human liberty, therefore, in its true sense, must be autonomy.

Secondly, each human being must be respected as a person. At this level, all human beings are equal and must be treated equally. If man leads an autonomous existence, however, his way of living cannot but take the form of diversity. In short, every individual must be equal in his status as a person but his way of living must diverge from that of others. Thus it is that equalization has to be limited to matters concerning the status of man as a person. Any attempt to equalize men's way of living is incompatible with human liberty.

Fraternity constitutes another characteristic of the way man as a person exists. Without fraternity man as a person withers, and with it man as a person enriches himself. And if each person has equal dignity as a person, then one must respect and care for others, just as much as for oneself.

#### IV. MODERN DEMOCRACY AND VIEW OF VALUE

4.1. Decentralized democratic institutions, in entrusting the right of decision to each of their members, conform in practice to the idea of the autonomous person. It was thus natural that modern democracy, which was bound up with Christian humanism, should have arisen, grown and then matured in the Western world.

4.2. The view of value which has prevailed in Europe during the modern age, however, has on the whole been individualistic.

In the sphere of epistemology or ontology the emphasis on the individual brought about a nominalism and a scepticism which resulted in value-relativism. In the social sphere it soon came to promote the individualistic reorganization of society. Following such a trend of thought, modern democracy has become individualist-liberalistic in character, and this individualistic development of democracy has brought with it great fruits but also new problems as well. Let us discuss here two of these fundamental problems.

One is a self-contradictory development. Under the influence of individualism, liberty has been taken as almost synonymous with "freedom from" (liberation), and by this route liberation from political, social and even moral regulations has been pursued. As a result, there has been a decline into a situation which is almost contrary to human autonomy, i.e. to self-control. Individual rights have been exclusively asserted, and their guarantee has been claimed one by one, until it has been thought that a state which secures the individual's whole life is the ideal state (the welfare state!). This ideal, too, is almost contrary to human autonomy.

The second problem is more tragic in character. If democracy is bound up with value-relativism, then the democracy which allows freedom of speech will come to be unable to reject even anti-democratic doctrine. In this way democracy can be discarded and replaced by a dictatorship through a perfectly democratic procedure. This is, as it were, the suicide of democracy.

4.3. In order for modern democracy to overcome its problems, what is necessary from the viewpoint of the theory of value? Given the above, the direction to be taken will be a conversion from individualism to personalism.

Firstly, the autonomy and fraternity of man as a person will have to be recovered. Today it is necessary for democracy to consolidate the sense of responsibility connected with freedom and the sense of duty connected with rights. At the same time, it is also important that a sense of fraternity (or solidarity) is strengthened and that mutual help or voluntary cooperation is increased.

Secondly, it is self-evident that the most important matter of all is the continual reconfirmation of the basic mental attitude of democracy, namely the dignity of man as a person. If this central element is denied or lacking, democracy, even as a form, will lose its *raison d'être* and end up by being a dead letter. The future of democracy depends upon how widely and to what extent this basic democratic attitude can be upheld and recovered.

## I. TWO DEMOCRACIES

### 1.1. *Democracy in Form and Democracy in the Mind*

When we speak of democracy today, this word has at least two meanings. One expresses democracy in form and the other democracy in the mind.<sup>1</sup>

1.1.1. In the first case, democracy means an institution for political or social administration, above all a way to determine the will of the whole, as is usually the case when a state is called a democratic nation. This applies today not only to a political body but also to other social organizations. In both, democracy indicates a form of administration of a social group in which all members participate in all stages of decision-making and the majority usually makes the decision. The form of democracy that was born with its own word (*demokratia*) in ancient Greece is defined solely in this sense.

The value-criteria for choosing this institution are based on instrumentality, i.e. adaptability or suitability for the purpose in hand, because in this case democracy is only a way, a method, to make a decision or to administer. Whether it is suitable or not depends largely upon historical, social, and cultural circumstances.

1.1.2. In daily life, however, the word "democracy" is often used in another sense. This is the case, for example, when one says that one's father

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<sup>1</sup> A discussion on democracy involving a distinction between the form and the mind of democracy was first engaged in by a Japanese Catholic economist, B. Iijima. Cf. B. Iijima, 'Kiristokyo no Shakaikan', *The Christian Social View*, 1965.

is democratic, or that one's boss is undemocratic. In this case the word "democracy" is used to denote one's attitude or behaviour towards other people, and it is basically related to one's mentality. This democracy of the mind is the attitude of respecting everybody equally, insofar as they are human beings. In other words, it is the concept of humanism which itself supports the idea of human dignity.

This kind of democracy was quite absent from the polis of ancient Greece, where countless slaves were kept who were not treated in the same way as other human beings. In Europe, this attitude originated undoubtedly from the Christian teaching that man alone is an "*imago Dei*".

### 1.2. Possible Types of Regime

If democracy thus implies two meanings, it is logically possible to conceive the following four types of regime.

#### 4 Types of Regime

Form \ Mind	Democratic	Undemocratic
Democratic	A	B
Undemocratic	C	D

- A: Democratic regime and democratic attitudes.
- B: Democratic regime in form, but undemocratic attitudes.
- C: Undemocratic regime in form, but democratic attitudes.
- D: Undemocratic regime and undemocratic attitudes.

Type A is the ideal of modern democracy. Democratic systems which operate without respect for the human value of people but only by social power, as for example in such democracies where the majority pays no heed to the minority and imposes its own will upon it, belong to Type B. By contrast, a monarchy under an enlightened benevolent ruler, or an autocratic organization managed by a competent and humanistic leader, would come under Type C. Type D is so-called tyranny. Ancient empires, pre-modern despotism and even in the modern age totalitarian states repeatedly evolved into this type. What values must be provided in order for a democracy to establish itself both as a form of rule and as a mental attitude?

## II. DEMOCRACY AS A FORM OF RULE AND PREREQUISITE VALUES

### 2.1. *Choice of Democratic System and its Criteria of Value*

Democracy as a form of rule is an institution to administer a social group, and in particular to decide the will of the people taken as a whole. Therefore, the value-criteria for choosing this institution, as mentioned above, must be adaptability or suitability for the purpose in hand. In other words, it must be an instrumental value, i.e. rationality as a means. To employ M. Weber's terminology, it is "*Zweckrationalität*", not "*Wertrationalität*".

2.1.1. The purpose here lies solely in decision-making and the effective administration of a social group. Democracy is a means to achieve this. Furthermore, this system is characterized by two features: that the opinions of individual members become very important, and that as a result this system becomes a decentralized system which gives the widest possible room to the free judgment of individual members. For this reason, the democratic system has a tendency to be connected with the individualist or liberalist concept of value.

In contrary fashion, in an autocracy society as a whole is more important than the individual, and a centralized system is built up where individual freedom is restricted or neglected. This system used to be connected with the totalitarian idea.

2.1.2. Which system is more suitable largely depends on the time, the place and the people. It would be impossible to *a priori* attribute an absolute superiority to one of the two, insofar as they are taken as forms of rule. Generally speaking, when a society falls into a critical condition, as is the case in a state of war, or when a newly developing nation rapidly grows to free itself from its underdeveloped condition, a strong leadership is needed and an autocratic system could be more suitable. It should be remembered that even in Western Europe, the homeland of modern democracy, the establishment of the modern nation-state was carried out by despotism, and that many of the developing countries now hastening to modernize themselves have adopted an autocratic system (dictatorship for development).

If a society, however, rids itself of a critical condition, or if a backward nation succeeds in modernizing, they often tend to liberalize and to democratize themselves. This springs from the fact that an autocracy is always subject to the danger of becoming a tyranny, and that an autocratic system, by suppressing individual freedom and thus initiative as well, often becomes economically and socially inefficient. The rise and fall of the

Communist dictatorships which developed throughout the twentieth century has demonstrated this as well.

Granted that the democratic system contains a sort of self-control mechanism of social powers which dictatorship does not, this mechanism, however, does not always function justly and effectively. One should not forget that the Athenian democracy killed Socrates. Citing a more familiar instance, democratic society even in our own days often in reality becomes a monopolistic system dominated by a majority power, or a claim-society (*Anspruchsgesellschaft*) which eventually leads to fiscal bankruptcy.

## 2.2. *Necessary Conditions for a Smooth Functioning of Democracy (1): Dialogue*

In order for a democracy to work successfully, certain ethical conditions must be satisfied.

2.2.1. The formation of the group-will in a democracy must be carried out through discussion or dialogue because democracy as a form of rule is a system where all its members participate in decision-making. This dialogue, which involves decision-making, and thus value-judgment as well, can be based neither upon absolutism nor upon relativism in relation to values.

What is referred to here as value-absolutism is the view that there is an absolute and universal truth and that it can be accepted without reservation by anyone. With such a point of view, dialogue itself would become quite unnecessary. A man who completely grasped the universal truth might be allowed to decide the will of the whole and to enforce it. Such a viewpoint, then, has a tendency to lead to autocracy.

It is precisely for this reason that democracy is frequently associated with value-relativism. This is based upon the view in relation to values that there is no universal value-criterion (nominalism), and that, even if there were such a criterion, no one would be in a position to recognize it (agnosticism). However, if value-judgment were utterly relative and depended upon each individual, what would result from this viewpoint? If there were no common value-criterion which was recognizable by all members of society, dialogue would become meaningless and logically impossible as well because value-relativism would eventually end up as a relativist self-contradiction. The decision-making of a social group would in such a circumstance be left to a struggle between powers and to a mere rule of numbers (majority-rule). Dialogue is not achieved and the result is that democracy becomes increasingly undemocratic.

2.2.2. The dialogue which is indispensable to democracy can thus neither be based upon absolutism nor upon relativism in relation to value. The

view of value which makes dialogue possible stands between these two extremes. The view here considered proposes that there are certain universal value-criteria but that no one can completely grasp them, because, if there were no common universal truth, discussion would be meaningless, whereas, if a particular individual knew the entire truth, discussion would be needless. The principle that must prevail in dialogue is the consciousness of the imperfect nature of human recognition. To think that one's recognition is imperfect presupposes the existence of a common universal value or truth which is to be more completely recognized. This view, therefore, involves some elements of value-absolutism. At the same time, however, it is somewhat value-relativistic, insofar as any recognition is taken as imperfect. To be imperfect is not to be false. And it often happens that a truth only vaguely known in the beginning eventually comes to be clarified. Given this possibility, dialogue becomes both possible and meaningful. The condition necessary for the smooth functioning of democracy, then, must be first of all to try to establish what is the right thing and at the same time to be aware of the imperfect nature of one's own recognition.

### 2.3. *The Necessary Conditions for the Smooth Functioning of Democracy (2): Voting, Participation, and Representation*

Democratic decision-making is carried out by means of such institutions as voting, participation and, in a large group, representation. And in order to allow them to operate justly and effectively, certain conditions of value must be met in each institution.

2.3.1. Apart from the exceptional case of a small group, democratic decision-making in a group is normally carried out by voting. And, at that time, it is usual for the procedure of one vote per person and of decision by the majority to be adopted. This is, however, merely an ideal, because in reality men are never homogeneous, i.e. because each individual has his individual qualities: a person's ability, culture, personal circumstances, etc., are all different from those of other people. This diversity places certain demands on a democracy.

The first and most important point is respect for the opinion of the minority. The reason lies for this lies in the fact that a decision agreed upon by the majority is only an expedient which has been devised in order to decide the will of a whole group. Since no one knows the absolute truth, it is thus entirely possible that the truth can in fact have been grasped by the minority. A decision-making process by a majority that disregards this point could result in dominance by a powerful majority and thus in a kind of autocracy.



The second point, connected with this, is to care particularly for social strata that cannot effectively organize or assert themselves. Without such a concern, such strata will be thrown into underprivileged situations. Thus, even in present-day democracy, the so-called “new poverty” (*neue Armut*) has emerged and constitutes one of the most serious social problems which now exists. Therefore, special consideration for these strata is indispensable in the achievement of a just functioning of democracy.

2.3.2. A further requirement for the just functioning of democracy lies in the participation of almost all the qualified members in the process of voting. Apart from very rare cases, however, it would be unrealistic to expect everyone to participate. The degree of awareness of participation varies among members. A by no means small number of people are indifferent to social or political matters (apathy), or pursue exclusively their own interests, and are not willing to participate in the voting process. The low polling rate that is often deplored at general elections in democratic nations demonstrates this fact. For this reason, it is always necessary in a democracy to stimulate and strengthen people’s interest in public matters and thus in the common good of the whole of society. Furthermore, for the same reason, democracy requires a competent leader who guides people on a sensible course. There has never been a democracy which has operated effectively which has not had good leaders.

2.3.3. In larger social groups, direct democracy becomes not only technically difficult but also inappropriate. In present-day politics, democracy is almost always indirect in character and adopts the representative system with a division of decision-making and its implementation. It is natural here that a representative stands for the interests of his party or of his supporters. But, in this instance, there is always a danger that the particular interests of his party or supporters will be generalized by him as constituting the common interest of the whole of society.

For the just functioning of democracy, a deliberation on the common good is required of the representative, and likewise of all the members of the society concerned. At the same time, the representatives and the leaders must be trusted by their supporters and followers. In the democracy itself, the most decisive point in the end is trust: in an indirect democracy, after discussing at various levels and exercising their voting power, people can do nothing more than trust their representatives or leaders. Whether a society is democratic or not ultimately depends on the presence of trustworthy relations. The Confucian statement “a state cannot continue to exist without trust” must apply to democracy as well.

2.3.4. In addition to the above, two matters should be mentioned. Firstly, certain elements such as concern for the common good, powerful leadership, and trust in political representatives are vital in a democracy. In this respect, there is not really so great a difference between democracy and autocracy. Indeed, these elements become rather more important in the former than in the latter, precisely because in essential terms democracy is a system which presupposes the autonomy of its members.

Secondly, and for the same reason, whether a democracy operates successfully or not depends largely on the educational and cultural level of the people concerned. If it is not above a certain level, neither positive participation nor meaningful discussion will be attainable, and such processes as one vote per person will become a myth. It was natural in this sense that European democracy began with democratic decision-making taking place in the upper classes of society, and that it took a long time before the system of universal suffrage was promulgated.

### III. DEMOCRACY AS A MENTAL ATTITUDE AND PREREQUISITE VALUES

Nowadays democracy is not only seen as a form of rule – it is often a mental attitude. In this case, democracy, as has already been observed, denotes a way of thinking where everyone is equally a person, precisely because they are human beings. Democracy in this sense is good in its own right, i.e. as an end in itself, beyond being merely an instrumental value.

#### 3.1. *Axis of Co-ordinates of Democracy: Human Dignity*

3.1.1. What, then, is a person? According to the most classic and well-known definition of a person, a person is the “*rationalis naturae individua substantia*” (Boetius).<sup>2</sup> Although all beings with the exception of man are individuals, each man is a person beyond being a mere individual. The decisive factor which distinguishes man from other beings, therefore, must be the rational or spiritual nature of human beings. Here, also, is the reason why J. Maritain once distinguished between “*individuum*” and “*persona*”. Although each man is called both an individual and a person, according to this philosopher “individual” is the term which refers to one’s physicality or materiality, and “person” is the term which refers to one’s rationality or spirituality.<sup>3</sup> If such is the case then the human value of man must lie in the

<sup>2</sup> Thomas Aquinas, *Summa Theologica*, I, q 29 a 3.

<sup>3</sup> J. Maritain, *Les Droits de l’Homme et la Loi Naturelle* (1947).

fact that a man is not only an individual but also a person, and it is here that the dignity of man must also lie. For the same reason, the inherent rights of man, designated human rights, too, must originate in the rational nature of man, and thus be based on the dignity of man. Otherwise one would be unable to explain why man, and only man, has such inherent rights.

3.1.2. Has not the idea of the person, together with that of human rights, however, been a matter of historical development? It is certainly the case that in ancient Greece such an idea did not exist, and, precisely for this reason, Athenian democracy was only a democracy in political form. In the history of human thought this idea of the person was supplied by Christianity and consolidated in religious terms by it. As has already pointed out, Christianity teaches that each man as a person (*persona*) is an "*imago Dei*", an image of God as "*personae*", in other words, that something akin to God inhabits each man. If this teaching of human dignity had not existed, modern humanism too might have not been born. It is clear that the idea of human rights based upon human dignity was historically established by Christianity.

This is not to say, however, that outside the Christian world there have been no such ideas whatsoever. For example, St. Thomas' view of the human being, in philosophical terms, was built upon that of Aristotle who defined man as a rational and social animal long before the emergence of Christianity. In our present era, Aristotle's cosmology was also followed by N. Hartmann's theory of stratum of being (*Schichtenlehre*). All of those Aristotelian views place man at the highest rank in the universe and this involves nothing but a statement about the value of the human being. Outside the sphere of Christian culture similar views are to be found. In Japan, for instance, man is called "*hito*" as well as "*ningen*": the former means "the spirit stays" and the latter "being among men". Here, too, is a view of man as a personal and communal being. From those facts alone one can conclude that the personal and communal elements of man have been naturally recognized by almost all nations, however different their forms of expression may have been. It can be said, therefore, that this concept of human nature and its recognition belong to natural law. And, in circumstances where a man is exposed to a critical danger, he will actually feel the existence of natural law. Only the man who lacks such an experience can deny this.<sup>4</sup> Nevertheless, while human nature itself is universal and immutable, its recognition is changeable. But this change goes

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<sup>4</sup> J. Messner, *Moderne Soziologie und Scholastisches Naturrecht* (1961), p. 12.

on in such a way that what was only vaguely or only partially known comes to be more clearly or widely recognized. St. Thomas spoke of the mutation of the natural law in a mode of “addition”.<sup>5</sup> At any rate, it is impossible that what has been broadly recognized as a human characteristic should wholly disappear, insofar as it truly is a human characteristic. From this point of view, it may be said that human history is the history of the self-recognition of man. And one can understand the ideas of human dignity and rights in this historical process as well. This implies something of decisive importance for the future of democracy because it determines the possibility of expansion of democracy in the world.

### 3.2. *The Existence of Man as a Person and Fundamental Values*

Among the social-ethical values that modern democracy has constructed together with the ideas of human dignity and rights, are to be found liberty, equality and fraternity (*liberté, égalité, fraternité* to employ the slogan of the French Revolution). These are concerned with the way man as a person exists.

3.2.1. The factor determining man as a person consists above all in his rational-spiritual nature. From there human conduct comes to be characterized by its autonomy, i.e. by the human being’s ability to recognize, compare, judge and decide his conduct by himself. Human liberty, therefore, in its true sense, must be autonomy. And, as is the case with autonomy, liberty is bound up with responsibility and rights are bound up with duties. These two pairs are inseparably linked: if one were lacking, the other could not exist. Man as a person is not only the bearer of liberty and rights but also the subject of responsibility and duties.

For this reason, the exclusive assertion of liberty and rights leads in the end to the denial of human autonomy, and thus of man as a person, because the assertion of mere liberty produces a tendency toward the total liberation of instinctive desires, thereby breaking down the self-control of man as a person, and because the assertion of mere right produces an inclination to go so far as to demand an unlimited guarantee for one’s livelihood, this causes the abandonment of the leading of an autonomous life as a person.

3.2.2. Moreover, each human being has the natural right to be respected as a person. From this point of view, all human beings are equal and must

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<sup>5</sup> Thomas Aquinas, *S. Th.*, I II, q 94 a 5.

be treated equally, regardless of differences in gender, nation, religion, etc. Man as an individual, however, has his own individuality, and the historical, social or cultural environment he lives in is never the same. Therefore, as far as man leads an autonomous life, the way to live cannot but diversify and so becomes manifold. In short, if man is respected as a person, every individual must be equal in his status as a person, but his way of living must diverge from that of others. Thus, equalization will have to be limited in principle to matters concerning the status of man as a person. Such equalization is not merely connected with human liberty but also provides the guarantee for it. Indeed, an attempt to equalize men's way of living is actually incompatible with human liberty because it must injure the autonomy of man as a person.<sup>6</sup> Centrally administered systems both of the right and the left have offered good examples of this relationship.

3.2.3. Furthermore, fraternity constitutes another characteristic of the way man as a person exists. Each man as a person is not a "closed monad" but an "open monad".<sup>7</sup> How open he is decides the fruitfulness of man as a person. Without fraternity man as a person withers, and with it man as a person enriches himself. And, if each man equally has dignity as a person, one must respect and care for others just as much as for oneself. The virtue of fraternity is a natural consequence of the essence of man as a person.

For this point of view, too, as is the case with the idea of person, Christianity laid the religious foundation. Needless to say, in Christianity love is alpha and omega. Since each individual as a person is here equally "*imago Dei*", firstly, human love is based upon divine love, and secondly, love among men is brotherhood (literally fraternity). Outside of Christianity, again, fraternity has been almost always taken to be a vital characteristic of the human being. The core of Buddhism is mercy, and that of Confucius's teaching consideration for others. In Japan a man lacking in consideration for others is called "*hitodenashi*" (is not a man).

The decisive importance that love has for a human being and his life seems to have been universally recognized throughout all ages and in all nations.

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<sup>6</sup> R. Darendorf, 'Reflektionen über Freiheit und Gleichheit', *Hamburger Jahrbuch für Wirtschafts- und Gesellschaftspolitik*, 4, (1959), p. 65. Darendorf here distinguishes between "*Weise der menschlichen Existenz*" and "*Rang der menschlichen Existenz*".

<sup>7</sup> Maritain, *op. cit.*

#### IV. MODERN DEMOCRACY AND VIEW OF VALUE

Historically speaking, modern democracy was born, grew up and matured in Europe. European democracy opened a new chapter in human history but brought with it some severe new problems as well. Why did it grow up in this way? And what is required in order to overcome those problems?

##### 4.1. *Modern Democracy and Individualism*

4.1.1. Although the term democracy came from the democracy of ancient Greece, as has been observed above, this democracy which pre-dated Christianity was confined to democracy as a political form. Its assessment by the Athenian philosophers including Aristotle, not to speak of Plato, was rather negative, and in fact the Athenian polis perished under democracy.

In European history, the idea of the human dignity of a person, which is at the very core of democratic attitudes, was firmly taught and established by Christianity. Even in Christian Europe, however, it took a very long time before democracy became established in the mind as well as in political form. It was during the two hundred years which followed widespread civil revolution, when the absolutist regime was replaced by the democratic state, that European and North American nations established this kind of modern democracy.

The decentralized democratic institutions entrusted the right of decision to each of their members and thereby conformed to the idea of the autonomy of man as a person. It was thus natural that modern democracy, bound up with Christian humanism, bloomed in the Western world.

It must be emphasised here that the most important social theory of that time was the modern teaching of natural law of the seventeenth and eighteenth centuries. Under the influence of this concept, human natural rights, with equality before the law, were institutionalized by law and constitutional democracy thus became established. This was a first in the history of mankind.

4.1.2. Nevertheless, the view of value which has prevailed during the modern age has on the whole been individualistic in character. European modern times began with the self-assertion of the individual during the upheaval of the disintegration of the Medieval. The "universality-debate" which took place at the end of the Medieval age, therefore, had a special importance in the history of thought. In the sphere of epistemology or ontology the emphasis on the individual generated a nominalism and a

scepticism which resulted in value-relativism. In the social sphere it soon came to promote the individualistic reorganization of society. The teaching of modern natural law, which fostered liberalist and socialist concepts as well, was in itself individualistic and rationalistic. Such a tendency cannot be considered marginal if one reflects on the fact that the seventeenth and eighteenth centuries were a period of revolt against absolute despotism. This individualism could then make a great contribution toward the social and political movement of the time, which aimed to push forward the idea of human rights and to propel the transformation of absolute monarchy into a democratic system. This is how modern democracy became individualistic-liberalistic in character, and this individualistic development of democracy brought with it great fruits but new problems as well.

#### 4.2. *The Weak Points of Individualistic Democracy*

4.2.1. It has already been observed that the assertions of mere right and of mere liberty must lead to abandonment of the autonomy of man as a person, something which actually supplies the foundation to those assertions. Such a situation is apt to take place under individualistic liberal democracy, because here the individual's rights and liberty are pushed forward and both come to be asserted one-sidedly.

In fact, liberty has been taken always as almost synonymous with "freedom from" (liberation), and thus the liberation from political, social and even moral regulations has been pursued. As a result, one's instinctive desires have been more and more liberated and one has fallen into the situation almost contrary to the human autonomy, that is, to self-control as a person.

If man has natural rights, he must have natural duties as well. In practice, however, rights have been asserted exclusively, and their guarantee has been claimed, one by one, until it has been thought that a state which secures the individual's whole life is the ideal state (the welfare state!). This ideal, too, is almost contrary to human autonomy.

On the other hand, the concept of equality, in relation to the claim for rights, has been often extended to real equality, and thus the equalization of actual life-styles has been advocated. This, however, means equalization of ways of living, and, as has already been observed, must come to injure the liberty of man as a person. In fact, it opened the road to Communist serfdom by ignoring human autonomy and dignity.

Furthermore, the assertion of mere right always produces a tendency to produce various areas of antagonism among men, and, even if it does not do this, to extend human relations based on contract into a "market

society” or “economy-oriented society” which lack human affections.<sup>8</sup> At the same time, through the formation of the masses and of their interest-groups which are organized on the basis of the democratic freedom of association, individualism frequently changes into group-individualism and democracy into organized mass-democracy.<sup>9</sup> Under parliamentary democracy with its many parties which represent group-interests, it happens that as a result of the ceaseless expansion in claims by pressure groups administrative work increases steadily and finally brings about a fiscal crisis. At the same time a “new poverty” emerges among those people who can not organize themselves effectively. This also brings about a society where human autonomy and fraternity wither.

4.2.2. When the individual in a wide sense enters into the sphere of epistemology or ontology, as has already been observed, nominalism and agnosticism – forces which deny universal reality or the possibility that it can be recognized intellectually – gain ground. They lead to the relativistic view of values. When we come to consider the individualistic current within modern thought, it does not appear strange that modern democracy and value-relativism have often combined with one another. This implies, however, some problems which are of fundamental importance for democracy.

4.2.3. The first problem has been already mentioned. If there are no more or less universal value-criteria, or if they cannot be recognized, the dialogue which is indispensable to democratic decision-making becomes impossible. There remains only a power struggle, or at best only a compromise between powers. In fact, modern democracy has usually worked along these lines. The second problem is more serious. If value-criterion and thus value-judgment are utterly relative or subjective, then democracy, by admitting freedom of speech, will be unable to reject anti-democratic doctrine. If this is the case, then democracy can be discarded and replaced by a dictatorship through a perfectly democratic procedure. This is, as it were, the suicide of democracy.<sup>10</sup> Indeed, we have experienced such a tragedy during this century.

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<sup>8</sup> Cf. K. Polanyi, *The Great Transformation* (1957); E. Heimann, *Soziale Theorie der Wirtschaftssysteme* (1963).

<sup>9</sup> Cf. G. Briefs, ‘Staat und Wirtschaft im Zeitalter der Interessenverbände’ in G. Briefs (ed.), *Laissez-faire-Pluralismus* (1966).

<sup>10</sup> For this reason even F. Fukuyama, who, faced with the collapse of Communist dictatorship, proclaimed the triumph of “liberal democracy” and found there “the end of history” of the struggle between social systems, could not ignore this danger of the suicide of democracy. Cf. F. Fukuyama, *The End of History and the Last Man* (1992), last chapter.



### 4.3. *The Overcoming of Problems and Preconditions of Values – from Individualism to Personalism.*

For a modern democracy to overcome its problems and rid itself of its contradictions, what is necessary from the viewpoint of the theory of value? Considering the above, the direction to be taken will be clear: it must involve a shift from individualism to personalism.<sup>11</sup>

4.3.1. First of all, the autonomy and fraternity (or solidarity) of man as a person will have to be recovered. As already been seen, human liberty originally consists in autonomy, and human rights are inseparably bound up with human duties. Today it is necessary for democracy to consolidate the sense of responsibility connected with liberty and the sense of duty connected with rights. At the same time, it is also important that a sense of solidarity is strengthened and mutual help or voluntary cooperation is increased. This is because another characteristic of man as a person lies in fraternity. In advanced nations, after the “bankruptcy of the welfare state”, many organizations dedicated to self-help or mutual help, so-called NGOs or NPOs, were established in rapid succession, and the voluntary sector within society is now rapidly extending its range. These events offer us the hope that the demands of solidarity and fraternity will be met.

In truth, if man as an autonomous person must be the axis of the coordinates of a whole society, the functions that the state, or more specifically the administration, should perform must be in principle be that of supplementing, not securing, the person’s life (the subsidiarity principle). In this sense, it is desirable for the state to be as small as possible. The state, however, must be strong enough to be able to perform the agenda (what should be done) and not to see to the non-agenda (what should not be done). In short, it should be a “small but strong state”. Against this, many of the present states under organized mass-democracy are, as it were, a “large but weak state”, because they are usually moved by pressure groups and obliged to expand their functions up to the point of bankruptcy. The transformation which should be implemented now is that of a shift from a “large but weak state” to a “small but strong state”. This change corresponds to the above-mentioned transition from individualism to personalism. To follow a Hegelian dialectical form of expression, one may be able to speak of a negation of the individualistic negation of the original community. This amounts to the recovery of man as a person, and nothing else.

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<sup>11</sup> Cf. also A. Utz, *Zwischen Neoliberalismus und Neomarxismus. Die Philosophie des Dritten Weges* (1975), which advocates social personalism as the third way beyond both Liberalism and Marxism - typically modern social conceptions.

4.3.2. In conclusion, one need hardly observe that the most important matter of all is the continual reconfirmation of the fundamental attitude of democracy – the dignity of man as a person. If this central element is denied or lacking, then democracy, even as a form, will lose its *raison d'être* and end up by being a dead letter. A just and effective working of the democratic institutions depends upon how much of the fundamental democratic attitude can be recovered.

What will be of decisive importance, therefore, in the future of democracy, is whether the fundamental democratic attitude and human dignity become more universally recognized. In this context, the three points already mentioned should be emphasized once again:

- (1) Both absolutism and relativism of value must be kept in balance. And here the logic of imperfection will be instructive.
- (2) Although the idea of human dignity may have been established by Christianity, it has also existed in various forms outside Christian cultures as well. And, once achieved, it has never been lost.
- (3) This process shows that the idea of human dignity has come from human nature itself, and not from a historical event, i.e. it belongs to natural law and not only to positive law.

For these reasons, it is to be expected that democracy will become more universalized, even if the number of such states varies due to differences in historical and social conditions.

*Discussion of the paper by T. Nojiri*

MALINVAUD

I would like to thank Professor Nojiri who has prepared this excellent presentation for us. It should greatly stimulate our reflections. I shall ask a question and make two comments.

Speaking in your second part of democracy as a rule, you persuasively stated three vital conditions for democratic regimes to work properly: concern for the common good, a powerful leadership, and trust in political leaders. You also said that achieving these conditions requires a certain level of education and culture amongst the people. The question then comes to mind: how can we develop education and culture in societies where they are inadequate, particularly in the Third World, where formal education is weak according to modern criteria? How can we promote a democratic culture where the level of general education will still be low for many years?

My two comments relate to the fourth part of the text. Firstly, it is shown there how Christian Humanism, with its focus on the dignity of the human being, has been an important source for democracy as a mental attitude; attention is also drawn to the risk which individualism is now causing for democracy, where personal duties are forgotten because of an erroneous interpretation of human rights. I wonder whether a premonition, somehow a forecast, of these difficulties does not explain part of the reservations against democracy expressed in the nineteenth century by some Christian thinkers who were, however, firm believers in Christian Humanism.

Secondly, the paper points to the self-contradictory development of welfare society. I, too, am much concerned about these contradictions. As the French Professor Rosanvallon wrote, our societies are schizophrenic about their values. This is a potential source of important future misbehaviour of, even troubles for, Western European democracies.

ZIOLKOWSKI

In this very perceptive paper I find something on page 7 which puzzles me. You say that some newly developing countries would be better off under an autocratic system. Maybe, I will not argue with that. Then the

second point – you claim that the establishment of the modern nation-state was brought about (or preceded) by despotism. What do you have in mind? What sort of country? Now, take France. It was an absolute monarchy, but it was a far cry from what you call despotism. Take England, where under the rule of monarchy it was possible to establish democracy.

RAMIREZ

I appreciate your conceptual framework by which we can examine whether our respective countries are democratic in form and in mentality.

The Church, I believe, has a significant role to play in nurturing a culture of democracy, since the Church's social teachings basically emphasize the dignity of the human person, a sense of the common good, and the law of subsidiarity. The Church is included in the workings of civil society where we find also the Academy, as well as movements or associations of solidarity and compassion. All of these associations and movements are trying to develop a culture of democracy, to educate leaders who will each strive to make the movements they represent render a contribution to the common good of society. Indeed, the Church should exercise its privilege of sensitizing the individual to his/her responsibility towards his/her dignity which she/he will feel good about whenever she/he can contribute to something greater than himself or herself. Farmers, small fisherfolk, indigenous groups, the urban poor – they will feel their richness when they as a sector or group can contribute to the greater good of the larger community. I must say that the Church through its many social initiatives has already contributed significantly to developing a culture of democracy as a mental attitude.

ZAMPETTI

Ho seguito con molto interesse la sua relazione perché ha trattato un tema cruciale: la relazione tra la persona umana e la democrazia.

È un problema questo che si trova al centro della nostra discussione, perché la democrazia è nata come democrazia rappresentativa, come democrazia individualistica. L'uomo come persona, e cioè inteso nell'unità di tutte le sue dimensioni, non può esprimersi soltanto nella democrazia rappresentativa. La democrazia rappresentativa, pur essendo necessaria, è insufficiente. È incompleta. Non è casuale la diminuzione della percentuale dei votanti negli Stati democratici. L'uomo non ha soltanto una natura individuale, ma altresì una natura sociale. Per conseguenza quando parlo di "persona umana e democrazia" non devo limitarmi a considerare i rapporti tra individuo o Stato, ma altresì i rapporti tra la società (i soggetti sociali) e

lo Stato. L'uomo in quanto membro della società deve potere influenzare le scelte politiche. La società oggi è in continua espansione sia a livello interno, sia a livello internazionale. Diventa molto importante, se mi metto da questo punto di vista, il principio enunciato dalla Dottrina sociale della Chiesa relativo alla "soggettività della società" che rappresenta il riconoscimento dell'autonomia della società medesima nei confronti dello Stato.

La ringrazio vivamente per le considerazioni che ha fatto e che ri-prenderò domani quando svolgerò la mia relazione.

MENSAH

Thank you very much. May I also thank the Professor for raising this question of the relationship between the individual and the forms of representative democracy.

I do not myself feel that there is a contradiction, because when we talk about democracy we are of course, as was made clear here this morning, talking of an organized State. We cannot talk of democracy without an organized State. Hence we proceed on the basis that there is a community of which the individual is a member. On that basis the concept of democracy has these two elements: first, the relationship of the individual to him or herself as an autonomous being, and second the relationship of the individual to the community. The concept of democracy is relevant only in the context of a community of individuals under a common governance. I note that this point has been raised in the paper and I welcome it. I do not, myself, share all the conclusions reached in the paper. For instance, the suggestion that in a developing country some form of autocracy, despotism or whatever one may call it, is either inevitable or even desirable has been proved completely untenable by the history of many independent States in the Third World. And the reason is not very difficult to find.

One may of course quibble about whether there is true representative democracy in all parts of the Western world. However, the undisputed fact is that these countries have developed both materially and spiritually mainly in proportion to the existence of democratic principles and institutions. One must of course take account of the historical perspective. For like all human institutions democracy is not static: it develops and evolves according to the evolution and change of norms, knowledge and expectations of peoples and societies. I will give an example here. When I was a little boy at school, the practice in my school, and in all the other schools, was that if a child misbehaved he was given corporal punishment. Now, in spite of what has been claimed by many modern psychologists, we did not at the time consider this to be a demeaning system. This was because everybody

got it, and everybody accepted it. However, the situation is very different now and a similar treatment would have a serious impact on the psychology of the child. This is because it is no longer considered an acceptable form of punishment in a modern society. So, the fact that two hundred years ago countries such as Germany, England and France were prepared to accept a king who had executive and legislative powers does not mean that such a system would be acceptable now.

Expectations have changed – and people will not accept it now, and they will resist it, if anybody tries to impose it on them. So, I believe that in a society in which the values of the dignity of the individual and the right of the individual to participate in decisions that affect him or her have become absolutely non-negotiable, it cannot be accepted that we should have an absolutist system in which one person decides what is good for everybody. Such a system would give uncontrolled power to whoever is in charge and all history has shown that uncontrolled power will be abused. Therefore I do not believe that we should entertain the idea that any country, no matter how poor, or how underdeveloped it may be, can in fact be developed by the decisions and dictates of one person, no matter how strong, no matter how benevolent that person may be. Thank you.

ZACHER

In your presentation, you are plainly arguing from the standpoint of Western philosophy. But when we are talking about the living conditions of democracy in other parts of the world, we always hear that there are quite other worlds of values, especially traditional values. And when we discuss the living conditions of democracy in other parts of the world, the next thing to be heard is that in post-colonial developing countries these traditional values are destroyed and weakened. But you come from Japan, and this is a country where we know the modern life-style is very dynamic with traditional values being very strong on the other hand. And so I would like to ask you: is there a stock of values or are there societal principles in Japan or in other Asian countries known to you which can be useful for democracy, or, on the other hand, which hinder democracy too much, and which are a challenge to democracy?

SCHAMBECK

Zu den treffenden und dankenswerten Feststellungen des Herrn Professor Utz drei kurze Bemerkungen. Erstens: Die Demokratie verlangt — wie kaum ein anderes politisches System — ein Verantwortungsdenken.

Zweitens: Die Demokratie wird in unserer Zeit in verschiedene Zusammenhänge mit verschiedenen Sachgebieten gebracht. Jeder dieser Bezüge hat seine eigene Sachgesetzlichkeit. Daher kommt es darauf an, die Demokratie nach der jeweiligen Sachgesetzlichkeit im Wertbewußtsein zur Anwendung zu bringen. Drittens: Es ist unmöglich, eine Demokratie — ganz gleich auf welchem Gebiet — ohne eine Erziehung zur Demokratie zu verwirklichen. Die Tragik besteht darin, daß vielfach Demokratie gefordert wurde, ohne daß man die erzieherischen Voraussetzungen dafür geboten hat und vorhanden waren. In der Folge ist dann diese Freiheit in der Demokratie oft verloren gegangen.

NOJIRI

Thank you very much, professors who have made a lot of valuable comments on my report. Your main questions may be summed up under four headings: (1) the terminology of autocracy; (2) the relation between the individual and representative democracy; (3) the idea of democracy and its reality; and (4) democracy and education. On these topics my own views are as follows.

(1) Prof. Ziolkowski and Prof. Mensah asked me some questions about my usage of the term autocracy. "Autocracy" in my report means a regime, i.e. a centrally managed system. In my opinion, in the developing nations such a system based on an eminent leader can be more suitable for their rapid modernization than a democratic regime, because most premodern nations are extremely poor economically, quite unequal in their social strata, seriously disrupted in politics, and very low at the level of education. Were there not somewhat similar situations in the European nations before the civil revolution? At any rate the Bourbon and the Tudor monarchies can not be called democracies. Is it ordinary terminology to call them despotism or absolutism? Of course, this does not deny that there can be various consultations among nobles under an autocratic ruler.

(2) On the relation between individuals and representative democracy, I wholly agree with Prof. Mensah and Prof. Zampetti. However, I distinguish, with J. Maritain, between the individual (*individuum*) and the person (*persona*), (please see part 3.1.1. of my paper). And I understand modern individualism as a one-sided development of the idea of the individual person, and find it in the paradoxical development of modern democracy as well. Part 4.1.2. of my paper seeks to analyse this ideological process.

(3) In relation to Prof. Zacher's and Prof. Schambeck's questions on the idea of democracy (above all as a mental attitude) and its reality, some

of my opinions are shown in part 2.1.2. and 3.1.3. of my paper. Although it is universal and immutable that the mind to respect anyone as a person should be the basis of democracy, its real way of existing is largely determined by historical and social conditions, and therefore becomes particular and mutable. In Asia, where almost all parts have their own old traditions and moreover were dominated for a long time by the European and American nations, the social and cultural differences between nations are much greater than in Europe. In this region, however, modernization is nearly synonymous with Europeanization. For this reason, the steps towards the modernization of Japan may offer a pattern. It was after the Meiji-Restoration (1868) that Japan began to push forward with her own modernization. However, by 1890 Japan had already built up a parliamentary democracy with a two-chamber system. At that time, the Constitution (the so-called Meiji Constitution) on which this democracy was based had taken above all the Prussian Constitution as its model. And after the Second World War, in a Japan occupied by the American forces, a new Constitution advocating human rights was enacted and individualistic democracy of an American style was developed. This does not mean that in Japan there was no humanistic and democratic idea at the outset. As partially mentioned above, in Japan too there was a view of man involving the idea of the person, and at the time of Meiji Restoration the Emperor himself declared that the extension of the democratic reformation was one of the five fundamental lines for modernization. Needless to say the Japanese experience cannot apply to the present East-Asian countries pursuing their rapid modernization. However, it can be a model for democratization in East Asia where the Christian background is slight. And it makes us hopeful that nowadays the idea of human rights, a flower of Christian humanism, has taken root far more deeply inside and outside the Christian sphere than at the end of nineteenth century.

(4) As pointed out by Professor Malinbaud and Professor Schambeck, a certain level of education and culture is indispensable to the operation of democracy because under the democratic system each qualified social member participates in the decision-making of the whole and the control of its implementation. I, too, stressed this in my report (part 2.3.4.).

Then, how can we develop the education for democracy in question? I think it will not be possible to draw up something like a common detailed manual because the best practical method will be different according to the time and the place. However, at least two things will be always indispensable: to enhance the general level of culture and to foster the idea of human dignity, the mental basis of democracy.



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Regarding this point too, we can recognize, with Professor Ramirez, the great historical role that the Church and Catholic social teachings based upon the dignity of man as a person have played directly or indirectly, explicitly or implicitly. However, what is required in the present developing countries will be not to thrust the Christian ideas upon them but to integrate these ideas into the cultural climate of the nation concerned.



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## DEMOCRACY VERSUS VALUES?

FRANZ-XAVER KAUFMANN

### SUMMARY

The concept of democracy has a much clearer historical record than that of values. Thus the inquiry starts with a history of the concept and develops the issues of the paper in that framework.

Four positions are taken into consideration:

1. Democracy is itself a cultural value;
2. Democracy is the institutional means to protect cultural values;
3. Democracy is a way of destroying the obligatory validity of values;
4. Democracy is dependent upon common beliefs and values.

The concept of values is a late construct which seeks to solve the problem of the legitimization of a social order. But it is at the same time a diffuse concept of political rhetoric. The different approach to values in the American utilitarian tradition and in the European post-metaphysical tradition is emphasized.

The second part of the paper gives a short account of some aspects of a sociological analysis of historical processes of modernization. Modernization is considered above all as a secular process of institutional differentiation and of organizational development within the realm of the emerging institutional spheres. Cultural values become bound more and more to particular institutions and hence the internalization of these values as individual motives declines in social importance.

The alleged "decay of values" is discussed within that framework. The dominant change is the disentanglement of culture, the individual and the organizational structure. By the interference of organizational dynamics individuals learn to dissociate from the obligatory claims of external norms and accept them more and more only in the form of a self-commitment or as external constraint. The apparent loss of individual normative commitments is by and large compensated by the institutionalization of rules and procedures by which comparable effects upon the social expectations of behaviour are achieved.

The alleged loss of efficiency of democratic procedures is due less to the growing pluralism of interests, attitudes and motives than to the growing complexities of government. The differentiation of policies gives rise to the emergence of specialized policy communities whose expertise often dodges the democratic process. The growing influence of the transnational economy, especially

of financial markets, puts new constraints on the political autonomy of governments which, in the case of the European Union, try to cope by creating transnational levels of political decision-making and by pooling their resources into a common currency. The intricacies of these new forms of multi-level policy-making are among the main sources of the loss of trust in democratic decision-making.

This paper deals not with the relationship or tension between democracy and certain values, but with the ways of thinking about democracy in terms of values. What does it mean to speak about questions of social order in terms of value?

So this paper is a kind of second order reflection. Sociologists are sometimes said to have a wicked view on reality. They are observing society with a bad eye, emphasizing those aspects which are normally suppressed or hold in latency. Although at least French sociology started as a “science morale”, I identify more with the German tradition of Georg Simmel and Max Weber, emphasizing the tension between a moral and a sociological view of the world. This does not mean, however, a questioning of the sense of moral obligation, but rendering the moral inquiry less easy and more demanding.

I start with the assertion that to speak about democracy in terms of value does not mean the same thing on both sides of the Atlantic. I then develop four dimensions of the question about democracy and values. The second part of the paper refers to contemporary worries about the future of democracy and the alleged “decay of values” in modern or postmodern societies. Again, the reaction to these challenges seems to be not the same in the United States and in Continental Europe, the remnants of the British Empire remaining somewhere in between the two mainstreams.

## 1. DEMOCRACY

In general terms, democracy refers to the idea and the procedures of participation in the steering of a social system by those concerned with it. I restrict the usage here to the realm of political theory where the idea was shaped for the first time. But political theory starts from different assumptions in the Continental European and in the Anglo-Saxon traditions. For the Continental tradition, the core concept of political theory is ‘the state’, and this means the idea of the unity between the political, the administrative and the legal systems. The Anglo-Saxon tradition is much less

stamped by Roman law and its core concept is 'government' which does not include the judiciary.<sup>1</sup> Therefore, 'democracy' refers in the Continental case to 'the state' and in the Anglo-Saxon case to 'government', and this is not only a question of names but concerns basic assumptions about the structure of society and concomitant differences in historical experience.

In a nutshell: the Continental state emerged in the form of absolutism and gained its strength through the development of a competent administration. The transition to democracy here was a posterior process linked essentially to the establishment of a written constitution. In England, by contrast, the principle of "King in Parliament" preceded the establishment of a civil service by two centuries, and the United States has not yet established a professionalized civil service at all. Local government was always stronger than in the leading countries of the Continent. The concept of the state presupposes the unity of government, administration, and the legal system which consists essentially of written parliamentary law binding also on the judiciary. On the European Continent, the principles of legality and constitutionality preceded that of democracy, as democratization was a slow process, especially in the German case. In the case of the United States, on the other hand, the foundation of the federation was already a democratic process, and government is presumed to be accessible more directly to various forms of political participation and public debate.<sup>2</sup>

These differences in the concept of political order also make for a different place of 'values' in both political traditions. Continental Europe was shaped by a strong metaphysical tradition which emphasized the "givenness", the indisputability of the essentials of human order. The United States, by contrast, emerged from below, and its culture was nourished by a dissenting faith which had found no place for worship in traditional British society. The basic experience was not that of an authoritative order but that of the New Frontier: emphasizing freedom, self-reliance and subjectivity, Jeremy Bentham is more important to the sense of propriety in American culture than Aquinas or Immanuel Kant.

## 2. VALUES

The concept of democracy has a much clearer historical record than that of values. The latter is linked with the history of modern philosophy in

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<sup>1</sup> See KENNETH DYSON, *The State Tradition in Western Europe* (Oxford 1980).

<sup>2</sup> I am aware about the idealization implicit in this comparison. My subject is, however, more linked to the history of ideas, representing the 'value' - aspect of democracy, than to its practice, which is quite multifarious.



a quite confusing way. Thus, the history of the concept leads us directly to the issues at stake in this paper.

The concept of value originated in economics and referred to the utility of goods. Aristotle had already split the concept into 'value in use' and 'exchange value'. In Anglo-Saxon philosophy the term value is not so far from economics since the prevalent perspective remains utilitarian. In Anglo-Saxon sociology, "the term 'values' may refer to interests, pleasures, likes, preferences, duties, moral obligations, desires, wants, needs, aversions and attractions, and many other modalities of selective orientation".<sup>3</sup> One easily perceives the utilitarian background to this definition too.

On the other hand, the German conception of values ('*werte*') has strong normative or moral connotations. The history of this term originated only in the nineteenth century in the tradition of Kantian philosophy and is thus meant in a strictly anti-utilitarian sense.<sup>4</sup> '*Werte*' has become a central concept for discussing problems of human order, and it is obviously in this sense that the concept is used in the programme of this meeting.

Kant radicalized the conditions for the objective cognition of truth, in the sense that only the natural sciences could meet them. All moral realities remained now in the realm of practical reason. Consequently, the question was raised about how to ensure their obligatory character.

Kant himself tried to solve the problem by the categorical imperative: the sentence of a subject putting himself in the position of a legislator not bound to situational factors or subjective preferences should be the ultimate criterion. The mediation between the particular and the universal presupposes here the operation of universalistic reason. The '*Wertphilosophie*' (philosophy of values) originating with Hermann Lotze and culminating with Max Scheler and Eduard von Hartmann, objected to the subjectivism of the Kantian solution and postulated instead the existence of a separate realm of objective values which was obligatory for everybody. As 'existence' is the mode of truth for things and facts, so 'validity' is the mode of truth for values and norms. To understand the remaining intricacies of the term it is helpful to draw on the Kantian distinction between 'dignity' and 'price'. Both meanings are covered by the English term 'value'.

Although arguments about the validity of particular values or even of a

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<sup>3</sup> ROBIN M. WILLIAMS, Jr., 'The Concept of Values', in *International Encyclopedia of the Social Sciences* (New York-London 1968), Vol. 16, p. 283.

<sup>4</sup> See for the following JÜRGEN GEBHARDT, 'Die Werte. Zum Ursprung eines Schlüsselbegriffs der Politisch-Sozialen Sprache der Gegenwart in der Deutschen Philosophie des Späten 19. Jahrhunderts', in RUPERT HOFMANN u.a. (Hrsg.), *Anodos. Festschrift für Helmut Kuhn* (Weinheim 1989), pp. 35-54.

hierarchy of values remained unconvincing,<sup>5</sup> the concept of values has been widely accepted in official language throughout the world. In comparison to the quoted all embracing sociological definition it has been restricted to the sense of *standards of the desirable and/or of "oughtness"*, and it has been freed from its essentially obligatory character in the sense of the philosophy of values. But nevertheless the appeal to 'values' suggests a kind of self-evidence, of non-disputability. The dominating meaning now links values to culture: "more and more 'value' has come to denote the broader standards of a shared symbolic system of behavioral orientations and expressions. In such a concept 'values' serve to integrate as well as to guide and channel the organized activities of the members of a society".<sup>6</sup> It is remarkable that the author, a high official of UNESCO, refers to *organized* activities only, and not to individual choices. Clyde Kluckhohn, and following him Talcott Parsons, emphasized the process of internalization of cultural values and hence their individual significance.<sup>7</sup> This shift from the level of the individual to that of organizations will be addressed later.

### 3. DEMOCRACY AND VALUES

The relationship between democracy and values depends upon the content given to the two terms. The subject of the present paper, "Democracy *versus* Values", suggests an opposition between both terms. From the point of view of most theories of democracy, such an opposition is far from being evident. There are at least four positions to be taken into consideration:

1. Democracy is itself a cultural value. It represents the aspiration of Western peoples to combine peace, freedom, and order and to grant the political self-determination of a commonwealth.
2. Democracy is the institutional means by which to protect cultural values and to make them effective in the ordering of human affairs.
3. Democracy as the claim to self-determination is a way of destroying the obligatory validity of values, since values are not a matter of decision but of "oughtness".

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<sup>5</sup> Martin Heidegger even termed 'values' a positivistic compensation for the loss of metaphysics! (Holzwege, Frankfurt, 1957, p. 203).

<sup>6</sup> MAKAMIN AN MAKAGIANSAR, 'Preservation and Further Development of Cultural Values', *Cultures IV*, No. 1 (1979), p. 11 (quoted by GEBHARDT, *loc. cit.* p. 36).

<sup>7</sup> See WOLFGANG RUDOLPH, *Die Amerikanische 'Cultural Anthropology' und das Wertproblem* (Berlin 1959), p. 164.

4. Democracy is dependent upon common beliefs and values since reasonable majority votes cannot be expected without a kind of basic consensus.

### 3.1. *Democracy as a Value*

This topic has been dealt with in the paper by Professor Di Iulio and needs not be elaborated here further. Suffice to note that in the Continental tradition the ethical substance of the state has often been elaborated without reference to democracy. The rule of law and the principles of modern constitutionalism, as well as the programme of the welfare state, are considered to be by themselves expressions of generally accepted values.<sup>8</sup> Democracy is considered here as *an element* of the right constitutional order which paves the ground for peace, security, freedom, and justice, not as its essence as in the Anglo-Saxon interpretation. Thus, the functioning of democracy is considered to be dependent upon its embeddedness in the constitutional order. This restrictive interpretation dates from the terrible experiences of the French revolution and was corroborated by the 'democratic' transition to the Third Reich.

This position implies the strictly binding character of the constitutional order, but not necessarily in the form of a metaphysical obligation as the philosophy of value had postulated.<sup>9</sup> As the constitution is a written document and considered as the basis of the political and legal system one can elude the issue of the moral sources for obligation. The constitution is almost indifferent as to the reasons why citizens accept it. The only serious challenge to it would be either a civil war or a seizing of political power by forces which undermine the rule of the constitution. This means, on the other hand, that democracy nevertheless needs political support from those who live with it. In that sense one may say that "democracy, more than institutions and principles, is a state of mind. ... It is the fruit of an education. ... It is a second nature which is first the product of culture. ... There is no city without citizens, democracy without democrats; hence the formation of the citizens is part of the defense of the progress of democracy".<sup>10</sup>

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<sup>8</sup> See ERNST-WOLFGANG BÖCKENFÖRDE, *Der Staat als sittlicher Staat* (Berlin, 1978).

<sup>9</sup> The German *Grundgesetz* even declared some essentials as inalterable (Art. 79 III) in order to escape the trap of relativism without recourse to metaphysics.

<sup>10</sup> RENÉ RÉMOND, 'Democracy in Western Europe', in Hans Zacher (ed.), *Proceedings of the Workshop on Democracy* (12-13 December 1996) (Pontifical Academy of Social Sciences, Rome, 1998), p. 518.

### 3.2. *Democracy as an Institutional Means to Fostering Values*

As far as I can see, the Anglo-Saxon idea of democracy is much more optimistic than the Continental. One expects from the democratic process itself the fostering of values in society. This implies a much more open concept of values. Values have here no objective meaning but are considered as a generalised expression of utilitarian value judgements within the population or constituency.

There is, however, a clear awareness of the dangers of majority vote too. As every individual's value judgement is, in principle, of equal worth, the protection of minority rights is no less an expression of democracy. One sees here the strong liberal and individualistic gist of American democracy. Democracy is here not only a form of government but the essence of the free polity. Democracy means the fostering of individual values by designing and implementing *procedures, checks and balances* which foster political participation as well as the protection of individual rights and the control of government. There is no idea of collective welfare beyond the safeguarding of liberties. Values are continuously emerging out of civil society and become political through democratic processes. Their character is much less consensual than on the Continent. *Values are less considered a matter of consensus than a matter of conflict.* It is then up to the judiciary to settle the conflicts by ruling on the case in question, not by establishing a general rule in the form of law.

The Continental state, by contrast, is considered the trustee of the preservation of values. Some of them, e.g., human rights, are embodied in constitutional norms. Others are not circumscribed, but nevertheless supposed to be valid, although no clear reason is given for their obligatory character. A typical example is the French *Education Nationale*. Public responsibility is defined more extensively than in the United States – Great Britain being the battlefield between the two traditions.

*The strong concept of the state in most parts of Continental Europe<sup>11</sup> thus correlates with a strong concept of transpersonal values.* Individuals are not deemed to follow purely subjective preferences but to be members of interest groups which organise themselves by free association. The representatives of these associations are publicly acknowledged as representing aggregated individual interests. Thus the political influence of the constituency seems to be in most countries more indirect than in the United States.

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<sup>11</sup> For the idea of different degrees of 'stateness' see first J.P. NETTL, 'The State as a Conceptual Variable', *World Politics*, XX (1968) 4, pp. 559-552.

### 3.3. *Is Democracy Endangering Values?*

The argument that democracy might undermine existing values presupposes the objective validity or 'existence' of values and is therefore a typical European argument. Its roots go back to the transition from traditional to modern society and especially to its radicalized climax, i.e. the French Revolution.

Traditional societies are stabilized by the general acceptance of a rather homogeneous culture whose 'values' are shared within the community or at least within the leading strata of society. The normative core of such cultures usually has a religious legitimation and is considered as self-evident. Therefore 'values' (which in that context would even not be differentiated from belief and custom) are presented as objective and unchangeable. Against that background, the idea of the autonomous competence of the people or of parliament to decide about the essence of the social order seems subversive and against the 'real order'!

The transition from traditional to modern society in the West, however, was not only restricted to the last quarter of the eighteenth century but had a long-standing phase of preparation. The setting of the new course began in the eleventh century with the investiture struggle and the emergence of scholasticism.<sup>12</sup> Scholasticism was decisive for the issue of values, since this was the first strong movement towards a universalistic understanding of the world. For the first time scholasticism broke with the self-evidence of traditional society and developed *reasons* to legitimize the social order. They followed the hierarchy of *jus divinum*, *jus naturale*, *jus gentium*, and positive law was bound by these pre-existing orders. It was considered as obligatory only insofar it was not in opposition to them. The norms of the *hierarchy legum* were considered as objective, eternal and hence unchangeable. This was in obvious contrast to the idea of the limitless sovereignty of the people.

The cultural complex of modernity had its origins in the *Querelle des Anciens et des Modernes* at the end of the seventeenth century. This aesthetic debate was about whether the code of the Classics should be of perennial validity or if it was possible to develop new codes of aesthetics. In more general terms it concerned the issue of the binding character of

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<sup>12</sup> Harold Berman *Law and Revolution. The Formation of the Western Legal Tradition* (Cambridge Mass., 1983), p. 4, states that "there was a radical discontinuity between the Europe of the period before the years 1050-1150 and the Europe of the period after the years 1050-1150". For a fuller exposition of the argument see FRANZ-XAVER KAUFMANN, 'Religion and Modernity in Europe', *Journal of Institutional and Theoretical Economics* (JITE), Vol. 153 (1997) 1, pp. 80-96.

tradition. Whereas *tradition* implies the obligatory character of the past as legitimization for the present order, *modernity* is the legitimization of continuous change.<sup>13</sup> The essence of modernity is – in my perspective – a cultural complex which negates the authority of tradition. The semantics of modernity comprise progress, innovation, plurality, adaptation, and learning.

It is in that respect that the legislation of the French Revolution was essentially modern, whereas the Catholic Church can never be modern since its faith is founded on tradition. And in the context of modernity positive law is considered as valid insofar as it has been decided upon in legal procedure, and it can be changed by that same procedure.<sup>14</sup>

As we have already seen, there was a strong conservative backlash in the nineteenth century against the arbitrariness of democratic as well as of other individualistic decisions. The German philosophy of value was one of the attempts to escape from the paradoxes of modernity. And the problem is still with us, although mitigated by the constitutional restrictions on democratic arbitrariness. But there is no longer an even minimal consensus about the metaphysical foundations of the social order. Contemporary attempts to overcome the fallacies of utilitarianism remain within the framework of human fallibility and try to found the postulates of justice on rational argument.<sup>15</sup>

To sum up: it seems rather evident that the general acceptance of an 'objective' obligatory order or of the general validity of 'values' weakened during the period of the emergence of democracy, but it is not obvious that this took place *as a consequence* of democratization. It is rather plausible that democratization and the growing subjectivity of values are due to the same processes of transition which we now call modernization (cf. Sect. 4).

#### 3.4. *Democracy as Dependent upon Common Beliefs and Values*

If we have to assume that in the process of modernization the plausibility of metaphysical foundations for the social order, as well as the authority of

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<sup>13</sup> Thus the *Encyclopedia Universalis* (Paris 1973) defines modernity as "morale canonique du changement". See (with other references) FRANZ-XAVER KAUFMANN, *Religion und Modernität - Sozialwissenschaftliche Analysen* (Tübingen, 1989), p. 38.

<sup>14</sup> See NIKLAS LUHMANN, *Rechtssoziologie* (Reinbek bei Hamburg, 1987), p. 207.

<sup>15</sup> See e.g. JOHN RAWLS, *A Theory of Justice* (Cambridge Mass., 1971); OTFRIED HÖFFE, *Politische Gerechtigkeit* (Frankfurt A.M., 1987); GERALD F. GANS, *Value and Justification - The Foundations of Liberal Theory* (Cambridge, 1990).

the past, are waning, how then is it possible to reach a minimal consensus necessary for the functioning of democracy? As far as we can see, this question has been better answered in practice than in theory. As a matter of fact, the established Western democracies have never experienced civil wars or other signs of political deterioration. The problematic cases – e.g. the transition to the Third Reich or the Austrian *Anschluss* – concern states with only a short and problematic democratic tradition. Even France as a society with lasting social conflicts has overcome the switch of regimes and has evolved with the succession of democratic constitutions. There seems to be a practical strength in democracy which supports the belief that it is (as Winston Churchill used to say) the worst of political regimes – with the exception of all others. If government fails, the debate is about reforming the electoral system or the rules of decision, but no one really questions the principle of universalized political participation. The belief in democratic procedures is a central element of the minimal consensus in the Anglo-Saxon world, whereas constitutional rules make for it in Continental Europe. Of course, our experience with modern democracies has lasted for little more than a century, and even its contemporary diffusion throughout the world is no guarantee for the future. The sociologist may ask about the conditions for this stability in order to make more reliable conjectures about the future.

We have to restrict ourselves here to the issue of values, i.e. of accepted cultural standards for the desirable, and/or of “oughtness”. It is rather obvious that the acceptance of constitutional democracy is itself a strong aspect of political culture, and hence democracy is to be considered as a value in itself: democracy is considered a morally necessary civic expression of the spiritual brotherhood of humankind.<sup>16</sup> The limits of democracy emerge where profound cultural cleavages disunite whole communities, as it is now the case in Northern Ireland. Democracy presupposes a kind of trust in the capability of the existing political institutions to provide for peace and justice. Thus far there seems to exist a virtuous cycle between democratic institution building and internal peace. But it could also turn into a vicious cycle should the opposite occur. Democracy seems to be the most tolerant regime for cultural and political pluralism, but it needs nevertheless some minimum of intrinsic acceptance or belief in its normative value (independent of individual interest) to be trustworthy.

There have been recent worries about the future functioning of democracy even in its country of origin, the United States. This is especially true of

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<sup>16</sup> See JOHN J. DI IULIO, JR., ‘Three Questions about Contemporary Democracy and the Catholic Church’, in this volume pp. 71-82.

the so-called Communitarian movement and its fear that the commitment of American citizens to their communities, and America's 'social capital', are so much in decline that political and social life will be severely hampered.<sup>17</sup> In Germany several years ago there was a dispute about *regierbarkeit* (governability) which voiced similar fears, whereas the actual block of fiscal and social legislation is attributed more to institutional inertia than to a decline in civic virtues. There is, however, an intense debate about 'individualization' and 'pluralism' or even 'multiculturalism'. Some fear that these developments will lead to the 'erosion of solidarity' or to a 'decay of values' which could undermine the functioning of democracy in the long run. Others see in these trends an increase in personal reflexivity and a maturation of modernity.<sup>18</sup>

#### 4. IS THERE A DECAY OF VALUES IN WESTERN SOCIETIES?

It is not easy to judge these arguments from the viewpoint of a politically independent sociologist, as they refer to poorly operationalized trends and to an unknown future. But some observations and references to theoretical debates within sociology may help us to understand the situation better.

Obviously, the ambivalence of our judgments on modernity is not new. Controversies about the conditions and prospects for society and its polity have accompanied the process of modernization in Europe since its onset. This is not only true for the well-known controversies between conservatives, liberals, and socialists. The ambivalence goes deeper and concerns the very act of negating the existing order, as well as the utopian approach of the philosophy of the Enlightenment towards reality.<sup>19</sup> Of course, this intellectual turn was not accidental but expressed the deficiencies of the existing absolutistic order in early modern Europe which proved to be too narrow for the emerging forces of the bourgeoisie, of science, and of trade. But its revolutionary drive was necessarily utopian since it involved the projection of a new and not yet existing order. It expressed the belief and hope that the future would be better than the

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<sup>17</sup> See e.g. AMITAI ETZIONI, *The Spirit of Community* (New York, 1993); ROBERT D. PUTNAM, 'Bowling Alone: America's Declining Social Capital', *Journal of Democracy*, 6 (1995) 1, pp. 65-78.

<sup>18</sup> The debate is very dissipated. A representative title is ULRICH BECK, *Die Risikogesellschaft. Auf dem Weg in eine andere Moderne* (Frankfurt a.M., 1986).

<sup>19</sup> See the forceful study by REINHART KOSELLECK, *Kritik und Krise. Eine Studie zur Pathogenese der Bürgerlichen Welt* (Frankfurt a.M., 1973).



present and the past. This belief in progress was nevertheless nourished by the bad experience of the past, and not of the future. And the course of history did not always confirm the hopes of the believers in progress, although some 'progress' was evidently achieved. There was evidently *some* reason in this outset, but was it *the universal reason* which its advocates claimed to represent? This debate is still going on and remains behind the contemporary debates about postmodernity, as well as about liberalism versus communitarianism (or welfare statism in Europe).

#### 4.1. *Values Reconsidered*

As we have already seen, the German philosophy of value was an attempt to escape the ambivalence of modernity through the construction of a new metaphysical 'order of values' which would leave orientation to the wanderings of ongoing social and political transformations. This attempt did not prove to be successful since the presumed evidence of value feeling was not confirmed by collective assent. There has been, however, some convergence upon the definition of human rights, as the UN Declaration on Universal Human Rights of 1948 shows. There was some natural law background in its motives and content, but the Assembly declined any justification for its declaration.<sup>20</sup> This is the way political consensus is normally achieved in contemporary conditions: no reason is given for consensus, which remains *ad hoc*, but operates as a premise for later decisions.

The term 'value' is normally used to denote individual attitudes or preferences as measured by opinion polls and similar surveys. Much attention was given to the studies on "Changing Values" by Ronald Inglehart.<sup>21</sup> Moreover, since 1978 the "European Value Systems Study Group" has repeatedly tried to measure and to compare the values in various populations with standardised instruments.<sup>22</sup> These and other results remain far from being conclusive with regard to the structure of a

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<sup>20</sup> See PETER A. KÖHLER, *Sozialpolitische und Sozialrechtliche Aktivitäten in den Vereinten Nationen* (Baden-Baden, 1987), p. 271.

<sup>21</sup> RONALD INGLEHART, *The Silent Revolution. Changing Values and Political Styles among Western Publics* (Princeton N.J., 1977); and *Cultural Change* (Princeton N.J., 1989), also in German: *Kultureller Umbruch* (Frankfurt/New York, 1989); for a good resumé of the German debate see MARTIN und SYLVIA GREIFFENHAGEN, *Ein schwieriges Vaterland. Zur politischen Kultur im vereinigten Deutschland* (Munich, 1993), p. 156.

<sup>22</sup> See e.g. JEAN STOETZEL, *Les Valeurs du Temps Présent: Une Enquête* (Paris, 1983); SHEENA ASHFORD and NOEL TIMMS, *What Europe Thinks. A Study of Western European Values* (Aldershot, 1992).

“value system” in different populations. The standards of desirability and/or of “oughtness” are not so much at variance or even contested, but the *preferential ordering* among these standards is<sup>23</sup> (and strongly depends upon the statistical operations). The conclusions can be drawn from the empirical results. To be sure, one may notice some substantial changes in the importance of the tested scales, and in this respect it makes sense to speak of a “change in value priorities”. Very profound changes have been measured for the period 1963-1972 caused by the impact of the international student movement. Or should one say that this movement was the gist of a deeper transformation, the consequence of the long-lasting rise in the standard of living during the 1950s and 1960s, as Inglehart would argue? Despite the inconclusive results in terms of interpretation, there seems to be an interesting trend with regard to the clustering of different attitudes: whereas one can measure high correlations for ‘traditional values’ (e.g. religiosity, work ethics, authoritarianism, traditional sex roles), the correlations are much lower or even inexistent for ‘modern’ values (e.g. postmaterialism, self-reliance, political participation, modern sex roles). The negative correlations of modern attitudes to traditional attitudes are stronger than the positive correlations among the modern attitudes. One may conclude *that modern attitudes draw their consistency more from their opposition to traditional attitudes than from a common vision of the future.*<sup>24</sup>

But what are the consequences to be drawn from such studies with regard to the subject of ‘democracy versus values’? The answer will essentially depend on the position of the interpreter towards the term ‘value’. If one accepts the utilitaristic definition given above (sect. 2), then all these attitudes are indeed values. The substantial importance given by many politicians to opinion polls suggests that they would adhere to this definition. A test of this *Vox populi - vox Dei* argument could be the growing opportunism among younger German managers when it comes to e.g. tax evasion or obtaining subventions surreptitiously.<sup>25</sup> Is the growth of such opportunism a ‘value’ to be taken into consideration by democratic politicians? As the issue of capital punishment e.g. shows, there is a substantial difference in this respect between Europe and the US, although opinion polls in Europe also show occasional majorities for it. In Europe

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<sup>23</sup> Even Inglehart speaks about “value priorities ... changing” (*The Silent Revolution*), p. 21.

<sup>24</sup> See HEINER MEULEMANN, ‘Religion und Wertwandel in Empirischen Untersuchungen der Bundesrepublik Deutschland’, *Religion und Gesellschaftlicher Wandel, Loccum Protokolle* 8/1984, p. 112. Similar results have been found by FRANZ-XAVER KAUFMANN, WALTER KERBER and PAUL MICHAEL ZULEHNER, *Ethos und Religion bei Führungskräften* (Munich, 1986), pp. 91, 267.

<sup>25</sup> See KAUFMANN et. al., *ibid.* pp. 48, 104.

the inviolability of life is considered a *cultural* value whose validity cannot depend upon contemporary popular majorities.

At this point, we have to consider the issues of ideology and of social movement. Ideologies like liberalism and anarchism, conservatism and fascism, socialism and communism<sup>26</sup> emerged as post-traditional social movements and as systems of thought with strong and apparently contrasting value orientations. It is important to see that *the emergence of post-traditional cultural values is dependent upon their promotion by social movements at the onset*. Social movements do not emerge by the simple clustering of interests (as associations do), but by *moral* indignation, and by protest, as the movements of the sixties as well as the ecological movement have shown in recent times.<sup>27</sup> Social movements use morals to develop and to promote new values. To be sure not all movements succeed, and this is the way in which the existing cultural compound and public opinion select from among the proposed ideas, if, that is, they are not repressed by violence.

Social movements differ widely in the scope of their protest, in the complexity of their claims, and in the degree of sophistication of their arguments. Ideological movements exhibit a broad scope and an elaborated 'vision of the world' which tries to link theory and practice. Some ideologies do not leave room for other approaches to how to understand the world or even aspects of it. Thus they become necessarily polemical against other ideologies and tend to contest the value orientations of them. Where such ideologies clash one can speak indeed about *value conflicts*. It seems, however, that such fundamental differences in values are decreasing as democratic procedures and other mediating structures become generally accepted.<sup>28</sup> Thus social movements in pluralist societies do not claim totally opposing views but normally concentrate on a limited set of political issues.

The assumption that cultural values have their unequivocal equivalent at the level of attitudes deserves a deeper scrutiny. This is plausible under the conditions of a tightly-knitted collective consciousness, in the same way as it is present under rather static social conditions typical of traditional societies. The stage of the 'big ideologies' (or meta-narratives in the sense of

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<sup>26</sup> The pairing concerns the moderate and the radicalized version of classical families of thought. It is a favorite game in ideological battles to suggest the radicalized form in order to blame the moderate form too.

<sup>27</sup> See e.g. BARRINGTON MOORE, *Injustice: The Social Bases of Obedience and Revolt* (White Plains N.Y., 1978). For a more analytic approach see KAI-UWE HELLMANN, *Systemtheorie und Neue Soziale Bewegungen* (Opladen, 1996).

<sup>28</sup> See PETER L. BERGER (ed.), *The Limits of Social Cohesion. Conflict and Mediation in Pluralist Societies* (Boulder Col., 1998).

J.F. Lyotard) seems in this perspective a transitory stage in which the remembrance of the overarching 'conscience collective' of traditional society was still vivid. But *under the pressures of modernization one has to expect a growing contingency between cultural values and individual attitudes*. This was already suggested by the empirical evidence of the higher contingency of 'modern' attitudes as compared to traditional attitudes. However, one needs stronger arguments from sociological theory.

#### 4.2. *Modernization and Individualization*

There are many strands of sociological theory. The subsequent argument draws upon a historical sociology as traced by classic authorities such as Georg Simmel, Max Weber or Norbert Elias. They all emphasize the pressures upon the development of a more rational and more self-controlled attitude in modern men stemming from historical developments. Especially valid seems to me the argumentation of Simmel who on the one hand shows how the spreading of a money economy draws a distance between people and things and therefore furthers the development of more abstract representations.<sup>29</sup> He also emphasizes, on the other hand, the individualization of people as a consequence of the structural-functional differentiation of society and the growing mobility of subjects: whereas under traditional conditions people normally are members of one social group alone and therefore intimately linked to its common culture, modern man combines a plurality of affiliations often with different normative orientations. As men and women experience the conflicts of norms and interests of the different groups they belong to, they become more aware of their subjective identity.<sup>30</sup>

Simultaneous to individualization is the growing division of labour or – to use a more analytic term in the tradition of Talcott Parsons and Niklas Luhmann – the functional differentiation of society. Whereas in the ranked society of pre-modern times the basic structures of society followed the differences of status of various positions (clergy, nobility, free men, serfs), these differences lost importance during the processes of modernization; new limits and differences emerged, especially between church (religion) and state (politics) as well as between business (economy) and households (family). This disentanglement of functional realms has been performed by

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<sup>29</sup> GEORG SIMMEL, *Philosophie des Geldes* (Munich and Leipzig 5.A.), p. 551.

<sup>30</sup> GEORG SIMMEL, *Soziologie. Untersuchungen über die Formen der Vergesellschaftung*, 3.A. (Munich and Leipzig, 1923), p. 313 (The relevant chapter on the web of group affiliations is translated: GEORG SIMMEL, *Conflict and the Web of Group Affiliations* (Glencoe Ill., 1955).

*institutional differentiation – i.e. by the formation of specified legal norms and corresponding cultural representations.* Thus, the modern economic system emerged not only as a consequence of generalized private property and of the spread of a monetarized exchange economy, it also needed the cultural legitimation of market and price theory as developed first by Adam Smith, Jean Baptiste Say and David Ricardo and its promotion by the liberal movement. The autonomy of the political system emerged only insofar as it became separated from religious influence (secularization), and made independent of family connections (ban on nepotism) and of economic influences (ban on corruption).

With modernization, additional ‘functional systems’ have emerged: e.g. science, education, medicine, social security, the mass media, or the military complex. With the exception of the family, the other functional systems operate by characteristic *organizations* with specified norms, patterns of communication and *legitimizing ideas*: truth in the case of science, human development in the case of education, health in the case of medicine, protection against the basic risks of life in the case of social security, public information in the case of the mass media, or external security in the case of the military. The wide and unquestioned public acceptance of these highly expensive services makes it evident that there is a wide national and international consensus about their *value*, and this value is *symbolized by these legitimizing ideas*. To be sure, these basic value ideas are not identical to the operating goals or programs of the organizations within a specified functional system, but their public acceptance rests on the *assumption* that there is a substantial link between their programme and their legitimizing value.<sup>31</sup>

To sum up: from a sociological point of view *modernization may be understood as the disentanglement of cultural values and personal motives or attitudes through the emergence of a complex organizational structure*. Values develop a specific affinity to differentiated forms of organizations and both cluster to form functional systems which are generally accepted in modern societies. Individuals are linked to these systems by organizational rules, as members or clients of particular organizations. They typically belong to a multiplicity of organizations, but typically to only one organization in one functional system. From the point of view of the organization their membership remains contingent, although it may be of vital importance to the individual. But the fate of individuals and of organizations has only a contingent overlapping.

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<sup>31</sup> Contentions which undermine this link are therefore suppressed. There is e.g. no public acknowledgement that hospitals are probably the places with the highest infection risk in modern societies.

*There is no longer a social 'whole' to which the individual belongs, as was the case in traditional societies.* Instead he or she accumulates a multiplicity of memberships and roles either at the same time or in subsequent biographical phases, which are often badly co-ordinated and make conflicting claims upon the individual. Thus role conflicts become an ubiquitous fact of life, and it is up to the individual person to develop 'responsibility' in order to co-ordinate his or her different accountabilities.<sup>32</sup> This is the basic *structural* aspect of what is actually discussed under the headlines of 'individualization' or 'atomization'. In particular, the waning of the breadwinner-housekeeper model of marriage has led to a generalizing of this experience which *seems* to be a new condition. As a matter of fact, the structural process of individualization goes along with the emergence of multiple affiliations following the abolishment of fixed settlements and the establishment of personal rights for everybody. The *cultural* process of individualization had its origins in the Middle Ages and had its heyday in the eighteenth century. Hence it preceded structural individualization and made it acceptable.

There was strong resistances against the individualistic programme of the Enlightenment throughout the nineteenth century and until World War II in Europe. And even in its aftermath individualization became acceptable only with the concomitant of welfare state developments. The contemporary opposition to a revival of market liberalism goes together with a continuing drive towards individualization in the private sphere. There remains an ambivalence concerning both individualism and values which will not be explored further here.<sup>33</sup> In the remaining part of this paper we can only relate the topics to the issue of democracy.

#### 4.3. *Democracy between 'Attitudes' and 'Values'*

One may call the ambiguity of the term 'value' a paradox. In political discourse 'values' are said to represent the self-evident part of our normative commitments. There is a widespread opinion, at least in Germany, that we need "a new debate about basic values" in order to overcome the present-day crisis of political decision-making.<sup>34</sup> The problem is

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<sup>32</sup> See FRANZ-XAVER KAUFMANN, *Der Ruf nach Verantwortung. Risiko und Ethik in einer Unüberschaubaren Welt* (Freiburg i.Br., 1992), p. 66.

<sup>33</sup> For an important reappraisal of the debate see HANS JOAS, *Die Entstehung der Werte* (Frankfurt a.M., 1997).

<sup>34</sup> A first "Grundwertedebatte" took place in the 1970s and emphasized the 'basic values' of liberty or freedom ('*Freiheit*'), justice or equality ('*Gleichheit*', '*Gerechtigkeit*'), and 'Solidarity'.

thus defined as a problem of 'solidarity', i.e. as a problem of social and political cohesion.

Similar, albeit differently expressed arguments, are to be found in the communitarian debate in the United States. In both contexts there is a complaint about the noxious spread of individualism and privatism which erodes the basis of democracy. This is another paradox since democracy has always been praised for its capacity to integrate the individual wills of the many into the general will of the law.

There is, however, a characteristic difference between the American and the German definition of the situation. The political culture of the United States is imbued by an *atomistic* conception of liberty and of society coined by the contractual theorists of the eighteenth century. The individual is conceived here as being part of the 'natural state' before entering a social order.<sup>35</sup> The concept of value as individual attitude or interest is characteristic of this state of mind. There is, so to speak, nothing above the individual judgment, and the emergence of elements of a social order remains provisional upon the insight of common interests. There is indeed no argument for loyalty towards an order which operates against one's own interests, provided that interests are not defined in a shortsighted way. Thus, the communitarian claim is less about substantial 'values' than about the strengthening of social ties which should ease the processes of consensus building.

The German debate, by contrast, sees consensus building less as a democratic process than as an intellectual inquiry into the "right order". And the criteria by which the justness of such an order should be measured are 'values' or 'basic values'! Thus non-partisans may be blamed for not having the "right values" or even "no values but only interests". The whole political sphere thus becomes imbued by moralism.

*The sociological perspective presented here conforms with neither of these two positions. The growing complexity and interdependence of social structures invalidates the atomistic position as well as the moralistic.*

There are two main arguments against the atomistic position. First, the

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Note the affinity to the classic French slogan "*Liberté-Égalité-Fraternité*". The debate disappeared with little political impact although leading politicians had participated in it. See GÜNTER GORSCHENEK, *Grundwerte in Staat und Gesellschaft* (Munich, 1977); and there especially the conclusions of the present president of the German Episcopal Conference, Karl Lehmann, "*daß die Verwendung der Grundwerte-Kategorie auch im Licht eines solchen geschichtlichen Rückblicks erhebliche Unschärfen und Unklarheiten enthält*" (p. 161).

<sup>35</sup> See the brilliant inquiry by CHARLES TAYLOR, 'Philosophy and the Human Sciences', *Philosophical Papers 2*, Cambridge 1985, esp. part II.

assumption of a pre-social individual represses the fact that human beings are unable to live from nature alone but are dependent upon culture in a phylogenetic as well as in an ontogenetic sense. The conditions of collective living are therefore not a matter of aggregated individual interests but the precondition of any formation of individual interests. Without a social context individuals would be unable to ascertain any object of interest. Thus the atomistic position starts from invalid anthropological assumptions. Secondly, historical conditions have changed since the formulation of the atomistic position. Whereas in the situation of the 'New Frontier' it made sense to see men as living in a constant battle and exchange with nature, the situation of 'Megalopolis' puts people and their organizations in a highly interdependent context in which the atomistic pursuit of individual interests yields often contra-intuitive results. The long chains of action characteristic of modern conditions of life often transcend the perspective of individual actors. These complex conditions are, however, themselves the outcome of longstanding historical processes of institution-building which arise not out of individual intentions and actions but from the collusion of cultural ideas and structural innovations.<sup>36</sup>

But the recourse to moral values also falls short of contemporary challenges. Although there is some evidence that the normative commitments of the younger European generations are weakening in terms of traditional 'morals', especially with regard to spontaneous loyalty to legal rules and the norms regulating sexuality, this does not indicate a waning of moral consciousness in general. Morality is now less oriented by 'blind' obedience toward established norms; it presupposes instead the capacity of the individual to decide among *conflicting* norms and 'values'. There is a growing role-distance towards existing commitments which are not rejected but *conditioned* – i.e., their acceptance depends upon an act of *self-commitment*. Whereas traditional ties and commitments are weakening, there seems to be a growing awareness of self-responsibility for the meaning of one's own life. *Self-realization* – or, more analytically: self-referentiality – becomes, so to say, the core value for orientation under the pressures of conflicting claims.<sup>37</sup> In this situation, the appeal to specific values (e.g. to "solidarity") falls short of producing a new commitment; it instead amplifies the value conflicts in which individuals are already entangled.

In modern societies the apparent "decay of values" at the level of

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<sup>36</sup> A good account of this perspective on modernization is given by GEORGE W. THOMAS et al., *Institutional Structure: Constituting State, Society, and the Individual* (Newbury Park Cal., 1987).

<sup>37</sup> The possibility of such self-referentiality is, however, bound to cultural and intersubjective conditions. See the illuminating analysis by Joas (FN 33), esp. pp. 240.



individual attitudes is compensated for by the institutionalization of rules and procedures by which comparable effects are achieved at the level of behavior. The differentiation of morality and legality (Kant) is the expression of this modern shift in normative consciousness. Legal as well as professional rules supersede traditional norms in all areas of public concern. For the private realm, on the other hand, public regulation is increasingly repudiated. There remains, however, an open question: to what extent is privacy of public concern too? E.g. the decision to have and to rear children is generally considered as being private, but, as demographic consequences and human capital considerations show, it is becoming a growing problem for European societies.

The present-day problems of orientation in Western democracies are not due to a decay of values but rather to an *excess of values*. There are so many institutionalized options, and these interact often in rather confusing ways, that it becomes more and more difficult to find out what the best way to solve a problem really is. This is true not only at the level of individual but also at that of collective decisions. This presents substantial challenges for democratic practice as well as for democratic theory.

#### 4.4. *After Value: The Challenges of Complexity*

The progress achieved by the modern transformation of societies consists essentially in institution-building. This is not only true for economic institutions, such as the monetary system or the different types of markets, but also for political institutions and for the various service systems which have emerged “between the market and the state”.<sup>38</sup> The success of this institution-building consists among other things in the establishment of long chains of action which enable efficient solutions to problems never thought of before. Compare, e.g., the capabilities of a hospital in the middle of the nineteenth century and at the end of the twentieth century!

Democracy presupposes the capacity of decision-makers to reach good

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<sup>38</sup> The so-called welfare state essentially consists of various service systems (e.g. social security, health, education) whose products are deemed to be “meritorious”: i.e. their provision corresponds not only to private needs but also to public interests. The never-ending political debate about their regulation is not only an issue of distributive interests but stems from their “mixed” character of being a public and private utility as well as from the specific conditions of efficiency characteristic of personal services. Neither juridical nor price regulations seem on their own to be appropriate devices for steering the systems. Professionalized expertise and reliability as well as corporatistic bargaining systems seem to be indispensable complements. See FRANZ-XAVER KAUFMANN (ed.), *The Public Sector: Challenge for Coordination and Learning* (Berlin-New York, 1991).

decisions by public deliberation and an efficient procedure. "It is the democratic institutions that link the structures and procedures of participation with the structures and procedures of governance".<sup>39</sup> Political cultures of various nations differ in relation to the extent of direct popular influence they allow for, but everywhere there are restrictions and privileges in relation to representative government in modern democracies. There was always an awareness of the difficulty of settling complex problems by popular vote. The growing complexity of government, as manifested by the multiplication of ministries, special agencies, and committees, has been a somewhat successful attempt to cope with the growing complexity of its tasks. Moreover, the organizational differentiation of politics has produced differentiated environments in the form of policy communities – of experts, lobbyists, interest groups, etc. – which operate at a certain distance from general public opinion, but develop in their longstanding interaction some kind of specialized expertise which under normal conditions promotes decisions of higher quality than those reached by pure common sense.<sup>40</sup>

Problems emerge first where interests are concerned which are not represented in the respective policy communities. In many instances they receive consideration in the later stages of the decisional process when other ministries or members of the parliament intervene. This is still within the normal functioning of the democratic process. Problems beyond democratic routine emerge, however, where the effects of different policies overlap and where causalities are far from evident. The most prominent example is that of the budget deficits caused by the accumulation of expensive policies. But there are more subtle interactions – e.g. between educational policies and the quality of the labour force, or between industrial policies and the natural environment. It is much easier to establish a new policy than to modify existing policies, for these have lasting side-effects often unknown to the decision makers. Insofar as some policies establish institutions of their own (as in the case of most special agencies, e.g. in social security) they often produce long-term commitments which cannot be arbitrarily changed by subsequent constituencies.

Another implicit assumption of democracy is the sovereignty of government. This means primarily independence from foreign influence.

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<sup>39</sup> HANS F. ZACHER, 'Democracy: Common Questions', *Proceedings of the Workshop on Democracy* 10, p. 124.

<sup>40</sup> For differences between strong and weak states in their relationship to policy communities see MICHAEL M. ATKINSON and WILLIAM D. COLEMAN, 'Strong States and Weak States. Sectoral Policy Networks in Advanced Capitalist Economies', *British Journal of Political Science* 19 (1989), pp. 47-67.

In the emerging context of globalization, however, this influence no longer has the character of political power – it is economic and operates *indirectly*, e.g. upon the tax base of an economy. It is quite difficult to cope with such problems as the leverage of political measures remains restricted to only some elements of a long chain of rather contingent connections. Growing interdependence now concerns not only the policies of the same state (and the reactions of those concerned with them) but also the policies and reactions of foreign actors.

In the case of European integration, national states try among other things to mitigate the influence of e.g. international financial markets on their currencies by pooling their resources into a common currency. This, however, leads to other forms of mutual long-term dependency and even to an explicit loss of sovereignty. Thus democratic decision-making is not only hampered by the complexities of the problems to be dealt with but is also structurally inhibited by the competences of supranational bodies beyond democratic control.

The intricacies of these new forms of multi-level policy-making as well as the complexities of inter-institutional politics are the main sources of a loss of orientation in politics and public dismay. The wretched public image of parties and political actors in some countries may be attributed to various factors, but whatever the case the challenges sketched above cannot be coped with by an appeal to values, nor by occasional consensus building. One needs new procedures which enable decisions of higher complexity, or one has to try once again to disentangle the domains of competence in order to keep the issues manageable.<sup>41</sup>

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<sup>41</sup> For a basic statement see DAVID HELZ, *Democracy and the Global Order. From Modern State to Cosmopolitan Governance* (Cambridge, 1995); FRITZ W. SCHARPF, *Games Real Actors Play. Actor-Centered Institutionalism in Policy Research* (Boulder Col., 1997).

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*Discussion of the paper by F.-K. Kaufmann*

ARROW

Though Professor Kaufmann has raised important problems regarding the role of values in a democracy, he has come up with the optimistic view that social organizations can deal with the problems of modernity not by repressing them but by adapting to them. I must heartily agree.

We are conscious, as has been said, that modernity is constant change. The problem this creates is not unique to democracy and is raised for any other form of government. In recent times, we have seen the reaction of other forms of government, in Germany and in the former Soviet Union, in which the adaptation was an abandonment of conventional morality to extraordinary dimensions, far beyond that in regimes previously thought of as oppressive, such as the Czarist regime in Russia. Indeed, democracy just because of its complexity, its checks and balances, its dispersion of power, may well offer better protections for the preservation of values than more authoritarian systems.

There is one historical aspect to your question. There seems to be a presumption that, while the present world is one of constant change, there was a stable past in which tradition played a bigger role. This may be true in a relative sense, but I believe it has never been true absolutely. I am struck by the fact that the Middle Ages are now considered by scholars to be a very progressive era. Technologically, there were many inventions, many more than in the classical world of Rome and Greece; there was in fact little technology in the Rome of the third century A.D. that was not present in Greece of the 5th century B.C. The Middle Ages saw invention after invention: windmills and clocks being outstanding. Medieval architecture was daringly original. Where their Renaissance successors looked back to the lost glory of Rome, the architects of the Gothic cathedrals saw themselves as improving on their masters, even though they respected them. The Middle Ages also saw great social inventions. The university had no precedent, yet it had so much vitality and adaptability that it continued into the progressively different world of today. The commune was another great social invention; though it had some precedent in the Greek *polis*, it developed in its own way to create social conditions appropriate for

commerce in a society whose leading ideals were different. Parliament too is a Medieval invention, very viable in Great Britain, France, and the kingdoms of the Iberian peninsula, though only in the first did it survive the absolute monarchies of the Renaissance.

These technological and social innovations were responses to changing conditions, and we are responding today. Admittedly, the pace may be greater, as measured by the volume of legislation or judicial decisions. But qualitatively, I don't think they form a change with the past. We always have the problem of adaptation, in the moral as in other spheres. I don't think that morality has changed, though the application of morality has; it is easy to confuse the two. In the past, morality has seemed to have an eclipse, yet conventional morality always reasserts itself; compare eighteenth-century Great Britain with nineteenth-century Great Britain.

There is indeed one distinctive characteristic of the modern age which has very little precedent, the growth of both science itself and its importance in the world. Science, like the world of Gothic architecture, is based on the idea that authority is both respected and expected to be transcended. The scientist wants to learn the wisdom of the past but at the same time to change it. This attitude is perhaps one of the chief differences between this and earlier periods (although there was scientific progress in the Middle Ages, though not at the pace of the modern era). The values which lead to the development of sciences remain constant, though the particular beliefs held are changing. It is to this combination of change and constancy that democracy has to adjust.

MALINVAUD

In your section 4.3., "Democracy between Attitudes and Values", you convincingly argue that the challenges now faced by democracies will be solved neither by appeals to basic values nor by the formation of *ad hoc* consensus in each case, because people are no longer now ready to accept unless they feel a self-commitment to do so. We might hope that, in an increasingly complex world, this requirement of individual deep adhesion will lead to the emergence of a superior ethics. Unfortunately, we often witness the same person being moved by contradictory norms. In the past we could see ethical principles as making a consistent whole, either because of the Kantian requirement of logical consistency or because of the Anglo-Saxon search for a consensus through appeal to reason. But if we are confronted with attitudes which are morally contradictory in the same individuals, how can we hope that ethical superiority will emerge? Could I be so bold as to imagine that, by mutual implicit agreement, the various

religions in our communities would preach the same core of human values, which citizens would come to consistently follow through personal commitment?

MINNERATH

May I tell you that I feel quite sceptical about the idea that the world religions should agree to set up a common moral basis. Not only because world religions relate very differently to morality, but above all because morality cannot be restricted to religion or religious people. If a common moral basis has to be worked out, it should be done with all the components of the human family. This attempt already exists: I mean the philosophy of human rights, as set down in international instruments. The common basis for human morals is human nature and not religions. Moral standards have to be worked out by reason.

SCHASCHING

With regard to democracy and values we find contradictory positions today. Some say that values are ideologies and block the freedom of democracies. Others, like Böckenförde, insist that democracies presuppose values which democracy itself cannot produce. How should such a contradiction be answered?

MORANDE

I would like to thank Professor Kaufmann for his very interesting presentation which has certainly raised many questions. I would like to refer to one of them.

I agree with Professor Kaufmann when he says, following Max Weber, that all prophetic religions offer a cultural overview with the tendency to draw away from the world, and also with his statement that this tendency guarantees freedom in man, because nobody is obliged to integrate himself into a social order for he knows that *Deus semper major*. Nevertheless, this cultural phenomenon should not necessarily be interpreted in the sense of Calvinist indifference to the world, which is a particular cultural option. I see in this property of prophetic religions the way to protect human existence as such as well. Man is a creature of God and not of the world or of the social order. Therefore, its existence is not questioned. It is not a value but a precondition of every value, and this statement is not a moral but an ontological one.

This is the reason why I do not like very much the expression "values". It used to be interpreted as referring to a type of moralism, as Professor



Kaufmann correctly said, which may hide the ontological dimension of human existence, as actually happens nowadays. As I mentioned earlier this morning, referring to *Evangelium Vitae*, the main problem for the discussion on democracy and human rights today is man's existence in itself. We live in an anti-life culture, and the institutional order seeks to legitimate abortion, for instance, as a right of women. This position surpasses any type of moralism, and consequently subverts every possible hierarchy of values. Philosophical tradition has called it "nihilism". Thomas Hobbes, in his hypothesis of the fight of all against all never thought that he should also include in his social model the unborn. But the legal order now leaves space to seeing the unborn as an aggressor. If we don't imply the ontological dimension of human existence, I conclude that all the discussion about values and democracy ends up by being a type of moralistic entertainment. Without the religious criterion which recognizes a distance between what is "made by God" (and therefore out of discussion) and "made by man", society loses all possible standpoints by which to refer to any hierarchy of values.

#### KAUFMANN

Professor Arrow has suggested that the difference between modernity and tradition tends to hide the very dynamic character of the Middle Ages. I completely agree that the Middle Ages are the first phase of the process we now call modernization. It was above all the investiture struggle and its settlement in the Concordat of Worms (1122) which brought a new principle into the tension between popes and the emperors, namely the principle of differentiated domains for the sacred and the secular, for the sacramental and for the feudal. This principle of structural differentiation of different functions characterizes the whole process of modernization. However, until the eighteenth century the dynamics of technical, political and economic developments were not acknowledged as such. Human order was still thought of as being based upon unchanging principles. It was not until the "*querelle des anciens et des modernes*" that the legitimacy of change became a subject of concern, and it was historicism which brought it to its ripeness. In defining modernity as a cultural complex which changes as such, emphasizing the new against the old, supporting adaptation and learning and working against the belief in unchanging traditions, I did not wish to deny the dynamics of the Middle Ages. Perhaps even our present-day understanding of tradition is quite modern, as a kind of invented contrast to what modernisers deemed to be new and worthy.

The issue of contradictory norms which Professor Malinvaud has emphasized is one of the crucial questions which ethics as well as religions have to face up to under contemporary conditions. To be sure, norms are seldom contradictory in themselves, but the growing complexity of modern situations makes it difficult to reach moral judgments by simply applying a certain normative standard. Very often different standards seem applicable and lead to different if not contradictory conclusions. One reaction to this growing complexity is the trend in ethics away from concrete norms towards more abstract and more universalistic principles which are altogether less instructive for concrete decisions.

As far as religion is concerned, I believe that Christianity should not be seen as an immediate source for social morality as happens in Durkheim's sociology. I would agree more with Max Weber who said that all prophetic religions motivate a distancing from the world as it is, and that in this way they foster human freedom. If "*Deus semper major*", you are not obliged to integrate yourself completely into any given social order. In the Christian perspective no worldly organization can claim to represent the true order. There are always alternatives to be thought of. In that sense, Christianity implies not only recourse to the tradition of the Gospel but also a dynamic principle in all worldly affairs. So I believe that men have always lived in ambivalent situations, but it is only in our times that we have become able to live explicitly with ambivalence. Moreover, the growing complexity of social organization fosters a certain opportunism in decision-making. Insofar as the economic theory of self-interest is quite adequate to explain the behaviour of organizations, individuals are more often oriented toward moralistic standards.

As to the question raised by Professor Schasching, I can only refer to the distinction I made in my paper between the Continental and the American tradition of thinking about values. The first argument you used came from the horizon of the American tradition, whereas Ernst Wolfgang Böckenförde's argument stems from the Continental tradition. I think that we are today kept within a tension between these two traditions of thought, the more we become cosmopolitans. I think we should acknowledge that tension before we try to overcome it.

I very much appreciated the comment of Professor Morande which is fully in line with my argument. I think that we can move further in our inquiries about social ethics if we abandon that misleading concept of values which blurs – to quote again Kant – the difference between 'price' and 'dignity'.



## DEMOKRATIE, RECHTS- UND VERFASSUNGSSTAAT

### WERTE, IHR KONFLIKT UND SCHUTZ

HERBERT SCHAMBECK

#### SUMMARY

Democracy expresses itself as a political system of order in the forms of government of a republic and a monarchy. It expresses the idea of the identity of ruler and ruled persons which includes the acceptance of the people's right to self-determination. In this sense, the single person is not ruled by others, but he can contribute to the realisation of the order binding him. Democracy itself is neutral in relation to values, but as a form of decision-making in the state it can be used for accepting and realising values.

Positive law can be explained with reference to the claim of the state on, as well as with reference to, the people's effort towards order. It appears in the form of different forms of legal rules determining and being determined by each other in the gradual succession of the legal order, and its rules concretise the constitution. A state whose acts are bound to positive law is called a state governed by the rule of law, a state in which the legitimisation of law and the action of the state is based on the constitution is a constitutional state.

In a constitutional state with a democratic form of decision-making it is possible that constitutional law gives values to the rest of the legal order and can be more precisely implemented by principles and institutions of a democratic constitutional state, as for example in the case of the democratic right to vote, the constitutionality of acts of the state, constitutional rights, the responsibility of ministers, the rule of law with regard to administration and jurisdiction, the independence of the courts, the installation of an administration subject to the judiciary, the separation of powers, the control of government by parliament, the jurisdiction of the constitutional court as well as administrative jurisdiction, the control of the keeping of accounts and management and public liability.

The constitutional state, because it makes law at the highest level, is on the one hand based on the people's need for protection and on the other hand on their evaluations. Therefore it has a function with regard to stability and continuation as well as in relation to evaluation.

Positive law, which is necessary for the concretising of natural law, gives the possibility of a certain value which appears in particular in the acceptance of *dignitas humana* based on the *imago Dei*-doctrine. But even if positive and pre-positive law are realised in their reciprocal necessity, the whole of positive law is not determined by pre-positive law. In the same way, questions of order neutral to values find their expressions in rules. But even in the case of the pre-positive determination of positive law, different legal views and opinions of natural law are sometimes reached so that law-making is needed in a democratic constitutional state. It can accept values and prescribe them for the legal order.

Constitutional law can more or less clearly show a people's consciousness of values. The less values, namely the ethical or political content of constitutional law, the greater is the liberty of the political forces in parliament to impinge on the nature of laws and the weaker is the protection against arbitrariness of current policy. As constitutional law, having a longer existence, is therefore the measure for the rest of the legal order, the difference between constitutional law and law is of special importance and constitutional law also signifies a form of protection of minorities.

By considering the principles of the constitution, not only legislative bodies but also those dealing with administration and jurisdiction have to make decisions at each level of the legal order which try to connect aspects necessary from a legal point of view with those which are reasonable from a political point of view. But the result should also be justifiable from an ethical angle, so that, as experiences of authoritarian and totalitarian systems show, injustice is not done in the name of law. In order to prevent this, a simple doctrine of forms of legal rules or the idea of a formal state governed by the rule of law expressed by legal positivism is not sufficient, but a glance at the contents of laws and legal ethics is necessary. In this sense, the state governed by the rule of law and with it the constitutional state are of a substantial character, especially after the years of authoritarian and totalitarian regimes.

For the realisation of a democratic constitutional state governed by the rule of law, the separation of powers and control are important. This involves on the one hand the relation between the party-political groups forming the government and the opposition, and on the other hand, in its classic character, the division of the state powers into legislation, administration and jurisdiction in order to control one another. This means the authorities of jurisdiction and administration should not be influenced in implementing the law. This independence can also be put at risk by democratisation at the level of jurisdiction and administration which can lead to a "jacobinisation", which in turn means an incalculable political training of the mind that cannot be foreseen and which has a negative effect on the priority of legislation and can endanger the concretising of the constitution. From this point of view, plebiscitary constitutional institutions have a different constitutional significance.

Nowadays, one form of the separation of powers in the sense of sharing power and control is shown in democratic constitutional states which provide a federal organisation through the co-operation of the confederacy and the federal states, the co-existence of governmental and self-administration, the parliamentary and the extra-parliamentary training of minds, representative and the plebiscitary constitutional institutions, parties and lobbies, officials and the politicians, and the Church and the state.

The democratic constitutional state governed by law also expresses itself especially in its constitutional rights, which on the one hand determine the relationship of the individual with the state and on the other hand show the borders of the possibilities of a state in a particular way. Constitutional rights should have a shared idea of the human being as their basis. In order to be able to correspond with it, they need constitutional rights which are based on these values in the appropriate forms of constitutional law.

The protection of institutions, of the order and the principles of constitutional states, and with that also of democracy and of the state governed by law, is the task of the constitutional court, which is – especially in relation to constitutional rights – not only important with regard to occasional cases, but also with regard to the development of the whole order of the state. The composition and the competence of constitutional courts express the political and legal order of a state. Whereas there are constitutional courts which are responsible for jurisdiction in constitutional law, civil law or penal law affairs, there are also constitutional courts which are only competent in constitutional affairs. Because of the recent unsteadiness caused by a huge amount of laws and the increasing influence of political parties and lobbies, there is a demand for a strengthening of legal protection. This effort is accompanied by the growing realisation that the plurality of mass society demands minimal consent in relation to the acknowledgement of constitutional rights for private and public life in order to create and to maintain the democratic constitutional state. For this reason, it is necessary to reflect upon approved institutions of the democratic constitutional state and to connect it with the continuous renewal of the political sense of responsibility, where ethics can be an important element for positive law, and positive law can be the same for democracy in a constitutional state.

## I.

### DIE DEMOKRATIE ALS POLITISCHES ORDNUNGSSYSTEM

*Die Demokratie ist ein politisches Ordnungssystem, dessen Verwirklichung in den Staatsformen der Republik und Monarchie möglich ist. Die Demokratie wurde zunächst als Bezeichnung einer bestimmten Staatsform, z.B. bei Plato und Aristoteles, neben der Monarchie und Aristokratie verwendet und später von der Bezeichnung Republik abgelöst, um hernach in der Staatsform der Monarchie und Republik als politisches Ordnungssystem Wirklichkeit zu werden.*

#### *Einschätzungen der Demokratie*

Schon bei der Verwendung des Ausdrucks Demokratie in der griechischen Antike zeigen sich große Unterschiede. Plato, der nach der

*Gesetzesbindung* die Staatsformen in gute und schlechte einteilt, verwendet die Bezeichnung Demokratie sowohl für die gute als auch die schlechte Form der Volksherrschaft. Aristoteles, der die Staatsformen hingegen *nach der Beachtung des Gemeinwohls* unterscheidet, gebraucht den Begriff Demokratie für die schlechte Form, die er als Pöbelherrschaft ansieht und nennt die gute Form der Volksherrschaft Politie.

### *Formen der Demokratie*

Als Herrschaft des Volkes drückt die Demokratie die Idee der Identität von Herrscher und Beherrschtem aus. Die Geschichte zeigt, daß dies *weder in plebiszitärer noch in repräsentativer Form* jemals *hundertprozentig gelungen* ist. Aus unterschiedlichen Gründen, vor allem aber im Hinblick auf die Pluralität der Gesellschaft und in ihr auch der einzelnen Menschen gibt es kein für alle Staaten gleich gültiges, nämlich allgemein anerkanntes System an demokratischer Ordnung.

### *Die Demokratie und die Selbstbestimmung des Menschen*

Die Idee der Demokratie drückt das *Bemühen* aus, daß der *Mensch im Staat nicht fremdbestimmt* ist, sondern an der Gestaltung der ihn bindenden Ordnung mitwirken kann: an ihrem Zustandekommen und an ihrer Verwirklichung. Auf diese Weise ist *die Demokratie eine Technik zur Herstellung und Aufrechterhaltung einer Form der Ordnung im öffentlichen Leben*. Da auf diesem Wege der Mensch diese Ordnung mitbestimmt, gewährt sie ihm einen Zugang zur Selbstbestimmung und so auch zur Persönlichkeitsentfaltung. In der Demokratie ist der *Mensch Person und Untertan zugleich*: Person, weil er an der Legitimation der öffentlichen Ordnung mitwirkt und Untertan, weil er an die derart demokratisch zustandekommene Ordnung gebunden ist.

### *Demokratie und Werte*

Für den Einzelmenschen stellt die Demokratie einen Wert dar, nicht aber als Mittel der Willensbildung im öffentlichen Leben selbst. Als solches kann die Demokratie zur Anerkennung und Verwirklichung von Werten beitragen, muß es aber nicht. Als Demokratie wurden Herrschaftsformen bezeichnet, die sowohl Recht als auch Unrecht gesetzt sowie die Freiheit und Würde des Menschen anerkannt, aber auch verletzt haben. In dieser Sicht ist *die Demokratie als Herrschaftsmittel wertneutral*, sie kann aber auch zur Wertverwirklichung verwendet werden.

Gerade das nun zu Ende gehende 20. Jahrhundert hat immer wieder *die verschiedenen Formen an Demokratie* erleben und leider auch erleiden lassen. Hans Zacher hat bereits in seinem Vortrag anlässlich des Workshops zur Vorbereitung unserer Plenartagung über die Demokratie hervorgehoben: "Autoritäre, faschistische und kommunistische Systeme haben immer wieder den Weg beschritten, der 'formalen Demokratie' die 'reale Demokratie' gegenüberzustellen, die 'Herrschaft für das Volk' von der 'Herrschaft durch das Volk' zu lösen, um dem Volk aufzuzwingen, was die jeweils Herrschenden als *bonum commune* definierten, und um an die Stelle der Gleichheit, Freiheit, Sicherheit und Wohlfahrt eines jeden Ungleichheit, Unfreiheit, Unsicherheit und entsprechende Differenzierung der Wohlfahrt eines jeden treten zu lassen."<sup>1</sup> Welcher Wandel aber auch in unserer Zeit erlebbar ist, hat der letzte Generalsekretär der KPDSU Michail Gorbatschow zum Ausdruck gebracht, wenn er 1987 in seinem Buch "Perestroika" schrieb: "Es kann keine Wahrung des Rechts ohne Demokratie geben. Ebenso wenig kann Demokratie Bestand haben und sich entwickeln ohne die Herrschaft der Gesetze ... ."<sup>2</sup>

### *Das positive Recht als Herrschaftsmittel*

Das *Mittel der Herrschaft* in den verschiedenen Formen der Demokratie war *das positive Recht*, das zu verschiedenen zu bewertenden Inhalten gebraucht und, so wie die Demokratie, auch mißbraucht wurde.

Zu verschiedenen Zeiten und in unterschiedlichen Formen ist die Demokratie erlebbar gewesen. Das Streben der Menschen nach einem Maß an Vorhersehbarkeit und Berechenbarkeit des Staates und seiner Organe hat nämlich zur Bindung deren Handelns an das positive Recht und dieses an die Verfassung als der obersten Ordnung des Staates geführt.

## II.

### DAS POSITIVE RECHT IM DIENST DER VERFASSUNG

*Das positive Recht* selbst ist ein zur Norm gewordener *Ausdruck des Ordnungsanspruches des Staates und des Ordnungstrebens der Menschen durch den Staat*. Es tritt uns in verschiedenen Rechtssatzformen entgegen, die einem *Stufenbau* gleich, ein Bild, das auf den Wiener Staatsrechtslehrer Adolf

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<sup>1</sup> HANS F. ZACHER, *Democracy: Common Questions*, in: *Proceedings of the Workshop on Democracy*, hrsg. von der Päpstlichen Akademie der Sozialwissenschaften, Vatikan 1998, S. 123.

<sup>2</sup> MICHAEL GORBATSCHOW, *Perestroika*, München 1987, S. 132.



Merkel zurückgeht, in einem bedingenden bedingten Zusammenhang der einzelnen Rechtssätze zueinander stehen; nämlich des Verfassungsrechtes, einfachen Gesetzesrechtes und der Verordnungen als generell abstrakter Normen sowie der Gerichtsurteile und Verwaltungsbescheide und zu deren Ausführung der Vollstreckungsakte, welche, auf den einzelnen Rechtsfall bezogen, individuell konkrete Rechtsnormen sind.

Da die Verfassungsrechtsordnung die Grundlage des Staates überhaupt ist, stehen *alle Akte des positiven Rechts im Dienste der Konkretisierung der Verfassung*.

#### *Der Rechts- und Verfassungsstaat*

Der Staat, dessen Handeln an das positive Recht gebunden ist, wird als *Rechtsstaat* und dort, wo die Legitimation für das Recht und Handeln des Staates in der Verfassung begründet ist, als *Verfassungsstaat* bezeichnet. Die *Demokratie* selbst ist *eine Form der Staatswillensbildung*, die in Bezug auf Werte neutral, weil auch unabhängig von deren Inhalt ist. *Der Verfassungsstaat* hingegen bietet die *Möglichkeit zu einer Wertentscheidung* und zur Festlegung der Rangordnung der Werte. Es können nämlich durch das Verfassungsrecht und innerhalb dieses Verfassungsrechtes bestimmte Grundsätze hervorgehoben sowie mit eigener Wertigkeit ausgestattet und auf diese Weise der gesamten Rechtsordnung zur Beachtung vorgeschrieben werden, z.B. die Staatsform, die Grundrechte, der Staatsaufbau und die Staatszweck- sowie Staatszielbestimmungen. Ein für viele Staaten prägendes Beispiel bietet die Verfassung der Bundesrepublik Deutschland, nämlich das Bonner Grundgesetz, welches im Art. 79 Abs. 3 erklärt, daß eine Änderung dieses Grundgesetzes, die u.a. die in den Artikeln 1 und 20 niedergelegten Grundsätze berührt- es handelt sich dabei besonders um den Schutz der Menschenwürde sowie um die Anerkennung Deutschlands als demokratischer und sozialer Bundesstaat sowie des Widerstandsrechtes-unzulässig ist.

Diese Abänderung des Verfassungsrechtes ist nämlich in einzelnen Staaten, wie etwa das angeführte Beispiel zeigt, in Bezug auf einzelne Bestimmungen absolut verboten, in anderen Bereichen aber wieder mit qualifiziertem Präsenz- und Konsensquorum, in manchen Fällen, wie in Österreich, zusätzlich mit obligatorischer oder fakultativer Volksabstimmung und besonderer Kennzeichnung bei der Kundmachung möglich.

*Verfassungsrecht* ist *kodifizierte Politik* und stellt auch eine Auseinandersetzung mit der vorangegangenen Zeit sowie ihrem politischen System dar. Das zeigt sich z.B. nach dem Ende diktatorischer Regime in der Verfassung Italiens 1948, Deutschlands 1949 und später in den Verfassungen Griechen-

lands 1975, Portugals 1976 und Spaniens 1978 sowie seit der sogenannten politischen Wende 1989/90 in den Verfassungen Mittel- und Osteuropas. *Der Verfassungsstaat ist das Ergebnis einer Konfrontation mit der Geschichte*, in der sich in positiv annehmender oder kritisch ablehnender Form Geschichtsverständnis, Gegenwartsverantwortung und Zukunftserwartung miteinander verbinden; wie etwa in Deutschland im Bonner Grundgesetz nach dem 2. Weltkrieg in Bezug auf die Weimarer Verfassung von 1919 und der Verfassung des Deutschen Reiches 1933.

### *Funktionen der Verfassung*

*Das Verfassungsrecht hat eine mehrfache Funktion zu erfüllen.* Es hat alle Ordnungskräfte im Staat zu integrieren, den Staat zu konstituieren, die Ausführung der Staatsgewalt zu legitimieren, den Menschen im Staat auf ihre Anliegen eine Antwort und nötigenfalls eine Hilfe zu geben, der Rechtsordnung Grundlage zu sein sowie dem Staat und seiner Rechtsordnung Dauerhaftigkeit zu verschaffen.

*Das Verfassungsrecht eines Staates hat sich einerseits mit dem Sicherheits- und Schutzbedürfnis des einzelnen Menschen und der Situation der Gesellschaft sowie den Ordnungsproblemen des Staates einer bestimmten Zeit auseinanderzusetzen, gleichzeitig aber auch offen für die Erfordernisse späterer Entwicklungen zu sein.* Auf diese Weise hat der Verfassungsstaat eine Stabilitäts-, Kontinuitäts- und eine Wertungsfunktion zu erfüllen.

*Der Verfassungsstaat ist das Ergebnis höchstrangiger Rechtssetzung und geht letztlich auf das Schutzbedürfnis und ein bestimmtes Wertdenken der Menschen zurück.*

Das Ordnungs- und Sicherheitsstreben der Menschen bedarf der Form des positiven Rechtes und damit auch der Rechtssetzung durch zuständige Staatsorgane. Mit der *Rechtssetzung* entsteht die Geltung des jeweiligen Rechtssatzes. Damit ist im Hinblick auf die Unterschiedlichkeit in der Meinungs- und Urteilsbildung der Menschen eine Willensbildung im Staat möglich, die *auf parlamentarischem Weg* ein- oder mehrstimmig sein kann. Dabei zeigt sich die Einstellung zu verschiedenen Werten und deren Durchsetzung.

### *Pluralität der Werte*

Diese Werte können *unterschiedlich begründet* sein; sie können vor allem religiös, weltanschaulich, philosophisch, ideologisch, parteipolitisch und beruflich fundiert sein. Überzeugungen, Glaubenshaltungen und Interes-

sen können dadurch zum Tragen kommen; Kirchen, Religionsgemeinschaften, Parteien und Interessenverbände sind besondere Repräsentanten dieser Anliegen, Welche die Rechtssetzung mitbestimmen.

### *Normierung des Rechts*

Rechtssetzung ist *Normsetzung durch Positivierung* im Staat. Die Positivität des Rechts setzt aber die Normalität der Lage voraus. Nur das, was sich regelmäßig ereignet, läßt sich positivieren. *Das Normieren verlangt* daher auch *das Typisieren* in den Bereichen des privaten und öffentlichen Rechts. Alfred Verdross erklärte schon, daß "das soziale Leben typische Elemente aufweist, so daß aus ihnen typische Ordnungsmodelle ermittelt werden können. Diese Typisierung ist deshalb möglich, da sowohl in der Natur des Menschen wie in der menschlichen Umwelt bestimmte konstante Grundstrukturen vorhanden sind, die im Wechsel der Erscheinungen beharren"<sup>3</sup>. Das gilt in bestimmter Weise für das private und öffentliche Leben sowie für das private und öffentliche Recht. Dazu gibt es natürlich auch *Ausnahmeregelungen*; wie z.B. im öffentlichen Recht neben der Gesetzgebung auch das Notverordnungsrecht oder die Suspension von Grundrechten.

*Das positive Recht bewegt sich zwischen generell abstrakten und individuell konkreten Normen.*

## III.

### PRÄPOSITIVES UND POSITIVES RECHT

Auf allen diesen *Stufen der Rechtssetzung* bemüht sich der Mensch, sei es in der Gesetzgebung durch den Beschluß eines Verfassungsgesetzes oder einfachen Gesetzes, in der Gerichtsbarkeit im Urteilsspruch und in der Verwaltung durch Erlassen einer Verordnung oder eines Bescheides, ein Sollen zu begründen, das auf eine Seinsgestaltung gerichtet ist. *Die Positivität des Rechts* auf dem Weg der Normierung setzt nämlich *eine Sollensbegründung durch Menschen als Funktionsträger* voraus. Das verlangt auf allen Stufen der Rechtsordnung ein bestimmtes qualifiziertes Rechtsdenken und eine möglichst umfassende Seinsbetrachtung, der im Letzten auch *die Präpositivität* als erste und letzte Rechtsbegründung vorangeht. So kann man bereits bei Aurelius Augustinus und bei Thomas

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<sup>3</sup> ALFRED VERDROSS, *Abendländische Rechtsphilosophie*, 2. Auflage, Wien 1963, S. 177 f.

von Aquin ein bestimmtes stufenförmiges Ordnungsdenken in der Unterscheidung von *lex aeterna*, *lex naturalis* und *lex humana* bzw. *lex temporalis* feststellen. Präpositives und positives Recht werden in ihrer wechselseitigen Notwendigkeit, das positive Recht in seinem Erfordernis der Konkretisierung des Naturrechtes erkannt. Damit wird auch vom positiven Recht eine bestimmte *Wertigkeit* erwartet, vor allem, daß es die Freiheit und Würde des Menschen anerkennt, *die dignitas humana*, welche in der Lehre des Christentums von der Gottesebenbildlichkeit aller Menschen, also *in der Imago Dei-Lehre, ihre metaphysische Begründung* erhält. Sicher ist *nicht alles positive Recht präpositiv bedingt*. Papst Pius XII., der in seiner Ansprache vom 13. November 1949 über "Der Rechtspositivismus und das richtige Recht" erklärte, das bloß gesetzliche Recht sei vom wahren Recht dadurch zu unterscheiden, daß dieses "schon mit dem bloßen Licht der Vernunft aus der Natur der Dinge und des Menschen selbst wahrnehmbar ist"<sup>4</sup>, betonte am 13. Oktober 1955 in einer anderen Rede in Bezug auf das Erfordernis des positiven Rechts das, "was nach den Grundsätzen der Natur nicht mit Sicherheit feststand und das zu ergänzen, worüber die Natur schwieg"<sup>5</sup>.

#### *Pluralität in der demokratischen Staatswillensbildung*

Differenziert sind die der *Rechtssetzung* im Verfassungsstaat *auf dem Weg der demokratischen Staatswillensbildung* sich stellenden Ordnungsprobleme. Nicht alle Menschen haben angesichts der vielfachen Pluralität der Gesellschaft die gleiche Einsicht auf verschiedenen Gebieten, z.B. beginnend mit dem Recht auf Leben und der Anerkennung von Ehe und Familie. *Nicht jeder positive Rechtssatz ist* auch, wie bereits betont, *präpositiv bedingt*, und wo dies der Fall ist, wie z.B. bei Grundrechten, führt dies bei verschiedenen Völkern und Staaten bisweilen auch zu verschiedenen Rechtsansichten und Naturrechtsauffassungen. Es bedarf daher im demokratischen Verfassungsstaat der zur Rechtssetzung führenden Staatswillensbildung. *Das Verfassungsrecht* ist dabei *der normative Ausdruck eines höchstrangigen und höherwertigen Rechts*, dem gerade bei der Pluralität an Ansichten und Wertungen im öffentlichen Leben eine entscheidende integrative und stabilisierende Bedeutung zukommt. Im Verfassungsrecht muß nämlich von mehreren, unter Umständen gleich

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<sup>4</sup> *Aufbau und Entfaltung des gesellschaftlichen Lebens - Soziale Summe Pius XII.*, hrsg. von Arthur Fridolin Utz, und Joseph-Fulko-Groner, 1. Band, Freiburg 1954, Nr. 388.

<sup>5</sup> UTZ - GRONER, 3. Band, Nr. 6286.

wichtigen und bedeutenden Möglichkeiten die demokratisch erfolgreich vertretbare Möglichkeit beschlossen werden. Wo es sich um einen präpositiv, etwa im Naturrecht erkennbaren Rechtssatz, wie z.B. im Bereich der Grundrechte, handelt, stehen nicht selten mehrere Erfüllungsmöglichkeiten offen.

Der Verfassungsstaat bietet angesichts der *Pluralitäten* durch seine Möglichkeit der Rechtssetzung einen Beitrag zur Rechtssicherheit; er führt nämlich zu einer *Entscheidung* für die Anerkennung einer bestimmten Wertung, sei es durch Einsicht in präpositives Recht, wie es das Naturrecht ist, sei es *durch einen politischen Meinungs- und Willensbildungsprozeß*, wie immer er bedingt sei.

In diesem Zusammenhang sei auf Arthur F. Utz verwiesen, der schon hervorhob: "Von den Übertreibungen, die der Begriff der Allgemeingültigkeit der Natur in der Naturrechtsphilosophie über sich ergehen lassen mußte, einmal abgesehen, kann man doch nicht leugnen, daß jeder Rechtspolitiker namentlich heute das Bestreben hat, die Rechtsentwicklung auf feste Grundlagen zu stellen, um Unerträglichkeiten des gesellschaftlichen Zusammenlebens möglichst zu verhindern."<sup>6</sup> Er stellt bezüglich des Menschen fest, es "liegt in dem, was wir die Natur des Menschen nennen, etwas, von dem wir wissen, daß es trotz aller in der Zeit erfahrungsgemäß durchgemachten Veränderungen einen Grundbefund besitzt, der unverlierbar ist. Wie anders könnte man von der Würde des Menschen sprechen, die wir für jede Zeit und jede Erfahrung als realgültige Norm unseres zwischenmenschlichen Handelns zu respektieren haben?"<sup>7</sup> und erkennt zu deren Schutz: "Da es über der Staatsgewalt keine rechtsetzende Macht mehr gibt, müssen zur Rettung der Person deren ver Rechte konstitutionell verbrieft werden"<sup>8</sup> und warnt vor einem "Erkenntnis pessimismus"<sup>9</sup>.

Die Menschen- und Grundrechtsentwicklung und mit ihr viele Tendenzen der *Entwicklung zu einer humanen Rechts- und Staatsordnung* zeigen, daß es ein Maß an Einsicht in präpositive Bezüge und ein für das positive Recht nicht irrelevantes Naturrechtsdenken gibt; daneben gibt es aber *auch wertneutrale Ordnungsfragen*, wie z.B. die Wahl einer Landeshauptstadt oder die Entscheidung für die Links- oder Rechtsfahrordnung auf der Straße. Generelle Abgrenzungen von allge-

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<sup>6</sup> ARTHUR F. UTZ, *Auf der Suche nach der Natur des Menschen - Ein Beitrag zum Begriff der Natur in der Naturrechtslehre*, in: *Das Naturrechtsdenken heute und morgen, Gedächtnisschrift für René Marcic*, hrsg. von Dorothea Mayer-Maly und Peter M. Simons, Berlin 1983, S. 941.

<sup>7</sup> UTZ,, a.a.O., S. 942 f.

<sup>8</sup> UTZ,, a.a.O., S. 944.

<sup>9</sup> UTZ,, a.a.O., S. 946.

meiner Gültigkeit werden sich aber nicht treffen lassen; sie hängen mit vom geistigen Bewußtsein und der politischen Verantwortung des jeweiligen Volkes sowie seiner Repräsentanten im betreffenden Staat ab, z.B. ob und wie Demokratie in welcher Staatsform verwirklicht wird, welche Grundwerte, Grundpflichten und Grundrechte anerkannt werden sowie in welchen Grundrechtsformen welche Grundrechtswerte positiviert und damit geschützt werden. *Aus dem Verfassungsrecht des jeweiligen Staates* kann das *Wertbewußtsein eines Volkes* und seiner Repräsentanten mehr oder weniger *deutlich* entnommen werden. Die Pluralität der zu ordnenden Probleme und ihre Bewältigung wird darin deutlich, vor allem der Umstand, daß jeder Staat zur Herstellung und Aufrechterhaltung seiner Ordnung des positiven Rechts und einer Verfassung bedarf.

#### *Zur Verfassung im formellen Sinn*

Wie es das Wort Verfassung ausdrückt, handelt es sich hier überhaupt um ein Verfaßtsein, nämlich um einen Zustand. *Die Verfassung eines Staates* verdeutlicht den *Zustand eines Gemeinwesens*. Wenn sie in positiven Rechtssätzen im Verfassungsrang die normativrechtliche Grundordnung eines Staates ausdrückt, stellt sie die Verfassung im formellen Sinn dar. Dieses Verfassungsrecht kann wie z.B. im Grundgesetz der Bundesrepublik Deutschland in einem einzigen Gesetz oder wie in Österreich in einer Mehrzahl von Verfassungsrechtsquellen enthalten sein. So ist in Österreich Verfassungsrecht in Verfassungsgesetzen des Bundes und der Länder, in einfachen Gesetzen enthaltenen Verfassungsbestimmungen sowie in verfassungsändernden Staatsverträgen enthalten; die wichtigste Verfassungsrechtsquelle ist dabei das Bundes-Verfassungsgesetz 1920 mit seinen vielen bis heute ergangenen Novellen.

Das Entstehen eines *Verfassungsbewußtsein* ist in einem Staat mit einer Vielzahl von Verfassungsrechtsquellen sehr schwierig; wir sehen das deutlich in Österreich.

Verfassungsrecht kommt zum Unterschied von einfachem Gesetzesrecht durch einen erschwerten Weg der Rechtssetzung zustande; so durch qualifiziertes Präsenz- und Konsensquorum, bisweilen verbunden mit noch folgender Volksabstimmung, die sie z.B. in Österreich für eine Totaländerung des Verfassungsrechtes obligatorisch ist, und der besonderen Kennzeichnung in einem Kundmachungsorgan. Manche Staaten beschließen Verfassungsrecht in einem eigenen verfassungsgebenden Organ, andere wieder auf dem Weg normaler Gesetzgebung nur in qualifizierter Form.

## IV.

## VERFASSUNGSRECHT ALS KODIFIZIERTE POLITIK

*Form und noch mehr Inhalt des Verfassungsrechts* erweisen sich bereits bei ihrer Entstehung und noch mehr in ihrer Weiterentwicklung als *kodifizierte Politik*. Es verlangt einen ständigen Meinungs- und Willensbildungsprozeß im öffentlichen, vor allem aber im parlamentarischen Leben. Auf diese Weise steht die Verfassung in der Form des positiven Rechts auch im Dienst der Demokratie und drückt mit der Pluralität in der Demokratie natürlich auch kompromißhaft das politische Bewußtsein und damit auch die Werthaltung im Staat einer bestimmten Zeit aus. Aus einer Mehrzahl von rechtspolitischen Möglichkeiten entscheidet sich der Verfassungsgesetzgeber für eine, welche Inhalt des Verfassungsrechtes wird. Der *Rechtssetzungsakt des Verfassungsgesetzgebers* bietet auch die *Gelegenheit, die Pluralität der Anschauungen aufzuheben und einen Wert höchstrangig der gesamten Rechtsordnung zur Ausführung vorzuschreiben*. Auf diese Weise kann der Verfassungsgesetzgeber der Rechtsordnung eines Staates eine Wertordnung zugrunde legen, welche vor allem auch mit Grundrechten und Grundpflichten einem staatlichen Gemeinwesen eine bestimmte ethische Grundlage gibt; er kann aber auch in positivistischer Werteneutralität davon Abstand nehmen.

*Verfassungsrecht und einfaches Gesetzesrecht*

Je mehr der Verfassungsgesetzgeber schweigt und keine Wertentscheidung trifft, desto größer wird der Entscheidungsraum für den einfachen Gesetzgeber und damit auch für politische Entscheidungen nach den jeweiligen Mehrheiten. Die *Unterscheidung von Verfassungsrecht und einfachem Gesetz* ist auch deshalb so *wesentlich*, weil das Verfassungsrecht den Maßstab für die übrige Rechtsordnung vorgibt. *Je geringer im Verfassungsrecht dessen wertender, nämlich ethischer und rechtspolitischer Gehalt ist, desto größer wird die Dispositionsfreiheit der politischen Kräfte im Parlament auf der Ebene einfacher Gesetzgebung* und desto mehr nimmt aber auch der Schutz vor tagespolitischer Willkür ab. In dieser Sicht kommt dem *Verfassungsrecht* auch die *Bedeutung eines qualifizierten Minderheitenschutzes* zu.

Durch die Aufnahme in *das Verfassungsrecht* wird dem Staat eine der bloßen Tagespolitik anheimgestellte Entscheidung des Gesetzgebers betreffend die Grundordnung des Staates unmöglich gemacht. Sie soll *über die politische Augenblickslage hinaus wirken*. Verfassungsrecht soll auf *längere zeitliche Dauer ausgerichtet* sein. Aus diesem Grund ist es mit

den Grundsätzen und Anliegen des demokratischen Verfassungsstaates *nicht vereinbar, wenn Verfassungsbestimmungen nur auf eine gewisse Zeit beschlossen* werden. Das Verfassungsrecht *verliert sich* damit *ins Provisorische und Experimentelle* und — dies ist besonders wichtig für die Grundrechte, deren Schutz und Interpretation — *verliert an normativer Kraft*.

### *Gliederung des Verfassungsrechtes*

Betrachtet man den *Gehalt der demokratischen Verfassungsstaatlichkeit*, so enthalten die Verfassungen *die Regelung der Staatsorganisation*, nämlich die Ausübung der drei Staatsfunktionen Gesetzgebung, Gerichtsbarkeit und Verwaltung *sowie die Regelung der Beziehung zwischen dem Einzelmenschen und dem Staat in Grundrechten*. Diese hauptsächlich anzusehende *Zweiteilung in den Verfassungsurkunden* ist besonders deutlich geworden vor mehr als zwei Jahrhunderten in der *nordamerikanischen Verfassungsentwicklung* von den Pflanzungsverträgen der Siedler zu den Verfassungen der Kolonien der englischen Krone und letztlich zur Verfassung der USA: Es war eine *Zweiteilung in Frame of Government und in Bill or Declaration of Rights*.

### *Zur Entwicklung der Verfassungsstaaten*

In der Entwicklung der Verfassungsstaaten zeigt sich *ein Weg zur Konstitutionalisierung und Demokratisierung der Staaten* sowie auch zu einer Verbundenheit von Demokratismus und Liberalismus, was sich vor allem auch im Gehalt des demokratischen Rechtsstaates, nämlich des Gesetzesstaates dokumentiert.

*Der Liberalismus* war auf eine Vorhersehbarkeit und Berechenbarkeit des staatlichen Handelns *und der Demokratismus* auf die Rechtssicherheit durch die Bindung des Staatshandelns an auf dem Weg demokratischer Staatswillensbildung zustande gekommener Gesetze gerichtet.

### *Das Gesetz*

*Das Gesetz* als generell abstrakte Regelung ist ein bestimmter Ausdruck an Gleichheit und Gerechtigkeit; denn diese Regelung gilt für jeden der folgenden Anlaßfälle und vermag so in gewisser Weise im Rechtsleben einer *Emotionalisierung entgegenzuwirken und zur Objektivierung beizutragen*.

Ein *Gesetz*, welches nicht generell für alle möglichen folgenden



Rechtsfälle, sondern *nur für einen konkreten Anlaß als Einzelmaßnahme* gedacht und beschlossen wird, wäre daher als *mit dem Grundsatz demokratischer Rechtsstaatlichkeit unvereinbar abzulehnen!*

### *Zur Kunst der Gesetzgebung*

*Die Kunst der Gesetzgebung* im allgemeinen und der Verfassungsgesetzgebung im besonderen besteht vor allem darin, einen vorhersehbaren und berechenbaren *Zusammenhang von Allgemeinem und Konkretem* im Rechtsleben, besonders von Rechtssetzung und Rechtsvollziehung zu ermöglichen.

Hans Zacher hat treffend geschrieben: "Das Allgemeine muß das Konkrete ermöglichen, legitimieren; und das Konkrete muß am Allgemeinen meßbar sein. Das Dauernde muß der Veränderung Raum geben und die Veränderung muß an Dauerndes gebunden sein."<sup>10</sup> Es wäre aber falsch, bei allem Zusammenhang im sogenannten Stufenbau der Rechtsordnung anzunehmen, daß ein Automatismus der Verfassung und Rechtskonkretisierung Platz greifen kann; das ist nicht der Fall, auf all den bereits genannten Stufen ist *für alle Rechtssatzformen jeweils eine neue Rechtsfindung und Rechtssetzung* vom Verfassungsrecht bis zu dem in einem Vollstreckungsakt auszuführenden Gerichtsurteil und Verwaltungsbescheid *notwendig*. Im Rahmen des verfassungsrechtlich Zulässigen und des positivrechtlich zu Beschließenden ergibt sich hiefür das Erfordernis der Vereinbarkeit von rechtlich Zulässigem und politisch Gewolltem; ein Messen an Werten ist in dem Zusammenhang nicht auszuschließen; im Gegenteil es ist notwendig!

### *Stufenbau der Rechtsordnung*

*Auf allen Stufen der Rechtsordnung* ist es erforderlich, einerseits das *Verfassungsrecht zu konkretisieren* und andererseits sich jeweils *einer eigenen Rechtsfindung* für die Beschlußfassung eines einfachen Gesetzes im Parlament, für das Erlassen einer Verordnung und für den Bescheid der Verwaltungsbehörde sowie für das Urteil bei Gericht *zu befleißigen*. Diese Rechtsfindung zeugt für die Dynamik des Rechtslebens, sei es in der Auseinandersetzung, die zur auch einfachen Gesetzgebung führt, sei es aber auch für *die Vollziehung der Gesetze* im Bereich von Gerichtsbarkeit und Verwaltung, die in einer Verwobenheit von Sollen und Sein eine *dem*

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<sup>10</sup> HANS ZACHER, *Was kann der Rechtsstaat leisten?* in: Verfassungsstaatlichkeit, Festschrift für Klaus Stern zum 65. Geburtstag, hrsg. von Joachim Burmeister, München 1997, S. 396 f.

*Verfassungsauftrag angepaßte Lebensbewältigung mit Sozialverständnis* zum Inhalt hat. Unter Beachtung der Grundsätze der Verfassung haben die Organe der Gesetzgebung und Vollziehung *auf den einzelnen Ebenen der Rechtsordnung* in jeweiliger Eigenverantwortung Entscheidungen der Rechtssetzung und Rechtsfindung zu treffen, die *das rechtlich Gebotene mit dem politisch Zumutbaren* meist zu vereinbaren suchen.

#### *Zur Notwendigkeit der Rechtsinhaltsbetrachtung und Rechtsethik*

Das Ergebnis der Verfassungskonkretisierung sollte auch *ethisch vertretbar sein, ist es aber nicht immer*. Nach den Erfahrungen mit und in den verschiedensten Staaten mit autoritären und totalitären Regimen wissen wir, wie sehr *auch im Namen des Rechts Unrechtes* getan werden kann und der Rechts- und Verfassungsstaat nicht der Gerechtigkeit, sondern dem Unrecht dienen kann. Eine solche Entwicklung ist durch eine bloß formelle Sicht des Rechtsstaates möglich, d.h. eines Staates, dem es nicht um den Inhalt, sondern primär um die Form des Rechtssatzes geht. Das ist die Sicht des *Rechtspositivismus*, wie ihn in diesem Jahrhundert Hans Kelsen vertreten hat. Adolf Merkl, der sein Schüler und mein Lehrer war, hat sich in seinem Lebensabend von dieser Rechtsauffassung abgewendet und einer mehr inhaltlichen Rechtsbetrachtung zugewendet. Er stellte in Bezug auf das Recht fest: "Weil dieses aber als all zu menschliche Einrichtung zwischen dem Versuch und der Karikatur der Gerechtigkeit schwankt, bedarf die Rechtstheorie der Ergänzung durch eine Rechtsethik."<sup>11</sup> Für ihn *genügte* daher *nicht mehr* eine *bloße Rechtsformenlehre*, er verlangte *vielmehr* eine *Rechtsinhaltsbetrachtung* und eine *Rechtsethik*; oft sagte er, es gäbe Zeiten, in denen es ehrenwerter sein kann, durch den Staat als für den Staat zu sterben!

## V.

### RECHTS- UND VERFASSUNGSSTAAT IM MATERIELLEN SINN

Seit Beendigung von autoritären und totalitären Regimen in Europa hat der *Rechtsstaat* und mit ihm auch der *Verfassungsstaat* einen *materiellen Charakter angenommen*, d.h. eine bestimmte inhaltliche Wertigkeit angestrebt. Sie hängt ganz wesentlich mit den Einrichtungen zusammen, die in einem Staat eine demokratische Willensbildung ermöglichen und dieses politische Ordnungssystem sichern. Diese Einrichtungen drücken

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<sup>11</sup> ADOLF MERKL, *Zum 80. Geburtstag von Hans Kelsen - Reine Rechtslehre und Moralordnung*, Österreichische Zeitschrift für öffentliches Recht, Band XI, Heft 3-4, Wien 1961, S. 313.

das politische Bewußtsein der Bevölkerung, die Entwicklungstendenzen einer Gesellschaft sowie nicht zuletzt das Schutz- und Sicherheitsbedürfnis des Einzelmenschen aus.

Die für die Vorhersehbarkeit und Berechenbarkeit des Staates und seiner Rechtshandlungen notwendigen *Einrichtungen bedürfen der Verbundenheit mit einem adäquaten Rechtsinhalt*, der von einer entsprechenden Verfassungsgrundlage ausgeht.

#### *Einrichtungen des demokratischen Rechts- und Verfassungsstaates*

Die *Ordnung des demokratischen Rechts- und Verfassungsstaats* dokumentiert sich in bestimmten *Einrichtungen und Vorschriften*, wie dem demokratischen Wahlrecht, der Verfassungsmäßigkeit allen Staatshandelns, den Grundrechten, der Gesetzmäßigkeit der Vollziehung, der Ministerverantwortung, der Unabhängigkeit der Gerichte, der Justizmäßigkeit der Verwaltung, der Teilung der Gewalten in die drei Staatsfunktionen der Gesetzgebung, Gerichtsbarkeit und der Verwaltung, der Kontrolle der Regierung durch das Parlament, der Verfassungs- und Verwaltungsgerichtsbarkeit, der Rechnungs- und Gebarungskontrolle und der Amtshaftung. *Der demokratische Verfassungsstaat macht vor allem durch die Grundrechte den Einzelmenschen dem Staat ebenbürtig!*

#### *Die Verfassungsgerichtsbarkeit*

Dem Schutz der Verfassung und damit auch der Demokratie und des Rechtsstaates dient *die Verfassungsgerichtsbarkeit*. Sie setzt die Unterscheidung von Verfassungsrecht und einfachgesetzlichem Recht voraus. Die Entwicklung der Verfassungsgerichtsbarkeit ist ein bedeutender Teil der Geschichte und damit auch des Werdens des Verfassungsstaates und des Schutzes der Ordnung. In ihren *Zusammensetzungen* und ihren Kompetenzen sind die einzelnen Verfassungsgerichte Ausdruck der politischen und rechtlichen Ordnung eines Staates. Das zeigt schon die *Bestellung der Richter eines Verfassungsgerichtes*, die meist im Einvernehmen mit mehreren Organen, wie z.B., Staatsoberhaupt, Parlament und Regierung, erfolgt, sowie in den Vorschriften über deren Unvereinbarkeit mit anderen Berufen und Funktionen.

Was die *Zuständigkeiten* der Verfassungsgerichte betrifft, gibt es *zwei Typen solcher Höchstgerichte*, zunächst die mit umfassender Zuständigkeit, die also in gleicher Weise für Verfassungsrecht wie für Straf- und Zivilrecht zuständig sind, und solche Verfassungsgerichte, die nur für Verfassungsfragen Kompetenz haben.

Bereits zu Beginn der französischen Revolution hat Emanuel Joseph Sieyès eine Art Verfassungsgerichtsbarkeit vorgeschlagen, ohne daß diese verwirklicht worden wäre. Von wegweisender Bedeutung wurde die Entscheidung des Supreme Court der USA in der Rechtssache Marbury versus Madison, 1803, in welcher der Supreme Court die Prüfung von Gesetzen für sich in Anspruch nahm. Was aber nicht in einem eigenen Verfahren, sondern in einer sogenannten inzidenten Kontrolle mit Wirkung nur für den konkreten Anlaßfall erfolgte.

Der *Durchbruch zu einer eigenen Verfassungsgerichtsbarkeit*, die zu Entscheidungen über spezifische Verfassungsrechtsfragen und damit vor allem auch für die Gesetzesprüfung und den Schutz der Grundrechte zuständig ist, erfolgte als Folge der Lehre von Hans Kelsen über die Normenkontrolle *durch den österreichischen Verfassungsgerichtshof im Bundes-Verfassungsgesetz 1920*. In diesem Jahr hat es in Europa neben dem österreichischen Verfassungsgerichtshof nur noch den der Tschechoslowakei gegeben, der aber kaum in Funktion getreten ist. 1921 kam es zur Errichtung des Staatsgerichtshofes von Liechtenstein.

*Nach dem 2. Weltkrieg* und der Zeit eines Mißbrauchs des positiven Rechts zu Unmenschlichkeiten hat die *Zahl der Verfassungsgerichtshöfe*, die ausschließlich für Verfassungsrecht kompetent sind, *zugenommen*. Hier gilt es die Verfassungsgerichte Deutschlands, Italiens, Frankreichs, Jugoslawiens, Spaniens, der Türkei und nach der politischen Wende 1989 vor allem auch die Verfassungsgerichte in Mittel- und Osteuropa einschließlich des heutigen Rußlands, zu nennen.

Es gibt aber noch andere Gerichte, die zwar nicht ausdrücklich als Verfassungsgerichte bezeichnet sind, aber Verfassungsgerichtsbarkeit ausüben, das ist das Bundesgericht in der Schweiz und die Höchstgerichte in Belgien, Griechenland und Zypern.

*Höchstgerichte mit umfassender Zuständigkeit* sind besonders der jeweilige Supreme Court der USA, jener Indiens und Kanadas. *Zu keiner Form der Verfassungsgerichtsbarkeit ist es in Großbritannien gekommen*. Eine Prüfung der Verfassungsmäßigkeit parlamentarischer Akte durch ein Gericht ist mit dem Verständnis des britischen Parlamentarismus nicht vereinbar.

Auf Grund seiner weiten Kompetenz und seiner Rechtsprechung ist das *Bundesverfassungsgericht der Bundesrepublik Deutschland* zum *Vorbild* der Verfassungsgerichtsbarkeit geworden. Besonders sei auch darauf verwiesen, daß in Deutschland das Bundesverfassungsgericht ermächtigt ist, Gesetze nicht nur an der Verfassung, sondern auch an dem im Grundgesetz (Art. 20) vorausgesetzten überpositiven Recht zu messen. Mit dem Bundesverfassungsgericht wurde *auch das Bonner Grundgesetz* in den letzten Jahrzehnten *für viele Staaten der Welt*, welche die demokratische Verfassungsstaatlichkeit anstrebten, nach autoritären Regimen zum *Vorbild*.

In diesem Zusammenhang sei darauf verwiesen, daß ein Verfassungsgericht durch seine Judikatur für einen demokratischen Verfassungsstaat von grundlegender Bedeutung für die Entwicklung der gesamten Staatsrechtsordnung ist; sie hat, was vor allem in der Rechtsprechung über die Grundrechte deutlich wird, eine über den Einzelfall hinausgehende rechtsgestaltende Kraft!

Was für die Verfassungsgerichtsbarkeit als Schutz von Höchstwerten und Grundrechten innerhalb eines Staates gilt, ist auch von Bedeutung für die Höchstgerichtsbarkeit im Hinblick auf die internationale Ebene; in diesem Zusammenhang sei auf den Europäischen Gerichtshof für Menschenrechte und auf den Gerichtshof der Europäischen Gemeinschaften verwiesen.

Wie das Beispiel der Verfassungsgerichtsbarkeit zeigt, prägen die *Institutionen des Staates* die Verfassung ihrem Inhalt nach und vermitteln Wertigkeiten. Je allgemeiner das Verfassungsrecht gehalten ist, desto größer ist die Verantwortung des einfachen Gesetzgebers für ihre Konkretisierung und ist aber Recht und Unrecht möglich. Diese Grundsätze und Einrichtungen der Verfassung sind bisweilen, wie z.B. die Gewaltenteilung oder die Grundrechte, von klassischer Bedeutung, sie sind aber auch von zeitbedingten Umständen begleitet.

### *Zur Gewaltenteilung*

So war z.B. *die Gewaltenteilung*, deren Ideengeschichte von Hesiod über Aristoteles und John Locke bis zu Montesquieu reicht, in ihrer klassischen Prägung eine Teilung der drei Staatsfunktionen Gesetzgebung, Gerichtsbarkeit und Verwaltung zum Zweck wechselseitiger Kontrolle. In einer Zeit, in welcher nicht mehr, wie in der Monarchie, der Monarch und die von seinem Vertrauen getragene sowie von ihm ernannte Regierung sich mit dem Parlament konfrontieren und gegenseitige Kontrolle ausüben, hat sich die Gewaltenteilung in einem Staat mit einem parlamentarischen Regierungssystem zu einem solchen zwischen der die Regierung bildenden parteipolitischen Gruppierung einerseits und der Opposition andererseits gewandelt. Konfrontierende und kontrollierende Teilung der Staatsgewalt *im Sinne von Machtverteilung* ist heute in einem Föderalstaat auch zwischen Bund und Ländern sowie zwischen Politikern und Beamten, Staats- und Selbstverwaltung, parlamentarischer und außerparlamentarischer Willensbildung, wie sie die Massenmedien betreiben, weiters zwischen parlamentarischer und plebiszitärer Demokratie, zwischen Parteien und Interessenverbänden und nicht zuletzt zwischen Kirche und Staat gegeben.

Diese *verschiedenen Formen der Gewaltenteilung* sind *unterschiedlich bedingt*, verfassungsrechtlich begründet, aber von einer zeitgemäßen Form

der Kontrolle durch Möglichkeiten von balance of power begleitet. Sie ermöglichen Transparenz im Staat und so auch eigenständiges Mitdenken des Einzelnen in der Politik.

## VI.

### ABGESTIMMTHEIT VON VERFASSUNGSEINRICHTUNGEN

Diese *Kennzeichen demokratischer Rechts- und Verfassungsstaatlichkeit* bestehen nicht neben-, sondern miteinander, sie *stehen* nahezu *in einem bedingenden bedingten Zusammenhang*. So schließt die Ministerverantwortlichkeit der obersten Vollzugsorgane die Weisungsgebundenheit und Gehorsamspflicht der öffentlichen Bediensteten, welche ihnen nach- und zugeordnet sind und für die sie einstehen müssen, mit ein. Es bedarf daher der Überprüfbarkeit des Verwaltungshandeln durch die Verwaltungsgerichtsbarkeit. Es verlangt weiters die Demokratisierung und damit Politisierung des Staates auf allen Stufen der Rechtsordnung die weitere Gerichtsbarkeit, vor allem die Verfassungsgerichtsbarkeit, welche insbesondere eine Überprüfung der Gesetze, Verordnungen, Bescheide, Wahlen und der Ministerverantwortlichkeit auf ihre Verfassungs- bzw. Gesetzmäßigkeit vorsieht. *Wo die Verfassungsgerichtsbarkeit durch Politik behindert oder beschränkt wird, gefährdet diese ihre eigene Legitimation!* Dies ist der Fall, wenn wie z.B. in Österreich der Verfassungsgerichtshof keine Zuständigkeit zur Überprüfung von Verfassungsbestimmungen auf ihre Verfassungsmäßigkeit hat und deshalb das Parlament gelegentlich *einzelne Gesetzesbestimmungen in den Verfassungsrang erhebt und so deren Überprüfung durch den Verfassungsgerichtshof verhindert*.

#### *Demokratisierung und Jakobinisierung*

In gleicher Weise kommt es darauf an, die Beamten und Richter in der Vollziehung der Gesetze nicht zu beeinflussen und *nicht die Bürokratie gegen die Demokratie auszuspielen*, stehen sie doch *beide im Dienst des demokratischen Rechts- und Verfassungsstaates*; für diesen ist eine ausgewogene Ordnung von Wichtigkeit und können z.B. Berufsbeamte und Berufsrichter, welche ernannt werden und in der Vollziehung den obersten Vollzugsorganen, welche vom parlamentarischen Vertrauen getragen sind, verantwortlich sind, konsequenter die auf dem Weg parlamentarischer Staatswillensbildung beschlossenen Gesetze ausführen als Vollzugsorgane, welche sich in zeitlichen Abständen, wie politische Mandatäre, in Wahlgängen Vertrauensabstimmungen stellen müssen. Würden nämlich nicht nur die Gesetzgebung, sondern auch die Gerichtsbarkeit und

Verwaltung in gleicher Weise demokratisiert werden, würden diese *Gefahr* laufen, zu *einer Jakobinisierung* zu führen, d.h. zu einer nicht vorhersehbaren und unberechenbaren politischen Willensbildung, welche auf Kosten des Vorranges der Gesetzgebung und der Verfassungskonkretisierung geht, deren Zusammenhang mit den übrigen Stufen der Rechtsordnung so verloren gehen kann.

### *Möglichkeiten und Grenzen der direkten Demokratie*

Ähnlich müssen die *Möglichkeiten und Grenzen der Einrichtungen der direkten Demokratie* gesehen werden. Diese können vor allem mit Volksbegehren, Volksabstimmung und Volksbefragung eine wertvolle Ergänzung des freien Mandats der Abgeordneten sein, z.B. als Volksabstimmung in einer wichtigen Frage von Politik und Recht. Sie können, wie bei einer Totaländerung der Verfassung, das letzte Wort, bei einem Volksbegehren das erste Wort als Gesetzesanregung haben und bei einer Volksbefragung eine Entscheidungshilfe sein. *All diese plebiszitären Verfassungseinrichtungen haben unterschiedliche verfassungsrechtliche Bedeutungen*, sie können aber zur Bürgernähe der Demokratie beitragen; sie sind jedoch dann *abzulehnen*, wenn sie die *parlamentarische Staatswillensbildung nicht ergänzen, sondern zu ersetzen suchen*. Dies würde nämlich *nicht zur Demokratisierung, sondern vielmehr ebenfalls zu einer Jakobinisierung führen*, das heißt, sie würden nicht die Rechtsordnung in einer den Grundsätzen der Verfassungsstaatlichkeit entsprechenden Form der Vorhersehbarkeit und Berechenbarkeit weiter ausführen und damit die gesetzgebende Verantwortung der Volksvertreter zum Tragen bringen, sondern vielmehr eine tagespolitische Entscheidung von jeweiligen Einzelinteressen auf dem Wege plebiszitärer Selbsthilfe herbeiführen. Ludwig Adamovich hat bereits festgestellt: "Grundsätzlich ... ist die plebiszitäre Entscheidung von Einzelfällen wohl der größte Verstoß gegen Grundprinzipien der rechtsstaatlichen Demokratie, den man sich vorstellen kann."<sup>12</sup> Aus diesem Grund sieht z.B. das österreichische Bundes-Verfassungsgesetz für eine Volksbefragung vor, daß sie nur über eine Angelegenheit von grundsätzlicher und gesamtösterreichischer Bedeutung, zu deren Regelung der Bundesgesetzgeber zuständig ist, stattfinden kann, nicht aber über Wahlen sowie Angelegenheiten, über die ein Gericht oder eine Verwaltungsbehörde zu entscheiden hat.<sup>13</sup>

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<sup>12</sup> LUDWIG ADAMOVICH, *Demokratie und Rechtsstaat*, in: *Dimensionen und Perspektiven des Rechts*, Festschrift für Wilhelm Rosenzweig, Wien 1988, S. 38.

<sup>13</sup> Art. 49 b B-VG.

## VII.

## DIE GRUNDRECHTE

*Der demokratische Rechts- und Verfassungsstaat verlangt eine ausgewogene Abgestimmtheit der verschiedenen Grundsätze und Einrichtungen der Verfassung. Das Gleiche gilt auch in Bezug auf die Grundrechte.* Diese sichern die Stellung des Einzelmenschen gegenüber dem Staat. Mit dem Sicherheits- und Schutzbedürfnis der Menschen haben sich die Grundrechte weiterentwickelt; sie drücken damit auch eine bestimmte Werthaltung und ein Freiheitsbedürfnis aus. Sie sind nämlich als *demokratische Grundrechte*, wie z.B. das Wahlrecht, die Vereins- und Versammlungsfreiheit, auf eine Freiheit im Staat gerichtet, als *liberale Grundrechte* auf eine Freiheit vom Staat, wie die Glaubens-, Gewissens- und Meinungsfreiheit, als *soziale Grundrechte* auf eine Freiheit durch den Staat, wie z.B. das Recht auf Arbeit, auf freie Berufs- und Arbeitsplatzwahl, auf Fürsorge, auf soziale Sicherheit, auf Rehabilitation etc.; dazu gibt es auch *Grundrechte des wirtschaftlichen Lebens*, wie den Schutz des Eigentums, der Erwerbsfreiheit, der Freizügigkeit der Person und des Vermögens und in den letzten Jahren Grundrechte, die auf die Existenz des Menschen und auf den Umweltschutz bezogen sind; ich bezeichne sie als *existentielle Grundrechte*, wie z.B. vor allem das Recht auf Leben, sowie das Recht auf die Reinheit der Luft und des Wassers sowie den Schutz vor Lärm.

Mit der Entwicklung des Lebens und seiner Schutzbedürfnisse entwickelte sich auch das System der Grundrechte und ihres Schutzes. So waren diese früher als klassische Grundrechte, nämlich als demokratische und liberale Grundrechte auf eine Freiheit im und vom Staat mehr oder weniger auf ein Unterlassen obrigkeitlichen Handelns gerichtet, so sind sie in den letzten Jahrzehnten hingegen in einem vermehrten Maße aber auf ein Tun des Staates abgestellt. Manche dieser Grundrechte lassen sich nicht hundertprozentig kategorisieren, z.B. der Gleichheitsgrundsatz, er ist sowohl ein liberales, demokratisches wie soziales Grundrecht.

Leider fehlt die Zeit, um näher auf die einzelnen Grundrechte in ihrer heutigen Bedeutung für den demokratischen Rechts- und Verfassungsstaat einzugehen. Zwei Hinweise sollen aber in diesem Zusammenhang noch ergänzend und abrundend gegeben werden, nämlich auf das *Verhältnis von Grundrechtswert und Grundrechtsform* sowie von *Grundrechtswürdigkeit und Grundrechtsfähigkeit*. Auch in diesen beiden Problemstellungen drücken sich Beziehungen von Wert und Recht aus.

*Das Menschenbild*

Wie bereits im Zusammenhang mit der Einteilung der Inhalte der Grundrechte betont, sind sie auf verschiedene Grundrechtswerte bezogen.



Damit sie aber dem ihnen zugrunde liegenden gemeinsamen *Menschenbild* entsprechen können, bedürfen sie eines auf diese Werte abgestellten Grundrechtsschutzes *in entsprechenden Grundrechtsformen*. Solche sind vor allem für die klassischen Grundrechte, die kein Tun, sondern ein Unterlassen des Staates verlangen, das subjektive öffentliche Recht, weiters der Programmsatz, die Einrichtungsgarantie und die Organisationsvorschriften. Besonders im Hinblick auf die letzte aktuelle Grundrechtsentwicklung, wie etwa bei den wirtschaftlichen, sozialen und existentiellen Grundrechten kommt es darauf an, die *für den einzelnen Grundrechtswert entsprechende Grundrechtsform zu finden*, damit nicht das ihnen zugrunde liegende gleiche Menschenbild Schaden leidet. So würde nämlich die für alle, auch für die sozialen Grundrechte vorgesehene Positivierung als subjektiv öffentliches Recht, z.B. als Recht auf Arbeit, zu einem Dirigismus und damit auch zur Pflicht auf Arbeit führen; die Folge wäre z.B. keine soziale Marktwirtschaft, sondern eine dirigistische Planwirtschaft, die schließlich nicht zum Schutz der Freiheit, sondern auf deren Kosten gehen würde; genauso wird man im Wirtschafts- und Sozialleben nur das auf den Einzelnen verteilen können, was man vorher in einem Miteinander von Arbeitgeber und Arbeitnehmer erwirtschaftet hat. *Der soziale Rechtsstaat und der demokratische Verfassungsstaat verlangen eine Ausgewogenheit im Denken und Handeln!*

Diese Ausgewogenheit ist auch in Bezug auf die Tatsache erforderlich, daß nicht alles, was *grundrechtsfähig* auch *grundrechtswürdig* ist, z.B. in Bezug auf ethische Werte, wie Menschenliebe, Nächstenhilfe, Verständnis, Barmherzigkeit, Entgegenkommen und Rücksichtnahme. Wer hat selbst noch nicht derartige Grundbedürfnisse gespürt, etwa auch auf Alleinsein und in Ruhe gelassen zu werden! All dies sind persönliche Anliegen und Wünsche, die sich nicht immer in Rechtsansprüche, auch nicht in Grundrechte fassen lassen.

#### *Staatszwecke und Staatsziele*

Die *Grundrechte* bestimmen zwar das Verhältnis vom Einzelnen zum Staat. Sie sind aber darüber hinaus mit der *Grenzziehung der Möglichkeiten des Staates* in bestimmter Weise auch für die *Staatszweck- und Staatszielbestimmung* in einer Staats- und Verfassungsordnung von Bedeutung, welche noch zunimmt, wenn eine Verfassung, wie die Österreichs, keine ausdrückliche Staatszweckbestimmung enthält. Anderes gilt für Deutschland, wo das Bonner Grundgesetz Deutschland vorschreibt, sozialer Rechtsstaat und sozialer Bundesstaat zu sein. Betrachtet man nämlich die Verfassungen der einzelnen Staaten, so kann man auch in

Weiterentwicklung ihres Inhalts feststellen, daß neben der Regelung der Staatsorganisation und der Grundrechte auch immer mehr Aussagen über die Zwecke und Ziele des Staates aufgenommen werden. *Der demokratische Rechts- und Verfassungsstaat der Gegenwart ist nicht mehr bloß auf die Herstellung und Aufrechterhaltung von Ruhe, Ordnung und Sicherheit — Ferdinand Lassalle hat hierfür die Bezeichnung "Nachwächterstaat"<sup>14</sup> geprägt —, sondern auch auf kulturellen Fortschritt, wirtschaftliches Wachstum und soziale Sicherheit ausgerichtet.* Er ist auf diese Weise Kultur-, Wirtschafts- und Sozialstaat geworden und *soll diese Aufgaben* aufgrund der Gesetze als demokratischer Rechtsstaat, d.h. *als Gesetzesstaat erfüllen. Zur Erfüllung dieses Gesetzesstaatsgebotes für den Mehrzweckstaat* bedarf es einer *Weiterentwicklung seines Instrumentariums und Systems.*

So gilt es, das *Gebot der Gesetzesbindung* in der Verwaltung über die Hoheitsverwaltung *auch auf die Privatwirtschaftsverwaltung zu erstrecken*, was sich eber im Hinblick auf die Aufgaben des Staates als Eigenunternehmer, Auftragserteiler und Subventionsvergeber nicht in gleicher Weise verwirklichen läßt wie in der Hoheitsverwaltung.

## VIII.

### GESETZESFLUT UND RECHTSUNSIKERHEIT

*Mit Zunahme der Staatsaufgaben* ist es auch zu einer *Vermehrung der Gesetzgebung* gekommen. Da jedes Staatshandeln seine Bindung und damit Deckung durch das Gesetz verlangt, ist die Zahl der Gesetze gewachsen und mit der Gesetzesflut auch die *Gesetzesunkenntnis und Rechtsunsicherheit*. Die Folge war *die Schaffung eines neuen Typs von Rechtsschutzorganen* nach dem Vorbild des skandinavischen Ombudsmans, der dort auch als Ersatz für das fehlende Verwaltungsverfahrenrecht und die Verwaltungsgerichtsbarkeit eingerichtet wurde. In Österreich wurde die Schaffung eines solchen Organs, es heißt "Volksanwaltschaft", mit einer vorausgehenden Erweiterung der Zuständigkeiten des Verfassungsgerichtshofs und auch Änderung der Kompetenzen des Verwaltungsgerichtshofs verbunden.

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<sup>14</sup> FERDINAND LASSALLE, "Arbeiterprogramm", Rede "Über den besonderen Zusammenhang der gegenwärtigen Geschichtsperiode mit der Idee des Arbeiterstandes", gehalten am 12. April 1862 in Berlin im Handwerkerverein der Oranienburger Vorstadt; abgedruckt in: Ferdinand Lassalles Gesammelte Reden und Schriften, herausgegeben und eingeleitet von Eduard Bernstein, Band II, Berlin 1920/21, S. 195.

### *Verbesserte Kontrolle*

Mit dem *Anwachsen an Staatsaufgaben* hat auch das *Mißtrauen gegenüber dem Staat* und somit auch der *Wunsch nach einer Vermehrung seiner Kontrolle* zugenommen, die insbesondere schon im Parlament neben der Gesetzgebung zum Tragen kommen soll. Letzteres hängt mit der schon skizzierten neuen Form der Gewaltenteilung zusammen, die nicht mehr wie früher zur Zeit der konstitutionellen Monarchie zwischen dem Monarchen und seiner Regierung einerseits sowie dem Parlament andererseits verläuft, sondern heute zwischen den Regierungsparteien und der Opposition; daraus ergab sich im Hinblick auf das parlamentarische Regierungssystem das Erfordernis, mit Ausnahme des Rechts zur Mißtrauensvotierung die politischen, rechtlichen und finanziellen Kontrollrechte weitgehend im Rahmen der möglichen zu *parlamentarischen Minderheitenrechten* zu machen, wobei die Opposition die Eigenverantwortung hat, sich nicht zu einer Obstruktion verleiten zu lassen.

Im demokratischen Verfassungsstaat der Gegenwart mit parlamentarischem Regierungssystem hat *das Parlament* eine besondere Wirksamkeit; besonders weil es, wie kein anderes Staatsorgan, *in der Öffentlichkeit* steht. Dabei muß realistisch bemerkt werden, daß im Hinblick auf den Umfang des Verwaltungsapparats die Regierung in der Vorbereitung auf die Rechtssetzung stärker und einflußreicher als das Parlament ist, das zwar das beschließende letzte Wort in der Gesetzgebung spricht, die Regierung mit der Überzahl an Regierungsvorlagen aber das erste und wegweisende Wort. Es soll aber die Bedeutung der Ausschußtätigkeit auch bei *Regierungsvorlagen* nicht unterschätzt werden.

### *Politische Parteien und Interessenverbände*

Wenn gleich der *Einfluß der Regierung* durch die große Mehrzahl an *Regierungsvorlagen* zunimmt, hat der das *Parlament* die Möglichkeit, diesen *Bedeutungsverlust* durch eine *Vermehrung und Verbesserung der Kontrolle der Regierung* und der ihr unterstehenden *Verwaltung* wieder auszugleichen. Übersehen darf man dabei nicht, daß mit dem Anwachsen der Staatsaufgaben, der Regierungsverantwortung und der Gesetzgebung auch der Einfluß der politischen Parteien und Interessenverbände wächst; beide mögen aber ihre Grenzen nicht übersehen! So sind *alle Parteien* auch in ihrer Gesamtheit *nicht das Volk* in einem Staat, *sondern* vielmehr, wie auch der Name Partei, welcher sich vom lateinischen Wort *pars* ableitet, verdeutlicht, *nur ein Teil desselben*. In gleicher Weise sind die *Interessenverbände* auch *nicht* die *Vertretung aller Interessen eines Volkes*, *sondern nur eines Teiles*, daneben gibt

es auch sogenannte "berufsständisch Heimatlose", für welche keine eigenen Berufsverbände zuständig sind, z.B. die Hausfrauen.

Mit den Anliegen ihrer Mitglieder und den Strukturen der Parteien und Verbände sowie Anliegen der Gesellschaft ändert sich das *Verhältnis von Staat und Gesellschaft*; der Staat, der immer mehr von Parteien und Interessenverbänden bestimmt wird, wird vergesellschaftet; die Zuständigkeiten des Mehrzweckestaates werden geradezu nach partei- und sonst verbändepolitischen Interessen "parzelliert". Diese Vergesellschaftung des Staates kann auf Kosten der Autorität des Staates gehen, dessen Parlament Gefahr läuft, immer mehr zu einem Clearinghaus der Gruppeninteressen zu werden. Dazu tritt noch das Paradoxon, daß nahezu im gleichen Maße, in welchem dem Staat von den Menschen Aufgaben auch zur Daseinsvorsorge übertragen werden, das Interesse des Einzelnen an diesem seinem Staat mehr oder weniger abnimmt.

#### *Die Selbstkonfrontation des Menschen im demokratischen Verfassungsstaat*

Oft hat es den Eindruck, als würde das, was man geradezu umsonst, etwa automatisch vom Staat erhält, als nicht so wertvoll angesehen werden. Auf diese Weise *münden* Betrachtungen über Demokratie, Recht und Verfassungsstaat, seine Strukturen und Werte in dem *Hinweis auf die Selbstkonfrontation des Menschen* und in seiner Vielzahl in der pluralistischen Massengesellschaft *im Hinweis auf die Notwendigkeit zur Herstellung und Aufrechterhaltung des demokratischen Rechts- und Verfassungsstaates* durch wenigstens einen Minimalkonsens in der allgemeinen *Anerkennung von Grundwerten des privaten und öffentlichen Lebens*. Wie schwer dies in der heutigen Zeit ist, zeigen auch die Diskussionen um Werte und Einrichtungen von existentiell-fundamentaler Bedeutung, wie es besonders das Recht zum Leben und die Begriffsfindung der Familie sowie deren Schutz ist. Es ist daher *notwendig*, das *Überdenken von bewährten Einrichtungen der demokratischen Rechts- und Verfassungsstaatlichkeit* mit einer ständigen *Erneuerung des politischen Verantwortungsdenkens* zu verbinden, wobei die *Ethik* wesentlicher Maßstab für das positive Recht sein kann und das positive Recht dies für die Demokratie im Verfassungsstaat ist.

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*Discussion of the paper by H. Schambeck*

ARCHER

Given the paper's concentration upon constitutional law, I would like to introduce some sociological considerations as to how this law itself is elaborated. Frequently groups pursuing their values operate as social movements outside the democratic and legal frameworks (e.g. early trade unions, peace and green movements, feminism etc.). If successful, they insert themselves into the political process in a manner which is subsequently institutionalised and legally ratified. This is a mechanism through which both law and democracy are progressively elaborated: it explains changes in them which cannot be explained by them.

SCHAMBECK

With regard to the question of which election law favours the representation of the people one has to make a distinction: the system that exists in England obtains a stronger integration effect and a lower representation effect; with the proportional system the contrary is the case. Plurality of parties in parliament can be the consequence. Different groups are decisive for legislation in parliament. The passing of a law – even a constitutional law – which refers to a government bill needs a wide-ranging popular will. In Austria interest groups such as the Chamber of Commerce and Industry, the trade unions and the various Länder can express their opinion before a law is submitted to Parliament.

However, we have to make sure that day-to-day political arbitrariness does not interfere in the constitution. This is the limit between democratization and jacobinization, this is the advantage of a democratic constitutional state, because it enables democratization but prevents jacobinization. The three functions of the state have to be democratized in the same way, so that the civil servant and the judge implement laws made by parliament. Democracy is a process of education for politicians as well for the people. Oretga y Gasset once said: "Politics is the highest purpose in life. Life is political whether you want it to be or not. You're part of this struggle as a subject or as an object". We must make an effort to try and become more of a subject than an object.



BETANCUR

Mr. Chairman, I, like Margaret, was fascinated by what Mr. Schambeck has said, because to see how he mixed in a very eloquent fashion, and very effectively as well, constitutional law with the state and the virtual possibilities of democracy – it was a beautiful presentation, a very persuasive one as well, and you could see, as he presented what he was saying, the university professor who was there. We can see the twenty years he has been in parliament as well, you can see that experience, and his involvement in political life as a politician, and this sort of symbiosis which was marvellous for Archer, she was very expressive.

In a beautiful portrait of Diego Velazquez, the Meninas, to be seen in the Prado Museum, you see the royal family, and you see the young princesses, you see a dwarf, you see the dogs, you see the jester, and the painter is there painting the royal family, and at the back you see a little window, it's a mysterious little window. Now, what does that little window represent? Well, I think that's the window that Professor Schambeck refers to, the window that is open to the future, and that's what democracy has also to foresee so that we can find solutions to situations that may occur in the future; and when Professor Schambeck spoke to us we had, as I said, this mix of constitutional law and the virtual possibilities of democracy, and I was thinking of what Jacques Maritain said, that democracy more than a form of government is a form of life, and that's not just a phrase of Jacques Maritain, but something which comes out clearly when you look at this dual nature of democracy: democracy as an end, as a form of life, and democracy as a means, as a process, as a means of governing.

I just have one doubt: at what moment can we avoid those Latin American officials who hope that they will be permanently present in Brazil, in Panama, in Peru, in many other countries or Argentina as well, that's true, if it becomes a kind of vocation to eternity to go on for ever? That can be very Kafkaesque can't it, when you think about a square in Prague where you see this temptation ... the people are tempted by eternity in the castle of Kafka. So, what can we do, Professor, how can we make sure that that little window for the future is open, how can we keep that open if an electoral system, if a state has petrified, let's say, this administration, and where the officials are prisoners in this cage, what can you do, how can you make sure that door remains open?

SCHAMBECK

Given the political and the constitutional experiences of the last decades, the task of our days is to think in terms of political formation, which isn't only the collection of data – we have to transmit knowledge. We

can now meet at international level, as we are doing here, and assess various developments, and the Roman Catholic Church does this as well by sending missions, or the UNESCO does similar things, so we can have a world-wide dialogue in which we can make an attempt at making people understand a number of notions, like for example constitutions.

I was in Moscow at the Duma, and I had a discussion with constitutional judges in Moscow, and I saw that they are very interested in this. It was great that the Federal Republic of Germany colleagues Professor Kirchhof and Professor Isensee brought to Russia a number of tomes of German constitutional law translated into Russian. We can therefore also from our midst provide a contribution to democratic education.

VYMĚTALÍK

The paper presented by President Schambeck was very interesting for me. In our country, unfortunately, one of the principal problems of democracy lies in the relativisation of ethical values together with a prevailing negative viewpoint concerning the formation of civic society. Natural law is obviously not recognised either. That's why education towards democracy based on true human values is so much needed. Unfortunately, there are only a very few people in our country who could exercise it. Besides, there is a lack of interest by people, who should listen. This is a very painful problem of our democracy.

FLORIA

Regarding political education, I would say that it is a very important issue, and this is something even Aristotle mentioned. But what is wrong, and I think this often comes up in the Catholic Magisterium, is that there's a confusion between *general* education and *political* education. People recognize the relative freedom of politics but don't look at this distinction when dealing with education. I think this is an error, and this is something that often occurs. Now, this assertion that democracy is a form of life, and I, like Jacques Maritain, think it's true, but first and foremost I think democracy is a form of government. I don't think that we should be distracted by politics because democracy is certainly a form of government. If it's a form of life without a form of government what else could it be? Democracy is a type of constitutional democracy, and that means pure democratic values along with a certain touch of political liberalism. Democracy can create values; democracy can be an instrument creating values, but at the same time democracy is a process and is in itself a value. I think it presupposes plurality, it presupposes a certain competence and it presupposes certain limitations, it's a kind of political ethics which we need to uphold.

## DONATI

In synthesis: I enjoyed your paper very much. It's a vision of what a constitutional democracy ought to be, but I must say that there is something missing. I am not referring only to your paper, but to the whole debate this morning. What is missing is, to my mind, a deeper analysis of the crisis of Western democracy. It seems that democracy is just a question of machinery which should be made more efficient, while democracy, particularly in Western countries, is absent from many many aspects. I mean there is a deep crisis in terms of deficiencies, shortcomings, contradictions and so on and so forth. So, I think that we should draw a sharper line between democracy in Third World countries and Western advanced post-industrial countries, because democracy isn't the same in all these different situations. I mean, constitutional democracy is certainly the dream and the guarantee for Third World countries. But we have to realize that Western constitutional states are in crisis in many respects. First of all, ordinary legislation no longer implements constitutional law because very often it introduces disorders into constitutions, and this is not simply a failure in relation to one measure or another: it is a systematic introduction of disorder into legislation by legislation itself. And the second order of consideration concerns the increasing disequilibrium in the classical powers: the legislative, administrative and judicial powers. As was mentioned in the previous contribution, particularly in the U.S., but also in Italy, and we could speak of many other Western countries, the judicial power, particularly at the middle and lower levels, is undermining democracy, in the sense that it is invading the constitutional order at many levels.

So, the questions are: do you think that these phenomena are real? If yes, what should be done particularly in advanced (post-industrial), democratic systems, differently from what can be done and should be done in Third World Countries? Thank you.

## SCHAMBECK

I wish to thank all those who have taken part in the discussion. What I was speaking about was not a crisis of democracy, but the setting up of a constitutional state and its institutions. It does not advance in all, but certainly in many countries. Despite the difficulties that have emerged all over the world we can state in the last few years that many political changes which have taken place in Central and Eastern Europe after communism have been without bloodshed. In the past there have been changes in political systems which have not entailed constitutional continuity but grave political conflicts. Moreover, we have all agreed on the fact that the political

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responsibility of the non-constitutional or non-parliamentary forces in legislation, administration and jurisdiction as well as of parties and interest groups is very strong.

But this needs political formation, which involves great awareness and knowledge, to which the Catholic Church can contribute much. We should also recognize the importance of the role of the judges. But judges should not make political decisions in the place of parliaments and governments. The judges' task is to measure a person's or a politician's behaviour according to the law. A state run by judges develops when parliament and government are too weak or when political forces do not take their tasks seriously enough.

There is also the problem of resistance but resistance as such cannot be included in the constitution. Positive resistance is legalized disobedience. Resistance always involves a matter of conscience for the individual person and the constitutional lawyer has come to a point at which the limits of his competence are reached.



III.

“CIVIL SOCIETY” AS THE ESSENCE  
OF DEMOCRATIC SOCIETY



## IL CONCETTO DI STATO DEMOCRATICO E “LA SOCIETÀ CIVILE”

PIER LUIGI ZAMPETTI

### SUMMARY

Nowadays we frequently talk about the lack of democracy.

The concept of democracy is incomplete if it lacks a concept of the people which explains and qualifies it. The people cannot be conceived as an abstract group of individuals. This conception belongs to the political Enlightenment which considered man only in his individual nature and ignored his social nature.

According to Enlightenment thought, there exists only a bipolar relationship between individuals and the state. It excludes the intermediary term society, which instead acquires a deep autonomy with regard to the state. It is now necessary to establish the links between the subjectivity of society and that of the state, which will enable us to understand the principles of subsidiarity, thus arriving at a complete conception of democracy.

From this perspective the Pope has spoken about the sovereignty of the family – a statement which leads to a profound revision of the concept of a democratic state based on the two different ways of conceiving democracy. Delegated or representative democracy, which concerns the relationships between the individual and the state, and participatory democracy, which concerns the relationships between society and the state (starting with the family), both at an internal and an international level.

Representative democracy integrates with participatory democracy in the same way as national sovereignty integrates with the sovereignty of the people. The subjectivity of the family and that of society assume an international dimension which is destined to give a new role and new vitality to the United Nations Organization as an association of national States, which are nowadays unable to solve the extremely serious problems of humanity.



Per quanto possa sembrare paradossale, il concetto di democrazia per diversi aspetti rimane ancora inesplorato. È la stessa esperienza attuale che stiamo vivendo a spingerci a compiere queste nuove riflessioni. Dirò di più. Avremo modo di constatare che saranno tali approfondimenti ad indicarci la strada da percorrere per giungere a una autentica concezione democratica in grado di risolvere i gravi problemi che ci troviamo dinnanzi.

Stato e società: sono due termini che devono essere definiti. Devo parlare prima dello Stato. Ma la definizione di Stato democratico si presenta problematica senza la considerazione della società. Si potrebbe addirittura pensare che la società costituisca una condizione preliminare per la definizione dello Stato democratico. È una tesi questa che va verificata.

Mi sembra prima di tutto che dobbiamo stabilire il metodo che seguiremo nella nostra analisi. In che rapporto stanno Stato e società? Lo Stato è una parte della società o invece può essere considerato indipendente dalla società medesima? Se lo Stato è considerato come parte della società è possibile, come oggi avviene, che l'organizzazione dello Stato sia in grado di regolare lo sviluppo della società? In termini più sintetici potrei anche così esprimermi: la società viene prima dello Stato, o lo Stato precede la società?

Il problema non è solo di carattere concettuale. Può essere chiarito e risolto soltanto se considero i rapporti tra individuo, società e Stato. Devo dire che questo itinerario metodologico è richiesto dall'aggettivo democratico attribuito al soggetto Stato. La democrazia si richiama direttamente al concetto di popolo, che è un elemento costitutivo dello Stato.

E dal popolo giungiamo al concetto di individuo, o meglio ancora di uomo.

In genere oggi, quando si parla di Stato democratico, ci si limita a prendere in considerazione il rapporto tra individuo e Stato. Si tratta quindi di rapporto bipolare.

La società non esiste in questo tipo di rapporto. E in tale prospettiva culturale la democrazia è intesa come democrazia rappresentativa. Essa coglie nell'uomo la sua dimensione individuale, prescindendo dalle sue dimensioni sociali. Per questo la democrazia rappresentativa è una democrazia delegata. Sono gli individui astrattamente considerati, estrapolati dalla società in cui vivono, che delegano l'esercizio del potere allo Stato. La stessa scissione tra esercizio del voto e esercizio del potere rientra nella concezione individualistica della democrazia rappresentativa. La società è pertanto al di fuori del rapporto politico. Per questo parliamo di Stato democratico e non di società democratica. Sempre per la medesima ragione dovremmo parlare di democrazia politica e non già di de-

mocrazia sociale. Ed invero nella concezione comune di Stato democratico, la società non entra nella definizione di democrazia. Il popolo è inteso come un'insieme di individui, come corpo elettorale soltanto. La democrazia è una democrazia individualistica e perciò stesso illuministica. Tale concezione è ancor oggi predominante nella cultura occidentale.

La società allora non condiziona lo Stato democratico dal punto di vista strutturale, nel senso che l'organizzazione dello Stato è diversa e indipendente dall'organizzazione della società. Ci sono certo dei rapporti, ma essi non sono condizionanti nei confronti dello Stato. I cittadini delegano l'esercizio del potere ai rappresentanti. La legittimazione della democrazia è data dal suffragio del popolo di individui che compongono il corpo elettorale.

Dobbiamo a questo punto metterci su un piano filosofico, prima ancora che giuridico, politico ed anche sociale.

Uomo e individuo non coincidono. L'uomo non ha soltanto una natura individuale, ma ha altresì una natura sociale. Possiamo parlare di uomo "uti singulus" e di uomo "uti socius". Il concetto di Stato democratico nella sua versione attuale ha preso in considerazione soltanto il primo aspetto con cui si manifesta l'uomo.

In un convegno organizzato qualche tempo fa dalla Segreteria Generale del Consiglio d'Europa a Colchester in Gran Bretagna, nel quale hanno partecipato rappresentanti di tutti gli stati europei dell'est e dell'ovest sul tema concernente i rapporti tra democrazia e istituzioni, è emerso chiaramente il fenomeno denominato "deficit di democrazia". Ma l'individuazione di questo deficit è rimasta indistinta, nebulosa. Ed è difficile arrivare a soluzioni concrete senza prima aver individuato la causa e la natura di tale deficit.

La causa a mio avviso è dovuta a una concezione culturale dell'uomo che impedisce di giungere a una democrazia completa. Tale concezione culturale non riconosce l'uomo-persona in grado di compiere la sintesi di tutte le dimensioni dell'uomo nella loro integralità. Cercherò allora di affrontare questo tema avendo come punto di riferimento l'uomo-persona, che è il punto centrale di tutta la dottrina sociale della Chiesa. Scopo della nostra Accademia, come recita l'articolo 1 del nostro statuto, è quello di offrire alla Chiesa contributi culturali utili per lo studio e lo sviluppo della sua dottrina sociale.

A questo proposito dobbiamo rilevare che le encicliche dell'attuale Pontefice esprimono chiaramente il concetto di soggettività della società. Ora mi domando: l'aggettivo democratico si riferisce soltanto allo Stato-soggetto? In che rapporti sta lo Stato-soggetto con la società-soggetto?

Questo per me è un tema della massima importanza. Dobbiamo

calare i concetti enunciati dalle encicliche sociali nell'analisi scientifica che stiamo compiendo, che ci consenta poi di poterli applicare nell'esperienza concreta.

Lo Stato democratico è lo Stato fondato sul riconoscimento dei diritti politici, condizione necessaria questa, ma non sufficiente, perché si possa parlare di democrazia. Se fosse sufficiente potremo parlare di eternità della società rispetto allo Stato democratico. Essa non inciderebbe sulla natura dello Stato democratico. Il rapporto politico intercorrerebbe soltanto tra individuo e Stato. Rapporto questo che sottende la democrazia rappresentativa, intesa come democrazia politica. Ma è proprio questa democrazia che è stata giudicata incompleta.

Questo fenomeno si può ulteriormente chiarire rispondendo a questa domanda. Lo Stato si limita a concedere i diritti politici, o invece li riconosce? Tra il riconoscimento e la concessione la distanza è abissale. Nel primo caso si parte dall'uomo-persona e si arriva allo Stato. Nel secondo caso si parte dallo Stato per arrivare all'uomo. E l'uomo si manifesta così come lo concepisce lo Stato. Nel suo aspetto individuale soltanto. Abbiamo due diverse concezioni dello Stato che possono anche coincidere sui risultati, ma non coincidono necessariamente. In altri termini, siamo certi che nel primo caso lo Stato è al servizio dell'uomo. Non è detto invece che, con la concessione dei diritti, lo Stato sia a completo servizio dell'uomo. La realtà è che la democrazia richiede una precedente definizione della nozione di uomo nelle sue strutture ontiche. In altri termini, prima di parlare di rapporto tra uomo e Stato e, dei diritti politici, devo parlare della natura dell'uomo. Così sul piano generale, prima di parlare dei *diritti dell'uomo*, devo parlare di *uomo dei diritti*. L'articolo 2 della Costituzione Italiana ha per l'appunto affrontato questo tema.

“La Repubblica” esso recita “riconosce e garantisce i diritti inviolabili dell'uomo, sia come singolo, sia nelle formazioni sociali ove si svolge la sua personalità”. Non è casuale che in questo articolo non si parli di Stato. E non si parla neppure dei diritti sociali, ma soltanto delle formazioni sociali, che comprendono i soggetti cui ineriscono i diritti sociali. Si allude invece espressamente alla natura dell'uomo, che deve essere intesa nella sua individualità o singolarità e nella sua socialità. In altri termini, lo stesso ed identico uomo per la sua intrinseca natura si manifesta in due aspetti diversi. Questi due aspetti sono interdipendenti. L'uomo che opera nella società è il medesimo che esercita il diritto di voto. Direi che in un certo modo l'uomo esprime col voto il ruolo che esercita nella società.

Ma questo ci porta a precise considerazioni in ordine al tema che stiamo esaminando.

Abbiamo appena detto che l'uomo-persona si manifesta in due momenti diversi. Ora ci domandiamo: i diritti politici a quali dei due momenti si riferiscono? Riflettiamo bene. L'uomo come singolo costituisce il soggetto individuale. Devo dire che i diritti politici nella concezione attuale si riferiscono all'uomo come soggetto individuale. In altri termini i diritti politici sono diritti dell'uomo atomisticamente concepito, cioè non inserito nelle formazioni sociali. Per questo la democrazia è solo democrazia politica e l'aggettivo democratico è attribuito unicamente allo Stato. Non riguarda la società.

Ma se mi pongo da questo punto di vista, il problema è tutt'altro che risolto. Se è lo Stato che concede i diritti è evidente che è lo Stato alla fin fine che decide che cosa sia la democrazia. Se cioè essa si riferisca unicamente allo Stato-persona o invece si estenda alla società soggetto.

Se invece mi pongo dal punto di vista dell'uomo e del riconoscimento dei suoi diritti, le cose cambiano radicalmente aspetto. Il soggetto dei diritti è l'uomo. Ma, mentre il soggetto dei diritti individuali è l'uomo come singolo, ovvero l'uomo come soggetto individuale, soggetto dei diritti sociali non è l'uomo come singolo, ma l'uomo inserito nella società, membro della società. Direi che i soggetti dei diritti sociali sono da ricercarsi nelle formazioni sociali che compongono la società e costruiscono il suo tessuto. Ma questo significa affermare che il soggetto dei diritti sociali è sempre l'uomo che si manifesta nel suo secondo momento.

Momento questo creativo dei soggetti sociali attraverso i quali è l'intera società che viene elevata a soggetto. Questo è un passaggio fondamentale. Io mi sono tante volte domandato perché il popolo non è stato finora considerato soggetto e perché non è stato in grado di manifestare la sua volontà effettiva che i partiti politici avrebbero poi il compito di trasformare nella volontà dello Stato. Sappiamo quale sia la definizione dei partiti politici: cinghia di trasmissione della volontà popolare nella volontà dello Stato.

La risposta mi sembra oggi del tutto chiara ed evidente. Il popolo non può erigersi a soggetto, finché è considerato come insieme di soggetti individuali isolati, in quanto tali, l'uno dall'altro. Solo con la considerazione dell'uomo-persona, creatore dei soggetti sociali, avremo una nuova concezione del popolo, che si riverbera sulla stessa definizione di democrazia. La democrazia abbraccia sia gli uomini come singoli, sia gli uomini che costituiscono le formazioni sociali o più specificamente i soggetti sociali. Non bastano i soggetti individuali per costituire la nozione di popolo. Il popolo è costituito altresì dai soggetti sociali e, in primo luogo, dalle famiglie attorno alle quali si dovrebbe costituire tutto il tessuto della società. A questo punto la democrazia è di gran lunga più

ampia della democrazia rappresentativa, che è una democrazia *ridotta*, che si esaurisce cioè nel suo momento politico. La democrazia ha come punto di riferimento l'uomo, non lo Stato. Ma l'uomo inteso come persona. La democrazia è la democrazia della persona umana nella completezza delle sue diverse dimensioni, nel riconoscimento della natura dell'uomo di cui è emanazione. La democrazia rappresentativa è la democrazia dell'uomo inteso unicamente come soggetto individuale. Lo Stato democratico fondato sul sistema rappresentativo deve garantire i diritti inviolabili dell'uomo come singolo, in altri termini i diritti individuali personali. Ma anche l'uomo inserito nelle formazioni sociali deve poter esprimere la sua volontà. La democrazia deve riferirsi altresì ai soggetti sociali, da cui dipende l'attuazione dei diritti sociali. A partire dal soggetto naturale e sociale primario, costituito dalla famiglia. In questa ottica io ritengo di poter interpretare il principio affermato da Giovanni Paolo II nella "Lettera alle famiglie", secondo la quale la famiglia è sovrana. Significa che la famiglia è elemento costitutivo del popolo e che pertanto la sovranità popolare deve essere imperniata sulla sovranità della famiglia.

Cerchiamo allora di stabilire quale sia il vero soggetto della democrazia. Se la democrazia si fonda sui diritti politici, che sono diritti dell'uomo, dobbiamo ricercare nell'uomo il fondamento stesso della democrazia, sia quando vengono riconosciuti i diritti individuali riconducibili all'uomo-soggetto, sia quando vengono riconosciuti i diritti sociali. Con questo doppio riconoscimento la democrazia rappresentativa si integra con quella che io chiamo democrazia partecipativa, che è la democrazia propria della società, destinata a realizzare i diritti sociali dell'uomo.

La democrazia è allora un punto di arrivo, non già un punto di partenza. La concessione del voto non basta per il riconoscimento dello "status" dell'uomo. Originariamente il voto era conseguente al riconoscimento dello "status" di un cittadino. Il suffragio, almeno nel nostro paese, è nato come suffragio censitario. Se l'elettore non ha uno "status", tale "status" va costruito perché ci sia una correlazione tra "status" e voto elettorale. La soluzione al problema dell'occupazione è pertanto fondamentale per una democrazia. Questa è la ragione per la quale un partito o movimento politico vince o perde le elezioni a seconda che sia o meno in grado di eliminare la disoccupazione, o quanto meno di diminuirla. Il diritto di voto è pertanto strettamente congiunto al diritto al lavoro, da cui dipende la creazione dello "stato sociale" dell'elettore.

Con la democrazia rappresentativa si è demandato allo Stato il compito di creare lo Stato sociale. Per essere più chiari, è stato assegnato allo Stato e alla sua organizzazione il compito di risolvere i problemi della società nella quale l'uomo è inserito. Così è sorto il "Welfare State", che

è tipico della concezione bipolare nei rapporti individuo-Stato e della conseguente riduzione della democrazia a democrazia politica o democrazia rappresentativa allo stato puro. La crisi oramai irreversibile del "Welfare State" dimostra che non è valida la teoria della *concessione* per la difesa e promozione dei diritti dell'uomo.

Con il graduale venir meno dello Stato assistenziale nell'occidente industrializzato, sono gli stessi diritti sociali dell'uomo che vengono gradualmente meno. Ciò significa che la strada percorsa per promuoverli, quella cioè di affidarsi soltanto allo Stato e alla sua organizzazione, è una strada che si rivela inadeguata, insufficiente. Le dimensioni dell'uomo non sono separabili, perché sono unificate, integrate. Così deve essere per la democrazia, che è espressione delle dimensioni dell'uomo nella loro unità e non nella loro separazione. La riduzione della democrazia a democrazia politica, come avviene con la democrazia rappresentativa, spezza l'unità delle dimensioni dell'uomo.

Se l'organizzazione dello Stato non è oggi in grado di concedere i servizi concernenti il cosiddetto stato sociale, è evidente che è l'uomo che deve provvedere a costruire lo stato sociale. Lo Stato non deve sostituirsi all'uomo e alla sua iniziativa, ma deve sollecitare ogni possibile iniziativa da parte dell'uomo e della società, deve promuoverla, aiutarla. Sono i soggetti sociali prima di tutto che devono provvedere alla costruzione dello stato sociale.

Il riconoscimento dei soggetti sociali conduce alla società partecipativa, che costruisce appunto lo stato sociale.

Riepilogo a questo punto tutte le precedenti considerazioni. La democrazia rappresentativa riguarda l'area dei rapporti tra i soggetti individuali e lo Stato. La democrazia partecipativa riguarda l'area dei rapporti tra i soggetti sociali nelle loro relazioni orizzontali e nelle loro relazioni verticali con lo Stato.

Possiamo dire che l'area della democrazia partecipativa è più ampia dell'area della democrazia rappresentativa. La seconda è soltanto politica e si svolge unicamente nell'ambito del territorio dello Stato. La prima, come ho detto, ha uno spettro molto più ampio, perché si estende all'intera società. Ma la democrazia partecipativa, a differenza di quella rappresentativa, è in grado di svolgersi e svilupparsi anche al di fuori dei confini territoriali dello Stato. Con la democrazia partecipativa vengono riconosciuti sia i diritti dell'uomo integralmente considerato, sia l'autonomia della società rispetto allo Stato. In altri termini, con tale riconoscimento lo Stato non si può più sovrapporre alla società con la sua organizzazione, così come ha fatto lo Stato assistenziale. Con l'autonomia della società si attua concretamente il *principio di sussidiarietà*, sia a

livello verticale, sia a livello orizzontale. Da questo ultimo profilo prendono corpo nuove relazioni tra la società e lo Stato e tra le società e la comunità internazionale. Dobbiamo oggi rilevare che l'integrazione tra gli Stati è avvenuta soprattutto nell'ambito della concezione bipolare individualistica (individuo e Stato), prescindendo dalla società, che opera nell'ambito dei singoli Stati. È una sussidiarietà limitata, incompleta, perché ad essa manca l'apporto e il collegamento tra la società che opera in uno Stato e la società che opera negli altri Stati.

Collegamento che avviene del resto sul piano di fatto. Ma che sarebbe di gran lunga potenziato se lo Stato promuovesse l'organizzazione della società nel suo ambito territoriale. Tale collegamento acquisterebbe un adeguato supporto culturale, che sarebbe in grado di potenziarlo, oltre che di regolarlo. La cosiddetta mondializzazione dell'economia dimostra come oggi la società non ha confini, non ha frontiere.

Il concetto di democrazia con riferimento alla società esce fuori dall'ambito interno dello Stato e assume una dimensione internazionale. Siamo dinanzi ad una concezione dello Stato diversa da quella attuale. E ad una nuova concezione della sovranità. Ho parlato prima del concetto fondamentale enunciato dal Santo Padre nella sua "Lettera alle famiglie": il concetto di sovranità della famiglia. Il che significa che la società è sovrana. È un ulteriore sviluppo della soggettività della società. È un concetto questo su cui dobbiamo profondamente riflettere. Finora il concetto di sovranità era un attributo dello Stato. Tale concetto ci porta a concepire in modo diverso gli elementi costitutivi dello Stato. Ho scritto in proposito un volume sulla sovranità della famiglia, perché ho avvertito la grande importanza dell'affermazione del Papa. Uno studioso spagnolo, Pedro Juan Viladrich, in un articolo apparso nella rivista "ius canonicum" (XXXIV, N. 68, 1994, p. 437), ha definito la "sovranità della famiglia" una bomba ad orologeria destinata a cambiare radicalmente l'assetto della società e dello Stato. Sono perfettamente d'accordo.

I problemi socio-economici hanno assunto una vastità e una dimensione tali da non potere essere risolti e risolvibili nell'ambito degli Stati nazionali o Stati a sovranità nazionale. Allo Stato delle nazioni (che di fatto ha limitato la vera sovranità, che non può essere soltanto nazionale) si va gradualmente sostituendo lo Stato dei popoli o Stato a sovranità popolare, nel quale si può manifestare la soggettività della società.

Parlavo all'inizio di concetto di Stato democratico e di società. Le considerazioni sin qui fatte mi portano a impostare diversamente il tema. In altri termini ad elaborare un concetto di democrazia che si riferisca in maniera diversa alla società e allo Stato.

L'analisi del concetto di sovranità, indispensabile per fondare la democrazia, ha ampliato lo spettro dell'indagine. Non si può infatti comprendere il principio di sovranità considerando unicamente i rapporti tra individuo e Stato.

Del resto, a questo proposito fa ancora testo quanto sosteneva Jean-Jacques Rousseau nel suo *Contratto sociale*, secondo il quale la sovranità non può essere alienata, come avviene col sistema rappresentativo: c'è o non c'è. Essa però si comprende soltanto, aggiungo io, se consideriamo i rapporti anche tra la società e lo Stato.

E dall'analisi di tali rapporti (di integrazione) nasce un nuovo concetto di sovranità, che ci dà modo di comprendere, in tutta la sua importanza e ampiezza, il concetto di sovranità della famiglia.

Sia ben chiaro. La sovranità della famiglia non è affatto alternativa alla sovranità dello Stato: è un momento essenziale per la sua realizzazione.

Certo bisogna intendersi. La famiglia non si identifica con la società, ma ne è il perno. Altrettanto possiamo dire dell'ente locale territoriale che è il comune: non è lo Stato, ma elemento costitutivo del medesimo.

Il concetto di sovranità, allora, è un concetto complesso, proprio perché sono complessi in quest'ottica tanto la società quanto lo Stato. Una volta stabilito il raccordo tra società e Stato, il concetto di sovranità deve estendersi a entrambi. Il momento elettorale riguarda l'uomo come individuo, ma non è disgiunto dall'uomo-persona inserito nella società.

L'elezione dei rappresentanti è soltanto una tappa del processo di formazione della volontà dello Stato, quindi della sua sovranità. Non basta più dichiarare che la sovranità appartiene al popolo *quoad titulum*, dal momento che esso delega l'esercizio del potere ai rappresentanti. Questa era la concezione dell'illuminismo individualistico che escludeva il concorso all'esercizio del potere da effettuarsi dopo l'elezione dei rappresentanti.

L'uomo concorre all'esercizio del potere in particolare attraverso i soggetti sociali che si impernano sul soggetto sociale famiglia. Quando parlo di sovranità della famiglia intendo alludere a un momento essenziale nel processo di formazione della volontà dello Stato. Processo che postula, come abbiamo visto, un nuovo concetto di Stato.

Gli elementi tradizionali costitutivi dello Stato — popolo, territorio, potere — non possono più essere considerati separatamente l'uno dall'altro e neppure disgiuntamente. Essi sono tra loro articolati e coordinati. Questo avviene in un sistema democratico, in quanto il popolo è chiamato ad assolvere una funzione precisa e specifica: quella di erigersi a titolare del potere. Ma, allora, la configurazione tradizionale "popolo dello Stato", congiunta al territorio e al potere, non è più sostenibile.



Popolo e Stato non possono essere considerati soltanto in un rapporto di parte a tutto. Il potere è comune tanto allo Stato (potere dello Stato) quanto al popolo (potere del popolo). Il popolo, quindi, da un lato è un elemento di un tutto (popolo dello Stato), dall'altro si presenta come un tutto rispetto a un elemento che compare, invece, come parte (potere del popolo).

Tale problema non era emerso sul piano pratico proprio perché il popolo non era in grado di erigersi a soggetto. Oggi, invece, con la società partecipativa il popolo può divenire soggetto: lo diventa, come abbiamo visto, attraverso il riconoscimento dei soggetti sociali. In altri termini, con la concezione dell'uomo-persona, che sintetizza le componenti individuale e sociale della sua natura. Il popolo assume così dimensioni diverse da quelle d'un popolo individualisticamente inteso. Il popolo composto dagli uomini-persone è infatti comprensivo della società. E, per conseguenza, i soggetti sociali, e non solamente quelli individuali, sono partecipi del processo di formazione della sovranità popolare. Soggetti sociali i quali devono articolarsi attorno al concetto di famiglia-istituzione, che diviene così il motore pulsante della sovranità popolare.

La soggettività della famiglia allora sottende tutto il sistema economico, sociale e politico. Essa costituisce il fondamento del nuovo modello di sviluppo alternativo allo Stato assistenziale e alla conseguente società dei consumi.

Giovanni Paolo II nella sua Lettera alle Famiglie afferma che "la persona è un soggetto e tale è pure la famiglia, perché formata da persone le quali, strette da un profondo vincolo di comunione, formano un unico *soggetto comunitario*. Anzi, la famiglia è soggetto più di ogni altra istituzione sociale: lo è più della Nazione, dello Stato, più della società e delle Organizzazioni internazionali. Queste società, specialmente le Nazioni, in tanto godono di soggettività propria in quanto la ricevono dalle persone e dalle loro famiglie".

La scissione operata delle dimensioni dell'uomo ha condotto, da un lato, a concepire lo sviluppo come sviluppo soltanto economico e il sistema economico come un sistema anonimo e impersonale. Dall'altro, ha reso inattuabile concretamente il principio della sovranità popolare, essendo impossibile elevare il popolo, inteso come insieme astratto di individui (corpo elettorale), a soggetto. Quello che risulta impossibile con il concetto di individuo diventa però possibile con il concetto di persona. Si crea il soggetto sociale famiglia che costituisce la radice e, più ancora, il tronco sia della società, sia dello Stato. Tronco che trae la sua forza e il suo alimento dall'uomo nella totalità delle sue dimensioni spirituali e materiali.

Non ci può essere sovranità del popolo, allora, senza la sovranità dell'istituzione famiglia.

Dirò di più. La famiglia diviene soggetto dello sviluppo proprio in quanto concorre alla formazione della volontà popolare, quindi della volontà dello Stato.

Possiamo in quest'ottica arrivare alla sintesi dei tre elementi costitutivi dello Stato. In altri termini, il territorio deve consentire l'osmosi tra la comunità familiare e l'intera comunità con i poteri dello Stato.

La sovranità è da intendersi allora come un'articolazione dei poteri dello Stato nei quali si è inserita la società. Possiamo pertanto parlare simultaneamente tanto di autonomia degli enti locali territoriali, quanto dell'autonomia della società trasformatasi in comunità.

Lo Stato delle autonomie è lo Stato che compie proprio questa sintesi.

Possiamo adesso comprendere le ragioni per le quali in questa prospettiva i due piloni portanti dello Stato sono costituiti dalla famiglia e dal comune. E anche il concetto profondo della sovranità della famiglia.

Difendere e promuovere l'autonomia della famiglia da parte delle strutture dello Stato significa unire il concetto di autonomia con il concetto di sovranità. Ora autonomia vuol dire autodeterminazione. E l'autodeterminazione è il fondamento della democrazia. Coniugare la sovranità della famiglia con una nuova concezione dello Stato significa costruire un nuovo e autentico regime democratico.

La nuova concezione dello Stato permette a livello istituzionale un singolare intreccio tra le relazioni orizzontali dei soggetti sociali e quelle verticali tra la società in quanto tale e i poteri dello Stato a tutti i livelli.

Si viene così a costituire una comunità articolata e organizzata sottesa dall'uomo-persona, le cui dimensioni sono attivate e sviluppate dalla democrazia partecipativa che è l'anima della società e del suo sviluppo continuo e costante.

La municipalità in questa prospettiva assume una particolare importanza. Lo sviluppo della famiglia e della sua organizzazione avviene negli enti territoriali minori, come sono appunto i municipi. Bisogna costruire un coordinamento dei vari municipi perché possa nascere una organizzazione in grado di soddisfare tutte le esigenze e i bisogni di una famiglia. Coordinamento che si deve realizzare con un determinato numero di abitanti e con la delimitazione di un'area territoriale autonoma.

La comunità organizzata si può costruire soltanto con la collaborazione tra famiglia e il potere politico a livello locale. Il concorso all'esercizio del potere da parte della comunità può avvenire soltanto se partiamo dal basso. Con la democrazia rappresentativa soltanto non possiamo costruire una comunità organizzata.

Possiamo definire lo stato sociale allora come la comunità organizzata che partecipa all'esercizio del potere.

In questa prospettiva avremo una concezione del federalismo diversa da quella che è stata sin qui intesa. Un federalismo quindi non soltanto politico a livello territoriale, ma anche sociale a livello comunitario.

L'attivazione di tutto l'uomo e non soltanto di una parte dell'uomo porta ad una grande espansione della società e dello Stato congiuntamente.

Chiamo questo federalismo "federalismo partecipativo", che vivifica lo stesso istituto della rappresentanza. Gli eletti del popolo devono esercitare il potere con il concorso delle famiglie e della comunità organizzata dalle famiglie. La stessa economia è vivificata dal federalismo partecipativo, perché il soggetto dello sviluppo non è più anonimo come quello attuale. Il soggetto dello sviluppo si identifica nel soggetto famiglia e nei vari soggetti sociali che operano nella società. Il motore dello stato sociale è la famiglia, perché essa è la vera produttrice della ricchezza nazionale.

Lo Stato assistenziale, con una eccessiva pressione fiscale, sottrae alla famiglia con il potere la possibilità di concorrere a formare la organizzazione della società e quindi di uno stato sociale al servizio dell'uomo.

Riducendo i poteri dello Stato ed aumentando i poteri della famiglia entreremo in una nuova prospettiva culturale in grado di sostituire le ideologie che sono cadute, perché espulse dalla evoluzione della storia.

Non ha più senso parlare della formula "più mercato meno Stato" (liberismo), oppure "meno mercato più Stato" (socialdemocrazia). Nasce la nuova formula "più famiglia meno Stato". Il che significa più organizzazione della società e diminuzione e restrizione della organizzazione dello Stato.

Nella società possono così emergere tutti i soggetti sociali, vivificati dal soggetto sociale primario, che è la famiglia. Finora nella società hanno contato soprattutto i soggetti individuali. Quando la società si organizza attorno ai vari soggetti sociali avremo una nuova e grande espansione dell'economia, perché avremo eliminato o ridotto la grande dispersione della ricchezza operata dallo statalismo.

Questa è la nuova linea culturale che ci si apre dinnanzi. Lo sviluppo diviene infatti lo sviluppo di tutte le dimensioni dell'uomo, comprese quelle morali e religiose. Lo sviluppo di una parte soltanto dell'uomo, quella individuale, ha prodotto un effetto traumatico, cioè la caduta dei valori, e ha contratto la produzione della ricchezza nazionale.

L'aumento della ricchezza materiale e la ricchezza morale vanno di pari passo.

Riconoscere l'uomo nella integralità delle sue dimensioni, significa

dare l'avvio ad una cultura in grado di cambiare radicalmente il corso della storia. La famiglia è "principium urbis et quasi seminarium reipublicae". Dalle piccole comunità arriviamo alla grande comunità politica dello Stato e della comunità internazionale.

Ma alla base di questa costruzione sta l'uomo nella complessità e insieme unità di tutte le sue dimensioni. Intendo dire l'uomo persona che solo come persona è stato fatto a immagine e somiglianza di Dio. Se l'uomo non è persona, e cioè separato nelle sue dimensioni, la somiglianza con Dio viene gradualmente meno.

Questa è la fotografia dell'occidente industrializzato, che nel giro di pochi decenni ha perduto la sua identità originaria, non certo le sue radici, che sono e rimangono cristiane. Sono oggi le esigenze di universalità quelle che contano. La mondializzazione dell'economia, per quanto possa sembrare paradossale, porta proprio alla rivalutazione di questa universalità, che però deve essere profondamente rielaborata.

Oggi lo sviluppo o la crescita si arresta perché lo sviluppo ha considerato soltanto una parte dell'uomo. Riprenderà con tutta la sua forza di propulsione quando sarà diventato lo sviluppo di tutto l'uomo. E l'uomo unifica le sue dimensioni proprio nell'ambito delle istituzioni familiari. Dire che la famiglia è il soggetto dello sviluppo e dello stato sociale conseguente, vuol dire che l'uomo a dimensioni unificate è diventato il soggetto dello sviluppo.

Soltanto l'uomo a dimensioni unificate ci può permettere di comprendere il concetto di democrazia che sottende tanto la società, quanto lo Stato. Democrazia che si riconduce al popolo soggetto che non esiste ancora, perché volutamente si è voluto concepire il popolo in maniera artificiale. Il popolo naturale è composto dagli uomini nella pienezza e unità delle loro dimensioni, che si realizzano nella società, anche se non si esauriscono nella medesima. Infatti va salvaguardata la singolarità dell'uomo, perché essa è legata alla sua interiorità, che anima e sviluppa la stessa società.

Esiste in conclusione una doppia soggettività dell'uomo. Una soggettività individuale, che si manifesta nel momento elettorale e che è il fondamento della democrazia rappresentativa, e una soggettività sociale, che si manifesta nella creazione dei soggetti sociali, che sono il fondamento della democrazia partecipativa. Attraverso di essa avviene il concorso all'esercizio del potere.

Non quindi doppia sovranità (nazionale e popolare), ma un'unica sovranità che si manifesta in due diversi momenti, così come richiede la natura stessa dell'uomo, individuale e sociale congiuntamente.

Dalla considerazione completa della natura dell'uomo, nasce la vera

sovranità che è la sovranità popolare, la quale unisce la rappresentanza con la partecipazione.

Se ci poniamo da questo punto di vista passiamo dallo Stato-nazione allo Stato dei popoli che realizza l'autentica democrazia. Essa, da un lato, conserva la sovranità dei singoli stati, con riferimento ai rapporti tra gli individui e i loro relativi diritti con lo Stato e, dall'altro, permette alla società di un singolo Stato di creare rapporti con le società degli altri Stati, così come di fatto già avviene, ma in maniera surrettizia e con la penalizzazione delle fasce o settori più deboli della società medesima. E ciò è dovuto alla mancata applicazione del principio di sussidiarietà, sia nell'ambito interno (società e Stato), sia nell'ambito internazionale (società e comunità degli Stati). Esiste una sussidiarietà, che però per questa ragione è incompleta, imperfetta, tra la comunità degli Stati e i singoli Stati, escludendo i rapporti tra società, Stato e comunità degli Stati. Soltanto il riconoscimento di tali rapporti può realizzare appieno sia il principio di sussidiarietà, sia il principio di solidarietà. Essa permette di soccorrere le società degli Stati più deboli, cosa che attualmente non avviene affatto.

Se non ci poniamo in questa nuova ottica, non solo non riusciamo a risolvere i problemi di più largo respiro, quale il problema della fame nel mondo, che riguarda in particolare gli Stati più deboli, ma neppure i problemi che riguardano indistintamente tutti gli Stati, come il problema del lavoro e dell'occupazione, della difesa dell'istituto familiare e della tutela dell'ambiente che, oltre le generazioni presenti, tutela le generazioni future.

Ciò dimostra che il concetto di sovranità degli Stati, come è stato finora inteso, non è un concetto legato alla natura dell'uomo, ma soltanto a determinate situazioni storiche. È pertanto uno pseudo concetto storico che non ha valore assoluto e, tantomeno quindi, una validità al di fuori del tempo.

L'universalità è un'esigenza della natura dell'uomo che non è destinato a vivere da solo, ma dapprima nelle piccole comunità, nelle quali è profondamente integrato e che pertanto forniscono l'anima alle comunità più grandi, sia che si tratti dello Stato, sia che si tratti della comunità degli Stati o della comunità internazionale.

Per questa ragione, direi che l'anima delle piccole comunità tende all'universalità come la bussola tende al Polo Nord.

La sovranità popolare così intesa esprime un concetto nuovo: la superiorità dell'uomo per la sua stessa natura (ha un'anima immortale) nei confronti dello Stato. Oggi per una serie di ragioni, una dimensione soltanto, quella economica, assume una valenza mondiale. Ma poiché si tratta di un'unica dimensione separata dalle altre non è in grado di esprimere le vere esigenze dell'uomo. Spesso, anzi, le comprime.

Si parla di economia senza confini, ma non ancora di uomo senza confini, almeno relativamente a certi problemi, che non sono risolvibili dal particolarismo dei singoli Stati.

Anche la tecnologia è senza confini. Le informazioni travalicano i confini dei singoli Stati. Le informazioni, come sappiamo, sono produttrici della stessa ricchezza materiale. Quello che però oggi è più importante è il possesso e lo sviluppo della ricchezza immateriale, costituita dall'accumulazione delle conoscenze. Questa prova concretamente che la natura dell'uomo ha carattere universale e trascende i confini spaziali dei singoli Stati, se non addirittura quelli temporali, come la trasmissione delle informazioni e notizie in tempo reale.

La sovranità dello Stato nazionale deve essere ridimensionata e considerata in una nuova prospettiva. L'uomo è più ricco dello Stato. I confini dello Stato sono troppo piccoli per contenere tutto l'uomo. Le dimensioni socio-economiche, ossia le dimensioni dell'uomo e della società, sono più ampie delle dimensioni politiche.

Il riconoscimento delle dimensioni sociali, e quindi dei soggetti sociali nella loro autonomia, costituisce il fondamento della democrazia partecipativa e conduce all'universalismo, e cioè al riconoscimento dell'universalità delle dimensioni dell'uomo. La democrazia partecipativa, da un lato definisce le competenze di un singolo Stato rispetto alla società, e, dall'altro, allarga la competenza della comunità internazionale, nella quale si incontrano e si integrano le varie società che nascono nei singoli Stati (nazionali).

La comunità internazionale non può essere intesa soltanto come comunità degli Stati nazionali, ma anche come comunità dei popoli, nella quale si esprimono e si integrano le società del mondo intero.

L'organizzazione delle Nazioni Unite ha chiaramente manifestato il proprio limite, perché è stata costruita come comunità di Stati nazione, a cui sfugge il controllo delle varie economie e, soprattutto, dei grandi poteri economici che condizionano i singoli Stati.

Sarà un paradosso: ma sono proprio gli Stati occidentali che costituiscono il primo mondo, e che comunemente si identificano con gli Stati democratici tout court, a manifestare il deficit di democrazia. Tale deficit consiste soprattutto nel mancato riconoscimento del primato della persona umana e quindi della soggettività della società rispetto alla soggettività dello Stato. Ricusare la soggettività della società significa ricusare la soggettività del popolo che, almeno parzialmente, si identifica con la soggettività della società.

Stato democratico significa allora Stato dei popoli, e, non soltanto Stato democratico nazionale. La sovranità nazionale dei singoli Stati è

una sovranità limitata alla democrazia rappresentativa. La sovranità dei popoli è una sovranità che travalica i confini dei singoli Stati. Da essa dipende la legittimazione della comunità internazionale. Da tale comunità dovrà nascere una nuova organizzazione mondiale degli Stati che sarà in grado di risolvere i problemi che l'O.N.U. non è stato in grado di fare. Non si tratta di contrapporre popolo e nazione, ma di dare un nuovo spazio al popolo e quindi alla società, a partire dalla famiglia, sia sul piano nazionale, sia sul piano internazionale. Ridurre la sovranità dello Stato nazione significa allargare la sovranità del popolo (in parte coincidente con la nazione), sia a livello interno, sia a livello internazionale.

E in questa nuova prospettiva culturale rifulgerà in tutto il suo significato la dottrina sociale della Chiesa, che del primato della persona umana, della soggettività della società e della partecipazione si è sempre fatta grande sostenitrice, seguendo la sua missione di Chiesa universale.

Il tema da me affrontato in questa mia relazione è stato ampiamente trattato e discusso nei miei seguenti volumi:

*La partecipazione popolare al potere. Una nuova alternativa al capitalismo e al socialismo*, Milano, Mursia ed., 1976.

*La società partecipativa*, Roma, Dino ed., III edizione, 1994.

*La sfida del duemila*, Milano, Rusconi Ed., 1988.

*La sovranità della Famiglia e lo Stato delle autonomie. Un nuovo modello di sviluppo*, Milano, Ed. Rusconi, 1996.

*La democrazia partecipativa e il rinnovamento delle istituzioni*, (Ecig, Genova, 1995). Tale volume è la ripubblicazione della mia precedente opera: *"Democrazia e potere dei partiti"*, Milano, Rizzoli ed., 1969, nella quale ho enunciato ed elaborato il concetto di democrazia partecipativa, che successivamente ho sviluppato nei volumi sopra citati.

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*Discussion of the paper by P.L. Zampetti*

BETANCUR

Thank you very much, Mr. Chairman. As a Latin American, I would like to congratulate Professor Zampetti, because both in his written text as well in as his oral presentation which he has just presented to us so brilliantly I think he has interpreted the Latin American soul, let's say, in the search of Latin Americans for democracy, and the way in which they've tried to develop their own democratic model which began last century during the wars of independence at the beginning of the nineteenth century with the defender of freedom Bolivar, and the issue is very important when we study democracy today. The development was similar to that of Brazil, and I think that this is something we can also see in another well-known man, Professor Rafael Caldera. Now, these two individuals, who are certainly some of the most important thinkers in Latin America, find themselves in rather contradictory positions. Cardoso, who is now President of Brazil, who is governing very well, very effectively, I was a few weeks ago in Brazil with a group of researchers studying that society, but he's now beginning to think about being a president on a continuous basis. Now, that's not something which is part of democracy. Democracy means you've to have alternating representation if you wish of different persons that change over. Now, it's very important for Latin American presidents to recognize that their period of government is very short, whether it be four or six years, and often these people are tempted to push for re-election, and then another re-election. In Argentina, for example, we've had presidents who tried to be re-elected a third time. President Caldera, who was a great thinker of our age, is now beginning to act in a very contradictory fashion. As I said yesterday, in part this is due to the problems that occur with Latin American political parties.

ARROW

Professor Zampetti has done us a great service by calling attention to the overwhelming importance of civil society, of the structure of voluntary associations which supply the values for democracy. But I found an obscurity in the term "sovereignty" as applied to these organizations and



particularly to the family. It seems to me that there is a distinction between the compulsion associated with political organizations and the voluntary adherence which characterizes the organizations of civil society, at least from the legal viewpoint. I am probably misinterpreting your terms, but reference to the sovereignty of the family sounds like the ancient Roman law “*paterfamilias*”. It seems to me, on the contrary, that the value and strength of intermediate structures lies precisely in their voluntary nature.

ELSHTAIN

I too wonder about other categories of sovereignty. You speak of the subjectivity of individual society in a state, and then you also speak of the sovereignty of various entities, the family being one that you mentioned. So I ask this question in part because one of the struggles of democracy historically has been to find ways of limiting sovereignty and not just to seek sovereignty. The understanding of sovereignty that you were here espousing seems to me terribly important, in light of the fact that there are many groups in democracies, whether developing democracies or already mature democracies, who are seeking forms of recognition based on such attributes as ethnicity and race and so on. How are we to interpret these groups? Do we see a subjective integrity to such groups? Would we want to extend any form of sovereignty to such groups? If so, what might it be, and how might it be limited in practice?

KAUFMANN

Professor Zampetti develops an alternative to ideas that we have about the relationship between society and the state, and the family so far hasn't been playing any role, but the question is whether it is possible to give back this role to the family. I think this would require in-depth changes in our society, and I really don't see which forces could bring about such changes. The German economist Friedrich List made the point that the liberal national economy considers the person who rears pigs as doing a productive activity, whereas the rearing of children is considered an unproductive activity. This is a problem of our social structure, and unless we try and change this structure, which would mean that we would have to adopt different approaches to the economic performance of the family I don't see how it would be possible in a capitalist economy to bring about the social reform which is advocated by Professor Zampetti in such an eloquent way.

SCHASCHING

Catholic Social teaching was always been opposed to two political systems: the individualistic and the collectivistic. It defended “intermediate

bodies” between the individual and the state. But the question remains: which are precisely these bodies in an continuously changing society?

DONATI

Professor Zampetti, I would like to make a few comments. I think that your presentation is very important because it explains that democracy cannot just be based on representation, but it should also be based on participation, and both things, representation and participation, must be linked to each other. Now, who is to play this role, who is to connect, who is to link up representation and participation? The answer is: the social subjects who act as intermediate social formations (or groupings). But it has already been said here that it is rather difficult to understand what an intermediate structure actually is. The notion “intermediate” exists in a hierarchical society, in a stratified society. Intermediate means between the state and the individual, in a pyramidal conception of society. But this conception no longer exists. There is no longer a pyramidal hierarchical structure of society, and therefore we should speak not so much about intermediate social groupings or formations, but of social structures which are webs, collective or personal networks. This is also mentioned in *Centesimus annus*. When we speak about these subjects, we speak about social subjectivity. I prefer the notion of subjectivity to the notion of sovereignty, even though, Professor Arrow, it is obvious that sovereignty is meant in an ethical and not in a legal sense.

Democracy is a political set up which has to guarantee the maximum self-government and self-organization on the part of the social subjects. The conception that the Catholic social doctrine has of a state is that the state is a structure that serves these social subjects. A democratic state has to be a means that provides services, that promotes the subjectivity of such networks, but who are the social subjects who can somehow implement democracy? We should discuss the criteria by which we can identify these subjects, because the political parties, trade unions, the corporatist structures are no longer part of civil society, because they have become part and parcel of the state. Political parties and trade unions have become — at least in Italy — structures of representation and not of participation on the part of the members of the civil society, and there would be a lot to say about that. You mentioned the Italian Constitution. The Italian Constitution has produced a great invasion of society on the part of the state. The state has somehow settled the Italian society for the last fifty years. Italian civil society has become a colony.

We ask ourselves: why is this so? You said that it was a failure to recognize society. I would agree with you. Why did this happen? Certainly,

it has been due to the fault of political forces, to the interplay between parties, and to the idealistic culture that pervades the Italian context, particularly the prevalence of Gramsci's ideas. But another reason is that the principle of subsidiarity was not enunciated in the Italian Constitution. The Italian Constitution, in my opinion, does not include the principle of subsidiarity, so we should ask ourselves how to approach the principle of subsidiarity. We say that democracy, according to the social doctrine of the Church, has to be based on subsidiarity. The principle of subsidiarity is the principle that we have to develop, to elaborate. The principle of subsidiarity is mentioned in Article 2 B of the Maastricht Treaty in a very reductive sort of way. It's a defensive and a negative notion. In the Maastricht Treaty the principle of subsidiarity is understood as non-interference on the part of the European Community with the powers and competencies of the lower tiers, that is the state and the regions, but such a notion of subsidiarity is insufficient because it forgets the positive connotation of subsidiarity. Subsidiarity in a positive way means that the higher ranking communities or the more complex communities have to work in favour of the less complex communities in order to make them become more autonomous. A state is subsidiary when it does not leave it up to the lower tiers of government, doesn't leave them up to themselves, but promotes their autonomy. So, the notion of subsidiarity has to be declined not only in a negative way, but also in a positive way, in a promotional way. In Italy there is a very lively discussion on the notion of subsidiarity as far as amendments to our Constitution are concerned. You surely know that, in the political discussion, the majority of political forces have rejected the idea of introducing into the Italian Constitution the principle of solidarity in its full form. It has been recognized only as a vertical principle of decentralization of powers, as a functional division of competencies both political and administrative within the state structures. What was completely missing was what we call in Italy the horizontal principle of subsidiarity, that is, subsidiarity between the state and civil society. When we speak about horizontal subsidiarity we claim that the state and civil society have to be placed in a symmetrical relationship. The state is not something that is higher and superior with respect to society, but it is a system of service that provides services to society, and implies the recognition of the rights of intermediate structures. Professor Elshtain stated that modern democracy is against these intermediate structures from the Le Chapelier law onwards. We know what this has meant a fight against all intermediate structures, which constitute the core of the social doctrine of the Church, and we should avoid falling into a sort of dialectic between individualism and collectivism. A democratic state is made up of a pluralistic society which

governs itself on the basis of the principle of subsidiarity, the latter means the recognition of the rights of those social formations which we can describe as social subjectivity of the civil society. This point should be developed in order to understand where democracy must go in the world of tomorrow. Thank you.

ZAMPETTI

Ringrazio gli interventori per le domande che mi hanno rivolto. La brevità del tempo a mia disposizione per svolgere la mia relazione, non mi ha permesso di sviluppare adeguatamente la formulazione dei concetti e la loro articolazione. Cercherò di farlo ora anche se in maniera sintetica, sempre per ragioni di tempo. Mi duole che altri colleghi non abbiano potuto prendere la parola. La soluzione dei problemi affrontati richiede una nuova impostazione culturale che modifichi tanto la concezione dello Stato, quanto le strutture della società.

Mi pare che le domande che mi sono state poste riguardano la precisazione di due concetti: il concetto di sovranità popolare da un lato e il concetto di società civile dall'altro. Ed infatti, è proprio sull'elaborazione di questi due concetti che s'impenna tutta la mia relazione.

Il prof. Arrow considera la sovranità dal punto di vista tradizionale, come sovranità dello Stato in senso statico. Egli, infatti, distingue l'organizzazione politica dello Stato dall'organizzazione della società civile fondata sull'adesione volontaria degli individui. Convegno con il prof. Arrow che queste due organizzazioni sono diverse. Quello però che mi pare importante rilevare è la necessità di stabilire un raccordo tra le due organizzazioni. Ritengo che questo sia il problema del nostro tempo che dobbiamo assolutamente affrontare.

La stessa posizione mi sembra sia quella della professoressa Elshtain per la quale il problema storico della democrazia è quello di porre limiti alla sovranità dello Stato, non già quello di "cercare la sovranità", estendendola a vari enti come alla famiglia o ai gruppi.

Anche la Elshtain è legata ad una concezione individualistica della democrazia che conduce al dualismo tra società e Stato. A mio avviso il rapporto tra soggettività e sovranità non avviene a partire dalla sovranità, come sembra asserire la Elshtain. Si tratta invece di partire dalla soggettività sociale per arrivare alla sovranità.

La soggettività della società non è la soggettività dell'individuo. E pertanto mi sembra inesatto parlare di "soggettività della società individuale nello Stato". Io ho parlato di soggettività sociale per distinguerla dalla soggettività individuale.

Per rispondere a queste obiezioni critiche ritengo opportuno chiarire bene i concetti che ho adoperato per rispondere altresì alle domande

rivoltemi dal prof. Kaufmann. Mi trovo invece pressoché d'accordo con riferimento ai principi da me enunciati con il prof. Betancur e con P. Schasching. Il Prof. Donati nel suo intervento si è soffermato sul principio di sussidiarietà integralmente considerato, che io ho ritengo possa trovare la sua completa ed effettiva applicazione soltanto nell'ambito della democrazia partecipativa. Come avrò occasione di ribadire.

Cominciamo dal concetto di sovranità. La sovranità nelle democrazie contemporanee può essere intesa in modo duplice: come sovranità popolare oppure come sovranità nazionale. Devo dire che nonostante le dichiarazioni solenni di costituzioni contemporanee, di fatto, la sovranità è intesa come sovranità nazionale, non già come sovranità popolare. La sovranità nazionale si esprime nella democrazia rappresentativa che è imperniata su un rapporto bipolare tra individuo e Stato. La democrazia rappresentativa viene denominata altresì democrazia delegata o democrazia indiretta. Per essa gli elettori sono titolari della nuda sovranità. Esercitano soltanto il diritto di voto. Delegano ai rappresentanti l'esercizio del potere. Significativo a questo proposito, perché esplicito, è l'art. 4 della Costituzione francese del 1958 per il quale i partiti "concorrono all'espressione del voto" soltanto, e non già alla "determinazione della politica nazionale" come recita l'art. 49 della Costituzione italiana, rimasto purtroppo inapplicato. E non a caso l'art. 4 della Costituzione francese precisa altresì che i partiti "devono rispettare i principi della sovranità nazionale e della democrazia". Per la sovranità popolare la democrazia non si riduce unicamente all'esercizio del voto. Essa richiede una nozione più ampia della nozione di democrazia rappresentativa. Tale nozione deve altresì consentire l'esercizio del potere. E a questo punto si apre il nuovo discorso della democrazia intesa come governo del popolo, proprio secondo il significato letterale del termine.

Di qui la domanda: il popolo come può esercitare il potere?

Prendiamo la dizione "*sovranità popolare*" e rovesciamo le due parole. Facciamo divenire l'aggettivo "*popolare*" sostantivo "*popolo*" e tramutiamo il sostantivo "*sovranità*" in aggettivo "*sovrano*". Come può il *popolo* essere *sovrano* e cioè esercitare il potere se non può essere elevato a soggetto? La domanda è pienamente legittima. "*Operari sequitur esse*" diceva S. Tommaso d'Aquino.

Nella mia relazione ho parlato di tre soggettività: soggettività individuale, soggettività della società e soggettività dello Stato. Oggi le istituzioni politiche s'impennano soltanto sulla soggettività degli individui (elettori) e sulla soggettività dello Stato: lo Stato persona. Il rapporto politico in altri termini è un rapporto bipolare (individuo-Stato), non già tripolare come dovrebbe essere (individuo-società-Stato). Quando io parlo di società intermedia intendo alludere alla posizione appunto intermedia che la società occupa nella concezione tripolare.

Perché io parlo di concezione tripolare del rapporto politico? L'uomo non può essere considerato solo come individuo. L'uomo ha una natura individuale e sociale simultaneamente. Concepire l'uomo soltanto come individuo significa avere una concezione riduttiva dell'uomo, non riconoscere la sua natura sociale.

Ecco la ragione del mancato riconoscimento della soggettività della società, che è il fulcro della dottrina sociale della Chiesa. La concezione bipolare riduce la sovranità a sovranità nazionale per la quale il popolo è concepito come corpo elettorale e quindi come insieme di individui. La sovranità nazionale e la democrazia rappresentativa sono pertanto sottese da una concezione individualistica di popolo. La nozione di popolo come "corpo elettorale" è una nozione *ridotta* di popolo, perché si riconduce ad una nozione riduttiva dell'uomo inteso come individuo esclusivamente.

Riconoscere la soggettività della società significa riconoscere la natura sociale dell'uomo che diventa così persona. Passiamo allora da una concezione *individualistica* ad una concezione *personalistica* di popolo. In quest'ottica ritengo debba essere interpretata l'importantissima affermazione ricordata da Giovanni Paolo II che parla espressamente ed esplicitamente di "*sovranità della Famiglia*". Sia ben chiaro: questa concezione è un punto d'arrivo, non un punto di partenza. La vera sovranità popolare si raggiunge quando la soggettività dell'individuo s'integra con la soggettività della società. La Famiglia, soggetto sociale primario che scaturisce dalla natura sociale dell'uomo, costituisce il primo anello dell'integrazione tra essere individuale ad essere sociale. Nella famiglia avremo la piena affermazione dell'uomo persona. La Famiglia da questo punto di vista costituisce il nucleo pulsante della società intera. In tale concezione che prima ho chiamato tripolare la società rappresenta il termine *medio* e direi quasi la cerniera tra individuo e Stato. Si tratta di una società dinamica, reticolare come dice Donati, in continua espansione ed evoluzione. Non si tratta pertanto, come osserva Donati, di preferire il termine "soggettività della società" a quello di "sovranità della società". Ho precisato prima che anziché parlare di "sovranità popolare" parlo di "popolo sovrano". L'integrazione tra le due soggettività, quella degli individui e quella della società o dei soggetti sociali permette al popolo di manifestare la sua volontà, di diventare veramente sovrano.

La volontà popolare pertanto è una volontà dinamica non statica, che si manifesta prima in senso orizzontale e dalla quale trae origine e la sua funzione il principio di sussidiarietà che permette il collegamento tra la società e lo Stato. Potremo anche dire, ponendoci in questa prospettiva, che il sistema rappresentativo, essendo statico, (rappresentare vuol dire essere specchio) non può cogliere la volontà popolare. È sorto per garantire e proteggere i

diritti individuali dell'uomo. Tale sistema è inadeguato per promuovere e sviluppare i diritti sociali ed economici. Questo porta ad una sovrapposizione dello Stato sulla società che a distanza frena il suo sviluppo da tutti i punti di vista. La crisi ad esempio dello Stato assistenziale o *Welfare State* costituisce una palese conferma. I diritti sociali non possono essere ricondotti ai soggetti individuali equiparandoli ai diritti individuali. I diritti sociali vanno ricondotti ai soggetti sociali o alle formazioni sociali che sono costituiti e formati dagli uomini inseriti nella società. Si tratta allora di consentire l'ingresso della società nelle istituzioni politiche. Ma è possibile questo?

Devo rispondere alla domanda che mi è stata rivolta. Dobbiamo aprire a questo proposito il discorso sui partiti politici definiti "cinghia di trasmissione della volontà popolare nella volontà dello Stato". Stante la concezione individualistica di popolo i partiti sono oggi partiti chiusi alla società. Questo avviene perché essi si collocano sul versante dello Stato anziché sul versante della società. Possiamo parlare di "Stato dei partiti" che consente ai partiti di occupare la società, di servizi cioè della società, mentre invece devono servire la società. Di qui la partitocrazia che spiega la crisi dei partiti e dello Stato congiuntamente. Il problema non si risolve sopprimendo i partiti, che sono essenziali per la democrazia, ma di collocare i partiti sul versante della società, anziché sul versante dello Stato. I partiti politici, in altri termini, devono essere così consegnati da costituire i canali di collegamento tra i soggetti sociali e le istituzioni politiche. I partiti politici devono essere strumenti di partecipazione popolare alla formazione delle decisioni politiche a partire dalla famiglia, che è il soggetto sociale naturale e primario in quanto cellula della società e non dell'individuo, come invece pretendono taluni sociologi. Per ottenere questo risultato i partiti devono darsi un volto e un assetto diverso da quello attuale, in grado di aprirsi alla società e di interpretare le sue vere esigenze e le sue vere finalità, oggi completamente deformate dallo statalismo partitico e dal consumismo materialistico.

Questi principi sono in gran parte inseriti nella Costituzione italiana. Ho già ricordato nella mia relazione l'art. 2 che costituzionalizza il concetto di persona umana e pertanto è di fondamentale importanza. All'art. 2 si ricollega l'art. 3, II comma, che parla di "effettiva partecipazione di tutti i lavoratori all'organizzazione politica, economica e sociale del Paese". Mi pare che quest'articolo puntualizzi proprio il collegamento, nel nuovo concetto di democrazia partecipativa, dell'organizzazione economica, dell'organizzazione sociale e dell'organizzazione politica. In particolare mi preme sottolineare che parlare di "pieno sviluppo" significa superare la concezione comune per la quale lo sviluppo è soltanto sviluppo economico. Concezione questa criticata sia dalla *Popolorum progressio*, sia dalla *Sollicitudo rei*

*socialis*, sia dalla *Centesimus annus*. Lo stesso art. 49 della nostra Costituzione che riguarda i partiti non è stato finora applicato essendo un articolo “*partecipativo*” (si tratta “di concorrere con metodo democratico a determinare la politica nazionale”). Esso pertanto si ricollega all’art. 3, che ha costituzionalizzato la democrazia partecipativa, articolo del pari non applicato, perché l’attuale democrazia è intesa unicamente come democrazia rappresentativa.

Devo ricordare come per la prima volta il Parlamento di uno Stato, la Bolivia, ha promulgato la legge sulla “Partecipazione popolare” (1994) grazie alla quale lo Stato riconosce legalmente diverse comunità (agricole, indigene, locali, ecc.) organizzate nell’ambito municipale in base ai loro usi e costumi, concedendo loro personalità giuridica e istituendo una “Segreteria Nazionale della Partecipazione popolare” nell’ambito del Ministero dello sviluppo umano.

Ciò conferma quanto ha rilevato il Prof. Betancur, che è stato Presidente della Colombia, secondo cui la democrazia partecipativa esprime l’anima di tutto il continente latino-americano, che ha iniziato a elaborare un proprio modello di democrazia a partire dal secolo passato con le sue guerre di indipendenza. È pertanto molto meno condizionato dalla concezione individualistica che ha impedito l’attuazione degli articoli sopramenzionati della Costituzione Italiana.

Certamente in un sistema liberalcapitalistico la democrazia partecipativa, che è la democrazia della società e dell’economia, difficilmente può decollare, come ha rilevato il Prof. Kaufmann. Ma devo osservare che il liberalcapitalismo si è oggi trasformato in capitalismo consumistico, creando un modello di sviluppo economicistico che ha causato la crisi dei valori in tutto l’occidente industrializzato e la stessa crisi del capitalismo che attende di essere profondamente riformato. La stessa citazione riportata da Kaufmann dell’economista tedesco Friedrich List secondo il quale “per l’economia politica liberale colui che alleva maiali compie un’attività produttiva, mentre colui che alleva bambini compie un’attività improduttiva” è da considerarsi superata. L’allevamento e l’educazione dei bambini è un momento importante nella formazione del capitale umano che nella società dell’informazione è superiore al capitale economico-finanziario.

La Famiglia che è la formatrice con la scuola del capitale umano e nella quale si realizza l’unità di tutte le dimensioni dell’uomo, e cioè l’uomo persona, assumerà un ruolo fondamentale e determinante nella formazione della democrazia partecipativa, che trova nella persona umana la sua radice e la sua linfa vitale. Essa è la fonte di tutti i valori, senza dei quali la democrazia non può svilupparsi, ma avvizzisce, perde la sua funzione di essere al servizio dell’uomo. La mancanza della partecipazione ha dato origine a



quel fenomeno che io chiamo “proletarizzazione delle famiglie” e che in Italia ha assunto aspetti veramente preoccupanti. Con un’alta pressione fiscale, che assorbe più del 50% dei redditi familiari, la famiglia ha perso, con la propria indipendenza nei confronti dello Stato, la stessa possibilità di influire sulle decisioni che lo Stato prende nei suoi confronti.

Questi temi vanno ampiamente sviluppati. Per un’adeguata esposizione rimando ai miei numerosi volumi e, in particolare alla *La sovranità della famiglia e lo Stato delle autonomie* e alla *Società Partecipativa*.

Mi sono limitato in questa sede ad alcuni accenni per chiarire che io mi sono posto in una concezione tripolare del rapporto politico che si riconduce ai principi della dottrina sociale della Chiesa. Essa si oppone, come ha appena ricordato P. Schasching, sia alla democrazia individualistica sia alla concezione collettivistica della cosiddetta democrazia popolare. Solo in questa prospettiva trovano la ragione d’essere i concetti che ho elaborato sul piano scientifico per poterli concretamente attuare.

Sono proposte che riguardano il prossimo futuro, ma che però assumono un’importanza crescente nella misura in cui la democrazia individualistica e il capitalismo altrettanto individualistico si dichiarano nei fatti incapaci di risolvere i problemi drammatici che incombono sull’intero pianeta.

## WHAT IS “CIVIL SOCIETY” AND HOW DOES IT DEVELOP?

JEAN BETHKE ELSHTAIN

### SUMMARY

The paper consists of four sections: Why civil society? Why now? Civil society and the good of persons. Civil society and the crisis of authority; and, finally, the future of civil society.

In the first section, the question as to why civil society is so much discussed at the present moment is raised. The answer lies in the fact that new democracies which were not permitted to sustain or to develop civil societies under authoritarian rule need to create robust civil societies if their democracies are to flourish. In addition, civil societies in the mature democracies of the West are, in all too many cases, faltering and not flourishing. For concerned citizens in each of these quite different situations, civil society signifies a sphere of associational life that embodies the many plural dimensions of complex human lives – families, churches, labour, charities, political associations. An ecological analogy helps us to think about civil society as a form of moral and social ecology that emerges slowly over time. Civil societies cannot be designed; nor can they be understood through linear models. Thinking ecologically, one is able to see the ways in which the cumulative effect of individual choices may redound to the disadvantage of others – of the common good – over time. The atomized culture of late modernity tends to separate people from civil society associations and the power and robustness of these associations declines. This undermines democratic life.

The second section of the paper moves to consider how civil society is linked to the good of persons, beginning with the recognition that we are sustained in thinking about and acting in decent ways through our participation in institutions. Most people do not «do good» spontaneously and without a social environment. Indeed, it is difficult for us even to recognize what is good and what is not unless we live in a social world framed by a moral horizon that helps us to evaluate both individual and social possibilities. The evidence now available tells us that overly powerful states and market forces erode civil society and thin out the forms of civil fellowship that help citizens to sustain a shared sense of participation in a way of life in common. The great moral teachers have all recognized that human beings

are more likely to be stirred to action and to compassion when they can think and act concretely in relation to their neighbours and when there are specific tasks they are called upon and able to do. The social institutions of civil society help to shape and to sustain such dispositions. Alexis de Tocqueville and Vaclav Havel are cited as two great proponents of the importance of civil society, past and present. Subsidiarity is noted as the most powerful theoretical framework available for explaining what a civil society is and what it does that cannot be done by other more centralized and top-heavy institutions and forces.

Section three raises the question: what sustains a civil society? The answer, in part, is legitimate, accountable authority. But one reason civil societies are in trouble lies in our present confusion over the functioning and meaning of authority in all spheres of civil and moral life. John Stuart Mill, who counterposed liberty and authority, is cited as an example of a tendency to assert that decent human freedom can be sustained without authority. But this is not possible because if we cannot distinguish authority from unacceptable forms of coercion and violence, we lose our political and moral bearings. Authority is required to bind us to the present and to locate us in decent frameworks shaped by traditions that are sturdy yet resilient.

The fourth and final section of the paper ponders the future of civil society. A terrible irony is noted, namely, that even as many domestic civil societies are in trouble, we are rightly called to create an international civil society in order to help sustain a regime of human rights and to promote greater international fairness in the economic and social spheres. Pope John Paul II is a critical figure in these developments, both as the most eloquent spokesman for human rights in the world today but also as the most articulate defender of global equity. His Holiness has drawn attention to the phenomenon of “superdevelopment”, a phenomenon this paper links to the erosion of civil society in developed countries and to the difficulties attendant upon the creation of a civil society in less developed polities and societies. The paper concludes with John Paul’s insistence that we are called to hope and to trust and the observation is made that civil societies cannot flourish unless hope and trust are ongoingly generated.

#### WHY CIVIL SOCIETY? WHY NOW?

Civil society is on the tips of our tongues nowadays whenever the question of how well democratic societies, whether old or new, are faring. That this is so is, perhaps, unsurprising. For we seem to have arrived at a point of recognition, namely, that neither markets nor states suffice to order a decent way of life in common. So if we ask – why civil society? why now? – we are drawn, first, to a consideration of civil society as a concept with a long and uneven history. For the political philosopher, Georg Wilhelm Friedrich Hegel, for example, civil society was a realm of competition and

contract whose divisions would be healed over only when the citizen entered that most universal of all ethical realms, the state.<sup>1</sup> In the Hegelian scheme of things, civil society is a higher realm than that of individuals and families but definitely lower in the overall picture than the more complete and perfect entity, the state.<sup>2</sup>

This way of talking about civil society is *not* what those claiming the term for contemporary political debate have in mind, however. For contemporary advocates of civil society, civil society signifies a sphere of associational life that is ‘more’ than families, yes, but it is also other than government. This is precisely one of its virtues rather than its defects or inadequacies. The state does not exist to “transcend” civil society but, rather, to serve it.

But what, exactly, is being served? A variety of plural associations, the many forms of social life that dot the landscape of well-functioning democratic cultures, from families to churches to neighbourhood groups. Civil society encompasses labour organizations, professional associations, and social service networks. Political parties are also part of this picture. This network lies outside the formal structure of state power. Observers of democracy have long recognized the vital importance of civil society thus understood. Some have spoken of “mediating institutions” that lie between the individual and the government or state. These mediating institutions locate each of us in a number of little estates, so to speak, which are themselves nested within wider, overlapping frameworks of sustaining and supporting institutions.

Perhaps one might think of this as a densely textured *social ecology*. For civil society is a realm that is neither individualist nor collectivist. It partakes of both the “I” and the “we”. One aim of maintaining a robust civil society is to forestall concentrations of power at the top or at the core. A second lies in the recognition that only many small-scale civic bodies enable citizens to cultivate democratic civic virtues and to play an active role in civil life. Such participation turns on meaningful involvement in some decent form of community, by which is meant commitments and ties that locate the citizen in bonds of trust, reciprocity, mutuality, and civic competence.

Embedded in the civil society framework is a recognition that our

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<sup>1</sup> The key Hegel text in question is, of course, *The Philosophy of Right*, trans. T.M. Knox (Oxford, Clarendon Press, 1975).

<sup>2</sup> In this, of course, Hegel is building on an Aristotelian foundation and Aristotle’s ranking of the *polis* as “the final and perfect association”. See ARISTOTLE, *The Politics*, ed. and trans. Ernest Barker (New York, Oxford University Press, 1962), p. 4.

social and political worlds are enormously complex and that they emerge and take shape concretely over time. No social engineer can “design” a civil society. No linear model can explain one. Civil society is a repository of generations of human actions and reactions to a material and moral environment. A sturdy yet supple civil society embodies the decocted wisdom of the ages yet remains open to new insights and challenges. A civil society is a system, but it is an open system. If environmental thinkers have shown us how the cumulative effect of misuse of an environment can, at one point, be more than a natural ecology can bear, so civil society analysts argue much along the same lines. They call upon us to evaluate the ways in which depletion and misuse of civic and moral resources can have debilitating, perhaps at one point even catastrophic, effects.

Thus, for example, the cumulative effect of thousands upon thousands of individual “choices” may redound to the benefit or disadvantage of others. If I live in a culture that encourages almost unlimited consumption, no single act of mine will be seen as harmful in a direct way to others. But hundreds of thousands of persons choosing unwisely, in a way that encourages or even comes to require what Pope John Paul II has seen as a culture of overconsumption and “super-development”, promotes corrosive results over time.<sup>3</sup> Eventually, we may even relinquish our capacity to choose wisely and well. Our great gift and responsibility of moral autonomy and free will may atrophy as we reduce human freedom to a selection from among a vast array of consumer choices in a world in which individual goods triumph and the notion of a common good is rejected or lost.

The increasingly atomized culture of late modernity, or so civil society advocates insist, pushes us in this harmful direction as human beings are cut off from the saving grace and presence of their fellow human beings. We come to see ourselves as independent in all things rather than as existing in a world of complex interdependencies. Civil society, by contrast, is a concrete way we have of recognizing and fostering decent and life-affirming interdependency. We are called to love and to serve our neighbour. But we cannot do this unless we have a neighbourhood; unless there are institutions that are present and strong, churches first and foremost; unless there are processes of moral formation through institutions, beginning with families, that call us to responsibilities as well as rights; to recognition of finitude as well as to action in freedom.

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<sup>3</sup> See, especially, his discussion of these themes in the encyclicals *Sollicitudo Rei Socialis* and *Centesimus Annus*.

## CIVIL SOCIETY AND THE GOOD OF PERSONS

Thinking about what civil society is reminds us that human beings are complex creatures who do not do good spontaneously most of the time. Wanting to do good, we have turned at various points to government to take over when charity did not suffice. Wanting to reap the rewards of self-discipline and hard work, we have turned to economic structures to generate jobs and prosperity. In the minds of some, unfortunately, government became not only a line of defense against social distress and unacceptable levels of injustice, but the only font of ethical decency and concern. Strong statist despised, or disdained, civil society because it did not seem up to the tasks they believe needed to be done and, as well, because the plural complexities of civil society challenge all top down social engineering and totalizing efforts. Similarly, the market, many optimistically believed, would be the source of social well-being as individual opportunities and rewards generated overall social benefit. The economy alone, they argued, was powerful enough to fend off efforts to locate too much power in governments. And there matters often got stalled. But what we have learned in the past half-century is that, even as families and churches and other associations of civil society have been buffeted about and even undermined by external powers of many kinds, there is no substitute for them. Without civil society, a political culture cannot sustain a decent moral and social ecology.

The evidence on this score is abundantly clear. It tells us that neither government alone, nor the economy alone, nor the two in tandem, can sustain the rich world of democratic civic life. The evidence also tells us that government and markets may even be harmful in specific ways. Rather than serving civil society, they may grow too powerful and may erode civil independence, social interdependence, and plurality. It is, therefore, not surprising that a growing sense of unease pervades much of the moral landscape of both developed and developing democracies. For all the wealth being generated in some sites (the United States being *primus inter pares* in this regard), there is a gnawing sense that all is not well with us. Take, for example, the fact that social science surveys indicate that American citizens no longer trust either their government or one another.<sup>4</sup> Citizens look at one another with suspicion and mistrust. This is

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<sup>4</sup> For a detailed account of the state of the civil society debate in America, replete with social science data, consult 'A Call to Civil Society: Why Democracy Needs Moral Truths. A Report to the Nation from the Council on Civil Society', available from The Institute for American Values, New York City, New York 10023.

debilitating as democracy presupposes a form of civic fellowship and requires an affective bond between citizens to help sustain a shared sense of participation in a way of life in common.

At our best as social beings, we trust one another; we have some confidence in our ability to work together and to face our difficulties with hope; we try to act decently in our dealings and we expect the same from others; we understand the vital role of government but we know that we have direct responsibility for democratic civic life; we extol the workings of a free economy but we believe that economic forces must be shaped by a moral sense. The great moral teachers have long insisted that human beings are more likely to be stirred to action and to compassion when they think concretely of fellow citizens and neighbours; when there are specific tasks they are called upon and able to do; when reciprocity is an ever present possibility and expectation. We need social institutions – a civil society – in order to channel, to shape, and to sustain our civic dispositions. Thus, it is altogether unsurprising that a body of recent work by American social scientists indicates that regular churchgoers are less likely to divorce, to abuse their children, to get caught up in cycles of violence and addiction, and more likely to serve their neighbours. Why? Because membership in an institution that instils ethical habits of the heart helps people to enact that ethic in the lives of their communities. There are many institutions that historically aided in this effort. But, in all too many places on the globe at present, they are faltering, not flourishing.

Let us dig into this matter in more depth. Recall, if you will, my use of the notion of a moral and civic ecology somewhat analogous to natural ecologies. I insisted that, just as the one can be sullied and depleted, so can the other. Civil society as a way we have to sustain and to recognize our interdependences is based on a long tradition of moral, philosophical, and theological thought. Aristotle insisted that the proper end of human beings required membership in associations, both household and *polis*. Alexis de Tocqueville, whose work on *Democracy in America* is a recognized classic, contrasted the rich world of associational self-help he found when he toured America in the Jacksonian era (c. 1830) with a worst-case scenario of what might be America's fate at some future point.<sup>5</sup> Tocqueville's argument has more general bearing on thinking about civil society in the context of democracy so it is worth pondering at length.

According to Tocqueville, democracy requires laws, constitutions, and

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<sup>5</sup> ALEXIS DE TOCQUEVILLE, *Democracy in America*, trans. George Lawrence (New York, Harper Perennial Books, 1988).

authoritative institutions. But it also depends on what he called the “habits of the heart” forged within the framework such institutions provided. He urged Americans – and all future citizens of democracies, for he saw democracy and equality as trends that would develop everywhere, at least in the West – to take to heart a possible corruption of democratic cultures over time. For democratic citizens might awaken one day and realize that something terrible had happened. Separated from the saving constraints and nurture of overlapping associations of civil society, persons in democratic regimes might come to be more dominated by a lower and lower mean on the level of culture and, as well, might find themselves caught up in webs of control instigated from above with the express aim of muffling the disintegrative effects of atomized self-interest.

It is worth remembering that for Tocqueville religious belief was inseparable from free public life. Why? Because churches engage in ethical formation; they teach us moral restraint, thereby releasing us for civic life and stewardship. Without strong churches and religious liberty, no flourishing civil society is possible. For this reason, I believe that, were Tocqueville alive today, he would press us to consider where we now find ourselves. Does not the culture of late modern democracies encourage excess, not restraint? Does not consumerism and the advertising and the media generally promote profligacy, not decency? Are we not underwriting bad habituation to wrongly ordered desires rather than nurturing good habits of the heart and intellect? If our answers to these questions is a reluctant “yes”, it is a reasonable bet that our society’s civil society is in trouble or has failed to take root in the first place. The latter situation is more likely to pertain in countries denied a civil society because they suffered the deprivations of authoritarian, top-heavy, state-bureaucratic regimes.

Unsurprisingly, therefore, even as many social critics and moral leaders in developed Western democracies see a decline in their moral ecology, the most penetrating observers of the new democracies in central Europe fear that a democratic civil society may not emerge in a robust way in the first place. Thus, President Václav Havel of the Czech Republic, in a recent “State of the Republic” address to the Parliament and Senate of the Czech Republic on December 9, 1997, commented critically on the state of Czech culture. His comments are worth quoting at some length. He noted:

“I have left culture to the end not because I consider it to be some super-structural ‘icing on the cake’, but for precisely the opposite reason. I consider it the most important of all, something that deserves to be mentioned at the very conclusion of my remarks. I am not thinking of culture as a separate sphere of



human activity ... I mean culture in the broadest sense of the word – that is, the culture of human relationships, of human existence, of human work, of human enterprise, of public and political life. I refer to the general level of our culture ... Culture ... can be measured, for example, by what skinheads shout in the bar U Zabranskych, by how many Roma have been lynched or murdered, by how terribly some of us behave to our fellow human beings simply because they have a different color of skin.

... you must know that I am talking about what is called a civil society. That means a society that makes room for the richest possible self-structuring and the richest possible participation in public life. In this sense, civil society is important for two reasons: in the first place it enables people to be themselves in all their dimensions, which includes being social creatures who desire, in thousands of ways, to participate in the life of the community in which they live. In the second place, it functions as a genuine guarantee of political stability. The more developed all the organs, institutions, and instruments of civil society are, the more resistant that society will be to political upheavals or reversals. It was no accident that communism's most brutal attack was aimed precisely against this civil society. It knew very well that its greatest enemy was not an individual non-Communist politician, but a society that was open, structured independently from the bottom up, and therefore very difficult to manipulate".<sup>6</sup>

Havel's words conjure up the concept of *subsidiarity*, the most powerful theoretical framework for explaining what a civil society is and what it does that cannot be done by other, more centralized and top-heavy institutions and forces. Here we do well to recall the modern social encyclicals of Pope Leo XIII, Pope Pius XI, Pope John XXIII, Pope Paul VI, and Pope John Paul II. In these encyclicals, culminating with the extraordinary contributions of Pope John Paul II, we find an affirmation of human rights that sees rights, not in individualistic, but in social terms. The assumptions of Catholic social thought provide for individuality and rights as the goods of persons in community – in a civil society.<sup>7</sup> Working from the principle of subsidiarity, the Popes here argued that it violates a right order of things to assign to greater or higher associations what smaller associations can do. The purpose of larger associations, including the state, is to help members of a body politic and social rather than to erode or to absorb its many plural associations. Subsidiarity, then, is a theory of, and for, civil society. It keeps alive alternatives between individualism, on the

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<sup>6</sup> VACLAV HAVEL, 'The State of the Republic', *The New York Review of Books* (March 5, 1998, pp. 42-46), pp. 45-46.

<sup>7</sup> For a helpful, theoretically rich summary of papal teaching see MICHEL SCHOYANS, 'Democracy in the Teaching of the Popes', *Miscellanea 1. Proceedings of the Workshop on Democracy* (Pontifical Academy of Social Sciences, Vatican City, 1998), pp. 11-40.

one hand, and collectivism, on the other. Neither individualistic nor collectivist orders can sustain a civil society.

#### CIVIL SOCIETY AND THE CRISIS OF AUTHORITY

What does sustain a civil society? I propose to zero in on only one theme, that of authority. Legitimate, accountable authority is implied, at least tacitly, in every discussion of civil society. Robust yet resilient authority is required to sustain institutions. Surely one reason civil societies are in trouble lies in our present confusion over the function and meaning of authority in all spheres of civil and moral life. For example: there is a tendency in modernity, exemplified most tellingly, perhaps, by John Stuart Mill in his classic tract, *On Liberty*, to contrast *liberty* with *authority*. Rather than posing liberty against tyranny or domination or authoritarianism, Mill sets liberty and authority up as antinomies. Mill got things entirely wrong. For we require authority in order to sustain decent, other-regarding liberty. Authority derives from the notion “to authorize”, to help generate and even bring into being and to hold and to secure that which is generated. Authority helps to secure and to sustain social institutions. It derives from the fact that we see people as responsible and can hold them accountable.

If we are incapable of distinguishing authority from unacceptable forms of coercion and even violence, we fall into a kind of abyss. This was Hannah Arendt’s argument in a famous essay on authority. Minus authority, claimed Arendt, we even lose a sense of the past and of tradition as “the permanence and durability” of the world seems to melt away. This loss is “tantamount to the loss of the groundwork of the world, which indeed ... has begun to shift, to change and transform itself with ever-increasing rapidity from one shape to another, as though we were living and struggling with a Protean universe where everything at any moment can become almost anything else”.<sup>8</sup> Arendt singles out for critical fire arguments deeply implicated in the conflation of coercion and authority. She also helps to remind us that the legitimate authoritative figure historically was one who was bound by law, by tradition, by the force of past example and experience. Being bound in particular ways guaranteed a framework for action and helped to create and to sustain particular public spaces – whether of church, polity, or other institutions of social life. Bounded freedom, constituted by authority, is the only way human beings have to

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<sup>8</sup> HANNAH ARENDT, ‘What is Authority?’, in *Between Past and Future* (Baltimore, Maryland, Penguin, 1980), p. 95.

guarantee creation of a common space; to simultaneously constrain yet to nurture and to make possible human action.

The life of a decent polity, after all, is not just about life but about a good life. This good life plays a formative and educative role. It inducts each generation into a way of being in the world made possible only when people submit to authority mutually and thereby hold one another accountable. Without such an authoritative framework, there is only violence or rampant antinomianism. Let us return to Tocqueville and his fears about where the age of democracy and equality might take us. He suggested that, over time, the horizon of democratic civil societies might recede as complex, authoritative traditions eroded or collapsed. The upshot is a cynical notion that the past has been nothing but a story of chicanery and arbitrariness in any case. In order to be free, we must escape tradition altogether. But this winds up not being freedom so much as a desperate flailing in a civil universe stripped of moral texture.

In such a world, we grow more and more apart from one another. We repudiate even the possibility of a rough and ready sharing of moral norms and aspirations of the sort that help us to treat one another decently and to work together. Even the procedural norms of democratic governmental institutions may be called into question. Our confidence in the possibility of sustaining truth itself wanes. We come to believe that all that exists is self-interested and self-serving opinion. This is indeed worrisome, for as Hannah Arendt also insisted, in her great work, *The Origins of Totalitarianism*: “The ideal subject of totalitarian rule is not the convinced Nazi or the convinced Communist, but people for whom the distinction between fact and fiction ... and the distinction between true and false ... no longer exist”.<sup>9</sup>

#### THE FUTURE OF CIVIL SOCIETY

The stakes, it seems, could not be higher. At the end of the twentieth century, we find many of our fellow citizens perplexed and even in a state of something akin to moral exhaustion. For they – and we – have been taught that lived life exhausts itself and is self-encapsulating; that to extend oneself to others is not a norm but an extraordinary act of sacrifice; that anything and everything is arbitrarily constructed and nothing is given or can be taken on trust. Those most likely to be thus overwhelmed are those

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<sup>9</sup> HANNAH ARENDT, *The Origins of Totalitarianism* (New York, Harcourt Brace Jovanovich, 1973), p. 474.

stripped of the sustenance provided by a rich civil society, a dense moral ecology. The terrible irony, of course, is that even as old and new democracies find themselves troubled or even reeling from the failure of civil society, we are being called – rightly – to the task of building something like a civil society on the international level.

In this area, too, Pope John Paul II has taken the lead. In his U. N. Address, “The Fabric of Relations Among Peoples”, His Holiness acknowledged that “we are witnessing an extraordinary global acceleration of that quest for freedom which is one of the great dynamics of human history ... Men and women throughout the world, even when threatened by violence, have taken the risk of freedom, asking to be given a place in social, political and economic life which is commensurate with their dignity as free human beings”.<sup>10</sup> John Paul II affirms that there are “indeed universal human rights rooted in the nature of the person”, and that nature, it should be remembered, is social, not atomistic; reflective of the moral law, not the end result of a utilitarian calculus. Together with the rights of persons are the rights of nations. But none of these rights is absolute and, in fact, they exist in some tension with one another. This is a tension as old as moral philosophy itself, that between the particular and the universal. If a civil society internal to one political body is that society’s embodiment of its particular identity, then a commitment to a universal set of goods of, and for, persons, perhaps requires something analogous between nations. Certainly it is the case that we are bound in a “more intense way to particular human groups, beginning with the family and going on to the various groups to which they belong and up to the whole of their ethnic and cultural group ...”.<sup>11</sup> But we are also called to come to grips with a wider international culture of difference and pluralism that requires its own structures and safeguards. His Holiness calls for an “ethic of solidarity” that promotes a more just distribution of goods and advances the prospect of a decent, reasonable life for all God’s children.

Here the phenomenon of superdevelopment plays a critical and destructive role. As Pope John Paul II has argued, superdevelopment “makes people slaves of possession and of immediate gratification, with no other horizon than the multiplication and continual replacement of the things already owned with others still better. This is the so-called civilization of ‘consumption’ or ‘consumerism,’ which involves so much

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<sup>10</sup> Pope JOHN PAUL II, ‘The Fabric of Relations Among Peoples’, *Origins* 19 October, 1995, Vol. 25, No. 18, pp. 294-299, p. 295.

<sup>11</sup> *Ibid.*, p. 296.

‘throwing away’ and waste”.<sup>12</sup> The “sad effects of this blind submission to pure consumerism”, argues His Holiness, is a combination of materialism and a relentless dissatisfaction, as “the more one possesses the more one wants”. Aspirations that cut deeper, that speak to human dignity within a world of others, are stifled. John Paul’s name for this alternative aspiration is “solidarity”, not a “feeling of vague compassion or shallow distress at the misfortunes of so many people” but, instead, a determination to “commit oneself to the common good; that is to say, to the good of all and of each individual because we are really responsible for all”. Through solidarity we see “the ‘other’ ... not just as some kind of instrument ... but as our ‘neighbour,’ a ‘helper’ ... to be made a sharer on a par with ourselves in the banquet of life to which we are all equally invited by God”. The structures that make possible this ideal of solidarity are the many associations of civil society.

But superdevelopment erodes civil society within those political bodies whose culture is defined by superdevelopment. And because the superdevelopment of some is implicated in the lack of minimally decent lives for many others, this phenomenon is also linked to those conditions that make it difficult or impossible for so many other societies to create and to sustain robust civil societies in the first place. Creation of a genuine international society involves us, first and foremost, in a strong regime of international human rights, with freedom to worship openly with one’s fellow citizens without fear of violence and reprisal at the top of this list. For this freedom helps to set the horizon within which other freedoms can be exercised and evaluated. But, second, no robust international civil society can emerge if some societies languish in the twilight of terrible poverty and distress and others wallow in an excess of too many goods consumed unwisely and not well.

Pope John Paul II has called us to hope and trust. Civil societies are built on hope and trust. No civil society can survive and certainly none can flourish unless hope and trust are attendant upon the building of a civil society culture and constitutive of that culture over time. This is why so many of our democratic cultures are faltering, not flourishing. In order to restore hope and trust, we are drawn back inevitably to the most basic of questions: in what does the good of human beings exist? How can we come to recognise, to honour, and to cultivate that good? Civil society is one way we have devised to answer that question.

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<sup>12</sup> Pope JOHN PAUL II, *Sollicitudo Rei Socialis*, in *Origins* 13 March, 1988, Vol. 17, No. 38, pp. 641-660, p. 650.

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*Discussion of the paper by J.B. Elshtain*

MINNERATH

Both Professor Arrow and Professor Elshtain raised the issue of sovereignty of the family. It is true that this concept appears for the first time ever in the encyclicals of John Paul II. In fact, the concept of sovereignty is also often associated with conscience, and with “nation through its culture”. In international law we are used to associating sovereignty with the state (and the Holy See!). Professor Donati said it has to be interpreted as an ethical sovereignty. True, also, but a little bit more. The person with a free conscience, the family as a God-given institution, the nation with its culture are entities which enjoy autonomy by natural law, as they cannot, do not admit, manipulation by alien powers. So we may understand sovereignty in the sense of autonomy. The autonomy of conscience, of family, of culture have to be respected, as a condition for building up a sound civil society, where co-operation and research for the common good can only be fostered when their respective freedom is guaranteed.

ZUBRZYCKI

My first concern arises primarily from Professor Zampetti’s paper, but also touches on Professor Elshtain’s paper. It is about participation in civil society, and through it in democracy. We must not forget about those who for a variety of reasons are excluded from participation as a result of inequalities of education, welfare provision and taxation. We must also recognize those who are victims of globalization which makes it likely that the skills they acquired in their early life may become obsolete and new skills will have to be acquired, and therefore participation will be limited.

My second comment concerns the absence in our discussion of the ideas of reciprocity, amicability and solidarity, so prominent in *Centesimus Annus* and other pronouncements of John Paul II. By ignoring those issues we are, I think, largely ignoring the great potential that may exist in civil society for the development of social capital, the commonality of purpose of a habitually co-operative community, the development, in other words, of Tocqueville’s “habits of the heart”.



ELSHTAIN

I'll take the second question first if I may, and then respond to the first question.

First, on the issue of participation and inequality, I think that, of course, the stronger the civil society, the more one maximizes the possibilities for those who are least well placed in the social order to participate. When people are isolated and cut adrift from forms of social life and social organization, they feel most keenly social inequalities, but are at least well placed to deal with this effectively. If you wanted a pessimistic argument you would claim that those who most benefit from inegalitarian structures decide certain short-term advantages in the unravelling of civil society because it makes it more difficult for those who are excluded to fight against their exclusion. Notions of participation and equality are central to the civil society discussion. Second, on reciprocity and solidarity, of course you are absolutely right that the way in which social scientists talk about social capital formation is one way of analysing the building of bonds of reciprocity, self-help and solidarity.

LLACH

Las exposiciones del profesor Zampetti y de la profesora Elshtain nos dan una oportunidad de pensar más a fondo en el principio de subsidiariedad. Hay por lo menos dos lecturas posibles: una es una lectura macro del principio de subsidiariedad, tal como el concepto de la democracia participativa del profesor Zampetti, o la lectura en algún sentido corporativa o corporativista que ha habido también del principio subsidiariedad, y también el concepto que mostró la profesora Elshtain de sociedad civil. En todos estos casos, lo público y lo macro es lo dominante. También cabe sin embargo una lectura micro del principio de subsidiariedad y ahí el concepto clave es el de la soberanía de la familia, es el post-estado benefactor. Una de las lecturas posibles del siglo XX es que la democracia y el estado benefactor fueron los dos modos de resolver profundos conflictos sociales. La democracia goza de razonable salud pero el estado benefactor ha entrado en una crisis yo creo irreversible en casi todo el mundo. Y una de las posibles lecturas micro del principio de subsidiariedad es precisamente la de la familia recuperando el poder de tomar decisiones sobre una enorme cantidad de aspectos de la vida que le han sido hasta ahora quitados por el estado benefactor: la educación, la salud, los seguros o los ahorros.

ARROW

I have two questions for Professor Elshtain. One is on the role of authority. I am not clear whether authority inheres in certain individuals or

whether authority is found in general principles, particularly moral principles. I certainly respect authority in general principles, but with regard to individuals I have some immediate feeling for John Stuart Mill's position.

A second question is one already raised by Professor Llach: the attack on the welfare state. For example, there is a movement under way in the United States to go back in some form to a system where an individual becomes responsible for his or her security in old age or with respect to health. In certain ways, other countries, such as Chile, have moved further in that direction. I will not give a lecture here on the ways the conventional market system must fail to provide adequate security in these cases, but I am disturbed by the vigour of the attack.

ELSHTAIN

First, to Professor Arrow on the question of authority. Authority is one of those contestable terms that structure political life and thought and are subject to a variety of different meanings and usages. The way in which I was using it, and the reason that I connected it to seeing people as responsible and holding them accountable, is the fact that in democratic civil societies authority is dispersed, and there are multiple sites of authority. Many different persons are accountable authorities over a range of activities or concerns. Authority is in part about general principles, but it is also about our capacity to hold ourselves responsible and to assume that self-responsible freedom is precisely accountability. I would submit that you can't sustain a defence of accountability without reference to democratic authority. If there is a crisis of civil society in the United States and in other developed democracies, at present it derives from the fact that we have come to accept a very strenuous version of the antinomy, set up by J.S. Mill, that if authority exists, liberty is imperilled. If you hold this view, authority is automatically suspect and you cannot distinguish it from coercion and domination. Arendt uses authority in several ways: to talk about general principles, but also about the person and responsibility. Second, what about macro and micro concepts of civil society? I don't see any sharp division between these understandings. In fact, if we too sharply moved within the framework of subsidiarity to talk about the macro levels, we might lose the integrity of the theory as these concepts deflect from the very heart of the understanding of subsidiarity. Third, I agree that the family is in crisis in most Western democracies in a variety of ways. How best to understand that crisis and how to reverse it is a very complex problem. If we situate that crisis of the family within the framework of

subsidiarity, and reflect on families and their authority over a range of issues, family questions will look much more different than if we saw the family in strictly functionalist terms. This latter leads to the argument that we can find substitute institutions to raise children; children will not be losing very much by losing the family. The subsidiarity account by contrast raises profound ethical questions that melt away if you look at these issues from a functionalist perspective.

GLENDON

The “crisis of authority” to which Professor Elshtain refers affects all the structures on which a republic depends for the formation of citizens (families, religious and other associations, schools, and so on). Ironically, this crisis has been exacerbated by attempts to impose a liberal, democratic, egalitarian model on the structures of civil society. We seem to be in the presence of a paradox that deserves more attention from political theorists: the maintenance of a healthy democratic political regime may depend upon nurturing “seedbeds” of civic virtues (such as the family) that are constituted on non-liberal, non-democratic principles.

ZIOLKOWSKI

In your excellent paper you speak, Madam, about subsidiarity as an alternative to individualism and collectivism. May I refer to what Karol Wojtyła wrote on the subject in the book “The Acting Person” in the 1950s: individualism rejects social responsibility and concentrates on self-fulfilment or self preservation; collectivism sets out to check and curb the individual, to subject him or her to its norms by coercion if need be. Both lack the idea of community, both also lack any sense of the common good. Individualism is not concerned with it, and collectivism has decided in advance what it is.

ARCHER

This intervention relates to the horizontal groupings which actualise subsidiarity in the twentieth century, compared with the decline of religious and domestic mediating structures which Durkheim traced in the nineteenth century. Today much optimism is associated with new social movements as expressions of subsidiarity (e.g. ethnic or feminist groups). However, one may doubt if such single-issue movements can constitute viable modes of horizontal subsidiarity since they lack integration with other parts of society which would enable them to fulfil this function.

## MORANDE

I would like to support and to add to what Professor Minnerath said about the sovereignty of the family. It is a new concept, developed since Vatican II particularly, by the teachings of the present Pope. I'm a bit uncomfortable when the family is seen only as one among many important parts of civil society. The family is something very unique, very special, and this uniqueness can be explained by the special sovereignty it exerts over human reproduction. Up to now the family has been the social realm where the ontogenesis of each person takes place. That is why assisted procreation brings about such a serious social crisis. As an example, I can mention the decision taken by an U.S. Court last year, where a child, born by this procedure, was declared an orphan because there were five different options regarding its parenthood (filiation). If the argument stated in this case law is generally applied, it could be said that for functional society the best condition for the existence of human beings is for us all to be orphans. This seems to be in contradiction with the possibility of a truly democratic society because, if we were orphans, the state could do anything without restraints. It could exert totalitarian sovereignty and the difference, mentioned by Professor Kaufmann, between raising children or raising pigs would become conventional. Family sovereignty, which in particular includes reproduction, is the condition for a non-totalitarian social order.

## VON BEYME

This is not a question but a comment of warning. The chairman may dislike its content, but he will appreciate its brevity: the subsidiarity principle was invoked several times and I would like to warn you not to exaggerate the consensus underlying this principle. Two federalised countries, Belgium and Germany, emphasized federalism, two centralist countries, such as France and Britain, opposed it. The deadlock was solved by a withdrawal to the least common denominator, e.g. subsidiarity. The European Parliament followed this compromise by stating: subsidiarity in a case of doubt means federalism. This genesis of a principle in the Maastricht treaty shows that the underlying idea was shifted from the horizontal co-operation of territories to a notion created for the hierarchical co-operation of functional groups. The result will probably be, as Professor Donati has already mentioned, that in most cases some decentralisation will be implemented, but the basic meaning of subsidiarity will not play any major role.

## KAUFMANN

I wish also to comment on the principle of subsidiarity. I think that both traditional interpretations are at odds with the new emerging functional

structures of political and social relationships. The Catholic interpretation of the principle of subsidiarity presumes a pyramidal structure of society, or, so to speak, a model of concentric life circles. The second, liberal interpretation of the principle of subsidiarity, was that of the minimal state. I think this is too simple to understand what is going on.

What we need today is to see that the state as a description of the political system is one partial functional structure in the whole of society, as the totality of families as a system is, as the market economy as a system is, and now we have still emerging new complexes which often are called the welfare state, but this is a very misleading term. It is not a part of the state, it is rather a welfare service sector which may be more or less under the influence of political or moral or civil or even ecclesiastical authorities. I think we have to discuss about what is the real function of the state in the provision of this kind of welfare and, in my opinion, in many countries the state has gone too far, it has regulated too much. But there are some essential tasks of the state, especially that of securing minimal provision for everybody. The essential task of the state, is only the guaranteeing, not the provision, of services.

ELSHTAIN

Yes, first, to Professor Glendon's question. Let me remind you of what was at stake in her question. It had to do with the paradox in the functioning of a healthy democratic civil society in this sense: many of the institutions that comprise that civil society are not themselves democratically governed and organised. Families are not democracies, most Churches do not see themselves as democracies as they don't run "by one person, one vote", they have a different authority principle, as do the other structures that constitute them. Pluralism comes in at this juncture. A democratic civil society doesn't mean that we retain homologous structures for all institutions, rather a variety of important and vital tasks legally organising their internal structures in many ways that may not correspond with the overall formal authority principle of a democratic society, a vote, but we do not make decisions about what happens inside families by giving everyone a vote, or what happens inside Churches by everyone having a vote. To uphold the dignity and the essential character of plural structures, there are diverse modes of internal ordering within the Academy.

Second, in response to Professor Archer, a very important question about horizontal groupings and whether they express subsidiarity today. We could begin to approach this matter by looking at the distinction between a movement and an institution. Civil society is made up of a variety of

institutions that have some longevity. Social movements often come and go very quickly, and they can transmute with great rapidity. Part of the problem with many social movements lies in the fact that they promote and demand an ethic of solidarity which, in practice, means one of internal opinion. But their relationship to those “outside” is often one of suspicion and hostility. This isn’t true across-the-board, of course, but this is often the case as to its cause. One has the sense that internal solidarity is based upon a feeling of hostility *vis-à-vis* other groups. If so, this doesn’t bode well for that particular movement evolving into a functioning, sturdy, democratic, civil society. In general, we must evaluate all of these efforts within an ethical framework and a horizon of understanding based on the good of persons and the notion of common good which the Holy Father has proffered for us in a number of different ways.

Finally, on the family, what is at stake in many debates today is how the family is to be defined. It is simply any group of people who contract to be under one roof together? If so, we’ve really lost a substantive understanding of the family in any meaningful sense. While the family is being denuded of meaning in many policies and arguments, subsidiarity is being called upon to help us think about society. What is at stake is not world-wide harmony, but how we might adjudicate international tensions and differences. This involves building up a sturdy regime of human rights which are rightly understood. Pope John Paul II tells us to move toward something like an international civil society within, of course, nation-state formations and global markets. The Holy Father calls us to look at the possibility of building an ethical solidarity that positions us critically in order to evaluate growing economic inequality internationally. Why? Because persons fulfill themselves as citizens and as full participants in a civil society. They must have access to certain goods in order to do that.



## DEMOCRACY AS CIVIL SOCIETY: THE MEDIATING STRUCTURES

KLAUS VON BEYME

### SUMMARY

Civil society sometimes has been used as a neo-liberal anti-state concept, especially in Eastern Europe. In the Western tradition, however, it means rather a balance between functioning democratic institutions and the mediating structures, mainly interest groups.

Two developments have changed democracy and civil society in the last two decades:

(1) The regimes of central democratic decision-making have been changed by the development of many new by-institutions in which mediating interest groups have strengthened their influence on the policy output (corporatist negotiation, round tables, concertation).

(2) The rise of new social movements. In postmodern society the rise of new movements has not substituted, however, the old established institutions, but has complemented them and widened the arenas for influence of new social groups.

### DEMOCRACY, CIVIL SOCIETY, AND THE MEDIATING STRUCTURES IN POLITICS

Democracy in its radical tradition included a bias towards the individual citizens and their political behaviour. The social sciences soon discovered that political behaviour could not be studied without the *collective actors of citizens*, e.g. the parties. Only when the breakdown of democracy occurred was it recognized that democratic order frequently perishes when no mediating structures are developed which internalize democratic values. The Weimar Republic worried many researchers: according to the normal indicators regarding the prerequisites of democracy, Germany



should have been a high-scorer of democracy – a high level of education, high economic development, a differentiated intermediary system of associations. After Harry Eckstein and others it became a commonplace that the Weimar Republic collapsed because there was no *civil society* at the basis of the democratic regime. Most of the intermediary structures in society reflected the old regime and its authoritarian structures.

But even happier countries, which created representative government and democracy earlier than Germany, such as France and Britain, were originally biased against the “*pouvoirs intermédiaires*”. To fight the remnants of a feudal society they tried to keep the intermediary structures out of politics, if necessary by law, such as the “*loi Le Chapelier*” (1792) or the British “General Combination Act” (1799). Paradoxically enough, countries with stronger remnants of a society of estates, such as Germany, were more tolerant towards the intermediary structures. Parties have normally been recognized in constitutions since 1945. Interest groups and social movements are still very rarely a subject of constitutional regulation, unless there is an economic and social council as a kind of consultative by-chamber, deliberating legislation without deciding it.

From the legal point of view, the interference of mediating structures in the legislative process was undesirable for many students of democracy. The American term “*pressure group*”, coined in a society which was more civil than any European state society, hinted at the fact that the influences were considered as a “strain” for the authorized decision-makers in parliament and government. Only after the Second World War were the “*cosy triangles*” of legislators, interest group representatives and bureaucrats discovered, and this term made it clear that this kind of co-operation was considered quite normal by all the three parts of the triangle. In pluralist theories of democracy the interference of mediating organizations in the decision-making process was accepted as an inevitable evil.

This kind of stalemate between the state and the associations of society changed when a wave of the *new social movements* altered the mediating structures. The state, and not only in corporatist systems, was seen as being too closely connected to vested organized interests. The mediating groups – following the parties – grew into a *semi-statal position* by taking over more and more functions of the state authorities and by “cartelizing” politics in the hands of élitist iron triangles. *Civil society* as a counter-weight against the power of state authorities was rediscovered as a basic concept of democracy. Civil society became a key notion in the works of the moderate left from the Frankfurt school to Communitarianism. Civil society to Habermas (1992: 443ff) consisted of all the *non-statal associations* and *non-economic interest groups*. Civil society became the missing link between the

“*sphere of life*” (Lebenswelt) and the *public sphere*. Habermas was, however, not an idealist. He recognized certain dangers in the new structure of communication in a modern society if this latter was not grounded in a living society of experienced citizens.

The new forms of action were perceived in terms of autopoietic variations of the system’s theory. Habermas’ theory developed a potential for self-transformation. He did not believe that they were nourished by a uniform structure of the “*Lebenswelt*”. Habermas, moreover, recognized that the notion of civil society can be abused by right-wing populists. Ideological entrepreneurs among the new social movements could try to usurp the fragmented potential of new civil forms of communication. In Eastern Europe there was the danger of shrinking the concept of civil society to an early modern notion of civil society. Hegel once developed such a concept which he called the ‘system of needs’. Postmodern hopes that degeneration of the concept of civil society could be avoided when the new social movements and advocate policy orientation prevailed over economic interests was hardly grounded in the context of Eastern transformation societies. They developed particularly brutal forms of capitalism which reminded them more of early capitalism in the sense described by Charles Dickens than the civilized forms which were accepted by those countries which had the privilege to be late-comers on the road to market society. The German tradition – strong in Eastern Europe and developed by intellectuals such as Hegel and Marx – had little understanding of the ‘bourgeois’ connotations of the Anglo-Saxon version of civil society.

Thus the populist “*terribles simplicateurs*” benefited from the ideological vacuum which the idea of a civil society was not able to fill. The Western ideologues of civil society, who after 1989 hoped for a spill-over effect of civil society movements from the East to the West, were disappointed. They refused to jump on the bandwagon of the new nationalism. This was especially true in Germany where they had some difficulties in accepting the new, larger nation-state and compromised themselves by their attempt to support the preservation of as many institutions of the old socialist society as possible. The East-European intelligentsia, on the other hand, felt abandoned, and under the pressure of the new social and economic realities withdrew quickly from the political sphere. Technocrats were then able to take over. In the West the idea of civil society was *no longer directed against a strong state*, as was the case under the conditions of eroding state socialism in the East. It was sometimes used to *compensate state regulation*. Germany was a good example of this. When the first right-wing extremist wave of terror against

foreigners swept through the country, the state wavered. Civil society, which consisted of spontaneous chains of peaceful demonstrations to protect buildings inhabited by foreigners and to form chains of candles throughout the city, was a substitute for urgently needed state action and mobilized the state administration. But this kind of success had little effect on the every day functioning of bourgeois society, and moreover left little impact on Eastern Europe which was facing still more dangerous waves of new nationalism.

To develop a reasonable concept of civil society in Eastern Europe, the intelligentsia needed to escape from being integrated into the state apparatus and had to develop positive relations with new democratic institutions even if they, as a group, played only a marginal role in it. Moreover, the Eastern intelligentsia had to accept a rigorous self-critique during the time of Communist rule. The problem, however, was that the dissenters among the Eastern intelligentsia who had to accept a rigorous self-critique at the time of the erosion of socialism were devoted to the concept of '*anti-politics*', an idea quite alien to the traditional liberal concept of civil society in the West. The concept of civil society proved to be useful for democracy only when it did not stick to illusions of *anti-politics*, and in the case of the building market economy to *anti-economics*. The torchbearers of civil society were sometimes over confident that the new social movements might substitute the old machines of established interest groups. This proved, however, to be an illusion. The new social movements changed the competitive situation of mediating organizations in the decision-making process. But normally they were successful only when new and old groups co-operated.

#### INTEREST GROUPS AND REGIMES OF POLICY-DECISION

Democracy has not created uniform patterns of mediating structures. The traditions of conflict resolution between organized interests have been more stable than the institutions which – at least among the parliamentary democracies in Europe – have become more and more uniform.

As long as corporatism was a growth sector in the scientific debate, many attempts were made to define whole countries, such as Sweden or Austria, as corporatist. Germany never completely fitted the model but had important corporatist arenas. Corporatists and pluralists chose their favourite arenas and thus were able to demonstrate their favourite model of interest mediation – though only for a limited time and in a restricted field of decision. When network analysis moved from a methodological instrument to a theoretical

Matrix 1: *Typology of policy-networks.*

	dominance of the state			dominance of the society		
actors	I state agencies	II cartels of parties	III one great interest group	IV two con- flicting great interest groups	V moderate pluralism of groups	VI unlimited pluralism of groups
dominant model of interme- diation	pantouflage state corporatism	parentela relations	clientela relations	liberal corpora- tism	sponsored pluralism, sub- govern- ment	pressure pluralism

Sources: variation of Jordan/Schubert 1992: 25, van Waarden 1992: 50.

hypothesis the nation-wide dominance of certain patterns of decision-making were demystified. New typologies discovered the co-existence of several modes of interest representation situated between the extreme poles of “dominance of state” or “dominance of society” (matrix 1).

European systems showed a certain tendency to implement one of these models: France (I), Italy at the time of the DC-dominance II and III, Germany IV and V. But no country ever used one or two models exclusively.

Each country developed mediating regimes of its own. Deviating from the above model, the author in an empirical study of 150 key decisions of the German Parliament proposed another typology of six network structures in interest articulation which is closer to the political reality of the country (matrix 2).

The German parliamentary process is predominantly organized as a *limited pluralism*, limited via building cartels and oligopolistic arenas. This result is more implemented by great class and status organizations with a monopoly of representation in certain policy fields than by a deliberate illiberal policy of the state. State agencies and parliamentary decision-makers instead try to equalize the chances of access to decision-making, at least compared to the bureaucracy which favors large and powerful organizations. Half of the key decisions are pluralistic (51.8%). Policy does not always determine politics in a clear way, as Lowi (1964) suggested. Economic decisions are dominated by corporatist models and legal policy is

Matrix 2: *Typology of network structures in interest articulation.*

	CORPORATIVE DUALISM		CORPORATISM PLUS PLURALISM OF STATUS GROUP	STATUS-POLITICAL PLURALISM		DOMINANCE OF PROMOTIONAL GROUPS
	symmetrical dualism	asymmetrical dualism		Oligopol of status groups	Variety of status groups	
criteria of demarcation	dominance of class political dualism of economy and trade unions	dominance of a pole in the dualism of corporatism	cumulation of class political corporatism and status political pluralism	restricted pluralism of status groups ruling a policy field	extended access for many groups	pluralism of many groups. Promotional groups give the key. Status groups work as advocates in favor of third groups
focus in policy fields	economic policy 60% housing policy 20%	economic policy 69% environmental policy 16%	social policy 34% environmental policy 23%	social policy 28% legal policy 24%	legal policy 35% housing policy 35%	legal policy 76% environmental policy 11%
cases 110 (=100%)	9.1%	16.4%	23.6%	22.7%	12.7%	15.5%
attempts of interventions per law	37.9	16.0	60.9	6.6	36.7	21.2
focus in types of parliamentary decisions	protective 30% distributive 30%	distributive 27% protective 22%	distributive 38% protective 30%	distributive 48% regulative 19%	regulative 35% distributive 35%	protective 52% restrictive 29%

Source: Klaus von Beyme, *The Legislator. Parliament as the Center of Decision-Making. The Case of Germany* (Aldershot, Ashgate 1998), chapter 11 (forthcoming).

the domain of promotional groups. In all the other fields the situation has to be differentiated according to various issues. The affinities of policy arenas to certain interest group regimes do not exceed one third in some of the policy arenas.

The policy measures show only two strong determinations: oligopolistic status politics prevails in almost half of the distributive and redistributive

decisions (48%). Protective measures, on the other hand, seem to invite the dominance of promotional groups (52%).

The frequency of interventions is not tantamount to *influence* in all the arenas. In arenas of oligopolistic status politics, influence and intervention have a close connection. Corporatist intervention *ipso facto* limits influence because each intervention from one side causes a counter-reaction from the other side. Corporatism can be subdivided when sub-organizations of the major associations (employers, investors and trade unions) intervene. The more status organizations are present at the same time, the more divergent the statements of the suborganizations tend to be. In decisions on social policy with a high degree of polarization, the investors' organizations are frequently more divided than the trade unions because only the peak organizations have an all-round interest in the issue (cf. Pappi *et al.* 1995: 208).

In the USA the transformation of a *system of policy communities* has been discovered. The number and variety of views of the groups has increased. Former policy-sub-systems have broken down (Baumgartner/Jones 1993: 179). There are certainly parallels in Europe as well. Nevertheless, the policy networks have differed in Germany from the Anglo-Saxon prototypes during the 1990s. The networks have been more decentralized in Germany, but vertical and horizontal interpenetrations have been comparatively high. Sectoralization has not excluded the integration of interests. The number of relevant associations has remained more limited than in the United States, though the fight for invitations to a public hearing is less hard in Germany because there are less prospective testifiers than in the USA. *Pluralist self-regulation* and *corporatist concertation* have combined in arenas where in the United States a *pluralist lobbying-model* has continued to dominate (Döhler 1990: 184). European systems were deeply influenced by American neo-liberalist ideas. But in spite of the hailing of the market in Europe, Thatcherism never prevailed on the Continent and was not even able to completely weaken the British National Health System.

Interest group research in America has rediscovered the "*legislative leviathan*" and the role of the parties behind the calculation of individual decisions of parliamentarians and their links with interest groups. In Germany the discovery that parties matter would be a truism. The *cosy triangles* in the American Congress (legislators, bureaucrats and interest group representatives) were always an "*uncosy pentangle*", involving parties and the state agencies of the Laender in a system of vertical intergovernmental decision-making alien to the American federal system. The influence of interest groups in such a system ultimately depends much more on their capacity to penetrate the party organizations and the establishments of

parliamentary groups than their ability to influence the legislators in the committees *via* interventions. These are more an indicator of influence than the cause of direct causality between intervention and decision.

#### THE NEW PARADIGM OF MEDIATING ASSOCIATIONS: THE NEW SOCIAL MOVEMENTS

Until 1983 the German system of interest articulation and conflict resolution in international comparisons was said to be legalistic, state-oriented, bureaucratic and not very conflict-oriented. When the Green Party entered parliament Germany unexpectedly became the “Mecca” of unconventional political behaviour. The easy victory of the new social movements was explained by the fragmentation of the institutions in German federalism and by the legal opportunities opened up by an administrative court system which was among the most accessible in the whole world (Nelkin 1982). A Bavarian farmer’s wife for five years prevented the construction of an atomic power station – this was hardly conceivable in more centralized states! Another cause of the strength of alternative movements in Germany was the *cognitive mobilization* caused by the student protest movement of the late 1960s and early 1970s. Improved education strengthened the individualism of voters. Mobilization by hierarchical parties and bosses found less acceptance than before. The high *quantity of mobilized participation* was transformed into a new *quality of participation*: the newer mode of participation was capable of expressing the individual’s preferences with greater precision than the old. This is a more *issue-oriented participation* based less on established bureaucratic organizations than on *ad hoc groups*. New forms of participation among growing Western mass publics – including (Inglehart 1977: 300) unconventional behaviour – turned out to be dependent on education, cognitive skills and postmaterialist attitudes. Participation was no longer ritual (Barnes/Kaase 1979: 524), nor considered as a value *per se*, but something which serves a purpose.

The capacity to absorb new demands has decreased since the days of the students’ movement. In Germany, during the true of Brandt’s Cabinet, the government was able to *absorb parts of the protest potential via mobilization and élite co-optation*. The new movements are more difficult to handle, because some groups among them do not want co-optation. Sometimes they do not even want participation at the centre. The more radical parties of the new movement demand *autonomy instead of representation*. It has turned out, however, to be premature to predict a growing decline of territorial representation by parliaments and parties

(Offe 1983: 233). The older movements fought against *exclusion from participation*. Some of the new social movements do not ask for *inclusion* – they exclude themselves at least from conventional participation.

The new organizational paradigm has made mobilization as an upward process less and less predictable. Frustration and crisis *per se* do not necessarily prepare the ground for new social movements. In the older theories of social movements conflict seemed to be a given assumption. An aggrieved population provided the necessary resources. The environment of movements was said to entail mobilization. That the movement's organizations and their leaders can use the environment for their own purposes was largely ignored (McCarthy/Zald 1977: 1277). With the help of ideologies people react to grievances via mobilization. The *potential group* in these theories was transformed into a mobilized group ready for action. In most studies it was overlooked that the *by-standing public* was always much larger than the proportion of citizens afflicted by grievances and ready to organize and to counteract.

How do individual dispositions transform themselves into democratic action, and how do individual actions eventually merge into a social movement? Hardly any topic has caused more disagreement than have these questions of fundamental importance in the field of mobilization and participation. Many of the theories offered worked in the unideological American environment, but lost much of their explanatory power in non-American field situations. Scholars who compared social movements transnationally were much more modest and kept their distance from grand theories (Marsh 1977: 215). *Traditional social-psychological theories* explained the new forms of mobilization with reference to the growing importance of short-term grievances which create structural strains under conditions of rapid social change (Gusfield 1968).

*Long-range studies* of social unrest have found that there are always grievances. Their number is relatively constant over time (Tilly 1978). Why do certain grievances lead to social movements and others not? The explanation was found in a challenge to traditional *theories of collective action*. Recent research has discovered that groups and movements do not develop in a nicely symmetrical way to interest articulation, as was suggested by the traditional views of the Bentley-Truman school. Traditional group theory in political science frequently saw participation in social movements as a kind of “unconventional” and fairly irrational behavior (Schwartz 1976). The theory of collective action by Mancur Olson (1977), which proved to be so fruitful for institutionalized groups, was also called into question with regard to its validity for the explanation of the success of new social movements. The *rational choice approach* in Olson's work never meant



to imply that emotions and non-rational motives do not play a role in determining who participates. But the highly sophisticated calculation of individuals this theory is based on, who were said to react more to selective individual benefits than to collective goods, was challenged when it was confronted with new movements. Here a rational calculation of benefits for active individuals was sometimes hard to discover, especially in *advocacy groups*.

Structural and political factors seemed to determine the fate of the new forms of participation. *Resource theory* emphasized the availability of resources, such as cadres and organizational facilities (McCarthy/Zald 1977). The older ideological *Weltanschauung* groups and *promotional groups* never completely fitted into either the theory of Truman or that of Olson. Two-thirds of modern *public interest movements*, proliferating in the aftermath of the students' movement and the anti-Vietnam campaigns, were run by powerful entrepreneurs without having significant disturbances as additional stimuli (Berry 1977: 24). The *entrepreneur model* also proved to be of great relevance for deprived groups and disorganized collectivities. Entrepreneurs were typically generated by the factionalization of previously existing movements (Jenkins 1983: 531).

Olson's theory of collective action was not completely falsified, however. Empirical studies on anti-nuclear movements showed that Olson's free rider problem was present even under conditions of objectively extreme risk, such as the Three Mile Island plant disaster. In this case only 13% of the opponents were ready to act. Ignorance and apathy were widespread (Walsh 1981).

*Media coverage* was frequently mentioned as a mobilizing factor (Molotch 1979). But this proved to be an asset for new movements only during an initial phase. No permanent mobilization can be built on "parasitic" media coverage, though Schönhuber's Republicans exploit this argument claiming that anti-fascist protests against Republican rallies are the best propaganda for their movement.

Sometimes it has even been argued that the *participatory revolution* of the 1970s did not really exist. It is said to have been the artificial result of improved access and the pervasive mass media which provided individual entrepreneurs with the pre-conditions for an easily won success. *Mobilization for routine politics* had declined and *non-institutionalized politics* had attained greater attention. If this assumption was correct, the proliferation of these movements should have been a linear one. But it is obviously not. Ideological movements, cultural climates and the vicissitudes of success in conventional politics play a greater role than has been imagined. Part of the success of new social movements is due to the fact that they do not only

apply pressure to state agencies. On the one hand, they no longer act on ideological lines criticizing capitalist society wholesale. On the other hand, they rather efficiently select private firms and put them under pressure and thus by way of acting mobilize ideological support from society and secure incentives to intervene on the part of state agencies (Dyllick 1989).

Traditional social-psychological theories tended to classify motives for participation as irrational, or concentrated on the psychological process of weighing the costs and benefits of participation. Recent theories have tried to reconcile the social psychological theories and resources mobilization approaches by making a distinction between *consensus mobilization*, which reaches a great variety of individuals, and the highly selective *action mobilization*, which can be only explained in terms of a more political mobilization theory (Klandermans 1984).

Authors sympathizing with new social movements have used the theory of social movements to show how traditional participation has been challenged by them and how institutional politics have been challenged in modern society. Recent theoretical attempts have, however, tried to complement these studies with theories of restricted participation, such as *neo-corporatism*. Neo-corporatist arrangements do not only bind conventional group behaviour to a great extent. They sometimes also integrate new social movements which attack the system. This is even true for environmental movements where citizens' action groups are involved in bargaining tolerable limits for pollution or working on compromises to minimize the damage caused by new construction projects.

Consensus mobilization of upward mobilizers has become more difficult because of an ever increasing fragmentation of society and the fact that the focus of public attention is shifting between various issues. Consensus mobilization has, however, also been facilitated, because the communication between social strata and the direct interaction of individuals from all social backgrounds – which is strengthened by the “parasitic publicity” the media provide – has become easier. Issues are more rapidly painted in dark colours, even if the objective threat connected with the issue at stake is less evident. Because of today's more open pluralist society (Nedelmann 1986), new social movements have a less reliable *social milieu* to count on. Some of the Green movements state with joy that the traditional parties have lost their milieu, and they hope that the Greens are the only relevant political group based on a social environment which can serve as a conveyor organization. Conservative critics of these new social movements have called the Greens a “*milieu party*”, not least because of their manifold links with the alternative scene (Veen 1987). It can, indeed, be shown that certain conflicts condense in a

kind of “moral milieu”. The emotional milieu can be polarized by acute conflicts. *Consensus mobilization* is only a first stage (Klandermans 1984: 586). The ecology movement has mobilized numerous decentralized milieus which already existed to its own advantage (Bergman 1987: 377). But the second stage, *mobilization for action*, is mostly restricted to the hard-core of a specialized movement.

Usually social movements remain *fuzzy systems* with great fluctuations and rarely develop clear-cut boundary lines. Their networks of action are often of a short duration. Sometimes even the term movement is an exaggeration. Some authors prefer the term “mobilization” for these types of short-lived action groups (Melucci 1985: 802).

Even when the movement creates a party there are no permanent links between organization and milieu. The German Greens have experienced this dilemma. Abrupt changes in the definition of their central issue from ecology to peace and feminism have eroded their agenda and alienated parts of the movement coalition. No permanent *conveyer organizations* have developed as was the case between the old parties and their organizations in the nineteenth century. Many individuals refuse to be permanently integrated. They take part in various activities. The leadership of the movements turned out to be a kind of “self-contracting élite” because the same leading figures were active in the ecological movement, in regional citizens’ action groups against new industrial settlements, and participated in peace rallies at Easter. Moreover, many of the individuals did not confine their activities to the “milieu”. Contradictions were always possible. An individual could one day fight the trade unions’ position on industrial settlements and the next join a union-led initiative in favour of foreign workers. The electoral support for a Green Party has been even less stable than in the case of traditional parties. Increasingly young people are inclined to use their vote strategically: Green and deviant in *municipal elections* and *elections for the European parliament*. When during a *national election* rather more clear-cut bread and butter issues seem to be at stake the same people might grudgingly vote for “good old aunt SPD” (von Beyme 1988).

On the one hand, new social movements mobilize individuals belonging to different subsystems; on the other hand every social movement as a social system is self-referential because it defines its own goals of action, its system boundaries. Individuals initiating and joining new social movements have a greater autonomy and self-confidence than was the case with former movements. They are not easily permanently mobilized for a goal by an outside organization. Therefore it seems (Nedelmann 1984) hardly correct to assume that there is only one social movement and not

several movements which ask for participation in various policy arenas. The first assumption is correct only in so far (Schmitt 1987: 136) as it contradicts the *coalition hypothesis*, which assumes that the peace and ecology movements are a broad coalition of various social forces. Their scope of support is clearly limited to the political Left in Germany. In other countries, however, – especially in France, where the new Green party was revitalized during the election campaign for the European parliament in 1989 – the leftist leaning of the new social movements is less obvious. The instability of the new forms of mobilization and participation is supported by a *diffuse cultural milieu*, which is increasingly replacing the *old social milieus* which were organized by ideological parties via conveyor organizations. In the propaganda of many social movements the central notion is “*to be personally affected by something*” (*persönliche betroffenheit*). But in most cases it can be shown that objective deprivation is only weakly correlated with the successes of mobilization. At elections the ecological movement had its strongholds not in those constituencies which host dangerous nuclear power stations, but in those areas where it had mobilization forces available.

This seems to confirm the more politically-orientated resources theory. Cultural variables, such as life-styles (*lebensweise*), seem to have a greater explanatory power than direct personal “affectedness”. The new mobilizing movements do not always behave in the way old interest groups did – by concentrating on new *demands*. They lay greater stress on offering a new *life-style* – even if they hardly know how this can be organized in the future. Many conflicts thus shift from the *political* to the *cultural sphere* and do not circle around *new forms of institutional politics* but rather *remain in the field of non-institutional politics*. New social movements do not expect the state to be able to decree a new life-style, they only ask for a degree of autonomy which will allow them to organize their life according to their own views (Nelles 1984: 429).

The new movements are *postmodern* in so far as they do not offer a new holistic ideology. This does not mean that they are free of ideology. It is more that they have too many ideologies, from new age to alternative socialism. These ideologies remain the *private affair* (*privatsache*) of individuals and particular groups. They are neither willing nor capable of transforming themselves into a new generally binding ideology. The groups are individualistic in their outlook – holistic ideas about the salvation of humankind are advocated only by minorities (Horx 1983). Postmodern theory, with its hailing of the “*patchwork of minorities*”, does not always accept majority rule and advocates *itio in partes*. Not even unanimity is accepted. In his written work Lyotard even rules out the smooth strategy of

a Habermasian discourse. But other postmodern thinkers who challenge majority rule advocate a veto for new movements until all experts have agreed, in the form of giving any outsider a *liberum veto*. This position (Spaemann 1984) might, however, – under the guise of the enlightened advocates of the public good – create a new “*demobureaucracy*” in the field of technology. *Counter-mobilization* might be the result.

The highly individualistic approach of many postmodern theorists even endangers the goals of these movements, if veto-politics tends to be too successful. Social movements with the best intentions should never forget that more people can be mobilized for the *status quo* in non-revolutionary times than for rapid change. To play on “*stimmungsdemokratie*” (Oberreuter 1987: 12) in an emotionalized cultural milieu can turn out to be a boomerang. The system has more time to wait. Their shifting foci of attention and their shifting alliances give new social movements an organizational advantage over the organized forces. Many citizens’ action groups would never have been invited to a hearing if the establishment had known how few people the group would be able to mobilize. In the phase of *consensus mobilization* even small groups have a mobilizational bonus. It vanishes rapidly, however, as soon as the movement enters into the second phase of *mobilization for action*. In this phase the system has serious advantages over the outbursts of the *Lebenswelt*.

#### CONCLUSION: THE IMPACT OF NEW CIVIL SOCIETY ON THE FUNCTIONING OF DEMOCRACY

(1) *Mobilization from above is getting rarer*. Issues, crises and catastrophes force the political system to react, but gives it hardly any time to anticipate and to plan.

(2) *Mobilization from below is no longer streamlined by one movement* or even one party as was the case with most historical conflicts. In former times new issues created new milieus, and new parties – from agrarian protest and the call for self-determination by ethnic minorities to the working-class movement or the Christian-social movement aiming at defense in an increasingly secular world.

(3) *Participation is more diffuse* and less confined to one cultural milieu. Culture as a sub-system is growing in importance in relation to other sub-systems such as politics and economics. The objects of social conflict are differentiated. Each issue can mobilize various adjacent interests. A classical example is the feminist movement. The device “equal

pay for the same type of work” can mobilize both sides of labour. Abortion mobilizes churches as well as human rights organizations. The scope of the cultural milieu is broadened, but the shifting alliances have little chance to organize permanent coalitions. Differentiation, moralization and emotionalization of conflict contain the germs of destabilization (Nedelmann 1986). Because of these shortcomings of the new movements, old institutional politics receive an important opportunity for regeneration. Parties play down conflicts and transform issues into manageable detailed programs. Social compromise in the non-fundamentalist old organizations is reached by log rolling arrangements and other forms of bargaining, despised by the fundamentalist social movements (Smith 1976).

Though the political game which was developed in the era of classical modernity was not seriously disturbed by the new forms participation and mobilization, recent research in theory mainly discusses the question of whether the new movements are an indicator of the development of a new theoretical paradigm or even a new type of society. Theories of post-modernism in particular, claim a change of paradigm on grounds of both theory and social reality. These, sticking to the definition of the term “paradigm” offered by Thomas Kuhn, would prefer to restrict the change they recognize to the level of theory.

This author is inclined to believe that it is too early to claim that a new paradigm of society has been developed. But there is undoubtedly a new theoretical paradigm. This involves very different vistas of society and the power of movements within society. If we accept for heuristic purposes the three stages of pre-modern, modern and postmodern theory we can find the equivalent in terms of explanation of the new movements. There are even certain types of corresponding activity. In the light of our dichotomy I would argue that *mobilization* by ideological leadership was a pre-modern paradigm. *Participation* corresponded more to the stage of classical modern theories and developed a certain balance between mobilization from above and participation from below. Ideally the new social movements in the post-modern stage no longer fight for participation – which means integration into the existing structure – but they ask for self-determination instead of “co-determination”. Their aim is no longer *seizure* of *power* as in the pre-modern movements or *sharing power* as in the model of classic modern pluralism, but autonomy (matrix 3).

The main task of forthcoming research will be to ask whether the post-modern paradigm of an autopoietic development of participatory structures is compatible with empirical findings or only wishful thinking, something which has developed as a result of the self-perception of new social movements and their forms of participation.

Matrix 3: *Theories on social movement. Participation and mobilization.*

Types of theories	Pattern of explanation	types of activities	Aims of the movement
premodern	objectivist approach: where there is a cleavage, there will develop a movement	mobilization by ideological leaders	Seizure of power
modern	cleavages are pre-conditions. For the rise of a movement additional resources must be available (élites, strategies, funds)	balance between participation from below and mobilization from above	Co-determination, share in power
postmodern	movement develops on its own. Cleavage is unnecessary. Protests rise when there are single issues.	self-realization	autonomy

(4) Parliamentary democracy is similar in most Continental countries, nevertheless it has developed in difficult directions according to the *organization of policy-networks* and policy arenas. The German Bundestag developed in the direction of a parliamentary system where majorities and committees are decisive, whereas Italy, in spite of the development of a party state as in Germany, remained at the traditional level of an *entrepreneurial parliament* where parties and interest groups streamline their *parentela* and *clientela* relations. But the network organization is not stable over time. After the consolidation of democracy in the Adenauer era, corporatist elements were strengthened during the fifth legislature under the Grand Coalition (1966-69). But Germany was never so fully corporatist that parties no longer mattered. Concentration functioned best under the conditions of the Grand Coalition and this shows that the control capacity of parties is decisive for the functioning of corporatist relations among interest groups. Compared with the United States, the German system of decision-making is less polarized (Pappi 1995: 400). The steering capacity of parties is greater than in America. Vertical intergovernmental decision-making in the German system of federalism, from combination with corporatism, is absent from the American system.

The efficiency of legislation in terms of the number of laws was deduced after Mancur Olson from the character of interest group regimes in various systems. Overregulation, in this perception, is the result of the growing influence of interest groups and leads to *parliamentary sclerosis*. But in spite of the growing number of interest groups and new social systems, the number of laws did not grow. Theories such as Wagner's law of growing state expenditures and the hypothesis of growing bureaucracies or shares of state ownership proved to be wrong. The genesis of a theory of legislation at the time of the Enlightenment (Bentham 1789, Filanieri 1798) inclined towards perceiving legislation as a rational machine. In postmodern times legislation has been compared to "a garden rather than a product manufactured by a machine" (Richard Rose). In order to use this metaphor we could compare legislation with a park at the time of Romanticism. Originally it was designed as a symmetric rational French garden, but time distorted the design with a wild organic growth which transformed it into a Romantic English park. The rational design is still in the statute books and in the co-operation of those institutions entitled by the constitution to decide. But by-gardens grew in the parliamentary park: concertations, round tables, negotiations between the federation and the Laender have created a by- and para-parliamentarianism which has grown up over the constitutional machinery of legislation. Conservative formalists from time to time cry out for the cutting all this wild growth, but they overlook the fact that without it the constitutional machinery would no longer work.

The classical division of functions: leadership (government and parliament) and implementation (bureaucracy) is no longer valid. By spreading reflective law and conceptions of non-hierarchical self-control, new parastatal and private actors have gained influence over the decision-making process. Even among the non-statal social actors, the weight of actors is not constant over time. The corporatist social partners have lost in influence. A sometimes anarchical neo-pluralism has staged a comeback after the alleged death of the pluralist model of interest mediation.



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*Discussion of the paper by K. von Beyme*

VILLACORTA

I would like to address this question to both Professor von Beyme and Professor Elshtain. There seems to be a mystification of the concept of civil society, as if civil society can do no wrong, and I've some questions to raise. What if civil society abuses, and who defines the moral standards of unaccountability of civil societies? What if it becomes too powerful at the expense of its own good? What if civil society breeds anarchy, for example, if civil society is divided along ideological and ethnic lines which sometimes happens, and becomes self-destructive? What if certain people's organizations or associations composing the majority or winning over the majority ride roughshod over the minority? I don't know if we can cite here the experience of Germany in the thirties. What if some sectors, which happen to represent the majority, are manipulated, or worse, turn out to be fronts of vested sectors or of the state itself? Are we veering towards the postmodern way of life, which is iconoclastic towards all forms of traditional authority? Is there no longer a role for organized cultures, religions or value systems that are not necessarily sanctioned by civil society? Must traditional authority be always challenged or eroded? What if civil society comes up with certain value standards that conflict with those of the Church?

VON BEYME

This is a very pertinent question: whether even a civil society can do wrong. Unfortunately the answer is: yes, it can. Civil society in the tradition of Habermas and others is frequently defined as a society in which "new social movements" dominate society. We were accustomed to evaluate "new social movements" as progressive, such as the Catholic or the working-class movements in the nineteenth century. Heberle, the son-in-law of Tönnies, was the first to demonstrate that the Nazis, too, were a "social movement" of their time.

Normally we think no such detrimental new social movement can happen again because no organised mass movement terrorises the people in the streets. But small mobile groups of extremists frighten foreigners in some countries. The left-wing Jewish scholar Hobsbawm recently said: "I

am more frightened by the daily accidents with right-wing extremism than I was as a student in Berlin in the early 1930s. ... In 1932 we knew when a pogrom was planned because the SA organised it. Now it can happen every moment in an anomic and unexpected way". This statement is certainly an exaggeration. But it hints at the serious problem that violence without organised parties and movements is common even in more civilized "civil societies".

A second danger is the fragmentation of the groups in modern society. No "*verzuiling*" (pillarisation) of great groups takes place any more which patronises the individuals from the Kindergarten to the last unction or a socialist burial in a crematory. "*Liberal corporatism*" which still controlled the sub-systems is withering away. Modern societies are facing a post-modern variety of minorities. How far can the community go in controlling them? Black Africans in Europe are normally not punished when they mutilate their children by tribal scars. Only circumcision of girls is normally outlawed. Most civil societies at the end of the twentieth century are tolerant towards the symbols of ethnic or religious minorities. They face, however, the problem that the majority feels abandoned in the use of their symbols and values.

ZIOLKOWSKI

Professor von Beyme, as much as I like your paper very much indeed, I think on page 3 what you say about Eastern Europe is both cryptic and full of rather sweeping statements. I quote: "To develop a reasonable concept of civil society in Eastern Europe the intelligentsia needed to escape from being integrated into the state apparatus". This is true and rather obvious. You also say: "Moreover, the Eastern intelligentsia had to accept rigorous self-criticism in the time of Communist rule". This is only partially true. In Eastern Central Europe there were many activities in the 70s and 80s carried out by the intelligentsia – for example Czechoslovakia, Hungary and Poland. But then comes the most surprising statement. "The problem, however, was that dissenters among the Eastern intelligentsia, who had to accept rigorous self-criticism in the time of erosion of socialism, were devoted to the concept of anti-politics". Just the contrary. The main event at this time in Eastern Central Europe was the birth of "Solidarnosc" in Danzig in August 1980. It was the first independent trade union in the Soviet sphere of dominance, with eventually ten million members. The leader, Lech Walesa, was a worker, but from the very beginning he was surrounded by a host of members of the intelligentsia acting as advisers. The example of "Solidarnosc" was seminal. It pioneered a new kind of

politics in Eastern Central Europe – the politics of social self-organization aimed at negotiating the transition from Communism. The parliamentary election of June 1989 was partially democratic for the lower house (the Seym) and fully democratic for the Senate. Here the principle was very simple: the winner took all, and we took 99% of the vote. Parliament (particularly the Senate) was packed with eminent personalities – academics, writers, artists, journalists, physicians. The same was true of the three elections which followed. This is also true nowadays. A characteristic feature is that people in post-Communist countries have a good idea of how to run a democracy, even without first-hand knowledge and experience. Somehow, the knowledge is just there, as if innate.

VON BEYME

I was accused of being cryptic, so I'll try to make myself clear. The concept of civil society, developed by the critical dialectic Frankfurt school with its a political connotations was widely accepted amongst the anti-Communist intelligentsia of Eastern Europe. Many intellectuals entered politics after the peaceful revolutions, from Havel in Czechia to Plesu in Romania. In Romania the Communists, facing so many democratic artists and scientists, shouted in parliament: "Do you want to transform parliament into a theatre or an Academy?" Most of these democratic élites left politics after one legislature. Even Havel had a difficult job against the technocrats around Václav Klaus. The reason for this failure was that most torchbearers of civil society were apolitical and not used to political conflict. Moreover they were anti-economic. Sometimes in their latent anti-capitalism these new élites were still carrying on the values of former Communist propaganda.

ELSHTAIN

I want to respond briefly to the previous question and then to put a question. It has to do with a worry about whether, in fact, "civil society" is a term open to forms of misuse or abuse. Any powerful term is such that people will want to appropriate it to a variety of ends and purpose. It would be quite surprising if there weren't some problems with "civil society". We have to evaluate critically groups that claim the civil society mantle for themselves. Drawing upon Catholic social thought, subsidiarity, and the encyclicals of Pope John Paul II, one embeds in the hearth of one's analysis of civil society an ethical grammar that helps to constitute the idea of civil society itself. This means when you think of civil society you think of whether or not it promotes an ethical solidarity. Does this or does this not promote the dignity of persons? Immediately you can begin to sift out

those groups whose internal solidarity is based on hatred and animosity toward other groups and those whose is not. That leads to my question, Professor von Beyme: you argue that new social movements become good interest groups, and that what might start out as something rather amorphous or slightly chaotic and perhaps somewhat dangerous, if it persists over time experiences pressures that congeal it into an interest group form. One can certainly point out instances in which that is true. But that's not necessarily always the case. In the case of labour movements, for example, it's very clear that what they wanted was fair wages, social justice, other kinds of very specific goals, very specific ends. But contrast that to some of the contemporary so-called identity groups who don't have any specific political goals in mind. Some identity groups claim for themselves a certain standing in a way that precludes making common cause with other groups because that would dilute their own identity. Perhaps they are not candidates for the transition that you talk about.

VON BEYME

Most new social movements after a while turn out not to be so "new" after all. In the long run they behave like traditional organized interest groups. Even among those there were "promotional groups" without material goals such as the temperance movement in the United States or in Scandinavia.

New social movements are successful only with a capable leadership. Sociological theory speaks even of "*entrepreneurs*" who are needed as much as money and communication channels in order to organise a durable organization. These movements, moreover, are successful only in alliance with traditional groups, such as churches or trade unions.

ZACHER

I'm coming back to your remarks on governmental leadership. You described governmental leadership as diminishing, and I would like to ask whether that is a normative standpoint or a describing standpoint. I think what we have to want is a balance between the governmental leadership and the network of intermediary structures. I agree that the stronger and the more comprehensive the network of intermediary structures is, the more difficult is governmental leadership. But there is no replacement for governmental leadership for the whole of the commonwealth.

VON BEYME

As an empirical scholar I do not trust the generalisations to the effect that the media set the *political agenda*. They only reinforce attention on certain issues and movements. In a modern democracy – as I have tried to

show in a study on the key decisions in Germany since Adenauer – the agenda is normally set by the coalition parties.

In the second decision-making phase a network of different actors is prevalent. The American “*cosy triangle*” (deputies, interest group leaders and bureaucrats) in Europe is frequently enlarged to an “*uncosy pentangle*” (including party élites and territorial units). The agendas are treated differently if the issue at stake is “*recognition*” of “*distribution*”. In the latter case *log-rolling* and compromises are possible. In the first case “*tutto e subito*” is frequently demanded. This is one reason why so many symbolic laws are passed, as in the field of environmental protection. The famous German law on “emissions” of 1974 proved to be meaningless. Only decrees, substantiating the symbolic formula, made it possible for such a key decision to be partly implemented. Many organised groups did not boycott these laws in the stage of making because they thought they were mere “bla bla”. But the same groups became very active at the moment when the details were regulated in government decrees.

SCHAMBECK

Wir müssen uns einigen und von einem Staatsbegriff ausgehen. Für mich ist der Staat der dem Einzelmenschen und der Gesellschaft übergeordnete Herrschaftsverband, der Höchstfunktionen erfüllt. Deutlich können wir sehen, daß es im intermediären Bereich über die klassischen Interessenverbände und die politischen Parteien, die vor allem ideologisch und weltanschaulich orientiert sind, hinaus in den letzten Jahren neue Gruppierungen gibt, die bis zu Alternativszenarien reichen. Mit der klassischen Vorstellung der Repräsentanten organisierter Interessen alleine kommen wir nicht aus!

Es gibt neue Kräfte, die im vorparlamentarischen und im präkonstitutionellen Raum Fakten gesetzt haben, von denen man sagen kann, daß die normative Kraft des Faktischen hier wirkkräftig geworden ist. Wir fragen uns: Welche Konsequenzen ergeben sich daraus für Mittel- und Osteuropa in der neuen Ordnung Europas, die ohne das Wirken von Papst Johannes Paul II. nicht möglich geworden wäre?

Bei diesem politischen Wandel möge man aber nicht übersehen, daß vielfach das politische System geändert wurde, aber die Beamten in der Verwaltung und die Richter in der Justiz die Gleichen geblieben sind und es daher oft nicht leicht ist, die Glaubwürdigkeit des Staates mit diesen Personen zu begründen.

Letztlich müssen wir uns fragen: Was bietet diese politische Entwicklung dem einzelnen Menschen, der sich in dieser repräsentierten Gesellschaft oft nicht eingebunden, sondern ausgeschlossen fühlt?



Und hier müßte man sich fragen: Welche Möglichkeiten haben wir, die Menschen mit einzubinden, daß die Demokratie so erfüllt werden kann, wie es im österreichischen Bundes-Verfassungsgesetz steht, wo es im Art. 1 heißt: "Österreich ist eine demokratische Republik. Ihr Recht geht vom Volk aus"? Und was kann getan werden, damit man in keinem der Völker, die wir hier vertreten, den Eindruck haben muß, es wäre das Recht am Volk ausgegangen?

BETANCUR

There's still a sort of a gap between what Professor von Beyme has said and what has been mentioned by others. We reach a point where the void in leadership leads us to try to find some type of intermediary position between the state and civil society, but what happens is, and if we look at Latin America, Professor, we don't want that intermediate space, because the state is contaminated, sort of polluted, and you have a civil society which is innocent, and if we were in the intermediate area, if we were in the middle, then we would be contaminated or polluted by nearness to the state. Now, this is something which happened many years ago.

Now, after this visit we went back to Latin America and, since we didn't want to go along with this intermediary solution because we felt as if we were walking along a precipice, on the blade of a knife, we thought it would be a good idea to set up schools where we could train leaders, and between these various schools we tried to set up an Institute of Leadership, and I am the President of that Institute of Leadership. Now, obviously this is not something that is decided by decree or resolution, but as of the 1st of May the leaders of a given country will become leaders, just like that. That's not easy, it takes a long time, it's a very progressive type of maturing process, and the Institute is working and we are preparing and training people, but since these leaders are not ready yet, or trained, yet, in the election for mayors and governors that was held under my Government we began to follow the work of these governors and mayors who were elected according to the popular vote and we established prizes for, for example, the best mayor after three years in office, or the best governor, and those who were chosen to receive the prizes were chosen as politically important figures, to attract the attention of people to them.

NOJIRI

Thank you. Yes, in connection with the discussion, now I have two problems. Firstly I would like to know the difference more exactly between the conception of civil society in the Anglo-Saxon world and that of

*bürgerliche gesellschaft* in the German-speaking world. Has *bürgerliche gesellschaft* in Germany not always been positively viewed, as was so in Hegel. Is *bürgerliche gesellschaft* not a society to be overcome? In fact, a democratic civil society does not always function effectively. For example, under the pressure of strong pressure groups, the task of the state or governments is forced to increase more and more, eventually resulting in financial bankruptcy, and in other harms. The social strata who cannot assert themselves encounter various difficulties. Here emerges the so-called “new poverty” (*neue Armut*).

And, secondly, I would like to know more exactly what is it that you call the new movement in the intermediate society. I think the new movement is to be seen above all in the rapid increase of NPOs, non-profit organizations. What do you think about this?

VON BEYME

A new social movement is normally defined as “non-economic”. But this is only part of the truth. It is normally unideological, restricted in the issues it deals with, and has a floating group of supporters but no membership and membership fees.

The first question you asked hints at the fact that there are two concepts of civil society. The more statist and corporative Hegelian tradition of civil society in the sense of Locke and the American founding fathers was more society-oriented and remote from the étatist absolutism of Continental Europe. The Church unfortunately, in the phases of corporatist thought, was close to the semi-étatist models.

A modern balanced view would stick to a triangle in which three values “*l’homme*” (individual rights), “*citoyen*” (civil rights) and the “*bourgeois*” (rights of the economic and selfish individual) are in a certain balance. The East European peaceful revolutionary movements underrated the “*citoyen*” in their political thinking and mostly disliked the “*bourgeois*”, which proved to be a mistake in building a market-society.

In many developing countries there was an imbalance between the three pillars of civil society – from the Peronist movement in Argentina to the Solidarity movement in Poland.

Germany as the major example of statal discontinuity has shown how stable the organizational patterns in history can be. Five regimes in the twentieth century, but the centralized big machines – as a counter-reaction against the political fragmentation of the political arena – have been preserved throughout these systems. This makes it likely that the torchbearers of the new social movements and their political branch in the Green parliamentary

group will not be able to change the rules of the game. The Green leaders – initially wearing gym shoes – in 1998 took their oath in parliament wearing proper dark suits and a ties. The Socialists in Germany or the Irish party in Britain organised for half a century filibustering and obstruction. Today new social movements are integrated into the rules of the game after a decade.

The last point Professor Schambeck made, when he put blame on administrators and judges, I will challenge. It is not a *captatio benevolentiae*, because a judge is chairing this meeting, when I contradict this point. Judges no longer represent a blind “*justitia*”, but predominantly perceive their role as social mediators. The same applies to modern bureaucrats who no longer stick to mere “rule application” but act in a kind of “*social engineering*” way because otherwise the “implementation” of many laws with good intentions would be impossible.

## CULTURE ET DEMOCRATIE

JOACHIM BONY

### SUMMARY

Today humanity seems to be well informed about democratic principles and about their legitimacy because everybody or almost everybody agrees that democracy is the appropriate framework for the practice of human rights and the achievement of individual and collective aspirations. In this context, what is the relevance of the problematical phenomenon which leads to the establishment of a dependence relation with reference to culture which would determine it? What is culture in fact? What is democracy? What gives to one or the other a specific identity? Some preliminary definitions are necessary.

In day to day speeches, as well as in well known written documents, the word "culture" calls to mind various meanings. But its broad and adequate sense concerns customs, beliefs, language, ideas, tastes, art and technological knowledge connected with the whole organization of man's environment.

Democracy, like culture, has many definitions. It is at one and the same time a political system, a form of governance, a philosophy and a way of life. As is the case with wealth, definition of the word is due to the reality and to the idea we have about democracy. But it is also due to the mystic and the dynamism which go together with it. In an ideal way, it is a form of governance in which the people – the whole people – manage their business during discussions where everybody expresses themselves freely. We must say that the appropriate framework of that pure form of democracy is a restricted framework. That was the case in Athens in the fifth century B.C. and that is the case in some African village democracies.

Without doing any multiple and original classification, we must be aware of an important fact: the bursting of the concept of democracy. In that context, we can talk of "ruled democracy", "leading democracy", or of "consenting democracy". But what it is essential to bear in mind is that democracy is a style of collective life whose harmonious functioning involves the intelligent adherence of everybody to a fundamental political option: popular sovereignty and the adherence to some key values: justice, equality, acceptance of the other, a sense of compromise. Everywhere its moral motive is good citizenship, its political motive is the citizen, that is to say a type of man whom only culture and reason can build.

Therefore, we must wonder if the implementation of democracy and its

installation in the long run, its efficiency, can be viable while a democratic culture is viable. We do not think so. For, before being a set of institutions, a political system, democracy is above all a culture. Its construction and its maintenance presuppose a slow cultural development expressed through balanced behaviour; through a patient acquisition of tolerance, based on a knowledge of limits which calms impatience with freedom, and which is based on an opening to "pluralism" in the expression of differences in the political game. This study is made up of two parts. The first deals with the relation between culture and democracy, and the second part is concerned with certain specific cases.

All subjects produce culture. But the role of history is essential in this. A contemporary historian says that "history is politics technicity" which means that that service, thanks to its methods and its rich and diversified content, can give a public man the necessary experience to solve certain problems.

Therefore, history can bring the person who ponders on it a rich but complex list of situations, problems and solutions partly similar to those we live with. Indeed, when the analysis between the past and the present is well directed it can lead to similar perspectives. A man who is politically educated finds a way out, a parallel which permits creative imagination to take an original decision, if that man ponders thoroughly over some elements of the past and present. The study of two famous politicians corroborates that point of view: Charles de Gaulle and Felix Houphouet Boigny.

Political education, specific education, can be defined as the framework of the attitudes of a system towards politics. Individual orientations are analysed according to three elements. The precise knowledge of how the system works, the individual's affective response towards it, and the moral judgement or evaluation dimension of the system.

Some authoritarian policies called popular democracies borrow some aspects from the Western liberal democracy model and refer to it more or less openly. But the culture that inspired those systems is dependent on the ideology that emphasizes the class struggle, the dictatorship of the proletariat and the denial of elementary human rights. The elements of the liberal democratic model that we seek to refer to are not put into practice but are used to hide systems which are contrary to it. Freedom, a fundamental element of democracy, is particularly restricted. The legal political culture is the Marxist-Leninist doctrine, as the ideologists of the Communist Party elaborate and communicate it every time to the citizens according to an imitative pedagogy with centralized and powerful organs and mass means of communication under strict control. Despite this attempt at information and levelling, despite the anguish and fear that fill the population, sub-cultures hidden from another type which surfaced from time to time entered into conflict with the legal political culture. The combined effects of those cultures, a kind of small island of democracy, added the other factors which brought the changes that we know.

That leads us to notice that the fundamental question does not concern the link between democracy and cultures but concerns the links which exist between democracy and its culture. Indeed, the culture of democracy is a specific culture, which does not cite pluralism to destroy itself. Whatever may be the many forms of

expressions that it allows, democratic culture is always characterized by a certain number of essential requirements.

Case studies on Great Britain, France and one African case, the ABOURE of Côte d'Ivoire, illustrate the problems.

Debates on the cultural dimensions of democracy must not lose their way in a dogmatic defence of particularities which would not be anything else but some alibi for totalitarianism. Even globalization and the mixing of cultures, when it comes to the expansion of democracy, must not make us forget that a real democratic regime has its culture, its fundamental requirements, its essential imperatives on which we must stand. Those requirements are essentially freedom, justice, human rights, tolerance. Or rather, it is the frame of mind, the faith in applying those principles, which brings an added value to democratic culture.

#### INTRODUCTION

Dans sa naissance comme dans son fonctionnement, la démocratie s'appuie sur la culture dont l'histoire est un élément important. Aujourd'hui, l'unanimité semble bien faite sur les principes démocratiques, et sur leur légitimité, car tout le monde ou presque s'accorde à considérer la démocratie comme le cadre approprié de l'exercice des droits de l'homme et comme le lieu propice à la réalisation des aspirations individuelles et collectives. Dans ce contexte, quelle est la pertinence de la problématique qui tend à établir une relation de dépendance de la démocratie à l'égard de la culture qui la déterminerait? Mais qu'est-ce que la démocratie? Qu'est-ce que la culture? Qu'est-ce qui donne à l'une et à l'autre une identité spécifique? Des préalables de définition s'imposent.

Le mot culture évoque aussi bien dans le discours quotidien que dans les écrits savants diverses acceptions. C'est au XVII<sup>e</sup> siècle que Vauvenargues et Voltaire commencent à employer ce mot. Au XVIII<sup>e</sup> siècle, son utilisation s'étend. De nos jours, il revêt deux sens: l'un restreint, l'autre large. Le premier concerne l'organisation symbolique d'un groupe, l'ensemble des valeurs étayant la représentation que ce groupe se fait de lui-même, des rapports qu'il a avec d'autres groupes ou avec l'univers.

Le second sens porte sur les coutumes, les croyances, la langue, les idées, les goûts, l'art, les connaissances technologiques relatives à l'organisation de l'environnement de l'homme total.

Les deux acceptions sont, d'ailleurs, unies l'une à l'autre car la culture inclut tous les éléments qu'a assimilés tout membre normal d'une société donnée. Dès lors, elle est universelle en tant qu'acquisition humaine.

Cependant, chacune de ses manifestations peut être considérée comme empirique puisqu'elle s'adapte à des localités, régions, domaines, secteurs. Pour notre étude, nous retenons la deuxième définition qui indique mieux la complexité du phénomène.

La démocratie, comme la culture, présente une multitude de définitions. C'est à la fois un système politique, une forme de gouvernement, une philosophie, une manière de vivre. Une telle richesse tient tout à la fois à la réalité de la chose à l'idée que l'on s'en fait, à la mystique qui l'entoure et au dynamisme qu'il induit.

D'une façon idéale, c'est une forme de gouvernement où le peuple — tout le peuple — règle ses affaires au cours de discussion où chacun s'exprime en toute liberté. Il faut dire que le cadre approprié à cette forme pure de la démocratie, c'est un cadre réduit. Les cités-états de la Grèce antique, notamment Athènes, la pratiquaient. Dans les sociétés africaines, où existent des démocraties villageoises, la méthode traditionnelle de conduire les affaires se caractérise par la discussion libre aboutissant à un consensus.

Sans céder à des classifications multiples et inédites, il faut prendre conscience d'un fait important: l'éclatement du concept de démocratie. Dans cette perspective, on peut parler d'une "démocratie gouvernée", d'une "démocratie gouvernante", d'une "démocratie consentante". Mais pour l'essentiel, retenons que la démocratie, c'est un style de vie collective dont le fonctionnement harmonieux implique l'adhésion intelligente de tous à une option politique fondamentale: la souveraineté du peuple; à certaines valeurs: égalité, justice, acceptation d'autrui, sens du compromis. Partout son ressort moral est le civisme; son ressort politique est le citoyen, c'est à dire un type d'homme que ne produisent que la raison et la culture.

Dès lors, il faut se demander si la mise en œuvre de la démocratie, son installation dans la durée, son efficacité peuvent elles être viables en l'absence d'une culture démocratique? Nous ne le pensons pas, car avant d'être un ensemble d'institutions, un système politique, la démocratie est d'abord une culture. Sa construction et son maintien supposent une lente maturation culturelle qui se traduit par un comportement équilibré, par l'acquisition patiente de la tolérance articulée sur une conscience des limites qui apaise l'impatience de la liberté et par l'ouverture au pluralisme dans l'expression des différences dans le jeu politique. Cette étude comprend deux parties. La première concerne les rapports entre culture et démocratie. La deuxième s'intéresse à quelques cas.

## I.

## RAPPORTS ENTRE CULTURE ET DÉMOCRATIE

Ainsi qu'on vient de s'en rendre compte à travers la définition qui en a été donnée, la démocratie, d'un point de vue technique suppose des relations de groupes nombreux, grâce à des mécanismes d'information, de gestion, de contrôle larges, commodes. Par ailleurs, d'un point de vue sociologique, elle suppose que les moyens de relations sont effectivement utilisés par ceux qui en possèdent le droit. C'est dire que l'éducation, l'information, le savoir ont pour tâche de préparer les citoyens à leur rôle civique. L'importance des rapports entre culture et démocratie ne fait aucun doute. Il sied de les aborder sous deux formes: l'une générale, l'autre spécifique.

1) *La culture élément de base de la démocratie*

L'histoire nous apprend que c'est un homme de culture *Periclès* (495-429 av. J.C), fin lettré, admirateur des philosophes et des sophistes vivant dans un cercle d'amis, les esprits les plus brillants d'Athènes: Herodote, Sophocle, Protagoras, Hippodamos, Phidias, pour ne citer que ceux-là, qui fut l'un des promoteurs de la démocratie.

Il faut ajouter que cet homme d'Etat doué a eu deux maîtres qui ont exercé sur lui une influence de premier plan. Il s'agit de Damon d'Oa, adepte du progrès continu et Anaxagore de Clazomenes, théoricien du *nous* de la raison humaine, organisatrice du Cosmos.

Pour un penseur comme Hobbes, la satisfaction que l'individu trouve dans la société ne se limite pas à la jouissance de certains biens, mais à l'assurance d'en pouvoir éventuellement en disposer. Il n'y a donc pas d'incompatibilité entre l'impulsion et le pouvoir politique. Un disciple d'Hobbes, Pufendorf note que la culture en tant que processus, accumulation, est un élément intermédiaire entre l'exigence de socialisation et l'organisation effective de la société. Grâce au développement de la culture, les virtualités de l'existence sociale se réalisent, s'accomplissent en des organisations sociales qui garantissent à leur tour par rétroaction l'expansion de la culture. Grâce à l'Etat, règnent au sein de la société la raison, la paix, la sécurité, la propriété, la sociabilité, la science, la bienveillance, les agréments et les commodités. La promotion de la culture apparaît donc de tout temps comme un facteur positif de progrès. Aux origines de la philosophie allemande de la Kultur (cf. Von Schlegel: dans sa préface du



3<sup>ème</sup> volume de la revue *Deutsche Museum* 1813) la politique sera intégrée à l'ensemble de la sphère de Lumières c'est à dire de la culture.

Toutes les disciplines sont productrices de culture. Toutefois, le rôle de l'histoire en la matière est capital. Un historien contemporain dit que l'histoire est la technicité de la politique. Cela signifie que cette science, par ses méthodes et procédés, par son contenu riche et diversifié peut permettre à un homme public d'acquérir l'expérience nécessaire à la résolution de certains problèmes. C'est pourquoi le Président John Kennedy conseille aux chefs d'Etat d'avoir parmi leurs collaborateurs un historien de qualité.

Mais qu'est ce que l'histoire? C'est la connaissance des faits vécus par les hommes à travers une succession de temps révolus. Pour cerner et comprendre ce passé, il est nécessaire de savoir ce qu'est l'homme et ce qu'est la vie dans leur structure interne et dans leur complexité.

Michelet note l'implication de l'histoire dans le présent en ces termes: "De quoi l'histoire s'est elle faite sinon de moi? De quoi l'histoire se referait elle, se raconterait elle sinon de moi?"

C'est donc en fonction du présent que l'histoire d'une manière consciente ou non étudie le passé. Mieux c'est le présent qui pose les questions. De fait, les questions nouvelles que suscite le présent font découvrir de nouveaux aspects du passé. Les expériences du présent comme l'expérimentation dans les sciences exactes de la nature permettent d'analyser le passé. C'est pourquoi l'on dit avec une certaine exagération que l'histoire est un éternel recommencement. Mais nous savons que jamais deux situations humaines ne se produisent d'une manière absolument identique dans l'histoire et qu'il est vain de vouloir régler la conduite à venir sur ce qui fut en d'autres circonstances. En effet, jusque dans leurs moindres détails, les circonstances diffèrent toujours. Pourtant, à travers le temps et l'espace, l'homme reste toujours un homme. Les uns et les autres présentent en commun ce que Thucydide appelle "l'humain". Dès lors à qui la médite avec méthode, l'histoire peut apporter un répertoire riche mais complexe où se dégagent des situations, problèmes et solutions partiellement semblables à celles ou à ceux que nous vivons.

En 1960-1961, on pouvait en réfléchissant sur l'évolution des Etats de l'Amérique du sud, prévoir les bouleversements et troubles que connaîtront les pays africains décolonisés. L'histoire offre donc à l'homme d'action, à l'homme engagé, à l'homme politique un aliment pour la pensée, un instrument pour la réflexion, un levier pour la décision. Mais aucune des solutions adoptées par les hommes dans le passé devant une situation n'est immédiatement applicable telle quelle à la situation présente.

La modalité d'une présence féconde, saine, nécessaire au sein de la

culture, plus précisément de la culture politique ne peut être ni l'emprunt pur et simple, ni l'imitation paresseuse et plate. La présence féconde, c'est le dialogue. De fait, toute réflexion bien menée entre le passé et le présent ouvre des perspectives de similitudes, c'est à dire un dosage déterminé d'identité raisonnée et de différence irréductible.

L'homme cultivé politiquement ou réfléchissant profondément sur des éléments du passé et du présent, trouve une voie, un parallèle permettant à l'imagination créatrice d'enfanter une décision originale. L'étude de deux hommes politiques de grand caractère: Charles de Gaulle et Félix Houphouët-Boigny présente plusieurs cas de ce genre. Tous les deux cultivés en histoire ont su tirer de cette discipline les outils essentiels de leur action politique.

Par ailleurs, l'histoire peut servir collectivement. Elle galvanise des sentiments d'unité. L'exemple suivant le montre. Dans la lutte qui opposait les colons d'Amérique aux entreprises métropolitaines de Grande Bretagne pour des problèmes de rivalités commerciales, il a fallu trouver des buts idéologiques capables d'unir tous les citoyens des ex-colonies et transfigurer leur combat. C'est dans l'histoire que furent puisés les principes et les idées que les philosophes venaient de répandre en Europe occidentale. Ces principes et ces idées de liberté, d'égalité fournissent la seule plate-forme politique possible, une plate-forme démocratique. La lutte des treize colonies à partir de la Déclaration d'Indépendance devient donc le combat d'une nouvelle société libérale contre la vieille société monarchique et aristocratique. Comme on le voit l'histoire internationalise une culture spécifiquement politique.

## 2) *Culture politique et démocratie*

La culture politique peut se définir comme la trame des attitudes d'un système vis à vis de la politique. Les orientations individuelles s'analysent en tenant compte de trois éléments: la connaissance précise de la manière dont fonctionne le système, la réponse affective de l'individu à son endroit, enfin le jugement moral sur le système ou dimension d'évaluation.

La démocratie en la matière répond à certaines normes. D'abord à celle de la liberté. En effet le citoyen c'est l'homme doué par la nature d'une liberté indifférente aux contingences, débarrassé de préjugés, des soucis inhérents à sa condition économique et sociale, appelé à l'exercice du pouvoir politique dans la mesure où il se comporte de par ses qualités comme un serviteur fidèle et exclusif de cette liberté.

Partout dans le monde, le premier thème de la revendication démocratique concerne la participation. Que les citoyens quelque soit leur niveau

culturel, leur sexe, leur croyance, aient le droit de participer à la conduite des affaires, qu'ils puissent pratiquement et sans entrave, se servir de ce droit et s'en servir avec lucidité, telles nous paraissent être en résumé les exigences de départ du régime démocratique.

L'Occident obéit-il à ces exigences? Cette société où le développement économique poussé a vu naître une civilisation de masse que postule la démocratie, les masses participent-elles totalement et avec discernement aux opérations politiques? Longtemps les groupes au pouvoir ont mené des luttes pour écarter la menace que ferait peser sur eux l'intervention active et légale des masses. On a préféré d'abord le suffrage censitaire. On a combattu le suffrage universel. Mais quand ce droit, sur la pression des événements, a été juridiquement accordé, il a été restreint ou domestiqué du fait de la pression économique.

Aujourd'hui, en France, en Grande Bretagne, aux Etats-Unis, on peut dire qu'il y a une participation des citoyens aux affaires. Le problème est de savoir si elle est totale, quelle est sa forme, son degré, sa signification. Quelles peuvent être les conditions d'une participation effective du citoyen? Les possibilités de participation dépendent avant tout de la culture des citoyens: informations dont ils disposent, éducation, capacité de comprendre les problèmes en discussion.

En 1945, un ministre du Moro Naba s'est abstenu de se porter comme candidat rival d'Houphouët Boigny à la députation et avoua à ce dernier que les questions en examen à l'Assemblée Nationale française lui étaient étrangères. Dans bien de démocraties occidentales actuelles, l'ignorance dans laquelle se trouvent les citoyens de toute notion de sciences économiques, sociales ou politiques explique le genre d'intérêt qu'ils prennent à la politique et surtout leur impuissance face à certaines données. Mais plus que les moyens qui demeurent secondaires, c'est la volonté politique de participation qui nous paraît essentielle et déterminante. D'ailleurs, l'information n'est acceptée, l'éducation n'est réussie que si les personnes auxquelles elles s'adressent, se montrent aptes à les recevoir et à les assimiler. En 1958 en France, face à la grave crise ayant abouti à un changement de régime, des conseils pertinents sollicités auprès de personnalités jouissant d'expérience ont permis d'éviter le pire.

On peut dire que pour obtenir une participation correcte et effective des citoyens, trois conditions s'avèrent nécessaires: une décentralisation suffisante; la réduction des distances sociales et l'assouplissement des relations d'autorité qui paralysent la communication; l'existence de sources indépendantes de pouvoir permettant aux opposants d'échapper aux pressions ou à la contrainte de la majorité. Sur ce dernier point, les revendications de certains partis d'opposition, d'observateurs internationaux dans les élections s'expliquent.

Ces considérations éclairent deux aspects de la démocratie. D'une part pour l'individu, la démocratie est revendication à participation à la direction des affaires d'une communauté dont il est membre, d'autre part elle est possibilité de résistance, c'est à dire un droit à s'opposer à toute contrainte venant du groupe. Cela ne constitue pas une opposition à l'autorité légale ou arbitraire de l'Etat. Le problème est plus profond, car de même qu'il n'y a plus de société possible sans contrainte, de même il n'y a pas de société démocratique sans une limitation légale de cette contrainte. Dans les pays en développement le non respect de ces principes est cause de perturbations.

3) *Le suffrage universel, symbole de participation et instrument de culture politique*

Il a fallu de très nombreuses années de lutte pour aboutir dans certains pays à la victoire éclatante du suffrage universel. Malgré des imperfections qui dépendent des circonstances et des environnements, on peut, si certaines conditions sont remplies, le faire déboucher sur l'essentiel, sur ce qui le justifie pleinement, à savoir le choix conscient par les hommes de leur destin collectif. Il apparaît donc comme le symbole de la participation et l'instrument de politisation. Certes on peut s'interroger sur l'opportunité d'accorder un bulletin de vote à des personnes sans culture. Mais dès lors que ces personnes possèdent raison, bon sens, dignité, la loi ne peut les priver de ce droit fondamental.

Le suffrage universel a une double fonction: symboliser la participation à la vie publique et affirmer l'existence du citoyen. Faire voter les hommes, même dans des conditions les plus imparfaites, c'est reconnaître explicitement qu'il sont concernés par la politique. Donner des bulletins de vote à des électeurs, c'est s'obliger à leur parler, à les entendre. C'est dire que le suffrage universel ne s'arrête pas à une simple expression d'opinion. Il se charge d'un langage, d'un dialogue. En effet, en répondant positivement ou négativement aux demandes que le système lui adresse, le citoyen exprime des sentiments ou des jugements de valeur personnels qui font partie de sa culture politique.

Le vote qui, au départ n'était qu'un geste réflexe, acquiert une signification. Par le suffrage universel naît un langage évoluant vers une réflexion politique généralisée. De l'élection sortiront des députés qui voteront des lois et renverseront, s'il le faut des cabinets. Le processus de décision politique, ne dépendant pas directement du vote de l'électeur, c'est à travers des relais complexes que la décision politique verra le jour. La

structure et la culture concourent à la réalisation de la démocratie. Toutefois, il existe plusieurs cultures politiques et plusieurs types de démocratie. Le paradoxe des démocraties dites populaires mérite notre attention.

#### 4) *La culture et les démocraties dites populaires*

Des systèmes politiques autoritaires dits démocraties populaires font des emprunts au modèle de démocratie libérale occidentale et se réfèrent d'une manière plus ou moins explicite à lui. Ces emprunts portent sur des principes fondamentaux: représentation nationale, le suffrage universel, les libertés publiques, les droits de l'homme. Ils concernent aussi certaines institutions: parlements, responsabilité gouvernementale, référendum, justice. Dans tous ces cas, la culture qui inspire ces données relève d'une idéologie qui privilégie la lutte des classes, la dictature du prolétariat, et la négation des droits élémentaires de la personne humaine: liberté de religion, de pensée, d'expression, d'association.

Ceci nous amène à constater que la question fondamentale ne concerne pas les liens qui existent entre la démocratie et les cultures, mais entre la démocratie et sa culture. En effet la culture de la démocratie est une culture spécifique qui ne s'autorise pas du pluralisme pour se saborder. Quelle que soit la figure multiforme des expressions quelle autorise, la culture démocratique est caractérisée toujours par un nombre d'impératifs imprescriptibles. Aussi les défis auxquels se heurte ce système requièrent-ils pour être surmontés la nécessité d'une formation continue des citoyens.

Les éléments du modèle démocratique libéral auxquels on prétend se référer ne sont guère mis en pratique, mais servent de camouflage à des systèmes qui leur sont opposés. La liberté, élément essentiel de la démocratie est particulièrement réduite. La culture politique officielle est la doctrine marxiste-léniniste telle que les idéologues du parti l'élaborent et la communiquent à tout moment aux citoyens selon une pédagogie *sui generis*, grâce à des organes centralisés puissants et des moyens de communication de masse sous contrôle. Le régime soviétique est le prototype parfait de ce système politique dont la culture est celle "du sujet participant". Elle est destinée à donner au citoyen un ensemble cohérent de convictions, de sentiments politiques, de valeurs qui fournissent une explication du passé, des prévisions pour l'avenir et une définition de la mission que chaque individu et chaque groupe est censé remplir dans le système.

Cependant, malgré cette tentative d'uniformisation et de nivellement, malgré l'angoisse et la peur qui habitent les populations concernées, il existe des sous-cultures cachées qui de temps en temps font surface et qui

entrent en conflit avec la culture politique officielle. Ce sont les effets conjugués de ces cultures, sortes d'îlots de démocratie, qui avec d'autres facteurs, ont amené les changements que l'on connaît.

## II.

### ÉTUDE DE CAS

#### 1) *Cas de la Grande Bretagne*

L'étude de plusieurs formes de pouvoir démocratique serait d'un grand intérêt. Mais nous nous limiterons ici à deux cas européens: la Grande Bretagne et la France et à un cas africain: les Abouré de Côte d'Ivoire. Dans ces sociétés, les liens entre la culture et la démocratie présentent une grande vitalité.

Le modèle anglais n'est pas une construction théorique de juristes ou de politologues, mais le résultat d'une longue évolution historique datant du XI<sup>e</sup> siècle. A cette époque, les bourgeois, par le développement des communes,<sup>1</sup> obtiennent un certain nombre de libertés: exemption de corvées et de redevances féodales, constitution de milices pour se défendre, de tribunaux propres pour régler leurs litiges, levée d'impôts pour entretenir les services publics de la ville. Bien que le suffrage soit restreint, ces communes, dans un environnement aristocratique et féodal, apparaissent comme dit M. Duverger des îlots "ploutodémocratiques".<sup>2</sup>

Au XIV<sup>e</sup> siècle, la représentation de la bourgeoisie s'étend au plan national avec la création des "Assemblées d'états" qui se maintiennent en Grande Bretagne jusqu'au XVII<sup>e</sup> siècle alors qu'elles s'effondrent ailleurs. Le parlement prend naissance, engage une lutte contre le roi, devient un contrepoids à la puissance royale. La monarchie absolue devient une "monarchie limitée" qui se transforme en monarchie parlementaire avec un gouvernement dirigé par un premier ministre.

C'est dire qu'au début du XVIII<sup>e</sup> siècle, le modèle du système de démocratie moderne est édifié et fonctionne en Grande Bretagne. Ceci s'accompagne d'une révolution culturelle qui remet en cause l'ordre ancien. Des penseurs comme John Milton, George Fox, John Libburne développent l'idée d'une société sans aristocratie et sans roi. Avec eux des

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<sup>1</sup> Les communes étaient des villes autonomes placées hors de la juridiction des seigneurs ou des évêques ou partageant le pouvoir avec ceux-ci.

<sup>2</sup> M. DUVERGER, *Institutions politiques*. Presses universitaires de France 1975, tome 1, *Les grands systèmes politiques*, p. 33.

écrivains comme Rousseau, Voltaire, Diderot, d'Alembert, Condorcet, Montesquieu animent cette nouvelle idéologie des Lumières visant à la libération de tous les hommes. L'égalité, la liberté de pensée, l'individualisme, le profit par le mérite sont les valeurs clés, les fondements de la nouvelle idéologie d'émancipation.

Cette réalisation implique un fait logique: si les hommes sont libres et égaux ils doivent être dirigés seulement par ceux qui reçoivent d'eux un mandat. La révolution culturelle a engendré un système politique démocratique qui se répand en Occident avec des variantes.

La Grande Bretagne, n'a pas comme la France ou l'Italie d'institutions de démocratie semi-directes. Cependant son système politique manifeste une grande vitalité. Il se caractérise par une indépendance élevée et une culture homogène et unifiée. Plusieurs syndicats sont associés au parti Travailleste, mais lorsque ce dernier est au pouvoir, il se montre relativement indépendant de la pression des syndicats. De même, bien que les chambres de commerce et des associations professionnelles soient liées au parti Conservateur, celui-ci en cas de conquête du pouvoir se montre indépendant vis à vis de ces groupes d'intérêt pourtant influents. Dans un autre domaine, celui de la communication et de la presse dont l'effet complexe sur la politique est connu, on observe de l'autonomie et une certaine distance. Les journaux des deux grands partis ne subissent pas leur influence. Les moyens de communication de masse, bien qu'il soient en partie aux mains de l'Etat et en partie favorables à l'un ou à l'autre parti politique, se montrent relativement neutres dans leur fonction de diffusion des informations touchant à la vie publique. Ainsi le flux des informations en règle générale est à peu près le même dans la société.

En ce qui concerne l'articulation des intérêts, c'est à dire la démarche par laquelle les citoyens et les groupes formulent leurs demandes ou revendications auprès des détenteurs du pouvoir, les Britanniques manifestent une certaine originalité. Le parti Conservateur et le parti Travailleste sont en mesure de regrouper les demandes de la société dans des programmes différents. Tous deux, dans la course pour la majorité au Parlement tentent de séduire le maximum d'intérêts présents dans la société globale au point que les différences entre leurs programmes demeurent relativement faibles. Dès lors, l'un ou l'autre peut supporter avec fair play d'être dans l'opposition. Cette capacité de conversion du système politique de ce pays est liée à sa culture politique, une culture participante élevée que l'on décrit comme une culture "participante différentielle". Cela parce que les citoyens britanniques, du fait d'une longue éducation et vulgarisation politique semblent avoir conservé, malgré la compétence et des orientations de participation,

un grand respect, voire une déférence à l'égard de l'autorité indépendante du gouvernement.

La culture de participation anglaise remonte au moyen âge. Celle-ci augmentait au fur et à mesure que les pouvoirs du gouvernement central imprégnaient la campagne et réduisaient ceux de l'aristocratie. Les révoltes contre "l'enclosure" des terres pourraient être considérées comme les premières tendances vers une culture de participation. Par ailleurs, sous le règne des Tudors il eut un début de resocialisation politique résultant de la réforme, des progrès de l'industrialisation et de la croissance des villes. En outre, la diffusion de la Renaissance aux XVe et XVIe siècles et un renouveau de l'Enseignement assurent la propagation de l'instruction. Les fils de l'aristocratie et ceux de la gentry étaient de plus en plus instruits dans la culture classique et séculière. La connaissance de la culture et de l'écriture se répandait dans la société, même dans les couches sociales modestes. Grâce aux votes dans les élections locales et au Parlement, une partie de la classe moyenne et la couche supérieure de la paysannerie bénéficiaient de recrutement pour des rôles publics. Les membres de l'élite politique et administrative étaient de plus en plus recrutés parmi ceux qui avaient fréquenté les écoles et les universités. C'est à cette époque que furent créées les deux célèbres universités d'Oxford et de Cambridge dans lesquelles une attention particulière était accordée à la formation d'hommes accomplis destinés au service de l'Etat. Cet exemple montre les liens importants entre la culture et le système démocratique. Mais ne faut-il pas élargir le débat?

## 2) *Cas de la France*

La France constitue un exemple original pour les relations entre la culture et la démocratie. En effet ses écrivains au XVIIIe siècle, Rousseau, Voltaire et Montesquieu pour ne citer que ceux-là, exercèrent une influence déterminante sur la pensée politique contemporaine. Arrêtons nous d'abord à Voltaire.

Cet ancien élève des Jésuites, cultivé et caustique eut plusieurs démêlés politiques qui le conduisirent en prison à la Bastille et en exil en Angleterre. Ces douloureuses expériences d'injustice et d'humiliation l'amènent à apprécier la philosophie, la politique et les mœurs du peuple anglais, peuple relativement libre dont il propage les idées en France. En 1734, ses *Lettres philosophiques* ou *Lettres sur les Anglais* qui développent toutes sortes de critiques contre les institutions françaises, font scandale. Il est contraint de chercher refuge en Lorraine, chez la Marquise du Chatelet qui



pendant une dizaine d'années le protège. Cette période de travail intense consacre la "royauté intellectuelle" de cet auteur qui excelle dans de nombreux genres: poésie, roman, tragédie, écrits philosophiques, histoire, correspondance, critique littéraire. Sa renommée remplit le monde et les plus grands personnages l'honorent de leur visite à Ferney.

De Montesquieu eut comme œuvre maîtresse: *l'Esprit des lois*, fruit de fréquents voyages, de lectures variées et abondantes, de longues et profondes méditations. Cet ouvrage a exercé une influence considérable dans le monde de la politique. Emile Labarthe dans son ouvrage: *La Liberté créatrice* note le fait en ces termes: "si *le Contrat social* a été l'évangile politique de la révolution de 1789, entraînant les foules qui ne veulent pas être éclairées, mais émues, *l'Esprit des lois* a surtout inspiré la pensée des hommes d'Etat français depuis la fin des guerres de l'Empire". Par ailleurs, Voltaire rend hommage à cet homme en ces termes: "le genre humain avait perdu ses titres, mais de Montesquieu les a retrouvés et les lui a rendus".

D'autres voix se sont fait entendre dans l'élaboration de la culture politique française. On ne peut les citer toutes ici. Toutefois, il convient de citer celle du général Charles de Gaulle à travers les *Mémoires de guerre* (1940-1946) et les *Mémoires d'Espoir* (1958-1962). C'est une mine d'expériences, de réflexions ayant accompagné la naissance de la Ve République.

Mais quels furent les traits saillants de la culture politique sous la IVe République? On note l'existence de groupes d'intérêts spécialisés, des partis politiques bien organisés et des moyens de communication développés. Cependant, ces organismes à l'inverse de la Grande Bretagne, ne disposaient que d'une indépendance limitée. Ils pouvaient se diviser en trois grandes familles idéologiques: les Communistes, les Socialistes et les Catholiques. Chaque famille avait son parti, son syndicat, sa presse. Une telle fragmentation gênait l'action des partis, des syndicats. Ces derniers parvenaient difficilement à se mettre d'accord sur des programmes concernant la classe ouvrière. Les partis, du fait de leurs divergences idéologiques et d'une méfiance réciproque, ne pouvaient former des groupes stables. De leur côté, les médias avaient tendance à présenter des informations partisans sur les problèmes politiques et sociaux. Cet état de chose provenait du morcellement de l'opinion sous l'effet de facteurs idéologiques, politiques, électoraux. Dès lors, l'instabilité gouvernementale s'installa, les cabinets ne duraient pas parce qu'il était impossible de trouver de véritables compromis et de réagir à la pression des revendications des groupes sociaux et du système politique international. Les processus de conversion de la IVe République étaient faibles. Ils consistaient en périodes d'immobilité interrompues par des solutions de courte durée. Les divergences internes signalées dans le système politique expliquent cette

situation. La France présente l'exemple d'une nation dont la culture politique tout en offrant une forte identité nationale, apparaît divisée à d'autres égards en des sous-cultures. Cela rend le fonctionnement du système difficile en temps normal.

Par ailleurs, les organes essentiels de vulgarisation politique: famille, voisinage, écoles, lieux de travail, associations, partis politiques conservent bien souvent la nature fragmentée et divisée de la culture politique en France. Cela sans doute à cause d'un certain individualisme, d'un certain esprit critique poussé qui tend à séparer et à isoler.

La Ve République instituée par le Général de Gaulle apporte des changements: diminution notable de l'importance des partis politiques, des groupes d'intérêts, des moyens de communication dans les processus de conversion du système, en d'autres termes diminution de leur indépendance et limitation de leur accès au pouvoir de décision. Une nouvelle prépondérance de l'exécutif a pu faire craindre un recul des libertés. L'évolution de 1958 à nos jours montre le contraire. Le citoyen dispose toujours du droit au suffrage universel, le pluralisme politique lui donne la possibilité de choisir librement entre les différentes forces en compétition. Mais la culture démocratique traditionnelle paraît sur la défensive en ce qui concerne les étrangers victimes de mesquineries, voire de racisme primaire.

Comme on le voit, la culture politique anglaise et la culture politique française présentent des différences malgré les traits démocratiques qui les caractérisent.

### 3) *Cas des Abouré de Côte d'Ivoire*

Le système politique *abouré* est imprégné d'une culture démocratique. L'organisation de l'espace du village (*Opwé*) est déjà un élément d'équilibre et d'intégration sociale des différentes communautés humaines. En général, les villages sont construits en longueur de part et d'autre d'une artère centrale dans le sens Est-Ouest.

Au moment de leur installation au 15<sup>ème</sup> siècle venant d'*Agnoangnoan*, les ancêtres fondateurs avaient créé un hameau de sept enclos, lieu de résidence des sept matriclans constitutifs. Ces matriclans sont formés de citoyens libres égaux en droit et en devoirs. Chaque matriclan a une fonction et un rôle précis à jouer dans le cadre du village. Les esclaves demeurent intégrés au clan de leurs propriétaires, et deviennent de ce fait, citoyens libres pouvant assumer de hautes responsabilités au sein du clan et du village. L'origine de ces esclaves n'est évoquée au village ou au sein de leur clan qu'en cas de fautes graves (crime de lèse-majesté, adultère avec la

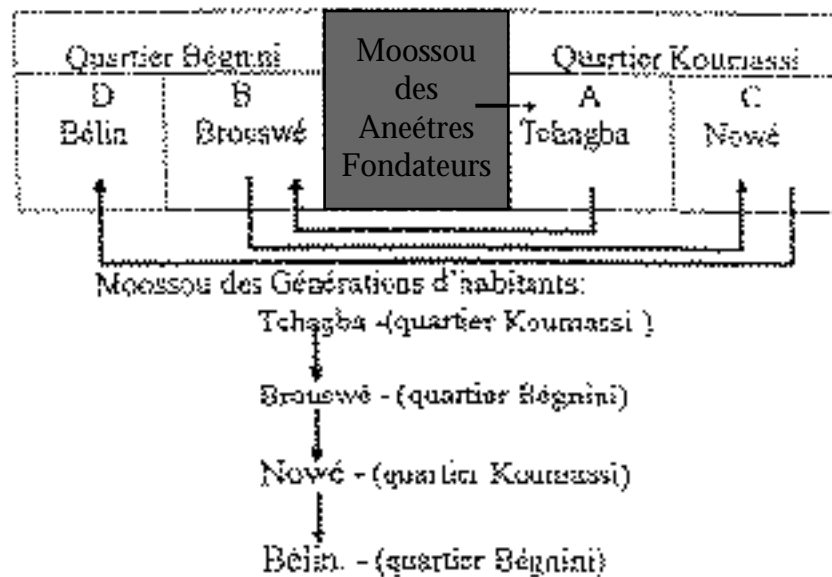
femme du roi, haute trahison). La seule fonction qui leur demeure interdite est de devenir chef des classes d'âge.

Le nom Moossou provient d'une phrase prononcée par le premier chef *VALOUNVI Anga*: "à cause de ma mère (moowô) malade fixons nous définitivement ici". Dans ce hameau initial, il n'y avait pas de site privilégié; le littoral lagunaire et le débarcadère étaient à tous. Les cimetières, contrairement aux clans, appartenaient aux patriciens dont le nombre est sept.

#### *Les matriclans et leurs fonctions (Pouvoir royal et judiciaire)*

Le système politique de Moossou est une monarchie bipolaire à matriclans et à classes d'âge patrilinéaires. Ce dualisme affecte toutes les institutions. Cette constante préoccupation équilibre la société en maintenant le comportement des responsables dans un juste milieu acceptable, permettant d'éviter l'extrémisme considéré comme un danger au village.

#### SCHEMA D'UN VILLAGE ABOURE



*Enclos I: Clan Samandjé* - Les *Samandjé* sont pourvoyeurs de rois. Tous les rois du village sont membres de ce clan. Ils n'imposent pas le candidat mais le proposent. Les autres clans l'acceptent ou refusent jusqu'à ce que le candidat convenant soit trouvé par consensus.

*Enclos II: Clan Assokôpwê* - Ce clan est pourvoyeur de régents en cas de vacance du pouvoir. C'est leur fonction principale. Le régent a droit de regard dans la gestion des affaires du village. Le régent peut être même éducateur du futur Roi. Le fait que le régent soit membre d'un clan autre que celui du Roi est déjà un souci d'équilibrer le pouvoir. Le village *abouré* est considéré comme un être humain, si le clan *Samandjé* est la tête en la personne du Roi, les *Assokôpwê* sont les pieds. En fait, il faut la tête et les pieds pour que tout marche bien. C'est pour cette raison que leur monarchie est qualifiée de bipolaire.

*Enclos III: Clan Essinlin Ehê* - Ce clan est responsable des terres du village. Chaque clan, en principe, détient une certaine parcelle des terres du royaume contrairement à ce que l'on peut penser. Le clan royal ne détient pas la plus grande part des terres de *Moossou*. Ce clan est également responsable du premier feu qui alimentera tous les autres foyers avec du silex venu d'*Agnoangnoan* d'origine.

*Enclos IV: Clan Moho* - Ce clan est responsable des eaux territoriales du village. En principe, chaque clan constitutif possède une certaine parcelle des eaux territoriales du village et, une fois encore, le clan royal n'est pas celui qui possède la plus grande portion des eaux territoriales. Les *Moho* sont aussi responsables de l'information.

*Enclos V: Clan Wossouan Ehê* - La gestion de la trésorerie du royaume revient aux *Wossouan*. Leur chef détient tous les éléments de l'appareillage nécessaire pour peser la poudre d'or. Ce sont eux qui prélèvent les amendes, perçoivent les impôts et payent les dettes de l'Etat. Ils détiennent le *Dja* du royaume ou caisse dans laquelle l'on garde aussi les poids à peser l'or et la poudre d'or, monnaie d'échange dans les transactions commerciales.

*Enclos VI: Clan Vessouko Ehê* - Ce clan est responsable de la police, de la justice et de l'ordre au village. En cas de condamnation à mort, c'est un de ses membres qui exécute le condamné. Ils sont responsables de la sécurité du Roi dans ses déplacements au village et à l'étranger.

*Enclos VII: Clan Vessanha Ehê* - Ce clan s'occupe des affaires extérieures du royaume en ce sens que leur chef est l'envoyé spécial, maître de parole et porte canne du roi.

*Conseil des Anciens (Mandr ): Pouvoir judiciaire* - Le Conseil des Anciens se nomme en abour  *Mandr * ou *Mlint *. Ces deux termes viennent de *Man* (monde, peuple et pays) et de *Dr , T * ou *Tr * (t te). *Mandr * signifie donc t te du pays, sages, ceux qui pensent, r fl chissent et raisonnent, discutent et jugent les grandes affaires du pays.

Il n'existe pas de clan constitutif sans responsabilit  politique. Le pouvoir est partag , aucun clan n'est laiss  pour compte. Comme le Roi, le chef de chaque clan doit  tre intronis . Par ce fait, il est l gitim  dans sa fonction de chef de clan et responsable du culte de ses anc tres. Pr tre, il sacrifie aux m nes de ses anc tres, il les invoque et leur fait des offrandes p riodiquement.

*Le Roi (Mringbi): Pouvoir Royal* - Le Roi (*Mringbi*) est au-dessus de tout au village, mais  tant donn  qu'il est membre du village et membre d'un des clans constitutifs, il d pend lui-m me du chef de son clan. Dans ce contexte, le clan devient un  l ment de contre pouvoir. C'est le chef de clan qui propose le futur roi au Conseil des Anciens et aux membres des classes d' ge. Le roi symbolise la nation et l'Etat. En tant que grand pr tre du royaume, chef spirituel et temporel, il a droit de vie et de mort sur ses sujets (droit de gr ce de condamnation   mort) pour crime de l se-majest  (haute trahison, adult re avec la femme du roi etc. ...). Le roi ne peut destituer un membre de son Conseil des Anciens car ce n'est pas lui qui les nomme. Il s'adresse, pour ce faire, aux chefs des clans qui lui proposent des hommes pour former son conseil. Les clans envoient des hommes en fonction de leur importance num rique, de un   trois membres. Le Conseil des Anciens avec le roi forment le pouvoir judiciaire. Il se prononce sur toutes les affaires int ressant le pays. En cas de conflit entre lui et son conseil, c'est le Conseil Sup rieur de Justice, uniquement compos  de femmes, reines m res des clans, qui juge l'affaire; sa d cision est sans appel. Ce conseil est rarement sollicit . A ce niveau  galement, tous les habitants du village (hommes, femmes, jeunes et vieux) sont concern s; aucun n'est laiss  pour compte dans la composition du Conseil Sup rieur de Justice. C'est la femme qui intronise le roi et c'est la femme qui juge en dernier ressort.

Le syst me abour  admet la libert  de culte. En dehors de Top  culte national, chaque clan est responsable du culte de ses anc tres fondateurs et libre de pratiquer un autre culte de son choix. Chaque clan demeure libre de se rendre   l' tranger pour chercher un culte nouveau pour se prot ger contre les sorciers malfaisants. Cependant, on n'a pas le droit d'introduire les cultes de sorcelleries au village.

L'ORGANISATION DES CLASSES D'ÂGE  
(*Efwa* ou *Ofwa*: pouvoir politique et militaire)

L'organisation des quartiers en lieu de résidence des classes d'âge est un élément d'intégration sociale de tous les habitants masculins au sein d'une même communauté villageoise.

*Les Quartiers (Ovo)*. Le premier quartier de tous les villages abouré se nommait *Koumassi*. Ce quartier devient le lieu de résidence de tous les habitants de sexe masculin âgés de 15 à 55 ans. C'est le quartier de tous ceux qui sont nés à *Moossou* (hameau des ancêtres fondateurs). C'est cette première génération d'habitants, tous les clans confondus, qui portera le nom de son sous-quartier (*Tchagba*) à *Koumassi*. Dans les premiers temps, les femmes appartenaient à la génération de leur conjoint. Avec l'évolution, elles furent organisées sur le modèle des hommes de leur génération d'âge avec toutes les structures internes sauf celui du chef de guerre (*Sanflan*).

LES GÉNÉRATIONS ET LES CLASSES D'ÂGE

*Les générations (Efwa briman)*

La première génération d'habitants nés à *Moossou* âgée de 15 à 45 ans aura pour lieu de résidence *Tchagba* sous-quartier *A* de *Koumassi*. Après les *Tchagba* viendra la génération des *Brouswé* du sous-quartier *B* de *Bégnini*. Après les *Brouswé* viendra la génération des *Nowé* et après ceux-ci, la génération des *Bélin* deuxième quartier de *Bégnini*. Chaque génération a 4 classes d'âge:

- Les aînés: *Atiblé* (45 à 55 ans)
- Les puînés: *Bawoulé* (35 à 45)
- Les cadets: *Djamian manlimbé* (25 à 35)
- Les benjamins: *Djamian* (15 à 25)

Une génération au pouvoir devient *Otoupwé* c'est à dire gens d'armes ou pouvoir militaire. La génération choisit son chef qui devient *Efwa Briman limbé* ou chef suprême de classe d'âge. N'étant pas nommé par le roi, ce dernier ne peut le révoquer qu'après décision du Conseil des Anciens siégeant en cour de justice. Signalons que le roi lui-même en tant que citoyen villageois, membre d'une génération d'habitants et membre d'une classe d'âge est soumis, dans certaines occasions, à l'autorité du chef suprême des classes d'âge.

*Les classes d'âge (Efwa Kpassoua)*

L'organisation des classes d'âge (pouvoir militaire et politique) est un contre pouvoir à l'organisation des clans et du Conseil des Anciens

(pouvoir judiciaire et religieux). Leur chef *Mringbi* (roi) en tant que chef suprême et autorité suprême du pays a autorité sur toute la population sans exception mais en aucun cas ne peut renvoyer le chef suprême des classes d'âge sans jugement.

Le chef suprême de l'organisation des femmes en classes d'âge n'est pas dépendant du chef masculin car chacun a une fonction précise (problèmes masculins pour le chef des hommes et problèmes féminins pour la cheftaine). Les coutumes disent qu'ils doivent tous porter leurs problèmes au Conseil des Anciens et à la connaissance du roi. Au sein d'une même classe d'âge, les membres sont égaux en droit et en devoir; c'est l'un des rares endroits où le droit d'aînesse ne joue pas malgré les différences d'âge des partenaires. Seule l'aptitude compte, c'est à dire qu'on respecte le chef de sa classe non pas parce qu'il est plus âgé mais parce qu'il est apte au commandement, (droiture, honnêteté et force physique).

#### LES DIFFERENTES FONCTIONS DES CLASSES D'ÂGE

— Les aînés *Atiblé* (45 à 65 ans) sont des sages, conseillers, juges pour les affaires de leur classes, gardiens du patrimoine, des femmes et des enfants en temps de guerre.

— Les puînés *Bawoulé* (35 à 45 ans) sont les vrais guerriers. Ce sont eux qui vont combattre l'ennemi au front et pratiquent les expéditions punitives.

— Les cadets *Djamian manlimbé* (20 à 35 ans) ils ont pour mission de trouver des fonds pour les besoins de leur génération. Ils aident les *Bawoulé* au champ de bataille et dans les expéditions punitives.

— Les benjamins *Djamian* (15 à 25 ans). En cas de guerres, ils ont mission de veiller sur les femmes et les enfants au village et ils assurent la liaison avec les *Djamian manlimbé* entre le village et les champs de bataille et ravitaillent les combattants en vivres et en armes.

#### FONCTION SOCIALE DES CLASSES D'ÂGE

Les membres des classes d'âge sont amis et solidaires à vie. En cas de maladie, ils envoient leur ami malade chez le guérisseur et supportent les frais. Pendant le temps d'hospitalisation, la classe s'occupe de la famille du malade en lui envoyant des vivres (poissons, bananes, ignames et viande de gibier) si possible.

Quand un membre construit une maison, la classe l'aide à tous les niveaux de l'avancement des travaux en s'associant intimement à lui. Dans le domaine économique, la classe aide à nettoyer un coin de forêt pour

créer une plantation; aide à planter et surtout aide à récolter. En cas de décès d'un membre, la classe organise des danses guerrières et chante en son honneur, creuse sa tombe et porte le cercueil au cimetière.

Après le premier mariage, les démarches pour obtenir la main d'une autre femme à marier reviennent à la classe ainsi que les démarches pour réclamer les amendes d'adultère de l'épouse à divorcer. Les cérémonies pour le divorce de la femme d'un membre reviennent de droit à la classe.

Au niveau culturel et dans d'autres domaines: jeux et loisirs, clubs sportifs, courses de pirogues, sociétés de danses sacrées, profanes et populaires, initiation aux langages des tambours, culte de la divinité Topé, protectrice du village, toutes ces activités là se font dans le cadre de l'organisation des classes d'âge. L'individu n'est jamais seul au village, il est pris en charge par son clan, par sa famille restreinte, par sa génération et par le Conseil des Anciens, par son quartier, et par le Conseil de médiation. A tous ces niveaux c'est un groupe d'individus qui est concerné et non un citoyen en tant que tel. Le bonheur d'un membre de classe d'âge est le bonheur de toute sa classe et le malheur d'un membre est une affaire concernant toute sa classe d'âge.

#### MAN (peuple): organisme de conciliation

Les membres de classe d'âge de plus de 55 ans vont à la retraite. Ceux qui ne sont pas membres du Conseil des Anciens (*Mlinté ou Mandré*) deviennent *Man* (peuple) conciliateurs. Les membres retraités deviennent membres du Conseil de médiation ayant pour rôle de réconcilier les groupes en conflit, car ayant une longue expérience des affaires de classes d'âge, des affaires du village et des affaires du royaume.

Pendant que la génération des *Tchagba* exerce le pouvoir politique et militaire au village, leurs petits frères *Brouswé* les assistent et demeurent en initiation auprès d'eux. Le temps d'initiation dure 15 ans et le temps du pouvoir effectif dure aussi 15 ans. Ainsi, chaque génération demeure au pouvoir 30 ans (15 ans d'initiation et 15 ans de pouvoir effectif).

Après ce cycle, le pouvoir revient de droit à une autre génération d'habitants. Dans notre cas précis, les *Tchagba* passent le pouvoir aux *Brouswé* qui, frappés par la limite d'âge, partent à la retraite en devenant chefs de clan, membres du Conseil des Anciens ou membres du Conseil de médiation. Après 30 ans de pouvoir, les *Bégnini* passeront ce pouvoir aux *Nowé* de *Koumassi* et ainsi de suite.

L'organisation des classes d'âge est un contre pouvoir à celui du roi et de son Conseil des Anciens dans la mesure où les chefs des générations deviennent chefs de quartier. L'organisation des femmes en classes d'âge est



également un contre pouvoir à celle des hommes. Sur tous les problèmes d'intérêt général, les deux institutions, la masculine et la féminine, se concertent pour trouver un consensus. Dans le domaine politique, les hommes n'imposent pas leur volonté aux femmes. Elles sont indépendantes et citoyennes libres avec possibilité de dire leur opinion en accord ou en désaccord avec les hommes. La génération des femmes ne porte pas les mêmes noms que ceux des hommes, elle porte le nom de leur cheftaine: les filles *d'Atwo*, les filles de *Wouman*, les filles de *Mouhia*, les filles de *Banan*.

Le système politique des Abouré de Moossou, dans sa structure comme dans son fonctionnement, est imprégné d'une culture démocratique sous différentes formes. En effet on y décèle un grand respect de la personne humaine, le droit de participation aux affaires publiques pour tous, y compris les femmes et même les esclaves sauf pour le commandement militaire, la limitation du temps des mandats, l'alternance au pouvoir, l'existence de contre pouvoirs dans toute la société, un sens élevé de la justice et de la solidarité, une confiance quasi mystique dans les institutions considérées comme des personnes ou des génies. Le souci constant chez les citoyens, d'équilibre, d'égalité de fraternité éloigne les responsables des tentations de despotisme.

#### CONCLUSION

Ce rapide aperçu des rapports entre la culture et la démocratie autorise une conclusion: l'homme étant capable de s'arracher à la nature, d'être libre, se transforme et transforme le monde. Le système politique, fruit de la liberté et de la raison qui convient le mieux au développement de l'homme, c'est la démocratie. Mais celle-ci présente des variantes.

Dans plusieurs Etats démocratiques, le citoyen ne sait pas comment se comporte une assemblée élue, comment manœuvrent les hommes et les partis auxquels il fait confiance, de sorte que les gestes populaires les plus habituels n'arrivent pas à atteindre profondément le système. Dès lors la démocratie, du fait du nombre et surtout de la méthode (absence d'un courant d'échange de suggestions et d'aspirations entre les gouvernants et les gouvernés) donne l'impression d'une simple figuration, d'une autorité lointaine mal déterminée, peu efficace. Une telle situation résulte des insuffisances de la culture entourant la structure politique.

Pourtant, dans d'autres contrées, la Suisse par exemple, où le régime démocratique se fonde sur la consultation directe du peuple, dans un cadre territorial restreint, la situation se présente autrement. Ici c'est le peuple qui, réuni en assemblée plénière exerce lui même, sans intermédiaire le

pouvoir législatif et choisit directement ses magistrats. Chaque citoyen participe personnellement à toutes les décisions intéressant la collectivité. Cette "démocratie témoin" n'est pas celle de la Grande Bretagne ou celle de la France qui fonctionne sous un mode sémi-direct, impliquant une autre forme d'environnement culturel. Ces deux types, bien que provenant du grand "précipité" politique, d'idées, de principes, d'expériences ayant pris naissance en Europe occidentale entre le 17<sup>e</sup> et 18<sup>e</sup> siècles présentent entre eux des différences. Leur culture et leurs sous-cultures qu'on peut au demeurant mesurer, par des sondages d'opinion, par l'examen des attitudes, par des déclarations publiques, peuvent aider à révéler les modèles de distribution des orientations par rapport à l'action politique et peuvent aider à relier les tendances individuelles aux caractéristiques globaux d'un type de système démocratique. On peut ainsi distinguer le système britannique de culture élevée et unifiée du système français de culture élevée mais fragmentée.

Ces données objectives nous aident à comprendre — et c'est là un des intérêts de cette étude — les difficultés que rencontrent les jeunes nations dans la mise en œuvre de régimes démocratiques modernes. En effet dans ces nouvelles nations, il y a parfois conflit entre l'attachement à la petite unité traditionnelle et les objectifs de la nouvelle nation. Seule l'histoire dont les situations ne sont pas seulement successives, mais aussi dépassement, création, peut fournir des éléments de consolidation aux jeunes démocraties dont la fragilité dépend en partie des sous-cultures variées. Dès lors les invitations des pays industrialisés à régime libéral aux pays en développement à se démocratiser sous peine de sanctions économiques ne suffisent pas. Pour ces pays confrontés à de nombreux handicaps, la solution réside dans un effort soutenu d'intégration nationale, d'élaboration d'une culture homogène adaptée aux réalités; de conquête d'une capacité extractive conséquente. Dans l'expansion de la démocratie, il faut tenir compte de l'irréductibilité du caractère spécifique de chaque société et éviter de croire que ce système politique est compatible avec toute culture sans exigence de sélectivité à l'égard des valeurs et des cultures. Des variantes culturelles influencent ce système politique et engendrent dans son sein des types. Dans les pays africains, depuis l'accession à la souveraineté internationale, l'on assiste à l'émergence des formes transitoires du processus démocratique. Ces formes ne doivent pas être conçues comme des formes achevées qui pourraient être opposables à la démocratie comme telle ayant une essence occidentale. En effet même si on reconnaît en toute objectivité que les origines de la démocratie moderne sont sans conteste occidentales, comme nous l'avons vu en Grande Bretagne et en France, les traits présents de la démocratie se sont dessinés peu à peu, à travers une

constellation d'événements aux effets multiples et enchevêtrés à l'échelle du monde. Ceci rend caduque la recherche d'un modèle unique à paternité exclusive. Mais le débat sur les dimensions culturelles de la démocratie ne doit pas se fourvoyer dans la défense dogmatique de particularismes qui en définitive ne seraient que des faux-fuyants ou des alibis du totalitarisme qui tente les régimes.

Par ailleurs, il faut noter que la mondialisation en cours dans diverses activités humaines induit nécessairement un brassage des cultures qui ne doit pas faire penser que la démocratie est une construction symbolique, où une souveraineté abstraite est conférée au peuple comme totalité abstraite au nom et au bénéfice de laquelle le pouvoir est censé fonctionner alors que la pratique effective de l'autorité lui échappe au profit de gouvernants choisis. Le brassage culturel lié à l'expansion de la démocratie nous commande de rester fermes sur quelques exigences capitales, quelques impératifs imprescriptibles: droits de l'homme, justice, tolérance, solidarité, valeurs démocratiques et valeurs chrétiennes dont la défense et l'application effective s'imposent partout et toujours à tout homme responsable.

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*Discussion of the paper by J. Bony*

ELSHSTAIN

Professor Bony, I was interested in your discussion of political education. Who are the subjects of political education? Is this general diffused knowledge which is to become available to all people who live in a particular political culture over a period of time, or do you refer to specific efforts to educate a group of élites in order that they will have a very powerful set of particular responsibilities? There is a long tradition of political literature concerned with attempts on the part of social scientists to explain how children acquire political knowledge and attitudes. I ask about this in part because several of the commissions on civil society and civic renewal in which I am participating in the United States have suggested political education as a specific answer to certain troubles of American democracy at the end of the twentieth century. Our young people are not being taught civic courses; they do not know what makes the Constitution work; they do not know anything about how government operates, and soon this absence of knowledge will lead to a failure of civic inculcation and information in terms of political formation. I would be very curious to hear your comments on the whole problem or question of political education.

MENSAH

As someone who comes from the region, and in fact very close to Côte d'Ivoire, I wish to thank Professor Bony for his very incisive analysis of the problem. I think that the question raised by the previous commentator is very important, that is the question of the nature of civil society in the new African States. I believe that the situation as described by Professor Bony, and as I myself have seen it in the neighbouring country, does not quite correspond to the conception of civil society as presented in the literature in the West. It is not that there is no "civil society" in these countries. Rather the fact is that there appears to be a proliferation of civil societies, with different kinds and forms of "civil society" in the same country. And this, I believe, has implications for the concept of political education. Indeed the question that needs to be asked is whether this multiplicity of

civil societies can be an impediment to the development of modern democratic systems. I think this a very pertinent question. For, in effect, what we have in some African countries is a situation in which society is made up of disparate civil societies which co-exist with one central administrative authority that attempts to bring the various elements together as a unit. This central state authority is, of course, very different in form and motivation from the separate groups. The question then is: is it possible to have a truly democratic system in such a society when the individual civil societies are so very different from the central core which is supposed to bind them together? What has happened in many of the countries in Africa is that the central governments have tried, usually unsuccessfully but very persistently, to combine what they think are the good elements in their traditional societies with what they consider to be the good elements in Western democracy. The result is that what used to be a diffusion of sovereignties, subjectivities and allegiances has been put together into a single system of allegiance. This is, of course, artificial. The result is that, instead of a system in which everybody looks at a centre, even if from a different perspective, and seeks to enrich and fortify the centre, we have a system in which everybody looks at their own individual centre, and these centres in turn react to a central system which is structured differently from each of the individual and separate centres. Where there is conflict between these individual circles there is no common system for evaluating them, there is no common system for bringing them together. I would like Professor Bony to expound a little more on this: to what extent does the existence of what I would call these circles which are not concentric but independent of each other, to what extent does this make it difficult to develop a common set of values which, as was said yesterday and the day before, are the essential ingredients of a democratic society?

MALINVAUD

Le Professeur Bony insiste à juste titre sur deux points: l'importance d'une culture de participation aux décisions publiques et le fait que diffuser une telle culture exige du temps. Ces deux vérités interpellent le Français que je suis, car mon pays a assumé en Côte d'Ivoire les responsabilités que vous savez. L'occasion m'est ainsi donnée d'exprimer le sentiment que la France a mal préparé ses anciennes colonies à la démocratie. Ni les méthodes de notre administration ni le comportement de nos colons ne favorisaient le développement d'une culture de participation, sauf peut-être dans quelques cas exceptionnels, tel le Maroc de Lyautey pendant les années 1920.

KAUFMANN

A seemingly important point of your paper means that democracy is always culturally embedded, that we do not have democracy as such, but that we have different forms of democracy which have emerged in historical processes, in processes of sedimentation of historical experiences which make then for a specific form and ethos of democracy in every cultural context. The problem is that within modernization we experience what Giddens calls the process of the disembedding of the political system. My question is, to what extent can the specific democratic ethos be maintained in such a disembedded form of the political system, and what goes on if different disembedded systems become intertwined, as is the case within globalization?

ZUBRZYCKI

I share other speakers' fascination with the African example, and I thank Professor Bony for giving it to us. It's a very welcome development in our largely Eurocentric Academy. My specific comment concerns the impact of Western capitalism on African culture, on a society largely based on mutual trust.

Capitalism pitches every value into question but it cannot withstand basic human anxiety, nostalgia, deracination, the tearing out of roots. How can this problem be seen from your perspective, Professor Bony?

ZACHER

My experience comes from comparative welfare studies. There, especially with Africa, I found that there was a high culture of solidarity and of implementing rules within a stable situation. But modernity means changes, means dynamics. What can be done to overcome this tension within a culture sticking to stability and modernity at the same time? What can be done to integrate the values of the traditional culture into a quickly changing dynamic development of society?

BETANCUR

Thank you very much. Eloquence, well, I certainly would like to congratulate Professor Bony for his excellent presentation. I would like to complement it with a question, and your statement refers to existing civil societies and political parties. Now, what happens when you are in a position where the civil society does not exist yet, nor the political parties, and these are examples of Latin America, for example indigenous communities in the mountains of Bolivia? I, for example, was with a group from the Inter-American Development Bank, and we were undertaking a feasibility



study for an electrical plant, and the bank had given us some additional funds for us to help the local community, so that they could work with us to help the local community, so that they could work with and would more willingly work with us, and we brought the representatives of that community at the end of Mass. But there hadn't been a priest for two years, so there wasn't any Mass, and therefore there weren't people outside the church on Sunday, where we thought we would find them. So, we brought the people together, the manas, a sort of witch doctors of the group, and we told them that there were resources that were available for them, and asked them what they wished to do with them, and they met at one time and they said that in this municipality there wasn't any electricity, there wasn't water, there wasn't any type of sewage system etc., so what where they going to do with this money? Well, what they were going to do was to buy musical instruments for a band, and the Inter-American Development Bank refused to accept that, and we said: "But why? Why are your people so musical?" "Every eight days" they said, "every week we meet to listen to the music, and when we do we solve the problems of the community, but the musical instruments are in very bad shape and that causes problems", and they were right, in this sort of pre-civil society condition.

#### ZULU

I come from a section, probably the latest to acquire democracy in Africa, and we have decided to rephrase our questions. The starting point is: if democracy is to be seen as a mechanism for the realization of the public good, then we probably have to disaggregate the public good and say what constitutes the public good. Freedom, equality and access to resources probably can be said to be those elements that constitute the public good. Then an evaluation of democracy becomes an evaluation of the delivery system to achieve this. In other words, an evaluation of these data is the final arbiter in the process. Mediating factors such as culture, civil society etc. should be subjected to the universal rules of evaluation at the level of the national unit.

In other words, to what extent is the composition of civil society, culture etc. conducive to the attainment of the realization of the public good in a country at the state level? Given the global factors, I mean, we could improve working at a village level, or working at certain little levels, and we have to work at the level of the national unit.

If we are to arrive at any mechanism of being together in the evaluation of the elements and contributions to a democracy, then we probably have to speak one language. We can't talk of Western forms and other types of

forms of pre-Western forms. To what extent are these elements in the modern world today capable of doing that?

BONY

S'agissant d'un thème vaste et complexe comme "culture et démocratie", les discussions auraient pu se disperser et se fragmenter; or ce ne fut pas le cas. Avec cohérence, les échanges se sont concentrés sur l'essentiel: les aspects connexes qui ont permis d'approfondir la réflexion — Quelques exemples corroborent le fait — Le Président E. Malinvaud a judicieusement mis l'accent sur deux points: l'importance d'une culture de participation et le temps nécessaire à la diffusion d'une telle culture.

En effet le problème que pose la participation à un système politique en général, que se soit pour l'édification de la Nation que pour l'édification de l'Etat, c'est l'augmentation rapide du volume et de l'intensité des demandes de participations à la prise de décisions politiques provenant des divers groupes et couches de la société. Ces revendications de participation peuvent amener un système politique conséquent à développer la compétence politique et les comportements adéquats au sien des groupes composant la société. Or cela nécessite du temps.

Mais l'aptitude à une bonne participation trouve un éclairage pertinent dans la question posée par le professeur H. Zacher, à savoir comment concilier une culture de grande solidarité existant dans certaines sociétés traditionnelles africaines assez stables avec une modernité caractérisée par des changements rapides? Quelle méthode, quelle procédure, quels moyens utiliser pour aboutir à un résultat positif?

Ce problème constitue une préoccupation majeure pour les nations en émergence. Une part de solution réside dans les efforts de réduction progressive entre les attitudes, les inclinations, les valeurs des cultures traditionnelles et les valeurs des cultures modernes par le moyen de la vulgarisation politique, processus par lequel les attitudes et les valeurs politiques sont inculqués aux enfants avant qu'ils deviennent des adultes et aux adultes appelés à assurer un rôle.

En Côte d'Ivoire le développement de la culture politique à l'école et dans les séances des conseils nationaux, amènent les populations à acquérir progressivement un comportement rationnel face à quelques problèmes et une expérience certaine dans l'action politique. Cette rationalisation de la culture politique a évité à ce pays des conséquences graves, car il s'est enraciné dans les consciences que le dialogue, la tolérance, la patience, le travail et la faix sont des atouts majeurs pour la santé morale et matérielle des Ivoiriens.

Un autre problème important soulevé dans les discussions concerne la diversité des démocraties. Cette diversité tient en grande partie à la différence des sociétés civiles. Monsieur Mensa a judicieusement noté que leur multiplicité dans les pays africains est une source de difficultés dans l'élaboration d'un système démocratique moderne. De fait l'édification de la Nation nécessite la prise en compte des aspects culturels du développement politique. Et ce développement se rapporte à un processus par lequel, l'attachement, la dévotion, la fidélité du peuple passent d'un niveau restreint, des tribus, des ethnies et des villages à un système politique central plus important.

L'évolution vers une intégration n'est pas continue — Elle comporte des ratées et des retours en arrière — Ce qui engendre des tensions, des conflits résultant d'une culture nouvelle insuffisamment homogène et non unifiée. Les discussions ont montré que l'élaboration du système démocratique n'est pas la même partout. Elle obéit à des conditions spécifiques propres à chaque culture ou à chaque sous-culture. Dans l'ensemble, elle procède de la capacité à donner des réponses appropriées à des défis. Le thème traité présente un grand intérêt pour les membres de l'Académie appelés à réfléchir sur les grands problèmes de notre temps.

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IV.  
SUPRANATIONALITY, INTERNATIONALITY  
AND DEMOCRACY





## EUROPEAN INTEGRATION AND DEMOCRACY: SOME SCEPTICAL REFLECTIONS

STEFANO BARTOLINI

### SUMMARY

Since the process of European integration achieved a new start in the middle of the 1980s, most observers have shared the view that a democratic “deficit” is emerging at the European level. For some the European Union (EU) will have to develop forms of political representation and accountability similar to those experienced at the national level; that is to say, by strengthening the electoral accountability of the EU executive(s), the parliamentary control of the legislative process, and the layer of European political and social citizenship to be added to the expanding European civil citizenship (the four freedoms). For other observers a reproduction of democratization processes similar to those of the nation-state is unlikely to develop at the European level. Rather, attention should be given to the peculiar system of mutual checks, multi-level balances and alternative systems of representation which develop in a *new type of polity*, which, however, will never be a multi-national state endowed with a central system of political representation.

This paper develops a few reflections around the theme of the inherent tension between unbounded economic transactions and still bounded principles and practices of political legitimation. It argues three points. The *first* is that this tension is intrinsic, that is, it is not due to the unbalanced development of economic versus political integration but arises from the specific original project and institutional building of the EU. In other words, it is not that the achieved level of economic integration now “implies” or “demands” political integration, but rather the contrary: it is the modality of economic integration that now makes difficult any form of institutional democratization.

The *second* point is that in the debate about the EU’s lack of democratic political decision-making, too much attention has been given to normative arguments about the “desirable” and “necessary” form of a polity on the one hand, and to institutional-constitutional procedural aspects and citizenship building on the other. A second dimension of any historical democratization process has remained in the shadows: the processes through which political institutions become structured and “vertebrated” by substantive socio-cultural inputs emerging from

the mobilization and organization of interests, identities and socio-cultural movements. Political democracy is not only made up of procedures and rights, but also of the actual balance of the socio-cultural and political forces which seek the realization of their values through these institutions.

The *third* point is that attention has so far concentrated on the EU democratic deficit and on how to redress it. However, the main problem may well lie at the national level. It is often thought that while the EU institutions remain weakly and indirectly legitimated, the main focus of legitimation and political decision-making remains at the national level. However, the expanding scope of European integration will soon have considerable implications for the quality and substance of national democratic procedures, transferring the democratic deficit from the EU institutional setting to the national ones. So the inherent tension between the EU and democracy has two main features: EU institutional democratization and the impact of national democracy on the integration process.

In the paper these points are addressed discussing first the general structural tension between the *territorial* expansion of the market on the one hand, and the *territorial* retrenchment of democracy on the other. In the second section, the paper concentrates on the issue of *democratizing* Europe. In the third and final section the paper tackles the problem of the impact of economic integration on *domestic* democracy.

## 1. INTRODUCTION

Since the process of European integration achieved a new start in the middle of the 1980s – with, first, the Single European Act, and, later, the Maastricht and Amsterdam treaties – considerable and growing attention has been devoted to the thorny relationship this involves with the ideals and practices of democracy as implemented at the national level. Most observers share the view that some sort of democratic “deficit” is now emerging at the European level. However, two lines of reasoning are present in the debate. The first maintains that the European Union (EU) will have to develop forms of political representation and accountability fundamentally similar to those experienced at the national level. This will require strengthening the electoral accountability of the EU executive(s), a stronger parliamentary control of the legislative process, and the development of a layer of European political and social citizenship to be added to expanding European civil citizenship (the four freedoms). A second line of reasoning argues, on the contrary, that a reproduction of democratization processes similar to those of the nation-state is unlikely to develop at the European level. Rather, attention should be given to the peculiar system of mutual

checks, multi-level balances and alternative systems of representation which develop in a *new type of polity*, which, however, will never be a multinational state endowed with a central system of political representation.

This paper develops a few reflections around the theme of the inherent tension between unbounded economic transactions and still bounded principles and practices of political legitimation. It argues three points.

The *first* is that this tension is intrinsic, that is, it is not due to the unbalanced development of economic versus political integration, but arises from the specific original project and institutional building of the EU. In other words, it is not that the achieved level of economic integration now “implies” or “demands” political integration, but rather the contrary: it is the modality of economic integration that now makes difficult any form of institutional democratization.

The *second* point is that in the debate about the EU’s lack of democratic political decision-making, too much attention has been given to normative arguments about the “desirable” and “necessary” form of a polity on the one hand, and to institutional-constitutional procedural aspects and citizenship building on the other. This normative and institutional/constitutional emphasis has somehow placed in the shadows a second dimension of any historical democratization process, which I will call here “political structuring”. That is, the processes through which political institutions become structured and “vertebrated” by substantive socio-cultural inputs emerging from the mobilization and organization of interests, identities and socio-cultural movements. Political democracy is not only made up of procedures and rights, but also of the actual balance of the socio-cultural and political forces which seek the realization of their values through these institutions.

The *third* point is that attention has so far concentrated on the EU’s democratic deficit and on how to redress it. However, the main problem may well lie at the national level. It is often thought that, while the EU institutions remain weakly and indirectly legitimated, the main focus of legitimation and political decision-making remains at the national level. However, the expanding scope of European integration will soon have considerable implications for the quality and substance of national democratic procedures, transferring the democratic deficit from the EU institutional setting to the national ones. So, the inherent tension between the EU and democracy has two main features: EU institutional democratization, and the impact national democracy on the integration process.

In the following pages these points will be addressed discussing first the general structural tension between the *territorial* expansion of the market on the one hand, and the *territorial* retrenchment of democracy on

the other. In the second section, the paper concentrates on the issues of *democratizing* Europe. In the third and final section the paper tackles the problem of the impact of economic integration on *domestic* democracy.

## 2. EUROPEANIZATION AND DEMOCRACY

In a broad historical perspective, Europeanization – meaning by this term the entire process of community building and integration within a varying set of European states – can be conceived as the sixth major developmental trend in the history of Europe since the sixteenth century. The first was *state-building*, with its historical progressive coincidence of regulatory orders in economic, administrative and military spheres under the supremacy of a single set of hierarchically organized territorial institutions. The second was the *development of capitalism*, which, notwithstanding its potential unboundedness, was nourished within the capsule of the state because of the formation of the national market. The third was *nation-formation*, with its strengthening of cultural borders and the creation of equality areas of cultural solidarity and common cultural standards. The fourth was the process of *democratization*, with the progressive articulation, recognition and legitimation of the institutional channels and political structures for internal voice structuration. The fifth was the colossal development of *welfare systems formation*, with the development of social citizenship for the culturally homogeneous national communities aimed at providing a substantive complement to democracy.

State-building and nation-building created the wrapping within which capitalism developed and was often nourished. Party systems and welfare states represented the crucial mechanisms of political identification and legitimation which stabilized societies characterized by high rates of socio-economic change. *Europeanization* can be read as a sixth possibly powerful driving force for the European system of states, nations, economies, democracies and welfares.

The issue is the following: what does Europeanization mean in this broad historical context and with respect to the other components of the historical sequence summarised in Figure 1? In fact, as Figure 1 makes graphically evident, the process of European integration seems to arise fundamentally from two types of problem-pressures. On the one hand, the unbearable costs of the rivalries of the state systems in an era of war technologies whose destructive power becomes disproportionate to the stake of the rivalries themselves. On the other hand, the growing pressure

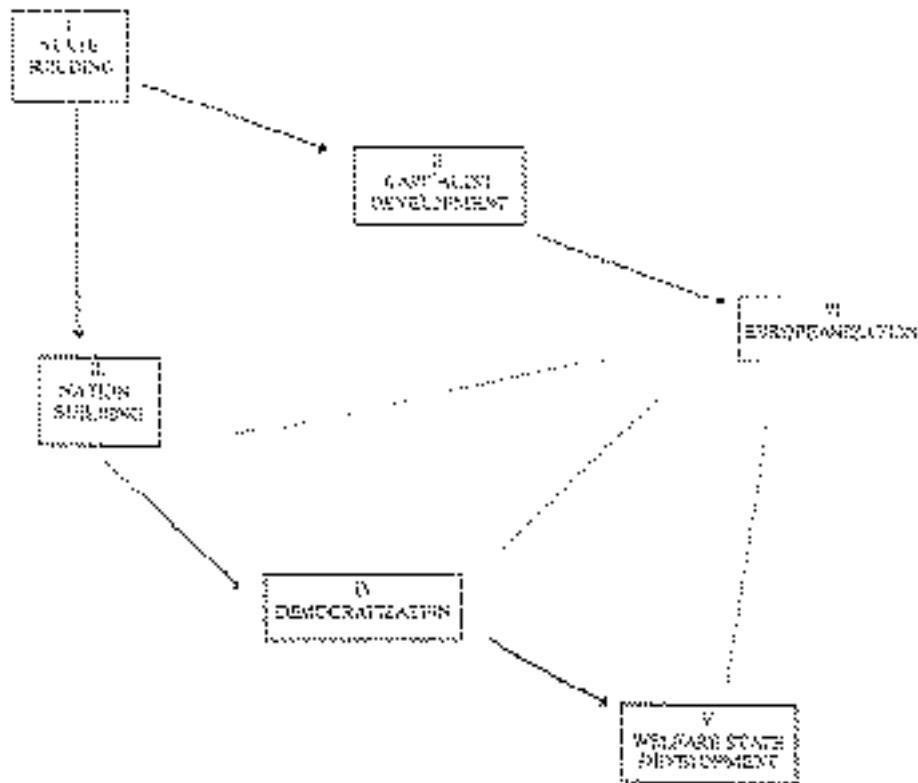


Figure 1: The six developmental trends in European history since the 16th century.

caused by the slow but significant economic peripheralization of Europe in the post-W.W.II world economy and the corresponding perception of the inadequacy of the European state and of its boundaries as a principle for efficient economic organization in world competition. In other words, Europeanization can be interpreted as a response to the weakening of the European state system and to the new pressures of capitalist world development.

Yet Europeanization has to come to grips with the other threads of development: with *national*, *democratic* and *welfare* states. Every relationship between this process of European integration and the closely historically associated phenomena of nation-building, democratization and welfare developments appears problematic and somehow contradictory. Nation-building, democratization and welfare state development were processes closely linked by their reference to the state as a bounded

territory and to its internal cultural homogeneity. The mechanisms of democratic decision making and those of redistribution of the material resources similarly assume, and rest on, both strong collective identities and solidarity ties – that is, high cultural costs of exit – and on the physical inability (or difficulty) involved in subtracting resources from the social obligations contracted on a territorial basis (that is, high material costs of exit). The process of European economic integration of the second half of the twentieth century – to the extent that it represented an answer to the new trend towards free trade and liberalization at the international level – has progressively represented a direct challenge to national cultural systems, national political decision-making, and national redistributive mechanisms and policies.

This sets Europeanization at the core of a potential contradiction between the processes of overcoming state-systems and of further capitalist development on the one hand, and the processes of “national” identity, legitimation and political decision-making on the other. While the former two processes are inherently based upon the removal of boundaries among the pre-existing system of European States with a view to achieving the “scale” sufficient to overcome the inadequacy of such States as a capsule of economic and military competition, the latter three processes are all based upon the control by the State of the redistributive capacities, cultural symbols and political authority. While the first processes require boundary removal, the second processes are historically built on the capacity to successfully lock the resources controlled by economic and cultural forces within the decision-making process of the territorial State. In this sense, the tension between the project of a stateless market constructed at the wider European level and the nationally bounded cultural, redistributive and political capacities, represents a profound structural contradiction and not a mere growth imbalance.

### 3. THE DEMOCRATIZATION OF THE EUROPEAN UNION

Critics of the current state of democracy at the European level normally point to seven main aspects as being responsible for the inadequate legitimacy of the European decision-making process.<sup>1</sup>

i) In the EU smaller states (and their citizens) enjoy a disproportionate

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<sup>1</sup> See J.H.H. WEILER, U.R. HALTERN and F.C. MAYER, ‘European Democracy and its Critique’, *West European Politics*, 18, 1995, pp. 4-39, for a summarising discussion.

power in both parliament and intergovernmental negotiation (veto powers, unfair weighted votes and parliamentary representation). This criticism, of course, assumes as its reference point the general principle of *individual* political equality.

ii) Community and union governance pervert the balance between national executives and legislative bodies, empowering executives and making national parliamentary control impossible (because of the timing, complexity, volume, and nature of EU decision-making).

iii) the European Parliament offers no balance to point ii) because of its formidable gaps in competence, its remoteness, and its language problems.

iv) Euro-parties of the European Parliament are not genuine parties because:<sup>2</sup> 1) they do not have a European electorate (there is no “European” issue area or set around which parties compete. Parties compete in European elections invoking national issues; in elections national voters vote for their national parties and labels and know little about European-wide groupings); 2) they do not have internal organizations to carry out policies decided by a leadership (the executive boards which may coordinate their lives are weak and they mainly “co-ordinate”, advise, etc.; 3) the cohesion of Euro-groups is extremely weak (and neither group consciousness nor group stability is high).

v) As a consequence of the previous points, the European electorate is not structured around EU alternatives and choices, and it is unlikely to have its voice heard in any meaningful sense.

vi) If important corporate actors exercise influence through bureaucratic and other channels, the Parliament is no alternative for the less organized, more diffused and fragmented non-corporate interests, which find it more difficult to organize at the transitional level.

vii) As a general consequence, electoral power and public opinion carry no or little weight at the European level.

To these seven fundamental points a few others are often added, which seem to me of lesser importance. For instance, the complaints about individual disempowerment due to the enlarged membership group represented by the EU polity are typical of any “big” state. Similarly, the lack of transparency of the EU decisional processes is only an exacerbation of

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<sup>2</sup> M.N. PEDERSEN, ‘Euro-parties and European Parties: New Arenas, New Challenges and New Strategies’, in S.S. Andersen and K.A. Eliassen (eds.), *The European Union: How Democratic Is It?* (London, Sage, 1996), pp. 15-40.

typical national features. Steps toward the overcoming of the main seven “deficits” would almost automatically entail a partial solution of the “disempowerment” and “transparency” problems, which are derivative.

What it is more important to underline is that the above mentioned weaknesses are exacerbated by the feeling that the activities of the Community expand, or have already expanded, in areas previously perceived as being outside its reach. The related perspective is that there might be no limits to further expansion of these areas of intervention.

The discussion of the democratic deficit and its possible remedies is often normative and/or institutional/constitutional. Some solutions are sought in the field of public opinion formation, that is, with reference to the need for a discursive process of will and opinion formation – the formation of a European public opinion in a European public space – made by different fluxes of communication which perform a critical and limiting function with respect to economic and state power: “Still, on a normative level, I assume a networking of different communication flows which, however, should be organised in such a way that these can be supposed to bind the public administration to more or less rational premises and in this way enforce social and ecological discipline on the economic system without nonetheless impinging on its intrinsic logic”.<sup>3</sup> Other arguments have preferred to emphasize the constitutional transformations required to overcome the above mentioned deficiencies, through either the enforcement of majority principles based on one person one vote legitimacy theories of politics, or the progressive development of a constitution which is not only economic but also a bill of rights which defines citizenship and is defended by the courts.

The seven democratic weaknesses listed above, however, identify a set of intimately linked issues. Political democracy is a set of *rights and procedures* pertaining to *competencies in substantive decision-making fields* which apply to a defined *political community* organised by *representative political actors*. In discussing a process of democratization in which an existing territorial hierarchical structure is progressively democratized according to Western traditions and standards, attention must be paid to the definition of the demos (the political community) and to the representative actors which substantiate and aliment *the input side of democracy* as well as to the process of accretion of the competencies of the territorial authority and to the formal institutional mechanisms of political responsibility which

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<sup>3</sup> J. HABERMAS, ‘Citizenship and National Identity: some Reflections on the Future of Europe’, *Praxis International*, 12, 1992, pp. 1-19, p. 11.



together legitimize *the output side of democracy*. A democracy is, indeed, impossible without a clear definition of its political community and constitutionally guaranteed rights and procedures. It is, however, ineffective without the existence of autonomously organized socio-political actors; and it is ethero-directed if it lacks the capacity to set its own substantive competencies.

In the historical experiences of the European nation-states the order of these factors has varied. The appropriate political community was sometimes well defined in ethno-cultural terms long before institutional democratization could be achieved; in other cases the issue of what was the appropriate community actually postponed institutional democratization as it was felt impossible to institutionally democratize a polity whose political community definition was regarded as illegitimate by parts of its own membership. Political representative forces (parties, interest organizations, socio-cultural movements) were sometimes the main actors of democratic constitutional development, while in other cases they emerged and consolidated through such a process. What is certain is that in all processes of democratization these four elements eventually combined to reinforce each other, so that it is today hard to conceive of democracy with the absence of any of these elements. What is also certain it is that in relation to the development of the EU, as we shall see, there is wide disagreement on where the process should start and how far should it go.

In the following sections these four dimensions of democratization are briefly discussed with specific reference to the European integration process.

### 3.1. *The European "political community"*

Who are the people whom are both the basis and the object of the democracy which is to be introduced? This question was not problematic in early state formation. The "subjects" of the prince were originally territorially defined. Problems of political community definition emerged only with the religious conflicts of the post-reformation period and, more clearly, with the age of nationalism. The issue has been forcefully rejuvenated in connection with the EU by the debate surrounding the by now famous German Constitutional Court argument about the fundamental illegitimacy of a political democratization of supranational institutions in the absence of a political community characterised by "some degree" of "cultural integration" or perception of "shared destiny".

The temporal priority – implicit in the German High Court argument – of a subjectively felt political community over a democratic state is clearly

and simply wrong from a historical point of view. In most cases nations were shaped by states, that is by their active policies of educational inculcation, linguistic standardization, redistributive solidarity, etc. It is, however, not accidental that this argument has been most forcefully expressed in Germany, which experienced the existence of a well defined and strongly felt "nation" long before a state form could be achieved for it. State(s) unification came after national consciousness had been aroused and triggered violent and fateful disputes about what its function should be and where the state should actually start and end.

The critique of the ethno-national conception of the *demos* implicit in the German Constitutional Court's argument is, however, not historical. This is because a normative argument cannot be discussed through historical evidence. The critics of the ethno-national conception of the *demos* tend, therefore, to criticize the thesis that a political community needs a primordial and ancestral ethno-cultural linkage to define itself. They do not deny the need for the development of some sense of a political community, but they define differently the ties binding together such a community. It is suggested that a civic commitment to constitutional values and civic duties, a citizenship conception of the *demos*, and the development of a "republican" patriotism can be enough to define a layer of political community built upon the ethno-cultural differentiation of the European peoples. Shared values, shared understandings of rights and social duties, and shared rational and intellectual culture which transcend ethno-national differences are the defining elements of the European would-be political community. The EU, which is often defined as a system of "multi-level governance" (supranational, national, regional, etc.), could develop a system of multi-level citizenship whose top level, the European one, should only incorporate those basic legal rights and duties sufficient to legitimize the necessarily limited range of "political competencies" of the Union.

I find this perspective of a constitutional patriotism the only possible solution in logical terms, but I am less confident that it can be in itself a *feasible solution* in the absence of considerable change in the current mode of integration. The first problem is where does this "civic" communality come from? The only answer is that it is created by the Union's definition of these rights, duties, obligations, etc. That is, it can come only from the development of community action in new and politically sensitive areas. It is not sufficient in this area to strengthen further the Union's definition of the *civic rights* of the Europeans (economic and property rights, free movements, etc.). It requires the coupling of these rights with a considerable injection of specifically *political* and *social rights* to substantiate European constitutional citizenship. The Union so far represents

an area where individual civic rights expand and become progressively defended by the courts, while, at the same time, social and political rights remain anchored to the national systems.

However, it is exactly this development of socio-political rights which is challenged by the “absence of the demos” thesis. If you cannot attribute substantive political and social rights (and obligations) to individuals not bound by a demotic linkage (the German Court argument) how can you create such demotic linkage through constitutional citizenship? If the demos is required for positive integration to go further, and, at the same time, further positive integration cannot be advanced in the absence of a demos, then we are in a deadlock that cannot be resolved by the terms which define it.

The second problem with the “civic culture” patriotism thesis is more momentous. The “no demos” type of argument, however unpleasant its reference to the ethno-cultural roots of nations may appear, raises an implicit but crucial empirical issue: how is it possible to create an area of cultural solidarity which can sustain and accept the inevitable redistributive choices and obligations required for positive integration measures? *De facto*, in Europe the cultural national ties define the pre-contractual bases of the citizenship contracts. They define the emotional and solidarity context within which purely contractual egotism is suspended and constitutional rights and duties, as well as actual redistributive decisions, social justice arguments, territorial equilibrium, etc. can be defended.

If a European constitutional citizenship can be uncoupled from the ethno-cultural definition of the demos, it must have a purely “contractual” nature; that is, be based on voluntary adhesion and possible voluntary withdrawal. And its content cannot be defined but by the mutual agreement of all parties whose original motivation cannot but be self-interest (given the absence of emotional solidarity as a precondition). A contractual relationship is not likely to provide advancement in political decision-making, as adherents may always withdraw totally or partially. Selective and partial withdrawal are likely to be the norm for partial functional regimes. The move of contemporary membership into an ethno-cultural national demos and into a supranational civic, value-driven demos, is likely to create tensions even if it was possible to give sufficient content to the second (which is unlikely until some common ground is found for the political decision of creating a European citizenship)

It seems unlikely, therefore, that a solution to the democratic problems of the EU could be advanced by an attempt to define and give some content to its political supranational community. We can always believe that, *over time, progressively, in the long-run*, and so on and so forth, some

sort of constitutional patriotism will develop in parallel with the similarly, over time, progressively, in the long-run development of the political and constitutional capacity of the EU. But if the two must develop progressively and in parallel, there is not much point in discussing which comes first and/or whether a multi-level citizenship can offer sufficient legitimacy to further European integration and what its actual content should be.

### 3.2. *Competencies: democracy on what?*

On which matters should “European democracy” exercise its political jurisdiction and the limits of its competence? Over which domains should the form of politically responsible decision-making be legitimately exercised? To phrase the issue more precisely: would democratization be regarded as a precondition for extended competencies; would it be regarded as a necessary consequence of these extended competencies, or, finally, should it be regarded as the legitimate process through which debate and decisions about competencies should take place?

Normally, national constitutions define at the same time basic rights and duties, the procedures for selecting those who are allowed to take decisions, and also the formal procedure for taking legitimate decisions. As far as the substantive fields of decision-making and the substantive goal of the decisions, constitutions are normally silent. Most of their provisions are devoted to define those areas in which political decision-making *is not* legitimate (e.g. private property in some cases, human rights, freedom of conscience, etc.). They are a list of impossibilities, of untouchable areas, but say little or nothing about the actual content of what has to be done where it is possible to do something. Every area not constitutionally reserved is in principle subject to the political decision making.

The EU treaties, which are more and more often defined as the “Constitution” of the Union, are quite different in this respect. The “constitutionalised” original international treaties present the unusual peculiarity of including a large set of pre-defined substantive goals whose implementation, by now, has its own logic and its own constitutional defence (in the European Court of Justice). The treaties define some rights, duties and procedures, but they also identify positively the specific areas where activity can take place and the specific goals to which it should aim. The areas where the Community has no competence are defined negatively, by omission. In normal constitutions the opposite is true: the areas of non-activity are defined positively by constitutional safeguards. The constitutionalized substantive areas of intervention are protected from the vagaries of (intergovernmental) political decision-making. This arose from

the specific goal-oriented nature of the early Community treaties which were devised to offer specific and internationally agreed upon solutions to common problems.

This original Community constitutional design weighs heavily on the prospects for competence democratization. In this sense it is grossly exaggerated to compare the EU treaties to national constitutions. It is true that the competencies of the Union have grown over time and have expanded in fields originally not foreseen; it is equally true that the peculiar interpretation of its role by the Court of Justice, via its supremacy and direct effect theory, have extended case law into various directions. However, on the whole, the EU new policies and court case law remain mainly concerned with issues which are “market-making” rather than “market-correcting” (mainly technical issues related to the free movement dimension of integration), i.e. policies which are almost exclusively concerned with the civic rights to enter into contracts, and not with the rights which concern the contents and the outcomes of such contracts.

This peculiarity of the EU constitutional setting has two consequences of great interest from the perspective of democratization. First, how can we combine the principle of political legitimacy and responsiveness to the public macro-preferences with the substantively limited competencies and the pre-defined goals of the EU “Constitution”? In other words, provided that some form of democratic process for selecting the decision-makers was set up and the latter found their political responsibility at stake, how could this be squared with the pre-defined competencies in “market-making” and the pre-defined goals of “economic integration” (lower barriers, fair competition, etc.). The question is whether electorally responsible leaders could be free to set the substantive agenda of Union policy-making (for instance, moving into totally new fields; “de-constitutionalizing” and transforming into politically contentious issues certain pre-defined goals as “competition law”). It is hard to imagine responsible élites bound by the substantive constraints of the treaties, if they were to be really responsible to a European-wide electorate. On the other hand, it is hard to see how democratization could be combined with predominant intergovernmental “voluntarism” in this area.

Secondly, solutions to Europe *à la carte*, flexibility, opting out, etc. are solutions which allow an exit option for some states. These exit options at the level of the member States (Schengen, Social Protocol, Monetary Union) have consequences. The voluntary basis of contractual adhesion to different functional regimes is likely to obstruct any development of integrated sovereignty in terms of competencies. Intergovernmentalism and unanimity principles produce the same result to the extent that they allow any actor

who is unwilling to engage either to withdraw or to block the decision. From this perspective, political democratization may be in the interests of those forces and States which aim at reducing the exit options of other forces and States. It is evident that this reduction cannot be operated and not even invoked within an intergovernmental structure. For that matter, even confederal and federal designs may include considerable brakes on the competence autonomy of the central hierarchy. Only a democratized structure can exercise these restrictions by invoking the principle of political direct legitimacy to raise obstacles to exit options.

If the EU needed a positive decision to evolve in all directions, its democratization would not appear as a necessary requirement. National executives could enter negotiations and political exchange involving the entire variety of domains of integration – economic as well as others. Democratization appears, however, as a pressing problem precisely because the constitutionalization of the market-making goals allows the triangle made up of the treaties, the Commission and the Court to continue to produce negative economic integration whose political consequences are then felt by national governments and representative institutions. Institutional reform and democratization, instead of being justified with the demotic argument of citizens' participation, etc. could well be in the interests of those actors who need a principle to stop or control the internal engine of the Union and at the same time to reduce the exit options of other recalcitrant actors whose exit limits the scope of action of the others.

### 3.3. *Regime democratization*

The issue of the regime concerns which specific institutional procedures should be introduced to “democratize” the Union. An extensive debate has been going on about which institutional reforms are needed and almost all solutions have been proposed: from the direct election of a EU president to the introduction of the political responsibility of the Commission in relation to the European parliament. There is no space in this paper to discuss the merits and demerits of alternative institutional democratization designs and the likely tension that each of them would create in the existing framework. I will limit my discussion to highlighting three points.

The first point concerns the issue of competencies discussed above and deals with it, this time, from a constitutional perspective. An ultimately democratized regime, whatever its form, will have to deal with the problem of “competence over competencies”. That is, it will have to clarify who has

the constitutional power to modify the treaties. It would make little sense, and create undue tension, to devise a regime endowed with the principle of direct or indirect political responsibility without empowering it with the capacity to design the competence boundaries of its own decision-making. If treaties remained an intergovernmental affair – with at most a binding interpretation role of the Court of Justice – than any democratization would appear as a facade exercise.

The second point is that most proposals for institutional democratization seem to focus on the principle of the political responsibility of the “Executive” (the Commission, presumably, even if the EU Executive is clearly dual and the Council is in a dominant position). This corresponds to the almost universal situation of the European national parliamentary systems which all work – even French semi-presidentialism – under the fundamental rule of the parliamentary accountability of the Executive. It should be pointed out, and historically reconsidered, that the original requests for institutional democratization did not involve “responsible government” but rather the legislative power of the elective chambers. In most European cases elective assemblies came to control crucial legislation areas long before they could hold the Executive responsible to them or dependent on their consent. This dual system typical of the “constitutional monarchies”, and of the transition phase to modern parliamentary democracy, provided for an Executive which was not responsible to elective assemblies (responsible to the Crown, in the past, to the national government possibly in the EU) accompanied by assemblies with legislative control but no powers of control over the Executive.

This model would require in the EU an extended role for the legislative and budgetary competencies of the Parliament whose approval would be necessary for all EU legislation. At the same time, it would leave a veto power to both the Executive (the Council, in this case) and the Parliament. Europeans are obsessed by the danger of deadlock implicit in separate institutions endowed with autonomous powers. However, this solution would have the merit of introducing a substantive democratization of the EU *legislative output* without fundamentally challenging its dual nature. The victim of a development in this direction would of course be the Commission, which will have to see its role confined more and more to that of a bureaucratic executive agency.

The third point is the critique of the abused idea of the EU intergovernmental level as bringing about an informal regime of “consociational democracy”. This is based on a few prevalently formal similarities: mutual veto power and concessions; top leadership representation of broad group

interests (national); and a style of co-operative negotiation aimed at compromise and consensus.<sup>4</sup> In my opinion the fit is indeed very weak. Apart from any other consideration, consociationalism presupposes a closed state system in which actors facing external and internal threats are *obliged* to enter systemic relations and to come up with common solutions. The absence of exit options for all actors oblige élites to accommodate and to create packages of political exchange.

In an open system like the EU, the exit options for several actors prevent packages over a wide range of policies. Actors whose resources are needed for the package are not locked into the system, which is loosely bounded. They can withdraw their resources and in so doing they can impede any outcome and live with their second best solution of no outcome at all. Moreover, the simple fact that consociationalism works only at the inter-governmental level defeats the very reason for its existence. The fact that other crucial fields and resources *escape* the consociational decision-making (because they are dealt with at the supranational or infra-national level) makes the possibility of consociational deals less likely, less far-reaching and less stable. Those aspects of the Union treaties which are constitutionalized (boundary removing, competition enhancing, etc.) subtract resources from the consociational deals. The latter are therefore undermined by exit options and constitutional checks outside their control. The scope for consociational political exchange is therefore extremely limited.

#### 3.4. *Actors for political structuring*

Much of the debate about democracy at the European level addresses either general theoretical and normative principles such as citizenship, sovereignty, etc., or it concentrates on institutional solutions. Less attention is given to the formation of the socio-political actors and political conflict which can structure European politics – that is, to those processes of political structuring that give (and gave) democracy the substantive bases for voice channelling and political organisation. As a matter of fact, beyond the important constitutional, institutional or public opinion elements, democracy was the result of the equilibrium reached by different political and social forces endowed with resources of a different quality (economic resource control, organisational pressure, electoral numbers, competence, etc.). This guaranteed the capacity of the political system to consider and to

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<sup>4</sup> See J.H.H. WEILER, U.R. HALTERN and F.C. MAYER, 'European Democracy and its Critique', *West European Politics*, 18, 1995, pp. 29-31, for a discussion of the consociational model.



respond to demands coming from forces whose economic position did not automatically ensure the safeguard of their interests as a result of the system's maintenance imperatives.

The sense in which I would like to speak of "political structuring" is the development of intermediate structures, organizational networks of political and social movements linking citizens to interests groups, to political organizations, and to broad political alliances capable of "vertebrating" the political process.

Known forms of representation have been historically based on three principles which correspond to different actors and channels: *corporate* representation; *territorial* representation, and *political* representation. Corporate forms of representation acquire the possibility of directly representing within the bureaucratic structure and machinery of the state the interests articulated within the society and/or of accepting as valid and binding the negotiated orders that those same interests can agree upon among themselves. Territorial forms of representation are based on the principle of representing sub-national territorial units directly within the central decision-making hierarchy and, therefore, take on the homogeneity and the cohesion of the territorial articulation of interests. Finally, political forms of representation are based on individual voluntary participation in processes of leadership selection structured by broad political organizations without a pre-defined representational content. The latter legitimation, as it is known, does not rest on how well they represent and defend the interests of a specific constituency of pre-defined actors (interests groups or territories) but rather on how well they represent, through the electoral accountability mechanisms, whatever interests are or might be electorally significant.

One could argue that in the EU all these forms and channels of representation have been activated and are now somehow operational. Early integration theory assigned an important role to the development of interest groups at the EU level, and the Commission and bureaucracy in Brussels were willing to promote interest organizations on "a scale coterminous with their supranational legislation". An infinite number of consultative and negotiation committees has since then been set up in every area of EU activity. It was hoped that these groups, brought into the central bureaucratic decision-making process, would have lobbied for Brussels in relation to their national governments.

In terms of territorial representation, the state decentralization trend in most EU member states since the seventies has given rise to increased regional capacities, in terms of economic and organizational resources, in dealing with territorial problems and in managing policies of local economic development, and thus to a reinforcement of mechanisms of

intergovernmental relations within the national scenario. At the same time, the local impact of the Single European Market and the uncertainties produced at the regional level have led relevant social forces and interests to express their concerns about the possible impact of EC measures on regional and local economic structures. These uncertainties have generated demands from local socio-economic actors for regional action to identify areas affected by these changes and take the appropriate measures to respond with regional structural adjustments. The EU in general and the Commission in particular acted fast in taking the opportunity to set up new legal and financial tools for regions and engaged in a programme of institution-building for regional representation mobilization within the Union (regional development funds, conventions of frontier co-operation, Committee of the Regions, etc.). These efforts have created growing cross-regional co-operation and a growing “central” representation of regional actors.<sup>5</sup>

At the political level, too, the Union has strengthened the role of the Parliament and of the transnational parties through a number of structural changes (direct election, growing competencies). It could be said, therefore, that in all three realms of representation, corporate, territorial and political, the Union has actually strengthened its “roots” via a slow but consistent strategy of institution-building aimed at creating new channels for the possible grass-roots mobilization of various kind of non-state actors.

However, this picture is too optimistic and criticism concerning the performance of these channels outweighs the positive results. Firstly, all these institutional opportunities are based upon the possible option of concerned partners *to exit or to abstain* from participation. Some regions are more proactive and endowed, others are weaker and actually incapable of profiting from the new opportunities.<sup>6</sup> Some corporate interests (in particular capital and business) cannot be forced to accept the results of concertative frameworks as binding, as the Commission has no capacity to “bribe” them or to “force” them to do so. For some of them, regions or corporate actors, the default solution of non-co-operation may prove more profitable than that of engaging in actual participation in these loose representation frameworks.<sup>7</sup> Parties formally regroup at the EU parliament

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<sup>5</sup> G. MARKS, F. NIELSEN, L. RAY and J.E. SALK, ‘Competencies, Cracks, and Conflicts. Regional Mobilisation in Europe’, *Comparative Political Studies*, 29, 1996, pp. 164-192.

<sup>6</sup> W. STREECK and P. SCHMITTER, ‘From National Corporatism to Transnational Pluralism: Organised Interests in the Single European Market’, *Politics and Society*, 19, 1991, pp. 133-164.

<sup>7</sup> M. KEATING, ‘Les Régions Constituent-elles un Niveau de Gouvernement en Europe?’, in P. LeGalès and C. Lequesne (eds.), *Les Paradoxes des Régions en Europe* (Paris, La Découverte, 1997), pp. 19-35; KEATING M., ‘The Political Economy of Regionalism’, in Keating Michael and John Loughlin (eds.), *The Political Economy of Regionalism* (London, Frank Cass, 1997), pp. 17-40.

level but are not compelled to provide coherent alliances and policy alternatives by the “non-systemness” of the European party system.<sup>8</sup> This “open” structure at the level of political representation corresponds to the equally open structure of the EU at the intergovernmental level mentioned above.

Secondly, and consequently, that the channels of representation do not function is demonstrated by the absence, and indeed the impossibility, of opposition and conflicts about the EU being expressed in each of them. Although it is obvious that sub-national territorial interests are and will be diversified, and that some areas may profit more than others from the opportunities offered by the new integrated market and suffer less its costs, the idea of “regional representation” betrays an organic and generalized unanimous consent to participation and none of the bodies set up for territorial representation has so far shown any sign of a capacity to represent different territorial interests and diverging views about the activities, future and content of the integration process. Similarly, the extremely “pluralistic”, organizationally fragmented, and internally competitive world of the interests represented in Brussels has not generated stable lines of alliance, opposition and conflict that could be effectively mediated through the actors’ concertation and the Commission’s role. Similarly, again, the European elections, parties and Parliament have so far been totally unable or unwilling to articulate any of the latent conflict and opposition relating to the EU related issues of enlargement, competencies, powers, etc.

Yet regions cannot be represented without including conflicts among losers and winners and compensating mechanisms. Interests cannot be centrally brought into the “concertation-negotiation” mechanisms until exit options for some are not reduced; parties cannot hope to represent anything until their internal divisions on the contentious issues of the Union are brought up and constitute the issues of the debate. However, it is obvious that in none of these channels/arenas are conflicts and alternatives generated, expressed, articulated and mediated. The only channel and arena where this happens is still the intergovernmental Council. Anti-European, European-sceptical and European-critical sub-national actors have to by-pass enormous barriers of institutional exclusion (for most informal channels), of organization, of territorially dispersed pockets, and of culturally and ideologically disparate parties. As a result, national arenas remain the only arenas for actors deprived of those resources necessary for

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<sup>8</sup> R. ANDEWEG, ‘The Reshaping of National Party Systems’, *West European Politics*, 18, 1995, pp. 58-78.

EU access which include fundamental adhesion to the current EU policy and institutional framework and to its ethos.

The conclusion is that institutions and channels of corporate, territorial and political representation seem to represent more a system of legitimation for the techno-bureaucratic central hierarchy than effective mechanisms of interest representation which must incorporate and resolve conflicts. They seem sometimes to respond more to the Commission's need to legitimize itself (and to weaken its intergovernmental counterpart) via direct relationships with sub-national or supra-national institutions.

### 3.5. *Conclusion*

The usual argument which is employed by the optimistic view of the development of the Union is the “*not yet*” argument. That is, whatever the criticism, the developments in the fields of corporate, territorial and political representation point to trends which will go on, eventually endowing the Community with functioning representational linkages. It is naturally difficult to discuss the “not yet” perspective because its time-horizon is not defined. The point here developed is that the democratization of the EU now faces structural obstacles and inherent contradictions that cannot be solved incrementally by approaching the target by piecemeal adaptation,<sup>9</sup> but which, instead, require fundamental institutional adaptations. With regard to the latter it is not easy to identify either the actors or the motivations.

It is certain that the four dimensions of EU democratization briefly discussed here – demos and citizenship, substantive competencies, regime structure and actors' representation – relate to each other closely. One could say that the structuring of the actors' political representation requires previous institutional regime democratization and that the latter will actually stimulate the former. According to this, territories, groups, parties and voters do not structure their “European-level” political interactions because there the competencies are limited and the powers are not democratically responsible.

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<sup>9</sup> Neither can they be solved by the “democratic-deficit” rhetoric that transforms itself into sheer normative invocation. A recent contribution has even stated that “the achievement of an optional (sic!) model for EU-level democracy requires a process of self-transformation from a dispersed system of national democracies to a unity constituted by an ‘inclusive’, self-conscious and politically active transnational demos, capable of directing its democratic claims to and via the central institutions and hence move the European policy beyond executive elite dominance”. D.N. CHRYSOCHOOU, ‘Democracy and Symbiosis in the European Union: Towards a Confederal Consociation?’, *West European Politics*, 17, 1994, p. 13.

Alternatively one could say that forms of contentious structuring of European public opinion, articulated through parties discussing European issues, would create that European public sphere which will eventually lead to successful pressure for institutional democratization. One can also believe that the progressive extension of EU competencies will by itself trigger off such widespread public reactions and leaders' perceptions of the risk of them as to ensure further steps towards political structuring and institutional democratization. And, to conclude, one can also think that the progressive definition of a European-level demos through the establishment of a set of citizenship involving not only civic but also social and political rights, enforceable by court action, could achieve the same result of increasing pressure for other areas of democratic development.

The prospects of slow spill-over effects from one dimension of democratization to others in a progressive mutual strengthening of all of them cannot be dismissed. Incidentally, it resembles considerably the historical process which characterised national political democratization development. In my opinion, however, citizenship definition, regime democratization and European-wide actors structuration, tend to be primarily dependent upon the peculiar institutional competencies of the Union. The constitutionalized defence of market-making legislation and the corresponding necessary positive intergovernmental political decision for any significant extension of those original goals make it unlikely that any bottom-up form of socio-political actors political structuration will take place.

#### 4. NATIONAL DEMOCRACY AND EUROPEAN UNION

So far the discussion has concerned how to democratize Europe, how to overcome the current version of a Union characterized by "enlightened administration on behalf of uninformed publics, in co-operation with affected interests and subject to the approval of national governments".<sup>10</sup> This problem is not particularly pressing if one believes that the fundamental roles of democratic decision-making, of social citizenship definition and defence, and of national political identity representation, are left unaffected at the national political level *during* the process of European economic integration. Is it the case that the European Union process, however low its democratic legitimacy might be, does not affect the functioning of democracy at the national level?

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<sup>10</sup> W. WALLACE and J. SMITH, 'Democracy or Technocracy? European Integration and the Problem of Popular Consent', *West European Politics*, 18, 1995, pp. 138-157, p. 143.

A growing number of analyses which concentrate on the development of European integration have underlined how its persisting double aspect of intergovernmental and supranational processes, and the divided sovereignty at the top of the EU which follows, have contributed to the nation-states relinquishing sovereignty over the Keynesian control of the national economy while they have resisted successfully any attempt to intrude into their typical cultural and political distinguishing features. So, the differential speed and scope with which integration has proceeded in the field of economic rights, economic boundary removal, and free movement of productive factors has left the States, once they have relinquished their claim to a national political control of the market, in full control of their systems in different areas. If European States have lost their capacity to govern their economies, and impose political will on market forces and their dynamics, they have however retained their prominent role of being a focus for political organization and collective identity (democracy and identity), drawing continued legitimacy from association with democracy and national identity. Is this *retrenchment* of the nation-state into its cultural and politico-administrative boundaries compatible with its relinquishing its traditional control over its economic boundaries? Can nation-states and political élites, formally disengaging themselves from economic issues and problems, nonetheless manage to consolidate “their position both as masters of the international system and as the principal foci of political identification and democratic legitimacy”?

One can imagine that national domestic sovereignty and democratic political legitimacy can be maintained even under conditions of very high international economic interdependence only if citizens can be persuaded by public debate or by the successive failures of different governments that economic outcomes are *de facto* the result of forces outside the reach of the nation-state. Otherwise, performance legitimacy having being undermined, there will likely be tensions in the political structure. Either the perception of the national loss of control in economic matters is exaggerated, or political consequences in the channels of national political representation are likely to emerge.

I maintain that this peculiar division of labour between the EU and the nation-state is unlikely to be without consequences in the medium term, and that nation-states are unlikely to find it easy to remain the focus of political legitimacy and identity while the process of dismantling their economic competencies is progressing rapidly. The removal of economic boundaries and the parallel reduction in the capacities of nation-states to control the national socio-economic environment is likely to have consequences with regard to forms of national political representation and national

identity definition. In this sense, the European integration process is also likely to affect the “quality” of national democracies and political representation with consequences for the role of national parliaments, the cohesion of national parties-national electorates, and the cohesion of national interest organizations.

#### 4.1. *National parliaments*

It is evident that in those fields in which policy competencies have been effectively transferred to the supranational Commission or to the intergovernmental Council, national parliaments have actually seen their legislative scrutiny capacity either disappear or be reduced. The sheer quantity, technical complexity and remoteness of EU legislation, the imbalance in information, and the required freedom of manoeuvre required by national executives in their Council’s negotiations determine this.

Since the new ratification processes of SEA and TEU, national parliaments have increased and improved their scrutiny of EU legislation and they have exploited the uncertainties surrounding ratification to bargain increased powers of scrutiny over EU legislation.<sup>11</sup> The new treaty ratification brought about a number of procedural and even constitutional changes designed to improve and increase the scrutiny power of national parliaments, to make sure that their views could be expressed before national ministers approve proposals in the Council of Ministers, to receive information from executives in due time, etc. etc. So, in conclusion, the new treaty ratification has brought about an increase request for parliamentary scrutiny power *vis à vis their national executives*. National governments were forced to concede, or were interested in conceding, those constitutional, procedural or actual changes within their domestic institutions which improved the transmission, quality and capacity to scrutinise EC legislation and EU matters generally. This meant that the national-parliament-national executives linkage was strengthened and that parliaments necessarily asked for more control over their executive action in Brussels in the Council.

In contrary fashion, very little if anything was achieved in the direction of closer co-operation between the national and the European parliaments.<sup>12</sup> In fact, the co-operation drive among national and European parliaments is hampered by two fundamental problems: the national parliaments are not, of

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<sup>11</sup> D. JUDGE, ‘The Failure of National Parliaments’, *West European Politics*, 18, 1995, pp. 79-100.

<sup>12</sup> K. MEUNREITHER, ‘The Democratic Deficit of the European Union: Towards Closer Cooperation between the European Parliament and National Parliaments’, *Government and Opposition*, 1994, p. 29.

course, and cannot be, part of the routine legislative process of the EU. Therefore their main work and activity is to hold national ministers and executives accountable for what they do and obtain in the Council.

In other words, it is unclear whether there is any compatibility in the role of national versus European parliament. There might be a fundamental difference of interest as far as accountability is concerned. National parliaments when they fight the cause of democratic accountability are naturally inclined to make their national executive more accountable and more constrained in what they do in the Council. While holding national executives responsible for their actions in Brussels they actually contribute to an inter-governmental vision of EU decision-making. By claiming accountability in relation to what the Commission and the European Council are doing, the European Parliament invokes a different chain of accountability, which may be in opposition to that claimed by national parliaments. By increasing national accountability through a closer control over their executives, national parliaments undermine the process of European accountability in relation to the European parliament.<sup>13</sup> The contrary, too, would, of course, be true: increasing EU executive(s) accountability at the EU parliament level would entail a loosening grip on the part of national parliaments.

#### 4.2. *National parties, electorates and interest groups*

The idea of the “demise of the nation-state” actually refers to the “demise of the nation-state Keynesian policy capacity”. Once economic boundaries are removed and productive factors deregulated, corporations and individuals can move freely from one jurisdiction to others according to the social costs and regulatory burdens imposed on them and the alternative positive opportunities offered to them. The absence of European-wide harmonization forces governments to implement their economic and social policies following the requirements of international competitiveness and engenders pressures for competitive deregulation. National competitiveness is becoming the dominant political imperative and programme as national regimes are themselves exposed to competition that they can no longer contain either at the national level or at the EU level.

The consequences of this new situation are already surfacing at the national level, with a tendency to shift taxation from more mobile to less

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<sup>13</sup> See M. SHACKLETON, ‘Democratic Accountability in the European Union’, in F. Brauwer, V. Lintder and M. Newman (eds.), *Economic Policy Making and the European Union* (London, Federal Trust, 1994), p. 100.



immobile factors (from capital to labour and general taxation) and to shift the financing of the welfare state from employers' contributions to general tax revenues. These tendencies are likely to be strengthened in the context of the single currency programme and the related monetary, fiscal and social policy harmonization at the national level that it will impose. EU competition policy pushes toward the privatization of previously nationalized industries which protected sectors of the labour force and rules out state aid and subsidies to domestic industries for employment protection. Access and participation in the EMU constrains public borrowing and the overall public deficit. The central banks are made more autonomous and in the future they will no longer be allowed to extend credit to government.

Within this context, national political parties will have less and less capacity to control the resources available to meet the demands of their *classes gardées* and to smooth the asymmetric shocks on different social groups. Moreover, facing the development of the EU and the issues which reverberate on national politics from this process, the parties will have to face the consequent problem of how to deal with the possible and uncontrollable splits within their national electorates and in their own rank and file and the linked potential loss of control over the bulk of "their" voters. Their generalised tendency to make EU-policies and issues *valence* issues and to silence their potential divisiveness is fed by the clear perception that those issues, if publicly mobilized, are likely to split both the parties and their traditional electorate along new and different lines of alignment. This silence-collusion is making national parties quite vulnerable to the emergence of anti-EU or anti-EU-specific policy splinter parties or new small parties or political movements or opinion moods.

Parties all over Europe may well soon discover the importance of the development of a European-issue and the European arena for the national control of their voters. To put it differently, parties will discover the importance of continued control of voters in the realm of supranational political issues, elections, policy and also constitutional matters.<sup>14</sup> The emergence of new political alignments and opposition lines *at the national level* and within the national party system (not at the European level for the reasons discussed above) may cut across, reshape, and disrupt traditional party internal cohesion and coalition strategies. In other words, the issues related to the domestic impact of the European market-making effort may realign national electorates, interest groups and group leaders.

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<sup>14</sup> A point well made in M.N. PEDERSEN, 'Euro-parties and European Parties: New Arenas, new Challenges and New Strategies', in S.S. Andersen and K.A. Eliassen (eds.), *The European Union: How Democratic Is It?* (London, Sage, 1996), pp. 25-26.

In the longer run national political parties may also face the problem of how to consider and control the potential for the building up of new trans-European parties or groups of parties which do not fit well with the national party alignments. Increasing their role at the EP level, national party groups and factions may pursue at the European level strategies of alliance with parties and other groups which are inconsistent with the national pattern of coalitions.

The history of party politics tell us that parties will be able to continue to control electorates only if they manage to control effectively all arenas in which citizens are interested and active, in much the same way as their control and powers extended historically to local politics and to executive institutions previously beyond their "reach". If the EU sites of policy-making entirely escape their control and reach, it is likely that they will experience growing problems even in keeping the traditional national control of political alignments, voting, parliamentary life, etc. Their present considerable, if not total, command of the national arena may well be challenged progressively by their weak command of other, sometimes sub-national, but most frequently supra-national, arenas.

Even national pressure groups are affected by the acceleration of the integration project. It took most of these groups a long time before they could overcome sector, regional and organizational differences to effectively represent larger audiences of their respective putative interests. More or less they are all affected by a growing internal organizational tension which is caused by a progressive differentiation of interests which all revolve around the costs and benefits of the new mobility options offered by the European and international market. Tensions between domestically oriented groups and multi-market oriented groups tend to cut across most business and trade associations.

The effective capacity of certain national groups, corporations, individuals and even territorial subnational governments to escape the obligations of national jurisdiction reduces the available resources at the national level and imposes those policies which are meant to pre-empt the exit options of those endowed with skills and resources which make them potential "exiters". At the same time, the reactions of those who cannot enjoy the same opportunities and whose fate is locked into the mechanisms and constraints of the nation-state may well lead to considerable tensions in the forms of national representation. Exit options affect the resources available at the centre of the national decision-making process and may, in the long run, also affect those emotional and solidarity pre-contractual elements which were at the roots of the territorial and cross-groups redistribution of rights, wealth and power which pacified our societies after the Second World War.

## 5. CONCLUSION

It has been argued that, at the moment, the relationship between the specific features of the European project of market integration on the one hand, and the prospects for democratic institution *both* at the EU and at the national level on the other, are characterized by a growing and more explicit tension and imbalance. In conclusion, democracy may well prove very difficult to organize at the EU level, but, at the same time, it may prove to be more and more ineffective as a linkage mechanism between public preferences and policy outputs at the national level.

The generalized structure of “exit options” which characterizes the “market-making” activities of the Union has militated so far against any stable form of political structuring of representative actors at the European level. At the same time, the same exit options which arise from the removing of national economic boundaries in the making of the integrated market also tend to undermine local and national mechanisms of political representation and legitimation.

The key issue is the imbalance between, on the one hand, the economic boundary removal which has been progressively sustained by constitutionalized goals and court case law, and, on the other, the incapacity of new boundary building caused by the blockage of veto powers at the intergovernmental level and the inherent limited competencies of the Commission. This imbalance tends to prevent any real political structuring of actors, oppositions and policy alternatives at the European level, while at the same time tends also to “destructure” and “delegitimize” the traditional national sources of political legitimacy, either by factually reducing their autonomy and their scope for purely national policy-making, or by weakening and breaking the organizational solidity and cohesion of the national socio-political actors in relation to the new and uneven redistribution of options and opportunities offered by the building of an integrated market characterized by the mobility of some and by the firm locking in of others.

The picture presented here is not optimistic for democracy. In the absence of clear-cut political and ideal choices capable of overcoming the embedded mechanisms which structurally prevent any democratization process, the logic of integration left to itself would probably produce political tensions which cannot be solved either at the EU or at the national level.

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*Discussion of the paper by S. Bartolini*

ARCHER

Firstly there seems to be an important and non-zero-sum relationship between the development of supranational entities (as in the case of the EU) and its impact upon participants, such that the latter are actually strengthened both economically and politically (as in the case of the Republic of Ireland).

Secondly, we have discussed two waves of development. Firstly, the emergence of nation-states and then of supranational bodies like the EU. Is there now a need for a third wave of regulatory agencies controlling the unregulated but immensely powerful global finance markets and also protecting the mobile labour force which is often deprived of citizenship rights in receiving countries?

FLORIA

Se nos plantea, respecto de la democracia, una secuencia análoga a la que ocurrió con la nación en el siglo XIX y XX. Y la "cuestión nacional" persiste en una pregunta que se hace el hombre contemporáneo, distinta de la pregunta que se hacía el hombre de fines del siglo pasado, que resume Renán cuando se preguntaba qué es la nación. La pregunta de hoy es: ¿para qué la nación? Me parece que hay una cierta analogía que se puede proponer. Vamos a terminar el siglo con la "cuestión democrática". La pregunta que sigue no es tanto ¿qué es la democracia? cuanto la "democracia, para qué? Y ésta es la que yo creo es la demanda profunda de muchas sociedades, pueblos y personas. Diría que lo que usted insinúa, en cuanto a la dialéctica, entre globalización y nación es perfectamente válido. Estamos en una transición, en un salto cualitativo, hacia un futuro que promete una nueva organización del mundo, formas de gobierno mundial a través de organizaciones transnacionales que de hecho comienzan a gobernar recursos. Me refiero al Fondo Monetario Internacional, al Banco Mundial en la dimensión sobre todo económica; ese mundo puede no ser necesariamente mejor para el hombre concreto que el de las democracias nacionales y el pensamiento político será desafiado en ese sentido. Hasta ahora la teoría política y las especulaciones políticas han partido del

supuesto implícito de que el ámbito natural de la ciudadanía y de la democracia es el estado nacional. De donde me parece que estamos en una época que evoca la que encontraron los griegos cuando estaban usando categorías para la “polis” y llegó el Imperio Romano. Gracias.

ZIOLKOWSKI

During the last visit of the Polish bishops *ad limina*, His Holiness said that European unity lies predominantly in the field of spirit. First, and foremost, in the unity of Christendom, which still underlies Europe's enduring shared values. Europe sends a message of its ability to successfully combine the elements of spiritual and material culture, to humanize technology, to introduce ethical imperatives into scientific research. It's a region which can transcend its quarrels and, after having twice this century steeped the world in blood, set to the world, to a large extent, an example of reconciliation. The order we seek is not just a customs union or a thin coating of technological uniformity; it is not a superficial cultural homogeneity produced by the media, or a supranational organism. We seek something more substantial, more effective and lasting. The moral spiritual guidance provides not a panacea, but a true perspective of how European unity can be achieved.

ELSHTAIN

One of the central themes classic theories of citizenship had to do with was citizenship as a thick identity. That is, there were elements that made citizenship very sturdy, including a sense of loyalty, a sense of what it means to be at home in a culture and committed to it, a sense of shared language and history, even civic affection for a place, a people, a particular way of life. That strong notion of citizenship assumed that the loyalty that the citizens felt, in the sense of being part of the sweep and scope of a particular history, involved a rooted citizen in such a way that he or she accepted responsibility for the civic body of which he or she was a part. Can you sustain a notion of citizenship when the bonds that were historically assumed as the source of citizenship get thinner and thinner?

What does it mean to be an alien living in a place but not part of it civically? What does it mean to be seen as a client of a bureaucracy, perhaps contributing to a place economically and being the beneficiary of social provisions but more as a client than as a citizen? Is it possible that we have, or will, so thinned out the ties that connect people to whatever political body of which they are a part, that loyalties to that place cannot be sustained, and that any meaningful notions of citizenship has been lost?



SCHAMBECK

Mir geht es um die Beziehung der europäischen Integration zur Demokratie. Die europäische Integration ist nach Beendigung des Zweiten Weltkrieges ein Friedensgebot gewesen, weil die Nationalstaaten diese Friedenssicherung nicht bieten konnten. Sie ist gelungen! Sie begann aus wirtschaftlichen Gründen — nämlich mit der Europäischen Gemeinschaft für Kohle und Stahl — und ließ eine Friedenszone entstehen.

Die Entwicklung der europäischen Integration ist so schnell mit dem alten Demokratiemodell nicht realisierbar gewesen, sondern verlangte eine Exekutivlastigkeit, die mit unseren bisherigen Vorstellungen des demokratischen Verfassungsstaates nicht vereinbar ist.

Die Europäische Union ermöglicht keine Demokratie als Mitbestimmung des Volkes, wie das in unseren Staaten in den Parlamenten der Fall ist. Es ist eine andere Form der demokratischen Mitbestimmung in der europäischen Integration. Ich verweise auf die Verantwortung der staatlichen Regierungsvertreter im Rat der Europäischen Union, welche wieder für ihr Wirken in der Europäischen Union ihren nationalen Parlamenten verantwortlich sind.

Unabhängig von allem Institutionellen ist die Erziehungsarbeit zum demokratischen Bewußtsein in den einzelnen EU-Ländern wichtig. Dazu gehört, daß man die Wahlentscheidungen zum Europäischen Parlament nicht immer auf die politischen Verhältnisse in den einzelnen EU-Mitgliedstaaten überträgt.

Aus der Sicht der katholischen Soziallehre ist es erfreulich, daß das Subsidiaritätsprinzip, welches schon in der Konferenz von Maastricht betont wurde, seine geistigen Wurzeln in eben dieser katholischen Soziallehre hat und mit ein Lebensprinzip innerhalb der europäischen Integration sein soll.

Dabei darf man nicht übersehen, daß das Subsidiaritätsprinzip nur auf die Beziehung der Europäischen Union zu den einzelnen Mitgliedstaaten und nicht auf die innerstaatliche Ordnung der einzelnen Mitgliedsländer der Europäischen Union gerichtet ist. Die Europäische Union hat übrigens primär eine wirtschaftliche Kompetenz, aber viel weniger eine soziale Kompetenz; die liegt mehr bei den Mitgliedsländern der Europäischen Union und weniger bei der Europäischen Union selbst.

Was diese neue Ordnung Europas betrifft, möge man nicht den Fehler begehen, die Europäische Union mit Europa überhaupt gleichzusetzen. Weiters wäre es falsch, wenn man die Teilung, die es einst zwischen dem freien und dem unfreien Europa gegeben hat, heute auf eine Teilung zwischen EU-Ländern und Nicht-EU-Ländern in Europa überträgt, und was noch trauriger wäre, in reiche europäische Länder und arme europäische Länder.

Wir sollten vielmehr den Weg zur europäischen Integration als einen Aufruf zur europäischen Solidarität ansehen, denn Europa sollte auch, was Papst Johannes Paul II. immer wieder betonte, eine Wertegemeinschaft sein.

LLACH

Gracias, presidente. Me quedó la preocupación de que puedan aparecer los procesos de la integración europea o americana como si fueran una imposición de alguien. Mi lectura que de por qué los pueblos democráticamente han decidido ceder parte de la soberanía, es por las grandes tragedias del siglo XX. Por ejemplo hablemos de la Argentina. La Argentina en el año 1978 estuvo al borde de la guerra con Chile. En la Argentina durante muchas décadas no se construían caminos, hacia el Brasil, por el temor de una guerra y una posible invasión. Es decir, una “locura geopolítica” fenomenal. En el campo de la economía, y esto es muy relevante también para la unión monetaria europea, podemos ver también graves desatinos en el siglo XX. La Europa del siglo XX ha conocido, lo mismo que América del Sur, experimentos de robo, que yo creo que no son otra cosa, de los estados a los ciudadanos a través del impuesto inflacionario o de políticas fiscales completamente excéntricas, de gigantescos endeudamientos públicos que han sido muy negativos para las sociedades. No por causalidad el Reino Unido, que es el país de Europa menos propenso a estos experimentos, es el que por el momento no desea entrar en la unión monetaria. Una lectura de este tipo es importante porque estamos frente a un fenómeno nuevo, pero creo que para entenderlo bien tenemos que tener más claro que es un ejercicio hondamente democrático y profundamente anclado en razones históricas.

VILLACORTA

I found this very instructive and interesting, because I've always thought that, given the common Greco-Roman Judeo-Christian tradition in Europe, integration in terms of developing a European patriotism, as you call it, would be less complicated than in South-East Asia. It seems to me that a regional civil consciousness would perhaps be easier in South-East Asia under the Association of South-East Asian Nations than it would be under the European Union. We are less bothered about cultural identity, because we're perhaps more relaxed about it. Regardless of what Europeans claim, I think Europeans remain very nationalistic. That is from an outsider's point of view. Moreover, within our region there is an absence of a dominant power. We have no Germany nor the counterpart of the U.K.

or France in South-East Asia. The dominant powers come from outside: the United States and Japan. There seems to be more compatibility in cultural values in the way we look at things. And there is the preponderance of one international language in South-East Asia: English. However, it is not a perfect situation, we still have bones of contention, such as the South China Sea controversy and other territorial issues. But it's very manageable, and we prefer to shelve these issues. Our main concern is another outside power, which is China, but among ourselves we've postponed quarrelling with each other. In terms of economic competition, there's competition for foreign investment, for trade, but still, it is not as much as one would expect. The ASEAN free trade area is moving faster and is ahead of its original targets. AFTA has been a model for APEC. I just wanted to share that observation for whatever its worth.

NOJIRI

Thank you. One minute is enough. Yes, in the modern age advanced nations have had nation-states and developing nations are now constructing their nation-states. So, one can say that the modern age has been an era of nation-states, in the economy and in politics alike. So, democracy, too, has been a national democracy of advanced nations, that is European and North American, and also Japanese nations. Then, if so, in Europe maybe such a modern age is already passing now. So, the building of a European Union means that a modern national democracy, i.e. a democracy in one nation-state, is ending now. What do you think about this? Thank you.

BARTOLINI

First, some of the questions could be answered if I clarify that in this speech I took democracy seriously. That is, meaning that political decisions are taken by elected and therefore accountable people, I don't exclude that some sort of European benevolent techno-bureaucratic rule – but I don't call that democracy – might be acceptable to European citizens. It has been argued that the Council of Ministers is a responsible body. Indeed, each individual member of the Council is responsible to his own parliament, but collectively the decision-taking might deviate enormously from what his own parliament and his own citizens wanted. Moreover, the Council's members are responsible to national parliaments. But then, what about the European Parliament which claims a totally different democratic legitimacy? If EU legislation were to be controlled by the European Parliament, how can the Council be unaccountable? In addition to this somehow contradictory and partial mechanisms of political representation

(Council and Parliament) there is the “corporative decision-making” in the “comitology” structures around the Community. Finally, we have the recent development of territorial regional representation. Now, in none of these representation channels oppositions and conflicts emerge or are solved. The only level at which one sees conflicts and oppositions is the Council, the intergovernmental level. The other channels seem more mechanisms of legitimation than mechanisms of representation. We are far away from representation, any sort of representation. A speaker mentioned Ireland, which has recently become a European success story and model country. My question was, however, different: is Ireland becoming more democratic while being more economically efficient? Ireland is a good example of how you can attract resources but fundamentally predefining the range of economic policy you want to follow. It’s a good example of how institutional competition and territorial competition could come to dominate within the European Union, moving toward a different model of democracy. Let’s imagine that states set up a policy package and they sell it on the market, and they buy citizens and firms rather than satisfying those they have. This would imply a completely different model of polity in which consensus is measured by exiting or staying rather than voicing and voting. In conclusion, territories and countries can be more or less successful economically, can become more or less significant and powerful, but I don’t see a close connection between this and democracy. I apologize for not having done justice to all the speakers.

INTERNATIONAL AND GOVERNMENTAL STRUCTURES  
AND THEIR RELATION TO DEMOCRACY:  
COMMON REPORT ON AFRICA, AMERICA AND ASIA

THOMAS A. MENSAH

SUMMARY

The internal governmental structures in the countries of Africa, Asia and Latin America have developed along basically similar lines. This is because the histories of these countries have been essentially the same in many respects.

At independence power passed from the colonial powers to charismatic leaders who inherited very extensive political and economic powers. Following disappointing performance by many of these governments, there were calls for more democratic systems of government.

The internal political structures which are now in place in most of Africa, Latin America and Asia have been established to respond to these demands. Most have been influenced by international structures, especially the Charter of the United Nations and the constitutions of continental and regional institutions. Many of these proclaim principles for the promotion of fundamental human rights.

On the whole it can be said that the advancement of democracy and protection of human rights have been assisted by international structures and the ideas behind them.

But not all the effects of the interface with international structures have been entirely positive. Some of the principle have not been easily acceptable or assimilated in certain cultural environments; but some others have only provided opportunities for camouflage and pretence.

In particular the principle of non-interference in the internal affairs of states has, in the past resulted in suppressions of democracy in some countries, with little or no positive reaction from the international community. This is now being redressed by the adoption of a more pro-active attitude by the international community.

In Africa the record of democratic government has been poor, even compared to the countries of Asia and Latin America. This has been due to a number of factors peculiar to the character of the communities and the colonial history of the

continent in general. Of these the most important are the undemocratic nature of the traditional societies, the counter-democratic legacy of the colonial era, the misuse of unlimited power by leaders of the post-colonial administrations, the interference in the political process by the military, the high levels of endemic poverty and illiteracy, the pervasive presence of the central government in all aspects of political and economic life, the influence of certain negative cultural elements, including the undue influence of ethnic considerations in political discussion and organization and, finally, the absence of a free and responsible press and other media of mass communication and information.

While a great deal has been done in the past decade to advance democracy, the rule of law and the protection of human rights, these negative tendencies have made progress slower and more difficult.

#### HISTORICAL BACKGROUND

The internal governmental structures in the countries of Africa, Asia and Latin America have developed along basically similar lines. This is because the histories of these countries have been the same in many respects. With the exception of a few countries in Asia, and even fewer in Africa, the countries on the three continents were once governed as colonies or parts of metropolitan states in Europe. And, except partially for Latin America, there were fundamental differences between the cultures of the people in the colonial territories and the cultural traditions of their metropolitan rulers.

##### *The colonial dimension*

In Africa and Asia colonial administrations, based for the most part on western models and western political and cultural norms, had been imposed on peoples whose traditional systems were based on fundamentally different mental and spiritual orientations. Furthermore, governmental authority in the colonial territories had been in the hands of persons whose outlook on life differed radically from that of the people over whom they exercised political power: in almost all cases the colonial administrators were either officials from Europe or natives of the colonial territories who had been educated to acquire mental and cultural attitudes imported from the metropolitan imperial countries.

In Latin America, the situation was further complicated. Although the cultural traditions of the indigenous populations were different from those

of the imperial powers, large sections of the populations in the colonies were in fact of the same race and culture as the metropolitan European states. These were largely immigrants from those countries or the off-spring of such immigrants. But, even for those of European origin, their long separation from the environment of their origin and the different history and experience in very much changed circumstances had led to the development of a new culture and a way of life which varied significantly from those prevailing in the "mother countries". Another major complication in Latin America was due to the fact that the settlement and colonization of the territories by Europeans was accompanied by the destruction or displacement of old and well established cultural and political systems. The result was that the population of the colonies consisted of two distinct elements – the indigenous people and the new colonial settlers. In most cases relations with the metropolitan states were conducted entirely by the settler communities, to the almost total exclusion of the indigenous peoples. Consequently, in addition to the tension between the colonial rulers and the settler community, there was also the inevitable conflict between the new comers to the territories and the descendants of the original inhabitants.

In this respect the situation in Asia was different. In Asia the colonial territories were for the most part inhabited by peoples who had been in those countries for centuries, in many cases, as parts of well organized political systems. While the old political structures were either destroyed or seriously undermined in the process of colonization, some elements had survived; and these had been grafted onto or incorporated into the new colonial administrative systems. Furthermore, the populations in the colonial territories were much more homogeneous than was the case in Latin America or Africa. For one thing the ethnic and linguistic groups were relatively large entities which had been governed as single units or in some form of political association before colonization. And even in the cases where ethnic and linguistic differences existed, their effects were considerably attenuated by the unifying force of common religion. For example, almost all the countries of Asia which were subjected to colonial rule from the west were predominantly Buddhist or Muslim or Hindu. Because of this the colonial situation in Asia presented not only tensions arising from political and social orientation, but even more serious dichotomies in the religious values and outlooks on life, as between those who governed and those over whom they governed.

In Africa the situation was even more complex. Colonization had intervened in Africa before the process of internal consolidation of peoples and systems could be completed. As a result the peoples of the continent were still divided into a large number of small ethnic units, only a few of

which had operated as organized and stable political systems for any length of time. Moreover, although the philosophical ideas underlying the different traditional religions in Africa were basically similar, religion could not provide the unifying force it did in Asia and Europe. There was no common articulated theology and, more importantly, no accepted common hierarchical authority to pronounce on and enforce doctrine. Consequently, the population units in Africa, even when they were geographically close, remained separate and largely unrelated to each other. The units were thus too weak to stand on their own and they were, therefore, more easily subjugated one at a time by the colonizing powers. Another result was that the colonial territories which finally emerged from the "Scramble for Africa" consisted in each case of large numbers of different ethnic groups which had not previously been closely associated with each other and, in some cases, had actually been in conflict. In such a situation it was easier for the colonial powers to impose their will and values on the peoples in the colonial territories, first to weld the various disparate elements together and secondly, to prevent the different elements from coming together to challenge the hegemony of the colonial power.

But whatever the differences between the countries of the three continents, one common feature of the colonial relationship existed in all of them. In each the system of government run by the colonial administrators was based on structures and ideas which were basically foreign to the majority of the peoples they were administering. Also, the unrepresentative character of colonial rule meant that, while some of the formal features of government in the metropolitan states were imported into the colonies, few of the basic and necessary elements of democratic governance were present in the colonial regimes. For example, legislative power in the colonies was largely in the hands of the colonial State and exercised either by authorities in the metropolitan capitals or by surrogates of the colonial governments resident in the colonies. Where, as in the later stages of the colonial era, some local participation in the legislative process was permitted, care was taken to safeguard the wishes and interests of the colonial powers. This was achieved either by making sure that the "representatives" of the local population were persons who accepted the primacy of the metropolitan will and interest, or by arranging matters in such a way that laws passed by the colonial legislatures would be subject to review and final approval by, or on behalf of, the government of the metropolitan colonial power.

With so many common elements in their pre-independence heritage, it is not surprising that the countries of Africa, Asia and Latin America have followed essentially common patterns of political, social and economic development, after their liberation from colonial rule. And because of the



long association of the countries with the west and the western orientation of the governmental structures which had operated during the long periods of colonial rule, it was only natural that the systems which were adopted in these countries at independence would be based on western ideas, western forms and western procedures. But, as previously noted, these western models were in most cases at variance with the values and world view of the bulk of the populations in the colonial territories. It was, therefore, unrealistic to expect that the structures that operated in the colonial era would survive in the post-colonial situation or, if they survived, that they would work in the same way as they had in the western countries. As is now well-known, the democratic constitutional systems which were bequeathed by the colonial powers – Britain, France, Belgium, Spain, Portugal or the United States – did not survive at all in most of the former colonies. And even where they did survive, as in India, they have worked in very different ways from what was intended.

*The situation after the end of colonial rule*

In all these countries the pattern has been the same. At independence power passed from the colonial powers to charismatic leaders who had led the struggle – not always peacefully – for independence. Although the powers inherited by these national leaders were generally substantial, with not much real constraints and limitations, this did not appear to raise too many worries and concerns in the euphoric first years of independent nationhood. There was almost everywhere the belief that such powers were necessary in the period of nation-building and, in any case, few believed that these “fathers” of their nations would use the powers given to them otherwise than in the interests of their new states and for the benefit of the people whom they had led and guided in the struggle for the right to govern themselves. In any case, for most of the people there was not that much change since similar unlimited powers had been exercised over them by the colonial administrations. What was new was that those now in power were their own “kith and kin”. Power exercised by these national leaders was not considered as an affront to the dignity of the people in the way that foreign rule had been perceived.

But power did corrupt these new rulers and, because it was absolute power, it corrupted absolutely, and much sooner than anyone could have expected or feared. The nationalist “founders” of the nations or those who followed them in power, could not resist the temptation either to usurp more power or to use what was available to them to promote their personal interests and to benefit those close to them. In Africa, despotic leaders

exploited the power of office for political and economic advantage. In the process they resorted to brutal methods to silence dissent and consolidate themselves in power, leaving no constitutional means for their removal. In Asia, those in political power exploited the traditions of the people to establish paternalistic, corrupt and inefficient administrations. Although these did not generally involve the same level of violence or brutal persecution of opponents, they were, nonetheless, as objectionable and inimical to the interests of the majority of their populations. And in Latin America, the social and religious elite monopolized political and economic power to enrich and maintain themselves in life-styles far removed from what was available to the ordinary man and woman in these countries. To maintain their dominant position, they allied themselves with international business interests which were thus able to exploit the resources of the countries with much more profit than would have been possible if they had operated under governments which acted as true guardians of the interests of their countries and their peoples.

It was, therefore, not at all surprising that the peoples in the new states ultimately became disillusioned with their leaders and increasingly dissatisfied with the political, economic and social conditions under which they lived. Since, in many of these countries the governmental systems had been radically changed to make it difficult, if not impossible, to change governments by democratic means, the only avenue available for change was the use of force. This was only available to the military which had in almost all cases been established and maintained in the traditions of the old colonial powers. Thus it was that power passed from the old political elites to the higher echelons of the military establishment. And, as the unavoidable corruption of unlimited power came to afflict the senior officers, they were also removed by middle-level officers who were in their turn replaced by even more junior officers. In due course, it became clear that no particular groups within the countries could resolve the nations' problems by themselves. It was also recognized that the failure to develop workable systems of government was not due to particular individuals but resulted rather from the absence of appropriate institutional structures. And it became more evident that these structures could only be developed in political systems which respected the rights of all elements of the community, and permitted them to participate in decisions which affected them. In effect, what was needed was greater democracy, not through the mere adoption of constitutional structures and procedures, but also by the general acceptance of the principle that political power derives from the people and is to be exercised for their benefit: that those entrusted with power should be genuinely accountable for their stewardship.

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#### INFLUENCES ON THE CURRENT STRUCTURES

The current internal and international political structures in most of Africa, Latin America and Asia have been established, or in some cases remodelled, to respond to these demands. In most cases, the nature and orientation of these structures have been dictated by the historical experience of the peoples concerned, including the influence of the colonial past and the lessons learned from the successes and failures of other peoples in other countries. In addition the new or remodelled structures have been greatly affected by the exposure of these countries and their peoples to institutional structures operating at the international level. They have, of course, also been influenced by the challenges and opportunities presented by growing inter-dependence and globalization.

#### *Global influences*

The most important of the international structures have been the Charter of the United Nations and the constitutions of its specialized agencies and other organizations and institutions associated with the United Nations. One of the fundamental objectives of the United Nations is to “employ international machinery for the promotion of economic and social advancement of all peoples ...”. To this end the Organization is to seek to “achieve international co-operation in solving international problems of an economic, social, cultural and humanitarian character ...”.

The means for achieving these objectives are spelt out in Article 55 of the Charter. This affirms the commitment of the United Nations to “the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations”, by promoting, *inter alia*:

- a) higher standards of living, full employment, and conditions of economic and social progress and development;
- b) solution of international economic, social, health, and related problems and international cultural and educational cooperation; and
- c) universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

To achieve these common ends the United Nations is to be “a center for harmonizing the actions of nations ...”; and all Members of the United Nations “pledge themselves to take joint and separate action in co-operation with the Organization” for this purpose.

The countries of Africa, Latin America and Asia are member States of

the United Nations. As such, they are bound by these commitments not only in relation to their international relations with other states and entities but also with respect to the internal organization of powers and the distribution of resources and values between the various elements of their populations. In addition to the United Nations itself the States of these regions are members of the specialized agencies and they participate in the work of the large variety of bodies and programmes which constitute the United Nations system. Together these agencies, bodies and programmes impose on States major commitments in the economic, social, cultural, educational, nutritional, humanitarian, health and related fields.

When a State becomes a member of any of these organizations and programmes it accepts the obligation to contribute to the functioning of the organs and the progress of the activities of the organization or body concerned. But more than that, the Member State also makes a commitment that it will organize and regulate its conduct – in its relations with other States as well as in its conduct towards its own peoples – with due account of the common principles upon which the organization is based and the objectives which the members are required to promote – individually and collectively. Over the past decade or so the most important of these commitments have acquired increasing significance in the internal political structures of individual countries. For example, in the field of human rights, states are now required to fulfil in practice the undertakings made by them in the Charter of the United Nations and in declarations and conventions on various aspects of human rights such as the rights of women, children, refugees etc. What is more, compliance with international obligations is being monitored through institutions and procedures which make it difficult for governments to disregard their obligations in the way they were able to do in the past. Additionally, the new “conditionalities” developed by the World Bank and the International Monetary Fund in their programmes of assistance to countries have brought the adherence to certain basic ideals of democratic governance, such as accountability and transparency in government and economic management, within the scope of the requirements expected of States which seek assistance from these bodies. Similar infusion of the international dimension into national structures and procedures has been accepted in the fields of environmental protection and the promotion of free trade.

### *Regional influences*

In addition to the global international institutions a large number of international institutional structures, almost all of them based on the

principles and objectives of the United Nations Charter, have been established at continental, regional or sub-regional levels. Like the organizations of the United Nations system, these continental and sub-continental structures vary in their objectives: some are purely “political” in the sense that they seek to promote inter-state cooperation to solve general or specific political problems. But some of them deal with issues relating to special problems in the economic, social, health or humanitarian fields. These “sectoral” institutions bring together Governments to consider problems of mutual interest and establish common programmes or harmonize national policies for the achievement of agreed objectives. In this way the organizations can have an important impact on the conduct and policies of the member Governments, both in their relations with each other and also in the way they regulate matters internally in their countries.

In Africa the most important continental political organization is the Organization of African Unity (OAU). This organization, founded in 1963, brings together all the independent states of Africa in a common political forum for the consideration of every issue of mutual concern to the countries of Africa. In the Charter the Members affirm that “freedom equality justice and dignity are essential objectives ...” and they agree to pursue a number of purpose. Among these they agree “to coordinate and intensify their cooperation to achieve a better life for the people of Africa”. To achieve the agreed objectives they declare their adherence to a number of principles. Among these are:

1. The sovereign equality of all Member States
2. Non-interference in the internal affairs of States; and
3. Respect for the sovereignty and territorial integrity of each state and for the inalienable right of independent existence.

In addition to the OAU there are sub-regional institutions, mainly for the promotion of economic and social development. These include the Southern African Development Commission (SADC), the Economic Commission for West African States (ECOWAS) and the Magreb Council, to name but some.

The main continental organization in the Americas is the Organization of American States (OAS). It is worth noting, however, that the OAS is not strictly speaking a “Latin American” institution, since its membership includes also States in North America. In its Charter, the States of the Organization of American States proclaim the “fundamental rights of the individual without distinction as to race, nationality, creed or sex”. They also affirm that “economic co-operation is essential to the common welfare and prosperity of the peoples of the continent”. Like the Charter of the

OAU, the Charter of the OAS also stresses the importance of the sovereignty of its Member States, and prohibits interference in their internal affairs. Article 18 of the Charter specifically states that “no state or group of States has the right to intervene, directly or indirectly, for any reason whatsoever, in the internal or external affairs of any other State”.

There is no continent wide structure for Asia, but there are a number of sub-regional organizations among which are the Association of South-East Asian Nations (ASEAN), the South Asian Association for Regional Co-operation, the League of Arab States and the Gulf Co-operation Council.

Also worth mention in this context are the regional development banks which have been established in each of the three continents. These are the Asian Development Bank, the Inter-American Development Bank and the African Development Bank. These banking institutions are intended to do at the regional continental levels what the World Bank and the International Monetary Fund and their affiliates do at the global level. The regional banks serve as the central focus to pool together the financial resources and expertise of the States of each continent and thus provide another source of assistance to supplement what the States may obtain from the global lending and financial institutions. A major advantage in having such a continental bank is that it is likely to be more in tune with the needs and requirements of the potential borrowing states. And, of course, they have the special attraction in that they also provide an opportunity and a mechanism of local self-help. Of late this aspect has lost much of its significance since the Banks now derive considerable parts of their resources from “non-regional” member States. All the Banks now extend membership to States from outside the respective continents, and these non-regional Members are able to contribute to the capital stock of the Banks and, in consequence, also to play a full part in the administration and management of the Bank.

It is also useful to refer to two major international structures in which many of the countries of the three continents do participate. These are the Non-aligned Movement and the Organization of the Islamic Conference. Unlike the more “functional” organizations, these serve mainly as fora where countries of the same orientation come together periodically to exchange ideas and, perhaps more importantly, to seek reassurance of the common bonds between them. On the whole these organizations concentrate more on the elements which unite their members and less on how the individual countries organize or govern themselves internally. For that reason, their impact on the institutional structures within individual member states is relatively insignificant.

## POSITIVE IMPACTS OF THE EXTERNAL STRUCTURES

International structures, global as well as continental, have made an important contribution to the acceptance of the democratic hypothesis in the countries of Africa, Latin America and Asia. In the first place, they have provided much needed philosophical and doctrinal underpinning for the new political systems and structures established following the transition from colonial to the post-colonial era. Just as the declarations and manifestos of the French Revolution, the American Declaration of Independence and the Constitution of the United States inspired political thinking and the development of democratic constitutions at the end of the eighteenth century; and as the writings and exhortations of Marx and Engels and the success of the Bolshevik Revolution in the Soviet Union served as potent models for many countries at the beginning of the twentieth century, the new political order promulgated in the United Nations Charter and in the constitutions of organizations based on the principles of the Charter have shaped the political process and ideas on economic management in all countries of the world after the second world war. Unfortunately, during the period of the cold war when the ideological battle between capitalism and socialism was in stalemate, the United Nations and its related agencies felt obliged to adopt an "even-handed" stance as between the two systems. But even then it was clear that their basic orientation was in favour of liberal democracy and individual liberties, as opposed to the subordination of the individual to the alleged interests of the community or state, without necessarily supporting capitalism and the market economy in their pristine forms. With the collapse of communism and the discrediting of the planned command-economy as a global model for development, even that ambivalence has disappeared. The primacy of the market economy as a necessary prerequisite for political and economic progress has now become part of the prescribed and received wisdom. In the process the ideals of the United Nations Charter have become the marks of orthodoxy and legitimacy for national constitutions as well as international associations, whether global or continental. Thus it is that nations and organizations have considered it obligatory and useful to make suitable references to the Charter and to incorporate its objectives and norms as their guiding principles. This has been so even in constitutions and organizations whose perceived purposes and actual operations have no discernible connection with the lofty ideas of the Charter.

In addition to serving as models for national and regional structures, the international institutions have provided a valuable benchmark by reference to which local and national structures may be evaluated to assess their conformity to accepted international norms and standards. In the field of democratic

governance, the principles of equity, equality and non-discrimination enunciated in the Charter of the United Nations and other international instruments have been invoked both by those who demand these rights at the national level as well as those who wish to persuade or pressure governments to grant these rights to their citizens or to sections of their populations. In the field of human rights the principles in the Universal Declaration of Human Rights and the covenants and agreements developed to implement the Declaration in specific areas have been accepted as constituting the agreed criteria for evaluating the human rights record of governments all over the world. And the work of the Human Rights Commission and other bodies of the United Nations dealing with various aspects of human and political rights have helped to put the spotlight on human rights abuses and humanitarian lapses in ways which were unimaginable only a few decades ago. It is, of course, true that these developments have been resisted and sometimes successfully frustrated by some Governments. And it is also the case that the extent and level of international action are still considered by some to fall short of what needs to be done. But it cannot seriously be denied that what has been done has had a beneficial effect and has served to advance the cause of democracy and human rights in areas where such progress would not otherwise have occurred.

Viewed from that perspective, it can safely be asserted that the advancement of democracy and the protection of human rights in the countries of Africa, Latin America and Asia have been assisted by international structures and the ideas behind these structures. This has been so not only because the structures have been duplicated in these countries but also because the operations of the international structures have, in many cases, served as powerful incentives to the governments to respect the commitments in their constitutions, and to operate the adopted structures in accordance with the fundamental spirit and intents behind them. Where these incentives have worked, the cause of democracy has clearly been advanced. But, even where total success has not been achieved, it has been much easier to call attention to the lapses and to hold those responsible to account. In other words, the existence of these international structures and their operations have led to general acceptance of the fact that there are no longer any "no-go areas" as far as the promotion of democracy and fundamental human rights are concerned.

#### SOME NEGATIVE EFFECTS OF THE EXTERNAL STRUCTURES

But not all the effects of the interface with international structures have been entirely positive. For these structures, and the ideas behind them, if



used without imagination and due regard to prevailing circumstances, can lead to distortions in the system of government and to conflict of ideas and values. This is especially the case in Africa and Asia where the new ideas of democracy, equality of treatment and non-discrimination are sometimes in direct opposition to traditional ways of thinking – usually based on religion or ingrained cultural attitudes. This has happened, for example, in relation to the dichotomy between the western liberal idea of the personal freedom of the individual, on the one hand and, on the other hand, the traditional values of the pre-colonial society which attached greater importance to the responsibility towards the extended family, the clan, the ethnic group or the community as the origin and justification of all rights. Similarly the ideas of tolerance of different religious beliefs, equal treatment of the sexes in all spheres of activity, recognition of the rights of persons with different sexual orientations etc. which are accepted in the west as essential hallmarks of liberal democracy, are considered with suspicion or even as wholly unacceptable in certain religious and cultural environment in Africa and Asia.

There is also the danger that international structures could be used merely as formal models without the real substance behind them. Thus it has been known to happen that so-called democratic structures and institutions have been established in countries where there has been little or no democracy in the actual situation on the ground. In such cases the structures, and the ideas and principles allegedly behind them, are used as a camouflage for a governmental system which does not afford real democracy or any respect for the political and social rights of the citizens.

Hence, while these internationally accepted procedures and the principles on which they are based can provide useful criteria for evaluating the democratic credentials of the governments and governmental systems of many countries, they may not be appropriate in all cases, and they could in fact be misleading in some. Indeed a number of commentators, especially from the west, have in the past been deceived into believing that democratic advance had been made in a country merely because of the existence of constitutional provisions or governmental institutions which are normally associated with democratic governance. As the history of the countries in the former communist world has shown, it is possible for citizens to live under political oppression even while lofty sounding democratic principles and declarations on fundamental rights are “entrenched” in their national constitutions.

A similar pattern of history has also developed in post-colonial Africa and Asia. The constitutions bequeathed by the departing colonial powers were invariably modelled on the western liberal democratic tradition and

included institutions and procedures intended to ensure that governments were the representatives of the electorate, that those in power were subject to appropriate checks and balances and that there were real possibilities for holding them to account for their actions. However, there is ample evidence that in many of these countries the constitutional systems which actually operated were radically different from what was envisaged in the constitutional documents which were promulgated at independence. And this was so even in cases where the documents were left in force with no significant changes. Their provisions and requirements were simply disregarded or re-interpreted in ways which bore no relationship at all to what was originally intended. Unfortunately many of the commentators, especially in the west, appear to have attached much more importance to form rather than substance. They, therefore, operated on the basis that whenever there were structures and procedures in place in a country, it could be assumed that those structures and procedures were being operated in the way in which they were expected to operate under truly democratic conditions. In adopting this attitude they helped to create the impression, in the minds of the governors and governed alike, that the formal structures are the most important criteria to be applied in evaluating political systems; with little or no regard to the way in which they were actually operated.

In the colonies legislative bodies established, often with token local participation, created the impression that there was a measure of representative government. In the same way the new dispensations under the civilian and military dictators adopted the outward forms of democracy (parliaments, elections, judiciaries and civil service described as “independent”), which led some to believe that there was a form of democracy in the systems they were operating. But these were only empty trappings and they did not in any way alter the fact that the regimes were in essence undemocratic.

This is especially so with the constitutional provisions regarding elections which seem to have particular appeal to western media and western academic and political commentators. In societies such as those in most parts of Africa, where all the levers of political and economic power are in the hands of those in government, and where the bulk of the electorate is illiterate with little or no long-standing acquaintance with the operations of liberal democratic systems, the mere inclusion of constitutional provisions affirming the right of all citizens to vote should not be taken necessarily to result in the election of governments which truly represent the people. Nor does the existence of an “independent” electoral body – or provisions for the monitoring of elections by foreign observer

groups – suffice to ensure that elections will in reality be “free and fair”. This is because the competitive advantage continuously remains with the incumbent candidate; and such advantage cannot in any way be affected by the presence of international monitors who arrive on the scene only at, or sometimes a short time before, the elections. In most African and Asian countries, almost every development project has electoral significance and is part of the campaign of the incumbent administration and its candidates for the support of those who benefit from the project. Similarly, appointments to political office or managerial positions in the very important public sector of the economy can be, and usually is, seen as a political gesture to the group, section or community from which the person appointed comes, and those communities are in turn expected to reciprocate by supporting the government.

It is important, therefore, to remember that truly “free and fair” elections can take place only when the electorate is sufficiently educated to recognize that those in power are no more than trustees of the nation in their management of the national resources. When the citizens who vote are able to understand that their vote is an expression of their own approval or otherwise of the policies and performance of the candidates, those who seek political power will see the need to convince the elector, instead of assuming that electors from one region or one group will necessarily support them.

#### *Some unhelpful “principles”*

Finally the impact of the internal structures on the development of democratic institutions may have been affected by one principle which appears to have been given unchallenged importance until quite recently. This is the principle that every state has the sovereign right to determine how it behaves within its borders, in particular with regard to the treatment it accords to its citizens. This principle which was proclaimed in the Charter of the United Nations for understandable reasons, has been incorporated into the constitutions of several of the continental and regional organizations established in Africa, Latin America and Asia. For example, in the Charter of the Organization of African Unity, the principles to which Member States solemnly commit themselves include that of “non-interference in the internal affairs of States” and “respect for the sovereignty and territorial integrity of each State and its inalienable right to independent existence”. Similarly the Charter of the Organization of American States provides in clear terms that “No State or group of States has the right to intervene, directly or indirectly, for any reason whatever, in

the internal or external affairs of any other state. The forgoing principle prohibits not only armed force but also any other form of interference or attempted threat against the personality of the State or against its political, economic, and cultural elements". The corresponding provision in the Pact of the League of Arab States asserts that "Each member state shall respect the systems of government established in the other member states and regard them as exclusive concerns of those states. Each shall pledge to abstain from any action to change the established systems of government".

The principle of non-interference in the internal affairs of States is, of course, one of the cardinal principles of the United Nations Charter. However, in the case of the Charter, the principle is counter-balanced by other provisions which impose obligations on Member States to ensure respect for fundamental human rights. Moreover, the very Article of the Charter which declares the principle also contains the important proviso that it "shall not prejudice the application of enforcement measures under Chapter VII (of the Charter)". Unfortunately, when it was incorporated into the constitutions of the various continental and regional organizations, the principle of non-interference in the internal affairs of other states was elevated to the status of a sacred precept which could not be questioned or qualified under any circumstances. This led governments to assume that what they did to their citizens in their territories was not the concern of any body or any institutions outside those countries. Similarly the people in these countries were made to believe that they could not expect help of any kind from outside in their struggle against oppression from their own governments.

It would not be far-fetched to say that this attitude on the part of the governments contributed significantly to the many serious abuses of the political process and violations of human rights which have taken place in so many countries in Africa, Latin America and Asia over the past three or four decades. For, once a government comes to believe that the actions it takes within its country will not be questioned or challenged from outside, that government will have no incentive to improve its behaviour internally, so long as it is satisfied that there can be no serious challenge to its actions within its territory. In such a situation, the only constraint on the government will be the force of opposition in the country itself; and it will take every step to stifle any such opposition.

For that reason an international structure or arrangement which is based on an unqualified principle of non-interference in the internal affairs of states can have a negative impact on the development of democracy in the member states where democracy may be under threat. It must, of course, be admitted that the right to intervene in a sovereign state should

not be postulated lightly and should certainly be contemplated only in the most serious of cases and subject to very well-defined conditions. On the other hand, it is neither right nor necessary to create the impression that what goes on within national borders is not the concern of other states. In the present state of unavoidable inter-dependence between States in all parts of the world, it is necessary for the international community to make it clear that there are situations in which gross abuse of power or violations of fundamental political and human rights will not be allowed against any people-not even by the recognized government of the country concerned: that "where egregious and widespread crimes against life and human rights are being perpetrated", the traditional rule of non-intervention in the territory of a sovereign state can, and will, be suspended. Any such suspension of the principle should be carefully circumscribed and the criteria for its implementation in practice should be clearly set out and generally agreed. In particular, it should not be left to the unilateral determination of a particular state or group of states since, in that case, what is a desirable rule for the protection of community values might be utilized for the pursuit of national or sectional interest. But, without leaving it to individual states to intervene in other states, it should be possible for the international community, at the global or regional level, to devise means to ensure that serious violations of international principles on democracy and the protection of fundamental human rights are not permitted, regardless of where they occur and who may be responsible for them.

#### *Recent positive developments*

It is one of the most welcome developments in contemporary international relations that the international community, at the global as well as the regional level, has now given notice that no government or authority will be allowed to get away with gross violations of political and human rights, whether of its own citizens or the citizens of other states. This change in the attitude of the international community is bound to have a profound and highly beneficial impact on the development and enhancement of democracy, not only in the countries of Africa, Latin America and Asia, but all over the world. The reaction of the United Nations, NATO and the European political institutions to the events in former Yugoslavia showed that the international community is now willing to act to prevent serious violations of human rights and the consequential threat to peace and security; the reaction of the world body, and the regional states, to the events in the Gulf have provided clear evidence of the will of the nations of the world to intervene not only in cases of aggression

against other states but also in situations where sections of a national population are subjected to repression by their own government. And, finally, the actions taken by regional bodies in Africa, especially in Liberia and recently in Sierra Leone, have made it clear that no person or group will be permitted to disrupt the political process and deprive the people of any country of their fundamental right to live under a government of their own choice. This can only bode well for the future of democracy in those countries where the idea of democratic rights for the people had, until only recently, appeared to be an impossible dream.

#### AFRICA: A CASE STUDY

##### THE RECORD OF POST-COLONIAL AFRICA

After more than three decades of liberation from colonial and imperial rule, very few of the countries of Africa have managed to achieve either the democratic governance that was the objective of the demand for independence or the improvement in the economic and social conditions of their populations that was expected to result from the new dispensation in which the resources of these countries would be utilized in the interest of their peoples and not for the benefit of the colonial masters. For the most part the record of Africa, whether measured by reference to the progress of democracy or improvements in the quality of life of the people, has been disappointing and in some cases, catastrophic. Indeed for the most part Africa has become synonymous in the minds of many with despotic government, inefficient and corrupt administrations, lamentable human rights conditions and endemic poverty, and recurring humanitarian tragedies, many of which are man-made.

##### THE FAILURE OF DEMOCRACY

Much of the blame for this sad state of affairs can be attributed to the failure of the democratic experiment in Africa. All over the continent there has been little or no success either in the establishment of genuine and stable democratic institutions or the development of the "democratic attitude" in the minds of both the governing and the governed. With few exceptions governments were not put into office by the free choice of the people, nor do they hold themselves accountable to the people for their stewardship. In the vast majority of African countries political power is

uncontrolled and uncontrollable and the management of the national economy and the use of national resources are based on the dictates of the holders of political power. There are hardly any credible avenues through which those who are entrusted with the responsibility of government or management of the economy can be brought to account; and there are even less realistic possibilities for getting rid of those who fail to give satisfaction.

*The traditional "democracies"*

The failure of democracy and the democratic ideal in Africa is the result of a long heritage of governance in which the democratic hypothesis has almost always been absent. This heritage starts from the traditional governmental system of Africa prior to its colonization by the countries of the west. In spite of often disingenuous attempts, by some African "nationalists" and non-African apologists, to portray the indigenous African systems of Government as being some form of democracy, the truth of the matter is that these systems of government were essentially undemocratic, based as they were on the notion that the king or chief was the sole repository of what was politically legitimate, morally acceptable and legally possible.

All over Africa, from the Arab North to black sub-Sahara and the bantu south, one common thread runs through the traditional systems of Government: the king or chief held political, religious and military power, and his dictate was law and every act derived its validity and legitimacy from the consent of the chief – express or implied. It is true that the chief was expected to rely on the advice of his elders and that there were sanctions against the abuse of power by the king. But this does not detract significantly from the fact that the system was intrinsically undemocratic. For one thing the advisers of the king were either minor chiefs who exercised more or less similar despotic power in their smaller domains or officials appointed by the king and in most cases removable by him. In either case it was not realistic to expect that such people would give independent advice, much less that they would seriously stand in his way. The fact of the matter was that the traditional king held and exercised power which was uncontrolled and for the most part uncontrollable. When one remembers that the king was a hereditary ruler whose only legitimacy derived from the circumstances of his birth, that the majority of the people over whom he ruled had very little say in his appointment and even less in how he exercises his authority, it becomes clear that this was a far cry from the idea of a government of the people, by the people and for the people. This is not to say that it was not a workable system nor that it was not

suitable for the circumstances of the times. All that can be said is that, however suitable it might have been for the past, and however acceptable it was for the people at the time, it was not “democratic” in the sense in which democracy is understood in the context of developments since the end of the eighteenth century.

### *The contribution of the colonial experience*

When the colonial administrators took over the colonies, they in turn introduced a system of government in which the governed had no say at all in the major decisions, and certainly could not pretend to have any right in determining who was to exercise governmental authority. Government in the colonies was on behalf of the Government of the metropolitan countries and the inhabitants of the colonial territories were expected to accept that the metropolitan government was the best judge of what was good for them and could be trusted to promote their interests in the best possible way. The colonial people were also required to accept that the officials who were actually exercising political power in their territories were the representatives of the benign and benevolent metropolitan government and, accordingly, that any challenge of what they did was a challenge of the authority of the metropolitan power itself. This meant that the actions of even the most humble colonial administrator were immune from criticism by the governed. In effect the colonial administration occupied, in relation to the ordinary citizens of the colonial territories, the same position as the chief had done in the traditional society. Like the traditional kings the colonial government went through the motions of establishing advisory councils to advise the officials and thus hopefully ensure that they took the views of the people into account. But again like the traditional kings advisers, the advisers chosen by the colonial governors were neither independent nor representative of the people whose interests they were supposed to promote. In the end the colonial government was a system in which the governed had no say.

### THE TRANSITION FROM COLONIAL RULE

The transition from colonial rule followed more or less the same pattern. The constitutions under which power passed from the colonial powers to the governments of the new independence states were based on the democratic principles and the institutions established under these constitutions were all intended to ensure that power was exercised in



accordance with the applicable constitutional guarantees available to the people, individually and in groups, as the case might be. But the circumstances under which independence was either won or granted ensured that those who inherited governmental power would be virtually in the position in which the colonial administration had been, i.e. they could expect to govern with little or no opposition or effective criticism of what they did or the way they operated. This was the result of two tendencies.

The first was that the majority of the people of the newly-independent states had little experience with democratic government. Accordingly they were not accustomed to concerning themselves with the operations of governments or the behaviour of governmental authorities, especially where these did not directly affect their immediate interests or the interests of their close families or communities. But even where their interests were affected, there was generally the tendency for them to assume that the political leaders who had brought them independence knew what was best for them and their country and could, accordingly, be trusted with all the power they needed.

Secondly the new political leadership almost always came to power with the conviction that their mission was to develop and strengthen national unity in a new state made up of diverse ethnic sections, to safeguard the independence and territorial integrity of their new states, and to improve the economic and social conditions of people in a very short time in order to make up for the lost opportunities of the colonial era. To achieve this what was needed was a strong government that was able not only to run the administration but also to suppress any tendency to "undermine" the unity of the country. To this end they needed to harness and direct the talents and efforts of all the people for the common purpose of strengthening and developing the country. Such a government would not be possible if the citizens were permitted to propagate views and ideas on how the government and the economy were to be run which were contrary to those of the government.

#### THE POLITICAL SITUATION IN THE NEWLY INDEPENDENT STATES

In such a political climate, anyone who disagreed with those in power would be considered as undesirable and dangerous by the government and, hence, to be silenced or otherwise neutralized. And because the bulk of the population were either not particularly interested in general questions concerning the nature and purpose of government or the orientation of the national economy, or believed that what the benevolent government wanted

was also good for them, any critics of the government became isolated and thus more vulnerable to suppression by the government. This led, in many countries, to the emergence of the one-party state in which only one political organization was the sole source of political legitimacy and power. In some cases, this fact was given legal articulation in the revised constitutions. But even where this was not done, matters were so arranged that this was in fact the situation.

In addition to the complete hold on political power, the post-colonial administrations also exercised near-complete control over the national economies of the new states. Again this was the result of two converging tendencies. In the colonial period the economies of the countries were dominated by companies and interests based in the metropolitan countries in Europe. To the ordinary citizen in the colonial territories it was not possible to differentiate between the colonial State which exercised political authority and the commercial enterprises from the same state which dominated the economy. As far as they could see, government and the economy were dominated by the interests of the colonial masters overseas. Hence it did not sound strange or difficult for them to accept that, with independence and a new government, the economy should also be controlled by that government.

The second reason why governmental control of the economy became a feature of most post-colonial systems is that the new governments modelled themselves on the socialist paradigm that had been operated in the Soviet Union and its satellites after the end of the second world war. This was done on the basis of the generally held view that the Soviet Union had managed to move from a relatively underdeveloped economy to a world class industrial power in a very short time as a result of the combination of a one-party government and a socialist centrally-planned economy. The argument was that, if this combination had worked for the Soviet Union, it should also work for the newly independent states of Africa which had the same urgent need for a major transformation in a very short time.

As a result of the concentration of political power in the hands of the politicians in government and the total domination of the economy and economic activity by their government, the newly independent states of Africa developed a political system fundamentally different from the western model which had been envisaged for them at the time of independence. The system which actually operated in these countries allowed little room for dissent and offered hardly any opportunities to those who did not agree with the government to make any inputs to the political process. In effect the wheel had come full circle. For the absence of true

participatory government which had been one of the main objections to the colonial system, became also one of the major hallmarks of the post-colonial regimes in many of the countries of Africa.

This state of affairs continued for the best part of three decades – from the beginning of the 1960s to the end of the 1980s. For, although some of the political hegemonies were toppled generally by military *coups d'état* (the only way possible in a system of one-party dictatorships and no possibility of genuinely free elections), the military governments which were installed in their place were, by their very nature, equally undemocratic. And as the military also came to discover the attractions of the combination of political and economic power, they became more determined to maintain their grip on both.

#### *Indifference of the west*

Throughout all this the international community, and especially the western liberal democracies, appeared either to be unaware of what was happening in these countries or unable to do anything about it. In fact the situation was much simpler than that. The countries of the west had all the information about the nature and extent of the political despotism and economic mismanagement which were rampant all over Africa. The fact is that they found it convenient to refrain from asking questions, let alone seek to influence the situation for the better.

Two main reasons accounted for this attitude on the part of the western states. Some of the western countries, sometimes for well-meaning but ill-informed reasons, assumed that the denial of political and human rights in the new African states was necessary in the initial stages of nation building, and that these stages would be relatively short. Some others, for reasons based on perhaps unconscious paternalism, took the view that the principles and institutions of democracy could not work in the environment of Africa since the people were not “prepared” for them at the early stages of independence.

But, for the most part, the attitude of passive tolerance which was adopted by the west to political repression in Africa was due to the demands of the cold-war and the search for influence and strategic advantage in the global war between it and the communist world. In order to maintain the support of “friendly” governments in Africa, or to avoid driving not so friendly (non-aligned) governments further under the influence of the Soviet Union, the countries of the western alliance were willing to overlook the undemocratic practices of these governments. In some cases they were even prepared to explain or excuse flagrant abuses of

political and human rights by such governments. This was particularly the case with those governments which declared themselves to be “anti-communist”. For such governments it appeared that the only yardstick of acceptability was the genuineness of their support for the western alliance in its struggle for the hearts and minds of the countries of the so-called “third world”. This led to the situation in which the democratic countries of the west readily welcomed into the “anti-communist” camp very strange bed-fellows in the form of governments which were wholly indistinguishable from the communist regimes in the way they run their countries and their economies. Aid, largely military but also including important civilian components, was lavished on despotic and corrupt regimes which used the military hardware to terrorize their citizenry, and diverted the supposed development assistance either to enrich themselves or to support the political machineries established to perpetuate themselves in power. And it also came about that governments which had absolutely nothing in common in terms of political ideology or economic orientation were able to attract and maintain the support and patronage of governments which, in other contexts, were uncompromising in their opposition to the very practices which operated in the territories of these “friendly” states. The political and human rights of the peoples in many of the countries of Africa became pawns in the cold-war and their interests were sacrificed for the support (real or merely professed) of their governments.

#### THE END OF THE “COLD WAR”

With the collapse of communism and the discrediting of the socialist command economy as a dependable model for effective political and economic management, the situation underwent a very radical change. Decades of rule by governments which had claimed that the excessive powers wielded by them was necessary to ensure rapid development had not only failed to improve the standard of life of the people or effect any discernible reduction in the inequalities of income and life-style in their countries, but had actually led to the devastation of the economies of most of the countries and a major deterioration in the standard of living of the bulk of the populations. And the socialist system of government and economic management, which had been put forward as the best way to ensure economic development and equal treatment for all, had become clearly associated in the perception of many people with political repression, economic stagnation and blatant inequalities between the affluent few and the majority whose economic and social conditions continue to

deteriorate. In the end the people in the countries had become so disillusioned with the system of government by one-party or military dictatorships that they were no longer willing to support either. At about the same time, the international community, and especially the countries of the west which had been unable or unwilling to question the political oppression and economic mismanagement endemic in these governments, now felt constrained and enabled to take a more responsible position and to demand that action be taken to remedy the situation.

Similarly the international organizations, which had previously fought shy of any policies or actions that might be taken as a criticism of governments in the third world, became emboldened to scrutinize the policies and operations in these countries. In particular serious questions were now asked about the way in which the financial and other assistance provided by the organizations were being used by governments. In the process concerns were expressed about the economic orientations of the governments and attention was called to the fact that the lack of economic progress in many of the countries was due in large measure to the way in which the resources were being utilized and managed.

*The new attention to "good governance"*

But, for the first time, it was also noted that a major part of the problem was the nature of the political systems in these countries. It became increasingly clear that a regime which concentrated power in the hands of one group, which denied large sections of the population the opportunity to participate in the political process, which made it impossible or difficult for those who disagreed with the policies or methods of government to express themselves, in short, a governmental system which did not respect fundamental political and human rights of all sections of the population was also unlikely to be able to run an efficient economy. On this basis the respect for political and human rights was elevated to a much higher position in the discussions concerning development in the third world countries, not solely because human rights abuses were considered wrong in themselves but also because it was accepted that respect for political rights was one of the essential pre-conditions for real economic and social development. Accordingly, many of the international bodies engaged in the task of promoting and assisting economic and social development in these developing countries began to take much more serious interest in the political structures and the exercise of governmental power in the countries in which they operated. Indeed, for some of the organizations, such as the World Bank and the International Monetary

Fund, both economic policies and the system of political governance became part of the “conditionalities” (i.e. the criteria) for evaluating the suitability or otherwise of aid to particular countries.

As was to be expected, this approach was resisted by many of the governments on the ground that it constituted “interference” in the internal affairs of the countries. However, in the face of escalating economic difficulties in these countries and in the absence of any other alternative source of assistance, many of the governments were forced to accept the new conditionalities and to take steps, some genuine but some merely cosmetic, to introduce a greater measure of accountability and transparency into their systems of government and economic management. And before very long, countries which had previously insisted that their societies were unsuitable for “western” forms of democratic government were forced to accept the very forms of government and economic policies which they had totally rejected only a few years ago.

This change in the attitude of the international community – governments, international governmental organizations as well as non-governmental organizations – had a dramatic and positive effect in the countries. In the first place it obliged the governments to take some steps to liberalize political and economic life. But, perhaps more important, it gave new hope and impetus to the political opposition, which had been either banished from the countries, pushed underground or stifled altogether, to resurface with greater confidence and greater credibility. In the new atmosphere they were able at last to make meaningful inputs to the new constitutional structures which were being developed to bring greater democracy to the countries. For, while the governments felt constrained to reform the political process, they would naturally want to ensure, if at all possible, that such reforms would be more cosmetic than substantive. It thus became the role of the newly resurrected opposition to insist on genuine change and to demand that the new political system should be truly democratic in all aspects. With the support of the now more watchful international community, they have on the whole been able to secure significant improvements in the situation through the drawing up of constitutions which, at least in form and wording, represent a major advance for democracy in these countries. This has ensured that, in many of the countries, the new dispensation is much more democratic than the previous regimes. This has made the prospects of democratic governance in Africa much better today than they have ever been since the attainment of independence by those countries more than three decades ago.

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### THE FORCES PROMOTING DEMOCRACY IN AFRICA

The improved prospects for democracy in Africa result from the existence of a number of factors in the current situation which tend to promote the development, spread and strengthening of democracy. Africa can only hope to consolidate and built on the achievements so far made if it is able to identify these positive factors and take the necessary steps to bolster them to the maximum possible extent.

#### PROMULGATION OF DEMOCRATIC CONSTITUTIONS

Perhaps the most important of the forces in favour of democracy at this time is the existence of national constitutions which, for the first time in most of the countries, establish truly democratic institutions and provide for principles and procedures which ensure genuine accountability on the part of those in government, and give credible avenues for the people to exercise the right not just to participate in the election of political office holders but also to hold them to account for the running of the government and the management of the economy. In particular, they provide for the separation of the powers of the Executive, the Legislature and the Judiciary; they entrench fundamental human, political, economic and social rights of the citizens in the legal system; and they establish independent judiciaries as well as independent mechanisms for ensuring free and fair elections of the Executive and Legislature at clearly defined intervals.

It is true that, with very few exceptions, these institutions have not worked in the way expected. In many cases those in power have, sometimes openly and sometimes through subtle means, attempted to subvert the spirit of the constitutions by manipulating or intimidating the legislative and judicial institutions either to support legislative and administrative acts which are plainly contrary to the letter or spirit of the national constitution or to connive at such acts by failing to exercise the powers of oversight and control available to them under the applicable constitutions. Where the courts or legislatures have succumbed to such threats or blandishments from the Executive, the result has always been to enable the Executive to exercise power without the controls provided for in the constitution.

However, the existence of these constitutions is a significant move in the right direction, for such constitutions provide a clear frame of reference and a solid legal and political basis for challenging the actions of those in power and mobilizing the democratic forces against arbitrary rule.

## INCREASED PUBLIC AWARENESS

Another factor which is helping to advance democracy in the countries of Africa is the increased awareness of the value of democracy among the peoples of Africa. This very welcome trend has been the result of a number of recent developments. First, the failure of despotic political and military leaders has led to disillusionment not only on the part of the peoples of Africa but also in the western countries which had previously adopted a tolerant attitude to these regimes, either because they falsely believed that there was no real alternative to such governments or for the more cynical calculation that it was easier to do business with undemocratic systems with relatively uncomplicated procedural requirements than with elected parliaments and representative cabinets. However, the inherently corrupt and inefficient nature of these administrations and, what is more important to the business community, the dangers clearly inherent in operating under a system in which stability could not be assured, have finally convinced many governments and business interests in the west that working with unrepresentative governments and un-elected officials is not as advisable or as profitable in the long run as they had previously assumed. This has led to less international support for such governments and, in consequence, deprived them of the claim that they alone can attract investment and business to their countries.

This process has been considerably assisted by “globalization” and the free flow of information and ideas from the developed world to the very corners of the African continent. In the days when governments were the only source of information for the ordinary citizens, the government could, through propaganda and censorship, get citizens to believe that conditions in their countries were not much worse than those obtaining in other places. The people could also be persuaded to accept that there was not much international interest in the problems of their countries and, accordingly, that the solution to such problems was solely in the discretion of the government of the country. In the absence of any information on the conditions in other parts of the world or any indication that the rest of the international community was interested in what was happening to them, the peoples of these countries could generally be expected to accept that their destinies lay exclusively in the hands of the government of the day. On that basis those who wanted change would only seek it through the government, and by means which the government was likely to tolerate.

However with the improvement in the global communication system, large proportions of the populations of Africa have come to know much more than their governments would have wished them to know. In this way



they have learnt much more about the achievements and failures of different forms of government and economic systems in other parts of the world and the standard of life in countries with different political and constitutional systems. They have also become aware of the growing interest of the international community in democratic governance and sound economic management, and the international support for democracy and human rights in the continent of Africa and elsewhere. This development has not only undermined the previously successful propaganda of governments, but has also given very potent incentives and encouragement to those who fight for democracy in these countries. In the past these persons were often discouraged by the fact that there was not much support at home for their efforts or much interest in their struggle internationally.

#### FORCES WORKING AGAINST DEMOCRACY

While the above-mentioned developments have certainly improved the prospects of democratic development in Africa, it is also a fact that their impact has been considerably reduced by a number of other less positive factors which still prevail in much of the continent.

#### POVERTY AND ILLITERACY

Perhaps the most serious inhibiting factor in the democratization of Africa is poverty and its almost ubiquitous companion of illiteracy. All over Africa levels of poverty exist which make it impossible for large sections of the population to maintain any real interest in issues relating to the forms of government or the organization of the national economy. When people are preoccupied with basic issues of nutrition, shelter, health and education, when they are unable to read and understand the most basic items of news on matters occurring within their own countries, let alone those on the international plane, it is unrealistic to expect that they will be particularly exercised by the activities of government officials or the operations of big business or organized labour. In that sense poverty and illiteracy reduce the pressure on government and administrations to be accountable for their actions and measures. And, of course, high levels of illiteracy mean that a larger proportion of the population are unable to benefit from the increased availability of information resulting from globalization and new information technology.

Poverty also makes it easier for those in power to manipulate the people. Where the bulk of the population is poor and illiterate it is less difficult for governing parties to attract unquestioning supporters from among those who have not much chance of advancement on their own merits. For such persons supporting the ruling party becomes an easy way of moving on, and the question whether they genuinely agree with policies becomes less and less important and relevant. And the more untutored and needy they are, the more are the chances that considerations of integrity and self-respect will be pushed further into the background.

In situations of wide-spread poverty governments and ruling political parties find it easy to “purchase” the support and votes of large sections of the electorate which come to consider development projects as “gifts” from the government and hence a good reason to support those who make such projects possible. And, of course, poverty affords to the candidates of the incumbent political parties the opportunities to seduce voters with monetary and other gifts at election time. Those who have only operated in the electoral processes of western democratic systems may find it difficult to appreciate the extent to which the results of elections can be influenced by the gifts which candidates are able to give to voters and to those who mastermind and organize their campaigns. Such an electoral process is a mockery of the concept of representative government, since it can only lead to the election of the highest bidder. It operates in Africa only because of the levels of poverty endemic in most of the continent.

#### THE PERVASIVE PRESENCE OF GOVERNMENTS

Another aspect of the political and economic situation in Africa which militates against the development of democracy is the pervasive presence of the government in the life of the people in the countries of the continent. In almost all countries the government control extends from the political and judicial bodies and institutions to the para-statal institutions which operate and manage what are referred to as “commanding heights of the economy”. This means that most of the procedures and processes which affect the daily lives of the majority of the citizens are either controlled, or at least significantly affected, by the actions and policies of the government. One result of the vast size and tremendous reach of government is that a very large proportion of the educated middle class is part of the official and semi-official bureaucracy, working directly for Government Ministries or for para-statal institutions. All such persons will, therefore, be dependent (with their immediate and extended families) on the income “from Government”. Additionally, the extensive involvement of the government in

many significant areas of commerce and industry increases the number of working people whose career destinies lie in official hands. Given the tendency of Governments to use their power in these fields to enforce allegiance (or at least silent acquiescence) from those who are employed in the public sector, many of these are not in a position to contribute effectively in the political debate. This is especially so because of the relative dearth of suitable opportunities for people outside the public sector. Anybody who is courageous enough to express opinions unacceptable to the government employer will find that there are no alternative sources of income, if he or she is victimized as a result.

The same goes for those in business and commerce. In many cases the ability to engage profitably in business can be severely limited or completely subverted by official antagonism or bureaucratic obstacles dictated "from above" for political reasons. This tends to make success in business and commerce dependent on the political opinions of the entrepreneur or at least his connection with someone with the ability and willingness to pull "political strings". In its worst forms, this can stifle business and commercial initiative and thus deprive the country of the benefit of talent which may itself be wholly non-political. At its worst it forces business people needlessly to involve themselves in partisan politics, merely to enable them to survive or to obtain services which should normally be available to all who meet the specified conditions. Businesses which succumb to the temptation to utilize political patronage are, of course, taking a risk; because any success achieved thereby becomes suspect and may be vulnerable to attack if and when the patronage disappears – because of a change either in government or in the political fortunes of the contacts whose influence helped to secure the patronage. But, perhaps the most undesirable consequence of governmental control and manipulation of commerce and industry is that it makes it difficult for persons in business and commerce to contribute meaningfully to discussions on political and economic policy. This is because those who are not willing to antagonize the government, and thus risk victimization in their business activities, will consider it prudent to refrain from expressing views on such matters if their views are not in line with the official position. In such a situation, the country is deprived of the views of perhaps the only people who are able to speak on these issues with a degree of relevant experience in the fields concerned.

#### THE ETHNIC FACTOR

Mention may also be made of the negative influence of the ethnic factor in the politics and administration of almost all countries of Africa.

Unfortunately nearly every country in Africa is beset by deep-rooted divisions between different ethnic groups who tend to be protective of their identities and group interests, in opposition to the interests of other groups or of the nation as whole. As may be expected this tendency is particularly strong in the relatively uneducated sections of the population. But it is unfortunately not entirely absent even with the most educated and otherwise sophisticated members of the professional, commercial and academic classes. It is also often exploited for political purposes by cynical and irresponsible politicians who do not have much to offer by way of serious programmes or creditable records.

The predominance of the ethnic factor in political discussion is one of the impediments to the development of democratic governance since it makes it difficult for political discussion to be based on argument and ideas rather than on emotive considerations of ethnic rights and ethnic representation in positions of power and influence. Where the ethnic factor is predominant it is almost impossible for issues of political organization and the management of the administration and economy to be discussed and evaluated on the basis of objective criteria or the independent judgement of the persons involved. This has many negative effects. It can stand in the way of the development of politico/economic ideas, movements on a truly national basis. This makes it difficult, and sometimes impossible, to bring together people from all strands of the society on the basis of their common belief in a set of ideas, as opposed to their membership of a particular ethnic group. In many cases persons of a particular ethnic group who do not share the prevailing political position in that group are considered as traitors to the ethnic cause. Those who are not strong enough to defy this trend either "fall in" in order to avoid the stigma of isolation or else choose to remain conveniently silent on matters on which they could have made a useful contribution.

One result of this concentration on the ethnic factor has been to prevent the development of truly national, as opposed to sectional ethnic, political parties in many countries of Africa. This has, in turn, led to the existence of a multiplicity of narrowly-based political parties whose unifying force is not a common set of policies but rather a shared culture or language or religion. Such parties tend to be neither large enough nor sufficiently cohesive to form the basis of a viable national government. Without such parties, democracy cannot expect to operate the way it should.

Finally the obsession with the ethnic criterion tends to produce situations in which appointments to high office may have to be based on ethnicity rather than on merit and personality. Such a system does not only

deny the country of the services of able people, but it also could result in the wrong persons being put in the wrong positions, sometimes with disastrous consequences for the function or enterprise in question.

#### CORRUPTION IN PUBLIC LIFE

Another feature of the African political and economic scene which works against the advance of democracy is the high incidence of corruption in government and the management of the national economy. Although the incidence of corruption in public life is by no means restricted to Africa, corruption is an undeniable feature of life in many parts of the continent and has a quite discernible impact on the processes of government and economic life.

There are many reasons for this phenomenon in the form in which it operates in Africa. The first is the very low returns of public service. In most African countries the levels of remuneration for persons holding positions in government (political or administrative) are very low when compared to the counterparts in the private sector. With the steady decline in the value of most national currencies, the purchasing power of the funds legitimately available to these people becomes less and less during their tenure of office. The result is that they are unable to maintain themselves solely on the income accruing to them from their positions. This makes them more easily susceptible to temptation. Indeed, for many of them, the fruits of corruption and the use of their influence becomes a necessary part of their income: in many cases this represents the most important part.

Another reason for the pervasive incidence of corruption in political life of Africa is that a very large proportion of persons who enter political life do so with little or no previous gainful employment or the qualifications for such employment. For such people political office is an opportunity (perhaps the first opportunity) to earn a living, and also to improve their standard of life. Since it is difficult for them to maintain a decent standard of living on legitimate income, it soon becomes essential for them to find other sources.

The need for extra income is made even more acute by other factors including, in particular, aspects of the culture of the communities. In much of Africa the extended family plays a key role in the lives of all but a few people, and this includes most of those who have acquired western lifestyles. While this system provides a much needed source of security and support for the less successful in the "family", it places a specially heavy burden on those who attain a measure of success. Since political office

always has a high profile, those who attain high political office automatically assume an elevated status in their societies, with consequential increase in their responsibilities to the members of the extended family and the wider community. This puts extra pressure on them and makes it more difficult for them to manage with the relatively low returns from the income legitimately available to them. The temptation to succumb to corruption becomes almost irresistible.

It is also worth noting that, for persons so hard pressed, yielding to corruption does not usually involve too much soul-searching. This is because there is in fact not much evidence of serious community objection to the use of public position to acquire personal gain or to assist members of one's family or group to obtain advantage. In many communities the member who makes a "quick buck" is considered to be "smart" and worthy of praise, while the one who sticks to the official income and ends with little to show for years in high position is deemed to be a simpleton or at best not sufficiently adventurous and, as such, not worthy of emulation. This means that, in spite of the public declarations in favour of probity in the exercise of public office, most people know that the acquisition of wealth from one's position is not in fact frowned upon by the society, and certainly not by the members of one's immediate or extended family. Thus one of the main incentives for honesty in the exercise of political and administrative office is seriously undermined by the cultural and economic conditions in which many politicians and public officials have to operate.

#### THE ABSENCE OF A FREE AND RESPONSIBLE PRESS

Another major constraint on the development of democracy in Africa is, of course, the nature and quality of the press and other media of mass communication and information. In many parts of the continent the press and other media of mass information are owned, controlled and in many cases abused by the government for partisan political advantage. In recent years there has developed a section of the press which is independent of the government. In many cases the independent press has been bold and enterprising enough to expose misdeeds and scandals in government, and to criticize the programmes and activities of the government and officials. But almost everywhere in Africa the independent press still operates with very serious handicaps. These include harassment by government through heavy handed laws, indirect subversion such as the denial of access to necessary facilities and in some cases open political pressure. The private press also has often to contend with draconian laws on private and criminal

libel, some of which are a relic of the laws with which the colonial administration sought to stifle dissent in the days before independence. Most of these laws are wholly incompatible with the democratic system of government proclaimed in the constitutions of the countries or the international obligations accepted by the governments under treaties and conventions.

In this connection it is also worth mentioning that some sections of the private press have, perhaps, added to their problems by the way they have sometimes operated. On occasions, some of them appear to have been carried away to seek sensationalism and possibly wider circulation at the expense of accuracy in news reporting or decorum in language. Much of this may be due to lack of training and over-enthusiasm on the part of some journalists. But whatever the reason may be, it is undeniable that the absence of a sense of responsibility on the part of any section of the press is bound to diminish its effectiveness and use to society. This is also true of the newly emerging independent press in Africa. Those who operate them must realize that their usefulness and effectiveness as watch-dogs on Government performance will depend to a considerable extent on the trust of the public in their integrity and the respect of the public for their conduct and methods. A free and effective press is an essential ingredient of any democracy. There can be no true democracy if one part of the press is not trusted and believed because it is regarded as a tool of the government, and the other part does not command the respect of the people because it is seen to be either irresponsible or not sufficiently dependable.

Another major defect in Africa's press set up is that, with few exceptions, the newspapers and journals tend to have clearly identifiable political agendas and are affiliated to particular political parties or tendencies. This makes their influence limited to only a section of the population and they will not be accepted as sources of unbiased information and enlightenment by those who do not share their political views. In many countries it is not easy to identify newspapers or journals which are recognized by the readers as relatively neutral as between government and opposition and whose views and comments on events can, therefore, be taken as based on objective analysis and impartial evaluation.

And there are even fewer journals whose main purpose is to educate and expand the horizons of their readers, as opposed to merely informing them of the events going on around them and in other parts of the world. While a major function of the press is, undoubtedly, to give the people the information that will enable them to understand and appraise the performance of governments, an equally important role of the press should be to help educate the people and broaden their social and mental outlook.

A press which fails to give adequate attention to this aspect of its mandate is not doing all that is legitimately expected of it. This is particularly so in Africa where there are very few alternative opportunities for the people to obtain this kind of service.

#### CONCLUDING REMARKS

The character and orientation of the internal structures in Africa, Latin America and Asia have been dictated by a combination of the cultural and social backgrounds of the societies and the histories of the individual countries, including the experiences of the pre-independent colonial periods. With very few exceptions the backgrounds of these countries did not make it easy for them to adopt or operate genuinely democratic structures. As a result the governments which operated in the years immediately following national independence were essentially undemocratic, although there were variations in the ways in which the absence of democracy affected the lives of the peoples in the different continents, and in countries within the same continents.

However, international trends over the years, and especially since the end of the cold war, have had significant impacts on the development of democratic structures and the acceptance of the ideas and principles of democracy in most of these countries. In many cases this process has been assisted by international structures which have either served as models for adoption or adaption by countries according to their circumstances or provided useful benchmarks by which the performance of individual governments may be evaluated by their own citizens and also by the international community.

In Africa, the challenge of democracy has been especially acute because, in addition to the features which the African countries share in common with third world countries in Asia and Latin America, they have had to cope with special factors which have made it difficult for them to develop systems of democratic governance or to improve the living conditions of their peoples. In recent years there have been encouraging signs of progress in many of the countries of the continent. But a great deal more needs to be done.



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*Discussion of the paper by T.A. Mensah*

ELSHTAIN

Would you comment on an interesting tension in your paper? You articulate the three constitutive or *de jure* principles regarding the form of membership and organization of African unity, including the sovereign equality of all members. Here is the one I want to focus on, namely non-interference in the internal affairs of States and true respect for the sovereignty and territorial integrity of each State. Yet, of course, a lot of what we've been talking about here is the many ways in which States are interfered with all the time, and that their internal affairs are not in fact subject to non-interference. Rather, the question is what forms of interference, to what ends. The whole point of the emergence of an international human rights regime in the last half century is a precedent to interfere in the internal affairs of States and to try to figure out ways to interfere ever more robustly. Do you have some thoughts on this interesting tension and dilemma that you can share with us?

VILLACORTA

I would like to congratulate Professor Mensah for succeeding in his formidable task of integrating a report on three continents.

I would just like to elaborate on the Asian aspect. It is in vogue now among Asian authoritarian leaders to invoke the so-called Asian approach to democracy, or the Asian way. I hope that Westerners will not just swallow this argument. What is the Asian way? Of course, when we speak of the inscrutable Oriental, what comes to mind are such concepts as respect for authority, elders, and tradition. Authoritarian rulers emphasize the communitarian approach which gives priority to the community over the individual. The Asian way is supposed to give more importance to the family. But I think it is not any different from the importance attached by Europeans and Americans to the family, although perhaps, we talk more about it. We stress family honour, family cohesiveness, the value of education and so on. We Asians give premium to polite speech, consensus, smooth interpersonal relationships, harmony, and reciprocity. The so-called Asian way underscores the importance of "face", the culture of shame. We

also have the ontological inclination towards the cyclical and relativist view of reality and a behavioural inclination towards non-confrontation which we claim lends itself to a foreign policy of peace and non-alignment.

Undoubtedly, all these have their positive consequences and they indeed could contribute to harmony in life and society, but this is also double-edged. There can be negative manifestations of these so-called Asian values, especially in relation to the development of democracy. For example, too much emphasis on family ties and personal relationships was one of the major causes of the financial crisis that beset not only the new so-called “tigers” such as Malaysia, Indonesia and Thailand, but also Japan and South Korea.

Lastly, I would just like to emphasize that democracy, which is always described as a Western import by enemies of democracy in non-Western countries is not exactly of Western origin. These were elements of democratic thinking even in the teachings of Gautama Buddha in ancient Buddhist scriptures and also in the writings of Mencius.

So, while Aristotle, the much-vaunted father of democratic thought, was talking about slavery as something acceptable, Gautama Buddha condemned this. Buddha also advocated the practice of democratic consultation, although for obvious reasons, he didn't use the word “democracy”.

Having said that, I think that in addition to these Oriental contributions, the Western world has indeed contributed significantly to the development of democracy, and this is primarily rooted in Christian teaching, the concept of human dignity and freedom, which are founded on the idea of man being both body and soul, and being a creature of God created in the likeness of God. The rights and worth of the individual find their justification in Christianity. Even gender equality and the rights of minority communities are actually rooted in Christianity.

#### MORANDE

I'm afraid that the debate has become a bit confused due to the fact that we have not considered enough the historical and geopolitical background of the development of democracy. We have talked about the main ideological or cultural streams which have led up to democracy, but we have passed over other important facts, such as, for instance, the scale and scope of the military forces and the technological escalation taking place within this military process. It's very hard to evaluate the possibilities for democracy without considering this important element.

Regarding the historical overview I would like to say that we cannot speak of globalization only at the end of the Cold War or when the Iron

Curtain fell. Globalization began well before that. Professor Zampetti stated that there were two main historical moments of universalizing, the Roman Empire and the Holy Roman-German Empire. Looking at Latin America, Asia and Africa we have to mention the Spanish and then the English and French empires, all of them unified by written language and the geopolitical power to accomplish this internalization.

Professor Mensah referred to the democratic process as a very recent result that is in part due to decolonizing and almost as if it were a desirable future and not a process that has very deep roots going back into history. I agree with him when he states that we cannot speak properly of democracy regarding the traditional societies without falling into the idea of the noble savage of Rousseau. But on the other hand, we have to understand the historical evolution that made democracy possible within which the globalization accomplished by the empires just mentioned played a fundamental role.

One of the main contributions of sociology during the second part of this century has been to overcome the analytical paradigm, inherited from the nineteenth century, which comparatively opposes traditional and modern societies, as if the first were constrained to change into the latter. We know better nowadays that the human phenomenon structures itself on different scales at the same time, from the more personalized and simple relations up to the more abstract and complex ones. A given value, such as democracy for instance, does not work the same way at all these levels. It has little sense to expect that democratic values denote the same attitudes in the family or in impersonal money exchanges. The way in which the meaning of values become determined by society is related to the differentiated levels of social complexity.

ZACHER

I would like to turn to the problem of continentalization and to build a bridge between your presentation and the presentation of Professor Bartolini – Europe being taken as an example of continentalization. Let me add: for Asia also subcontinentalization could be a very useful means by which to integrate into the global world. If there were more continentalization in Africa, in Asia, this would perhaps make the continents more equal for the whole international community. The continentalization of Europe is, however, based on relatively homogeneous nations – also in terms of democracy. If you have different regimes and states of development as in Africa and Asia and to a certain degree also in Latin America, what are the consequences for the possibilities of continentalization?

LLACH

Gracias, Presidente. Una breve intervención que es una pequeña crítica, no a la presentación del Profesor Mansah, que me ha parecido sumamente interesante e instructiva, pero sí a la tarea que se le encomendó. No es una buena idea encargarle a una persona que trate en un papel de 25 páginas, tres continentes. Puede inclusive producir una gran confusión en los destinatarios de nuestras publicaciones. Si lo que se deseaba era un análisis comparativo, debió haberse encargado, al menos, un trabajo que reflejara la realidad de cada continente.

GLENDON

I would like to express three concerns about the phrase “international civil society” as applied to international organizations. First, it seems to me that one must differentiate among the thousands of nongovernmental organizations that operate at the international level. The range of types is too great for them to be usefully lumped together. Some of the most influential, for example, are financed by private foundations whose assets dwarf the budgets of most countries in the world. They have their own agendas, their own foreign policy, and exert sovereign-like power. Lobbies and interest groups are not “civil society” in the sense that term is used by political theorists concerned about the “mediating structures” that stand between individuals and the state.

Secondly, all international organizations, whether really humanitarian or merely agents of special interests, are very distant from public-scrutiny and democratic accountability. Their relation to democracy is thus problematic.

Third, international organizations such as the U.N. and its agencies are apt, like their domestic counterparts, to develop close working relationships with lobbying organizations, and are susceptible to “capture” by special interest groups.

It thus seems desirable to avoid the term “international civil society” which may serve to mask activities that severely threaten democracy and other human values.

DE MONTBRIAL

Professor de Montbrial agrees with Professor Glendon’s comments on the concept of international society and his remarks regarding the misuse of the term “civil society” for international organizations. He reminds us that non-governmental organizations have sometimes been manipulated, particularly during the Cold War (important humanitarian organizations

then received funds from the KGB in return for some services). He argues that the notion of accountability is the weak point in the concept of “international civil society” and observes that the main difference between “international civil society” and associations in countries such as the United States – where this concept is more developed than anywhere else – is that any association is dependent on a legal and judicial system: if it breaks the law, one day or another it will have to account for it. He concludes that the concept of international civil society does have to be polished and further worked out.

On Asia, Professor de Montbrial agrees with Father Pittau and other speakers that Asia’s chance for democratization is very good. The same might hold true for Africa, all the more if economic development is available. In the case of economic downturn – particularly in China – the situation could then change. He believes that, to a large extent, with regard to the interstate system, Eastern Asia still belongs to the nineteenth century. Insisting on the necessity to come back to *realpolitik* to analyse the situation, he argues that Asian countries have not been fighting each other because they are part of the international system. He reminds us of the Red Khmers’ genocide at the end of the Vietnam war and observes that disputes regarding the South China Sea have not been solved yet and that the way the reunification of Korea will be achieved is still unknown. He states that the cornerstone of the security system in South-East Asia is the United States. Were the United States to withdraw, the system would probably explode. However, sooner or later, the United States will have to stop playing its role.

MENSAH

I wish to express my thanks to the organizers of this seminar for the opportunity to participate in what has been a very interesting and instructive discussion over the past few days. For me it has been a great pleasure and personal honour to have met and interacted with so many eminent personalities in these inspiring surroundings.

I would also like to repeat the remarks I made at the beginning of my presentation. I appreciate that the assignment I accepted was rather risky in that I took on the responsibility of presenting a statement on democracy in such large and diverse areas as Africa, Asia and Latin America. In this I fully agree with the comment of Professor Llach that to attempt to deal with such large and complex regions of the world in the compass of twenty or so pages was not only unrealistic but also likely to lead to serious misunderstanding. I hope that I reduced the risks in this regard by

concentrating on Africa in my paper, and I hope that I have been able to raise and clarify some of the burning issues of democracy in Africa. I have not attempted to answer these questions and I am sure that the organizers did not expect me to do so.

I have in turn found the presentations and the comments in the discussions very illuminating and useful. With regard to democracy and the challenges it faces in Africa, I have found particularly enlightening the insights of so many of you, not only on general concepts but also on the concrete problems with which different societies have been grappling in dealing with the democratic challenge in their different environments. I have appreciated even more the fact that no society is completely exempt from these problems, although different issues affect countries and regions in different ways. I have also been assured that the dichotomies which Africa faces in its efforts to promote the democratic ideal have been faced by most other regions and, indeed, are still on their agendas in different forms. Among these are the dichotomies between the need to preserve traditions and the imperatives of change in an increasing scientific culture; the desire to develop nation-states with shared ideals and common destinies as opposed to the benefits of respecting group identities and loyalties; the tension between the requirements of development and the protection of human rights and human dignity; the need to reconcile the major advantages of the market economy with the necessity to safeguard peoples and nations from the uncontrolled might of international capital; the need to keep a balance between the demands of globalization and the need for peoples and communities to have a measure of control over their destinies; and the importance of ensuring that in using civil society to limit the control and dominance of central state power we do not radically undermine the unifying and supervisory role of the central state.

The knowledge that these dichotomies exist in every society and the realization that the choice between the opposing ideas in them is neither easy nor avoidable has been brought home forcefully to me. For me this is the lesson that I take from this seminar. It will be a source of comfort and inspiration to me, because it shows that the struggle for democracy in Africa is not a lonely struggle, and it provides the assurance that the setbacks that will inevitably occur will not be unique to our continent.



LA MONDIALISATION EN QUETE DE GOUVERNANCE  
DEMOCRATIQUE: CONTRADICTIONS NATIONALES  
CONTRAINTES INTERNATIONALES

LOUIS SABOURIN

SUMMARY

After an examination of some world-wide adjustments arising from globalization, this analysis will shed light on the slow evolution of the power structures in the international social order at variance with utopian notions of a democratic world government and leading towards *world governance*.

If the structure of international relations through international organizations has been characterized by *political approaches*, symbolized by the United Nations, and *economic ones*, by the Bretton Woods organizations and Gatt, now the World Trade Organization, world governance is also logically located in the *technological processes and the growing power of information* which have encouraged globalization as well in the *ecological and humanitarian* visions which stimulate the *consciousness of universality* and *actions of solidarity* and "*altérité*" in favour of finding new solutions to conflicts and increasing the process of democratization, a better management of the *global commons*, and a more equitable sharing of world resources.

In the field of *democracy*, a model of national governance based on the separation of powers, representative political institutions, the hierarchy of norms and the rejection of arbitrary rule as an institutional concept of democracy has been progressively implemented in the Western world. Nevertheless, such representative democracy, corresponding to the needs of the modern nation-state, faces resistance and unpredictable changes which *prevents its adoption by many other states, and especially by the international milieu*, whose structures resist any form of democratic control.

*In such an environment, global governance would derive its legitimacy from the progressive maturing of the political process and the need to invent new forms of democracy corresponding to the demands of post-modernist society.* Civil democracy founded upon public opinion, non-governmental institutions and the acceptance of the standards of international agreements, constitutes one of these premises. But,

for the foreseeable future, the absence of democracy in many states and at the international level will remain a major challenge to those attempting to ultimately establish a world democratic government.

On the threshold of the twenty-first century, global governance requires *a new set of international ethical standards rather than a world authority to acquire and to inspire a new world-wide democratic deal.*

Après avoir précisé les mutations planétaires dues à la mondialisation, la présente analyse met en lumière la lente évolution de la structure du pouvoir dans le milieu social international vers une *gouvernance mondiale mais en rupture avec le projet utopique d'un gouvernement mondial à caractère démocratique.*

Si la structuration des rapports internationaux, à travers l'organisation internationale, a été menée sur la base d'une *approche politique*, symbolisée par l'ONU, et d'une *approche économique*, représentée par les institutions de Bretton Woods et le GATT, auquel a succédé l'Organisation mondiale du commerce, la gouvernance mondiale se situe aussi dans la logique des progrès *technologiques*, de la croissance du pouvoir de l'information ainsi que dans les mouvances *écologique* et *humanitaire* qui suscitent une conscientisation de l'universel et des engagements de solidarité et d'altérité en faveur de règlements de conflits, d'une plus grande démocratisation, d'une meilleure gestion du patrimoine de l'humanité et d'un partage plus équitable des richesses mondiales.

Au chapitre de la *démocratisation*, c'est de façon lente mais progressive que s'est implanté dans les pays occidentaux un modèle de gouvernement national fondé sur la séparation des pouvoirs, la représentation politique, la hiérarchie des normes et le refus de l'arbitraire comme formulation institutionnelle de la démocratie. Toutefois, une telle démocratie représentative, correspondant aux nécessités de l'État moderne, fait face à des résistances et des tribulations qui compromettent son implantation dans *d'autres États* et surtout dans le *milieu international* dont la structure demeure encore réfractaire à *une régulation à caractère démocratique.*

Dans un tel milieu social, la *gouvernance mondiale tirera sa légitimité de la progressive maturation du champ politique et de la nécessaire invention de nouvelles formules démocratiques en accord avec les exigences de la société postmoderne.* La démocratie civile, fondée sur l'opinion publique, des entités non-gouvernementales et l'acceptation de normes issues de conventions internationales, en constitue une des prémices. Mais pendant longtemps encore, le *déficit démocratique* demeurera un trait saillant du processus pouvant conduire à une éventuelle *autorité mondiale.*

*C'est donc davantage d'une nouvelle éthique internationale plutôt que d'une telle autorité centrale que la gouvernance mondiale a besoin pour intérioriser le projet démocratique, au seuil du XXI<sup>e</sup> siècle.*

INTRODUCTION: *MUTATIONS PLANÉTAIRES*

Parmi les nombreuses mutations fondamentales que la planète a connues au cours du XX<sup>e</sup> siècle, deux phénomènes majeurs, la mondialisation et la multiplication des acteurs nationaux et internationaux, ont favorisé la recherche de nouveaux systèmes internationaux tout en mettant en lumière les limites de la quête d'un véritable gouvernement mondial qui serait fondé sur des pratiques démocratiques.

D'une part, les nouvelles technologies, en particulier les moyens de transport et la diffusion instantanée de l'information, ont permis l'éclosion d'un nouvel environnement mondial. Les comportements et les attitudes tendent à s'uniformiser. Des réseaux se forment entre individus partageant les mêmes intérêts et les mêmes valeurs. Une "*nouvelle inhérence mondiale*" s'installe.<sup>1</sup> D'autre part, la libéralisation des échanges et la déréglementation ont accru les sphères d'intervention des entreprises. Celles-ci peuvent désormais agir au niveau mondial afin de bénéficier des économies d'échelle tout en choisissant le meilleur endroit pour leur implantation. Des acquisitions et des fusions s'opèrent. Des réseaux se créent et stimulent ainsi les échanges.<sup>2</sup>

Loin d'être un mythe, la mondialisation économique et financière, la mondialisation des communications et la mondialisation culturelle s'installent et occupent une place de choix dans la littérature contemporaine. Au cours de la seule année 1997, *Le Monde* a recensé plus de quatre-vingts titres consacrés à la mondialisation.<sup>3</sup>

Certains observateurs considèrent la mondialisation, dominée par la pensée économique devenue pensée unique, comme la source des nombreux maux de la société globale.<sup>4</sup> D'autres en revanche l'appréhendent comme étant pleines de promesses.<sup>5</sup> Toutefois, cette forte tendance à la mondialisation n'a pas été suivie de réflexions sérieuses sur l'établissement d'un gouvernement

<sup>1</sup> SABOURIN, LOUIS, "L'étude des Relations Internationales et l'émergence d'une nouvelle inhérence mondiale. Approches théoriques et incidences canado-québécoises", *Les Cahiers du GERFI*, Montréal, No. 1, 1994, p. 22 et ss.

<sup>2</sup> OMAN, CHARLES P., *The Policy Challenges of Globalization and Regionalization*, Paris, OECD Development Centre Reprint Series, No. 80, 1997.

<sup>3</sup> ARNAUD, PHILIPPE, "Le bon filon de la mondialisation", *Bilan du monde*, Paris, Le Monde, Édition 1998, p. 183.

<sup>4</sup> BÉAUD, MICHEL, *Le basculement du monde: de la terre, des hommes et du capitalisme*, Paris, La Découverte, 1997; MARTIN, HANS-PETER, SCHUMANN, HAROLD, *Le Piège de la Mondialisation: L'agression contre la démocratie et la prospérité*, Paris, Actes Sud, 1997.

<sup>5</sup> MINC, ALAIN, *La mondialisation heureuse*, Paris, Plon, 1997; voir également Cohen, Daniel, *Richesse du monde, pauvreté des nations*, Paris, Flammarion, 1997.

mondial. Les analyses sont demeurées très marginales car peu d'observateurs considèrent une telle institution comme étant possible dans la conjoncture actuelle. Bien qu'on constate la place grandissante de la mondialisation et de la démocratisation, on ne visualise pas encore comment celle-ci susciterait la mise en place d'un véritable gouvernement mondial démocratique. En revanche, on parle de plus en plus de gouvernance mondiale ouverte à la pratique démocratique.<sup>6</sup>

Si la mondialisation touche déjà presque toutes les activités humaines, elle opère comme une épée à double tranchant. En brisant les frontières, elle offre de nouveaux horizons aux acteurs publics et privés, institutionnels et individuels. Les objectifs d'élévation du niveau de vie et d'accroissement de la production qui figurent dans les chartes constitutives des organisations internationales, issues de la Deuxième Guerre Mondiale, connaissent une effectivité sans précédent. Les économies asiatiques, celles qui ont eu le taux de croissance le plus élevé, malgré la crise actuelle, sont les mêmes qui naguère furent considérées comme en perte. Leurs réussites ainsi que les secousses qu'elles subissent dans le domaine financier illustrent la *double face de Janus* que présente la mondialisation. Facteur de liberté, la mondialisation financière peut également être source d'instabilité. Il y a incontestablement émergence d'un espace financier mondial suite au décloisonnement des systèmes nationaux. Mais la libéralisation et la déréglementation des marchés financiers n'ont pas mis fin aux marchés nationaux. Elles les ont plutôt introduits dans un ensemble transnational, dominé par le système financier des États-Unis, caractérisé par une absence de contrôle et mû par des opérateurs financiers privés. Il y a de ce fait une instabilité financière quasi-systémique. À cela s'ajoutent les inquiétudes que suscitent les fusions des grandes banques auprès des travailleurs qui craignent de perdre leur emploi et auprès des autres institutions financières qui redoutent une perturbation de la concurrence et une entorse à leur compétitivité.<sup>7</sup>

*En même temps des aspirations à la démocratie se manifestent dans toutes les régions du monde.* Les gouvernants sont invités à la transparence et à la gestion responsable des affaires publiques. Certes, des progrès très sensibles ont été accomplis dans plusieurs régions du monde depuis la fin de la seconde guerre mondiale. Mais la multiplication du nombre des États a entraîné simultanément une croissance du nombre des *expériences*

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<sup>6</sup> HUNTINGTON, SAMUEL P., *Le choc des civilisations*, Paris, Éditions Odile Jacob, 1997.

<sup>7</sup> "Deux dirigeants de banques voient les fusions d'un oeil bien différent", *La Presse*, Montréal, le 17 juin 1998.

*démocratiques nationales*, avec d'inévitables succès et échecs. On assiste ainsi entre les pays à des distorsions aussi bien au chapitre de la conquête de nouveaux espaces démocratiques que des réalisations en matière de développement.

De telles distorsions portent sur la dégradation de l'environnement, le chômage, la précarité du travail, la faim, la violence, le travail des enfants, la pauvreté voire la misère et l'exclusion sociale. Aucun pays n'est épargné, bien que l'intensité de la crise soit variable. Le Tiers monde éclaté s'étend sur toute la planète. Face à ces problèmes et à une crise des valeurs, l'État lui-même se trouve désarmé. Dessaisi de ses prérogatives, il laisse de plus en plus faire les forces du marché. Dans bien des cas, son rôle évolue vers la garantie d'une police sur le territoire national et d'une sécurité aux frontières ainsi que vers une coordination des grands services publics, de l'administration et de la justice. L'État-Providence s'amenuise pendant que croît l'État-Gendarme et que se développent les forces qui tendent à la mondialisation.

Pourtant, tenter de diaboliser la mondialisation relève d'une vision limitée. L'analyse des mutations mondiales contemporaines est plus lucide si l'on garde à l'esprit *la progressive institutionnalisation des rapports internationaux. La communauté internationale s'organise en même temps que la mondialisation s'installe*. L'affirmation du professeur Pierre Gerbet selon laquelle "*le XX<sup>e</sup> siècle est le siècle des organisations internationales*"<sup>8</sup> se trouve plus que jamais vérifiée. Le nombre d'organisations intergouvernementales s'est accru et les organismes non gouvernementaux se sont ajoutés aux acteurs traditionnels des relations internationales.<sup>9</sup>

À la vérité, l'humanité se trouve à un tournant décisif de son histoire et la possibilité d'une gestion rationnelle des affaires du monde s'offre en même temps qu'apparaissent les défis démocratiques auxquels la société globale induite par la mondialisation devrait faire face. Comme l'avait souligné Teilhard de Chardin:

*"Nous croyons traverser un orage. En réalité, nous changeons de climat"*.<sup>10</sup>

Dans ce nouveau climat, *le principal défi est structurel et éthique*. Il vise les fondements mêmes du processus de mondialisation. Certaines interrogations s'imposent. *Peut-on réguler par le haut un système qui, dans son*

<sup>8</sup> GERBET, PIERRE, *Les organisations internationales*, Paris, PUF, 1972.

<sup>9</sup> SABOURIN, LOUIS, *Les organismes économiques internationaux*, Paris, La Documentation française, 1994.

<sup>10</sup> DUPUY, RENÉ-JEAN, *Le dédoublement du monde*, RGDIP, Tome 100, 1996, vol. 2, p. 321.

*essence, entraîne une dérégulation? La mondialisation, fondée sur le libéralisme, supportera-t-elle un gouvernement mondial qui limiterait son emprise sur la société?*

À ce défi structurel s'ajoute un autre non moins important. La fin de la Guerre froide a entraîné "une entropie de l'ordre"<sup>11</sup> avec le règne d'une superpuissance, les États-Unis d'Amérique, en mesure d'exercer un pouvoir autoritaire sur un système qui l'a privé de concurrents. L'ancien ordre fondé sur l'équilibre de la terreur s'est effondré avec le mur de Berlin. Le nouvel ordre mû par la concurrence se retrouve avec un seul concurrent. Ce paradoxe posera un défi de taille à la communauté internationale tant et aussi longtemps que ne sera constituée une véritable Europe Unie. Aussi se demande-t-on comment faire fonctionner le nouveau système international en tenant compte de sa nature intrinsèque tout en intégrant la réalité des rapports de force dans la société globale en formation.<sup>12</sup>

Sur cette toile de fond, resurgissent de nombreux paradoxes qui sont autant de défis démocratiques.<sup>13</sup> Certains de ces paradoxes datent de la naissance des organisations universelles. Ainsi, en 1944, alors que se tramaient les contours de l'ordre économique international, on faisait remarquer des antinomies entre les conceptions sociales dominantes et la mise en place d'organisations économiques à vocation mondiale. On observa à cet effet une antinomie des conceptions mercantile et hédonistique par rapport au dynamisme social, une antinomie du nationalisme et de l'internationalisme, une antinomie de l'esprit contractuel et de la volonté de puissance, une antinomie de l'évolution socio-économique et des politiques conservatrices.<sup>14</sup>

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Sous la lumière vive de la mondialisation, loin d'apparaître comme des antinomies, ces phénomènes se présentent aujourd'hui comme autant de défis que la communauté internationale doit relever. *On cherche à savoir comment les communautés nationales peuvent préserver leur identité tout en acceptant de nouvelles valeurs sociales, comment elles peuvent garder une*

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<sup>11</sup> ROCHE, JEAN-JACQUES, *Le système international contemporain*, Paris, Montchrestien, 2<sup>e</sup> édition, 1994.

<sup>12</sup> JACQUET, PIERRE, MOÏSI, DOMINIQUE, "Une superpuissance en quête d'un rôle", *Ramsès 97*, p. 261-266.

<sup>13</sup> SABOURIN, LOUIS, "Mutamenti internazionali e paradossi democratici", in *La democrazia oltre la Crisi Governabilità*, Milano, Franco Angeli, 1985, p. 117-137.

<sup>14</sup> "Archives de la Conférence de Bretton Woods", *Courrier de la Planète*, Été 1994, p. 51.

*mémoire collective tout en s'intégrant dans la société contemporaine qui se globalise, comment la nécessité du profit peut coïncider avec l'importance du partage, comment la compétition peut aller de pair avec la coopération.*<sup>15</sup>

On se rend compte alors qu'à côté du *déficit démocratique* se développe un *déficit éthique* que la mondialisation a du mal à combler. *Plus qu'une autorité morale, une nouvelle éthique des rapports internationaux s'impose.*<sup>16</sup> *La gouvernance mondiale*, définie comme étant la gestion rationnelle des affaires mondiales en respectant les valeurs humaines fondamentales, la diversité des peuples, leurs intérêts divergents et convergents tout en préservant les intérêts des générations futures, se propose de concilier les valeurs apparemment antinomiques qui prévalent dans la société globale. Pour la Commission de la gouvernance globale, ce concept n'implique pas un gouvernement mondial.<sup>17</sup> La gouvernance représente plutôt un *processus complexe et dynamique* de prise de décision susceptible de s'adapter aux circonstances changeantes d'un *univers en mutation*.

À la définition des termes de la vie commune dans ce monde en mutation s'ajoutent *la clarification des enjeux* et *la gestion responsable des grands dossiers* de notre époque. Aussi oppose-t-on à *l'approche réaliste* qui privilégie les rapports de force, où l'on ne voit dans l'organisation internationale qu'un lieu d'affrontement entre intérêts divergents, *l'approche fonctionnaliste* des rapports internationaux.<sup>18</sup> Cette dernière est confortée par l'émergence d'une communauté internationale en pleine structuration à travers l'organisation internationale et la société civile mondiale.

La récente crise des économies asiatiques amplifie l'exigence d'une gouvernance de la mondialisation afin d'en arriver à la stabilité de l'économie mondiale ainsi qu'à la cohérence dans les politiques et la prise de décision en matière monétaire, financière et commerciale.

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Dans cette optique et en prenant du recul, on se rend compte que la mondialisation n'est pas un phénomène nouveau. Si les différentes formes qu'elle prend sont liées aux circonstances historiques, son origine réelle

<sup>15</sup> Groupe de Lisbonne, *Limites à la compétitivité, Vers un nouveau contrat mondial*, Montréal, Boréal, 1995.

<sup>16</sup> *Discours de Sa Sainteté le Pape Jean-Paul II à la Cinquantième Assemblée Générale des Nations Unies*, New York, Nations Unies, le 5 octobre 1995.

<sup>17</sup> *Our Global Neighborhood. The Report of The Commission on Global Governance*, Oxford University Press, 1995.

<sup>18</sup> SMOUTS, MARIE-CLAUDE, *Les organisations internationales*, Paris, Armand Colin, 1995.

remonte aussi loin que la fin du Moyen Âge avec la naissance de l'État moderne. Son développement territorial coïncide ensuite avec le déploiement industriel et l'expansion de la société internationale. *Les défis ne sont donc pas apparus avec la société post-moderne. Ils ont cheminé avec le modernisme à travers le dédale des rapports internationaux.*<sup>19</sup>

Ainsi, sous sa forme initiale, la mondialisation s'appliquait au déploiement des empires coloniaux. Grâce aux progrès scientifiques et à la Renaissance, l'Europe des États naissants a découvert la nécessité d'aller au-delà des frontières nationales; les explorateurs, ayant révélé les possibilités immenses du monde, les savants ayant affirmé la précision des lois qui régissent l'univers, la navigation maritime ayant connu des progrès, les conquêtes coloniales pouvaient bouleverser la géographie du monde.

Fondée sur le mercantilisme, cette première forme de mondialisation fut dès le départ orientée par une autorité institutionnelle. La bulle *inter cetera*, promulguée le 4 mai 1493 par le Pape Alexandre VI Borgia, ouvrit la voie à la conquête du monde par l'Espagne et le Portugal, deux puissances chrétiennes et européennes de l'époque. Dans cet état initial, la mondialisation fut soutenue sur le plan théorique par la construction d'une communauté internationale mue par la doctrine thomiste de l'unité du genre humain. Cette communauté internationale mythique transparaît dans l'œuvre des canonistes espagnols Francisco Vitoria et Francisco Suarez entrés dans l'histoire en tant que "*fondateurs du droit international*". Leur œuvre mit en exergue l'importance de la liberté du commerce international dans la régulation des rapports internationaux. Incluant la liberté des mers et la liberté des échanges, la liberté des communications fut considérée comme un principe immanent de droit naturel qu'aucune nation ne peut violer pour quelque raison que ce soit. Le non respect de cette norme fondamentale était synonyme de *casus belli*. Un gouvernement mondial appelé de leurs vœux par ces théologiens catholiques devait veiller à la mise en œuvre de la liberté des communications. À la place de ce gouvernement mondial utopique, les États européens qui avaient affirmé leur autonomie par rapport au Saint-Empire romain germanique finirent par développer un ordre international autonome: l'ordre interétatique européen issu des Traités de Westphalie, signés en octobre 1648. La révolution industrielle renforça ce nouvel ordre et entraîna une deuxième vague de colonisation.

En raison de sa logique interne fondée sur le libre jeu des forces du marché, la mondialisation a survécu aux empires coloniaux. Toutefois, le

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<sup>19</sup> Le mythe du labyrinthe peut bien expliquer la complexité des rapports internationaux. Pour une approche sociologique fondée sur ce mythe, voir BALANDIER, G., *Le Dédale*, Paris, Fayard, 1994.



rêve d'un ordre international gouverné par le droit a été pris en défaut par l'absence d'un pouvoir législatif censé faciliter l'élaboration et la mise en forme du droit, par l'inexistence d'un exécutif chargé de son application et par la recherche d'une autorité judiciaire pouvant contrôler et sanctionner la mise en œuvre du droit. La séparation des pouvoirs si chère à Montesquieu ne connaît pas seulement des limites dans l'ordre international. À l'intérieur des États, elle bute encore sur la toute puissance des tribunaux ou de l'exécutif ainsi que sur la tendance à faire prévaloir le pouvoir législatif sur les autres pouvoirs.

À ces tribulations de la démocratie représentative, s'ajoutent de nouvelles formes de démocratie non institutionnalisées mais portées par les progrès technologiques et l'éveil d'une opinion publique de plus en plus exigeante.<sup>20</sup> Leurs contours exacts dépendront du champ politique que laissera la démocratie représentative, profondément éprouvée par le temps.

La progressive structuration de la communauté mondiale et la situation très variée à l'échelon national offrent donc un champ social d'observation pour l'analyse de la distribution du pouvoir dans la société globale. Cette structuration ainsi que les situations éclatées aux échelons national et local constitueront donc les deux parties de la présente étude. La conclusion établira pourquoi le projet de gouvernement mondial à caractère démocratique souffre d'un quadruple déficit dans la conjoncture internationale contemporaine.

#### PREMIÈRE PARTIE: *STRUCTURATION PROGRESSIVE DE LA COMMUNAUTÉ INTERNATIONALE*

Avec la Société des Nations (SDN), mise en place en 1919, la structuration de l'ordre international fut fondée sur *l'identité des régimes politiques*. L'Organisation des Nations Unies (ONU) qui lui a succédé en 1945, opta pour *le libre choix des systèmes* et le *droit des peuples à disposer d'eux-mêmes*. Elle facilita *la balance des pouvoirs et l'équilibre de la terreur*. La fin de la guerre froide introduit de nouvelles réalités et la réforme des institutions internationales s'impose comme une nécessité incontournable pour la nouvelle *gouvernance*.

Ainsi, l'utopie d'un gouvernement mondial construite par des théologiens catholiques du XVI<sup>e</sup> siècle a été rejointe par l'Histoire. De nombreuses manifestations d'un embryon de pouvoir sur les structures anarchiques de la société internationale sont présentes dans des domaines

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<sup>20</sup> MINC, ALAIN, *Livresse démocratique*, Paris, Gallimard, 1995; voir aussi, SCHLESINGER, ARTHUR JR., "Has Democracy a Future?", *Foreign Policy*, September-October 1997, p. 2-12.

variés des relations internationales même si certains rapports internationaux échappent encore à la structuration.

#### A. *Un gouvernement mondial utopique*

Si, d'un côté, des individus et des associations, en particulier des associations non-gouvernementales comme les *World Federalists* et des groupes religieux comme les *Quakers*, ont prôné, au lendemain de la deuxième guerre, l'établissement d'un gouvernement mondial face à l'impossibilité pour les États de gérer certains problèmes, les États, d'un autre côté, ont établi des mécanismes internationaux et créé des organisations à caractère universel. Si, en 1945, il y avait moins d'une quarantaine d'organismes intergouvernementaux, on en dénombre aujourd'hui plus de 400 sans compter les centaines de conventions multilatérales. Par conséquent, la coopération universelle s'est concrétisée par la mise en place d'organisations internationales à commencer par les Nations Unies, les Institutions spécialisées et les organisations issues de la Conférence de *Bretton Woods* sans oublier l'Organisation mondiale du commerce.

Au demeurant, le 26 juin 1945, cinquante États représentés à la Conférence de San Francisco signent la Charte des Nations Unies qui entrera en vigueur le 24 octobre suivant. Cette Grande Charte de la Communauté internationale comprend 111 articles ordonnancés autour d'un projet de paix et de coopération internationale sur la base du droit. Un demi-siècle plus tard, cette construction normative et institutionnelle perdure avec un bilan contrasté. Des progrès ont été réalisés dans de nombreux domaines mais l'avènement d'un gouvernement mondial demeure une utopie.

Un fait est frappant. Entre la SDN et l'ONU, les concepts changent. La première institution est fondée sur un pacte avec les "*Hautes Parties Contractantes*", impliquant par ce fait même une approche consensuelle des rapports internationaux.

Avec la Charte, commentent Jean-Pierre Cot et Alain Pellet:

*"Les références sont constitutionnelles. Elles rappellent le long combat pour les libertés et la démocratie, la grande Charte arrachée à Jean-sans-terre, les franchises établies au profit des bourgs et de leurs citoyens; la montée du mouvement démocratique de par le monde trouve enfin son expression sur le plan international".*<sup>21</sup>

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<sup>21</sup> COT, JEAN-PIERRE, PELLET, ALAIN, *La Charte des Nations Unies. Commentaires article par article*, Paris, Economica, 1985, p. 2. Voir également FASSBENDER BARDO, "The United Nations Charter as Constitution of The International Community", in *Columbia Journal of Transnational Law*, Vol. 36, 1998, No. 3.

Les buts des Nations Unies sont de maintenir la paix et la sécurité internationales, développer des relations entre les peuples sur une base égalitaire, réaliser la coopération internationale sur la base du respect des droits de l'homme et des libertés fondamentales, d'être "*un centre où s'harmonisent les efforts des nations vers ces fins communes*".<sup>22</sup> L'ONU représente donc un forum de délibération et d'action en faveur de la paix, de la sécurité et de la coopération internationales. Elle s'est imposée comme le haut lieu de la diplomatie mondiale. Elle s'est adaptée aux circonstances, privilégiant selon les défis, l'Assemblée Générale, le Conseil de sécurité ou le Secrétaire Général, ce qui a entraîné un équilibre entre les différents organes.<sup>23</sup> À l'actif de l'ONU se trouve la pacification du monde par rapport à l'ordre international classique fondé sur le droit de la guerre ou tout simplement sur la guerre.

Sur le plan de l'égalité en droit des peuples et de leurs droits à disposer d'eux-mêmes, la création de l'ONU a facilité le processus de décolonisation et promu d'anciens territoires coloniaux au statut d'États souverains membres des Nations Unies.

Sur le plan du développement, l'objectif de progrès économique et social pour tous les peuples a connu un début de réalisation mais des défis restent encore à relever. Si l'Assemblée Générale des Nations Unies a servi de forum pour la formulation des principales revendications des peuples les moins favorisés, le jeu d'une majorité automatique des pays du Sud n'a pas permis d'orienter en leur faveur le fonctionnement du système économique international. Les pays développés se sont opposés à l'idée d'un Nouvel ordre économique international. Cette idée tout comme les mécanismes prévus pour sa mise en œuvre étaient en contradiction avec le mode de fonctionnement de leurs économies et reposaient sur une acception excessive de la souveraineté et de l'interdépendance.<sup>24</sup> De nombreuses institutions du développement ont cependant été créées. Qu'on songe à la CNUCED, au PNUD ainsi qu'à l'ONUDI; qu'on songe aussi aux Commissions économiques régionales. Toute la famille des Nations Unies, incluant les organes subsidiaires et les institutions spécialisées, a été mobilisée dans le sens de la promotion du développement économique.

Même si cette action ne s'est pas traduite par la création d'un gouvernement mondial, elle a entraîné la mise en place d'une *interdépen-*

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<sup>22</sup> Article 1, paragraphe 4 de la Charte des Nations Unies.

<sup>23</sup> GERBET, PIERRE, *Le rêve d'un ordre mondial: de la SDN à l'ONU*, Paris, Imprimerie Nationale Éditions, 1996.

<sup>24</sup> BERNIER, IVAN, "Souveraineté et interdépendance dans le Nouvel ordre économique international", in *Études internationales*, 1978, vol. IX, no. 3, p. 361-382.

*dance* et d'une *solidarité* entre Nations riches et pauvres. Les Nations Unies ont été utilisées comme moyen pour "*marteler la conscience*" de la communauté internationale. Toutefois, les organisations internationales économiques d'inspiration néolibérale se sont progressivement substituées à l'ONU dans le domaine de la coopération pour le développement. Ainsi, à l'ère de la mondialisation, le Groupe de la Banque mondiale, le Fonds monétaire international et l'Organisation mondiale du commerce se présentent comme les institutions les plus aptes à faciliter l'insertion des pays du Sud dans le système économique international. *Ces institutions sont en effet perçues comme exerçant un gouvernement de fait sur la société globale*, à côté des sociétés transnationales qui en sont des acteurs déterminants.

Parallèlement à l'action de l'ONU en matière de développement économique, le GATT de 1947 a servi de forum pour la libéralisation des échanges commerciaux sur la base des principes de non-discrimination et de réciprocité. Considéré pendant longtemps comme le "*club des riches*", il a été progressivement rejoint par de nombreux pays en voie de développement et la nouvelle organisation mondiale du commerce qui lui a succédé de fait le 1<sup>er</sup> janvier 1995 vise une représentation universelle à travers une procédure démocratique de prise de décision fondée *sur le principe d'égalité* lorsqu'il y a vote à la différence des institutions de *Bretton Woods* qui mettent en œuvre *un système de pondération des voix*.

Au demeurant, les Nations Unies comme "*centre où s'harmonisent les efforts des nations vers les fins communes*"<sup>25</sup> apparaissent surtout comme une représentation utopique de la solidarité et de la fraternité entre nations. La distinction sociologique entre *Gesellschaft*, société, et *Gemeinschaft*, communauté, traduit les deux termes du dilemme de l'organisation mondiale. Ces deux types d'organisation sociale coexistent dans le système international, particulièrement en cette période de l'Après-Guerre froide. D'aucuns affirment que la société internationale est représentée par les organisations internationales alors que les organismes non-gouvernementaux forment la communauté internationale.<sup>26</sup> D'autres voient dans les organisations internationales une représentation de la communauté internationale, "*une utopie des fins*" qui "*projette des images globalisantes, simplificatrices mais mobilisatrices*".<sup>27</sup>

<sup>25</sup> Article 1, paragraphe 4, Charte des Nations Unies.

<sup>26</sup> SMOUTS, MARIE-CLAUDE, *Les organisations internationales*, Paris, Armand Colin, 1995.

<sup>27</sup> DUPUY, RENÉ-JEAN, "Commentaire de l'article 1 paragraphe 4 de la Charte des Nations Unies", in COT, JEAN-PIERRE, PELLET, ALAIN, *La Charte des Nations Unies, Commentaire article par article*, op. cit. p. 67; voir également DUPUY, RENÉ-JEAN, "Le Dédoublé du Monde", *Revue générale de droit international public*, Tome 100, vol. 2, 1996, p. 313-321. Du même auteur: *La clôture du système international. La cité terrestre*, Paris, PUF, 1989; *La communauté internationale entre le mythe et l'Histoire*, Paris, UNESCO, 1987.

L'Église pour sa part, s'est préoccupée de cette question à travers la diffusion de nombreux textes d'origine pontificale comme les encycliques, les lettres et messages de divers papes de Pie XI à Jean-Paul II<sup>28</sup> ou provenant des conciles, par exemple *Gaudium et Spes* du concile vatican II promulgué le 7 décembre 1965. Une place particulière doit être faite au discours prononcé la même année par sa Sainteté, le pape Paul VI devant les représentants des Nations Unies dans lequel il interpella l'humanité en ces termes: "*Qui ne voit la nécessité d'arriver ainsi progressivement à instaurer une autorité mondiale en mesure d'agir efficacement sur le plan juridique et politique?*"<sup>29</sup> Dans la même lignée se situe l'intervention de Sa Sainteté, le pape Jean-Paul II le 5 octobre 1995 à la cinquantième Assemblée Générale des Nations Unies.

Dans l'encyclique *Pacem in Terris*, de Sa Sainteté le pape Jean XXIII, publiée le 11 avril 1963 et qui s'inscrit dans la tradition de discours social de l'Église,<sup>30</sup> on peut lire:

*"De nos jours, le bien commun universel pose des problèmes de dimensions mondiales. Ils ne peuvent être résolus que par une autorité publique dont le pouvoir, la constitution et les moyens d'action prennent eux aussi des dimensions mondiales, et qui puisse exercer son action sur toute l'étendue de la terre. C'est donc l'ordre moral lui-même qui exige la constitution d'une autorité publique de compétence universelle".*<sup>31</sup>

Toutefois, la création de cette autorité universelle devra, selon Jean XXIII, se soumettre à trois conditions: l'accord unanime de toutes les nations intéressées, la protection des droits de l'homme notamment sur la base de la Déclaration universelle des droits de l'homme de 1948 et la mise en oeuvre du principe de subsidiarité.<sup>32</sup> C'est donc dire qu'une éthique des rapports internationaux s'impose, pour que l'autorité internationale soit légitime et effective.

Confronté d'une part à la nécessité de mieux gérer les rapports à l'échelon global et d'autre part à l'incapacité d'établir un véritable gouver-

<sup>28</sup> Voir notamment, PIE XI, *Quadragesimo Anno*, 1931; JEAN-PAUL II, *Laborem exercens*, 1981. *Discours à l'OIT*, 1982.

<sup>29</sup> PAUL VI, "Allocution aux représentants des Nations Unies", in *Documentation catholique*, 1965, col. 1733; voir également *Populorum Progressio*, paragraphe 78, 1967.

<sup>30</sup> MONGENAIS, DENIS, *Le discours social de l'Église, de Léon XIII à Jean-Paul II*, Paris, Éditions du Centurion, 1985.

<sup>31</sup> *Pacem in terris*, 1963, 137.

<sup>32</sup> DE LAUBIER, PATRICK, *Pour une civilisation de l'amour. Le message social chrétien*, Paris, Fayard, 1990, p. 260-261.

nement mondial, le concept de gouvernance tente d'insuffler un nouveau dynamisme à la structuration des rapports internationaux. Simultanément, l'adoption de nouvelles chartes portant sur les droits et les libertés de même que sur la réduction du recours à la force fait progresser la cause des principes de la démocratie à l'échelon universel.

### B. La recherche de régimes et de démarches démocratiques

Si la société internationale issue des deux guerres mondiales a opté pour le règne du droit dans les rapports internationaux, un ordre juridique international est censé structurer les rapports sociaux. Or, l'organisation internationale conçue comme une institution intergouvernementale semble impuissante devant le phénomène de la mondialisation mû de plus en plus par des forces privées. Mais au-delà de *l'interétatisme*, l'organisation internationale participe à une institutionnalisation progressive de la société internationale à laquelle la mondialisation elle-même ne peut échapper et dont relève la *gouvernance*.

À l'origine de la *gouvernance mondiale* se trouve *l'ineffectivité* des normes juridiques intergouvernementales. Celles-ci sont régulièrement contournées dans la pratique des États. Les normes ne connaissent pas l'effectivité souhaitée. Aussi sont-elles suppléées par d'autres normes sociales, les "*les règles du jeu*" qui laissent une place importante à l'expression du pouvoir politique et ou économique. En plus de la juxtaposition de deux types d'ordres, se sont affrontées deux approches de l'organisation de la société globale: une approche politique véhiculée par la Charte des Nations Unies dont la mise en œuvre a donné naissance à la famille des Nations Unies et une approche économique de la société globale symbolisée par les Accords de *Bretton Woods* ayant créé la Banque internationale pour la reconstruction et le développement ainsi que le Fonds monétaire international. Ces organisations sont censées faire partie de la famille des Nations Unies mais elles ont développé une existence et une logique propres qui les rapprochent de la logique de l'Accord général sur les tarifs douaniers et le commerce, le GATT de 1947, et par conséquent de l'Organisation mondiale du commerce. Dans le système issu de la Guerre froide, ces trois dernières organisations sont appelées à coopérer en vue d'assurer une *cohérence* dans les politiques économiques.

En somme, la recherche d'une *gouvernance mondiale* a été facilitée par les actes fondateurs des organisations internationales économiques issues de la deuxième Guerre Mondiale. Ces derniers ont mis en place un système de cantonnement de l'État à son domaine de police et de sécurité pour ne pas

dire de gendarmerie.<sup>33</sup> La voie était pavée pour la mondialisation. Sur le plan interne, l'État s'est progressivement désengagé au profit des opérateurs économiques privés. Sur le plan international, la libéralisation des échanges commerciaux de biens et de services ainsi que l'accroissement des flux de capitaux ont laissé l'espace international au libre jeu du marché. Dans les faits, l'ordre juridique international n'était plus exclusivement intergouvernemental. Un *tiers droit* pouvait être réclamé. La *lex mercatoria*, conçue comme un ordre juridique autonome et propre aux entreprises, s'est substituée à l'ordre juridique intergouvernemental et même à l'ordre national des États. Cette fluidité de l'espace trouve une formulation radicale dans la thèse de l'autorégulation du marché: la loi du marché a été assimilée à l'État, voire à l'État de droit.<sup>34</sup>

Le rêve d'un *ordre juridique interétatique* dans le domaine économique a avorté emporté par le *renouveau de la liberté du commerce*.

L'institutionnalisation, perçue dans sa dimension classique de juridicisation, n'a pas conquis le terrain économique. Ce phénomène n'est pas nouveau. Le droit n'a jamais entièrement couvert les rapports sociaux. Tout ne peut pas être institutionnalisé. L'autonomie individuelle s'y oppose. À côté des normes formelles se développent toujours des normes sociales intériorisées par les acteurs sociaux et régulant le milieu social.

Dans le milieu social international en construction s'est donc reproduit le phénomène plusieurs fois millénaire d'autonomie individuelle et sociale. Le vide laissé par le droit international peut cependant être interprété comme étant un espace de liberté, la nature elle-même ayant horreur du vide.

Sur le plan politique, la tentative d'organisation du monde par le droit est contrariée par la toute puissance de l'État souverain qui revendique "*la compétence de la compétence*" et par le jeu des rapports de force. Ainsi à côté des procédures formelles de prise de décision existe une procédure réelle.<sup>35</sup> Cette procédure est renforcée par la fin de la Guerre Froide qui a laissé un "*ordre mondial relâché*",<sup>36</sup> une *société internationale en transition*.

Dans ce contexte, il est possible que la volonté de changer le monde utilisée pendant un demi-siècle par l'idéologie communiste comme alibi de

<sup>33</sup> GHASSAN, AL KHATIB, *La part du droit dans l'organisation économique contemporaine. Essai d'évaluation*, Bruxelles, Bruylant, 1994.

<sup>34</sup> COHEN-TANUGI, L., *Le Droit sans l'État*, Paris, PUF, 1985.

<sup>35</sup> COLIN, JEAN-PIERRE, "Relations internationales et concepts juridiques: la morphologie juridique des Relations internationales", *Le Trimestre du monde*, 3<sup>e</sup> trimestre, 1994, p. 161-173.

<sup>36</sup> LAÏDI, ZAKI, *L'ordre mondial relâché. Sens et Puissance de la Guerre froide*, Paris, Presses de la Fondation Nationale de Sciences Politiques, 1993.

gouvernement serve d'outil démocratique dans la société internationale actuelle. Pour ce faire une culture démocratique s'impose. Elle constitue:

*“le moyen politique de recomposer le monde et la personnalité de chacun, en encourageant la rencontre et l'intégration des cultures différentes pour permettre à chacun d'entre nous de vivre la plus large part possible de l'expérience humaine”*.<sup>37</sup>

Pour l'instant, le pouvoir de représentation du monde est conféré au Conseil de sécurité et la gestion des crises se fait par l'action individuelle, concertée ou collective des membres permanents du Conseil. Il est vrai que certains pays prennent des initiatives. Mais les objectifs de maintien de la paix et de la sécurité internationales ne sont pas toujours atteints et les contraintes du milieu social international ne cessent de s'accroître.<sup>38</sup>

Au reste, la brèche ouverte dans la structuration du monde ne peut être colmatée et la structuration elle-même renouvelée sans le recours à un jeu égal de l'autorité et de la liberté. La réforme des organisations internationales entreprise en vue d'une bonne *gouvernance* ne peut aboutir sans la mobilisation de toutes les ressources dont dispose l'humanité. Une *gouvernance* sans système est tout aussi aléatoire qu'un système sans *gouvernance*.

Si, d'un côté, la *gouvernance mondiale* se met en place avec l'influence grandissante des mouvements écologistes et des enjeux environnementaux, de la globalisation économique et financière et de la naissance de la notion d'intervention humanitaire,<sup>39</sup> si, d'un autre côté, les aspirations à la démocratie manifestées à l'intérieur des États ne peuvent être satisfaites sans le corollaire d'une *gouvernance mondiale démocratique*, il est un impératif qui ne peut passer inaperçu: *la responsabilité collective des pays du Nord*. Cette responsabilité tient aux ressources et aux moyens de contrainte dont disposent ces États. Néanmoins, la légitimité de leur autorité et des décisions qu'ils prennent ne peut provenir que d'un assentiment mondial à la définition des problèmes globaux. *Le droit à l'initiative est un corollaire obligé d'une démocratisation de la gouvernance mondiale*. Le mot partenariat, en vogue dans les discours officiels depuis quelques années, ne peut se traduire dans les faits si ce *droit à l'initiative* est refusé aux populations concernées ou à leurs représentants légitimes. D'où l'idée d'une communauté internationale unifiée où la personne humaine et les peuples trouveront l'aire naturelle d'un épanouissement plénier.

<sup>37</sup> TOURAINE, ALAIN, *Qu'est-ce que la démocratie?*, Paris, Fayard, 1994, p. 277.

<sup>38</sup> DIEHL, PAUL F., *The politics of Global Governance, International Organization in an Interdependent World*, London, Lynne Rienner Publishers, 1997.

<sup>39</sup> SMOUTS, MARIE-CLAUDE, *Les Organisations internationales*, Paris, Armand Colin, 1995.



Durant toute la deuxième moitié du XX<sup>e</sup> siècle, l'organisation internationale a servi de forum multilatéral de discussion et de cadre institutionnel de décision. Elle a montré l'utilité d'une approche globale des problèmes. *Elle participe d'une démocratisation des relations internationales.* Toutefois, elle ne représente qu'un aspect du phénomène institutionnel. L'institutionnalisation des rapports sociaux englobe désormais différents modes de prise de décision. L'État lui-même, principale institution, éprouve des difficultés à asseoir sa souveraineté dans un monde interdépendant où les problèmes à résoudre sont souvent planétaires. Les États du Nord sont ainsi amenés à céder une partie de leurs prérogatives à des instances qui ne sont pas nécessairement des organisations internationales au sens formel du terme. Qu'on songe au G7 ou G8 et aux sommets économiques de Davos. Il y a en effet un foisonnement institutionnel dont l'État et l'organisation internationale ne rendent plus entièrement compte.

À l'aube du XXI<sup>e</sup> siècle, les sociétés transnationales ont affirmé leur autorité. À travers les fusions et les prises de contrôle, elles ont décuplé leur influence sur les processus de prise de décision. La société civile internationale, inorganique au début du siècle, est devenue une force incontournable et tient des sommets parallèles aux sommets intergouvernementaux. L'individu, longtemps ignoré se fait entendre dans des instances internationales et l'État national n'a plus le monopole de la contrainte sur son citoyen. Le devoir d'ingérence est devenu une réalité face aux nombreuses situations où la condition et la dignité humaines sont ramenées à des situations abjectes.<sup>40</sup> Parallèlement, des résistances se font sentir dans les sociétés internes.

## DEUXIÈME PARTIE: *DES SITUATIONS ÉCLATÉES AUX ÉCHELONS NATIONAL ET LOCAL*

Une organisation démocratique du monde bute toujours sur la disparité des expériences nationales et sur de nouvelles formes de résistance aux valeurs démocratiques.

### A. *Disparité des expériences démocratiques*

Les rapports entre l'autorité et la liberté ont déterminé le cadre d'éclosion des différentes expériences démocratiques. Comment faire

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<sup>40</sup> BETTATI, MARIO, *Le Droit d'ingérence, Mutation de l'ordre international*, Paris, Éditions Odile Jacob, 1996; voir aussi, "Action Humanitaire. Devoir d'ingérence. Naissance d'un droit nouveau", *Les Cahiers de l'Express*, No. 20, Paris, 1993.

participer les citoyens à la vie de leur communauté politique en assurant l'expression des différentes opinions individuelles tout en évitant la dislocation des structures sociales? À cette question récurrente s'est greffée la conscience de la dignité humaine et l'on remarque de plus en plus, dans diverses régions du monde, "*l'effort pour instaurer un ordre politico-juridique dans lequel les droits de la personne au sein de la vie publique soient mieux protégés*".<sup>41</sup>

Au fil des siècles, l'État s'est imposé comme l'institution capable de favoriser la pleine participation des citoyens et différentes théories politiques ont tenté de cerner la place de ce "*pouvoir institutionnalisé*"<sup>42</sup> dans le déroulement du jeu démocratique.

Ainsi, Jean-Jacques Rousseau dans sa conception de la démocratie, considère que l'État, au service du peuple, jouit d'une légitimité qui ne saurait être contestée parce que fondée sur le contrat social et la loi. Quiconque, dit le philosophe genevois, "*refusera d'obéir à la volonté générale y sera contraint par tout le corps ... On le forcera d'être libre*".<sup>43</sup> Le citoyen participe à l'expression de la volonté générale symbolisée par la loi à laquelle il a l'obligation de se soumettre.

Cette forme de démocratie a cependant du mal à se traduire dans les faits. La liberté-autonomie de l'individu n'a pas cédé devant la liberté-participation. Jean-Jacques Rousseau lui-même s'en doutait:

*"s'il y avait un peuple de dieux, il se gouvernerait démocratiquement. Un gouvernement si parfait ne convient pas à des hommes"*.<sup>44</sup>

À la loi sacralisée, les sociétés modernes ont opposé la constitution comme loi fondamentale. Désormais, l'État s'autolimité et les droits et libertés du citoyen sont garantis. Dans la plupart des pays industrialisés, l'État de droit apparaît comme le modèle référentiel en matière d'organisation sociale. On est en présence d'États de droit démocratiques.

Les limites apportées à l'autonomie de la personne humaine dépendent des situations particulières de chaque pays. Partout, l'idéal démocratique est confronté au libéralisme économique. Ce qui entraîne des défis majeurs. Lorsqu'il n'intervient pas suffisamment pour protéger les faibles, l'État est contesté. Il est également décrié quand il empiète trop sur l'autonomie de

<sup>41</sup> *Gaudium et spes*, 73 paragraphe 2.

<sup>42</sup> CHANTEBOUT BERNARD, (Études coordonnées par), *Le Pouvoir et l'État dans l'oeuvre de Georges Burdeau*, Paris, Economica, 1990.

<sup>43</sup> ROUSSEAU, JEAN-JACQUES, *Du Contrat social*, Paris, Garnier-Flammarion, 1992, p. 42-43.

<sup>44</sup> ROUSSEAU, JEAN-JACQUES, *Du Contrat social*, Paris, Garnier-Flammarion, 1992, p. 97.

la personne humaine à travers ses lois et ses règlements. L'institution étatique se trouve donc écartelée entre "l'État minimal" et l'"État subsidiaire".<sup>45</sup> Mais l'État de droit démocratique se propose de remédier à cette situation en faisant respecter la hiérarchie des normes et en empêchant le règne de l'arbitraire.

Trois cas de figure se présentent. L'État peut être au service de la Nation avec laquelle il coïncide. Dans ce cas, l'État-Nation garantit le nationalisme qui trouve dès lors un lieu privilégié d'expression; au-delà de l'opposition entre grandes et petites nations qui, dans l'ordre international classique déterminait l'échiquier politique, le nationalisme a permis à certaines communautés de développer des institutions démocratiques. Le Japon et l'Allemagne en offrent des exemples. Dans ces deux pays, la démocratie trouve à travers la nation, le cadre naturel d'épanouissement. Cette idée de nation ne conduit pas nécessairement "au nationalisme tel qu'on le concevait au Moyen Âge à l'époque de Godefroy de Bouillon et des croisades".<sup>46</sup> Elle permet seulement à une communauté humaine d'affirmer sa spécificité.

La démocratie trouve également son épanouissement dans le concept de *peuple* mettant l'accent sur la *Res publica*, la chose publique, la République. L'expérience française illustre cet esprit démocratique. L'égalité devant le service public et le contrôle judiciaire de l'administration orientent le fonctionnement de cette forme de démocratie.

Enfin, au-delà de la *nation* et du *peuple*, la *société civile* joue un rôle de contrôle démocratique à travers les groupes de pression et diverses associations à but non lucratif. Les États-Unis ont servi de creuset à cette forme de démocratie.

Alexis de Tocqueville l'avait déjà noté dans son oeuvre maîtresse *De la Démocratie en Amérique* lorsqu'il affirme:

*"L'Amérique est le pays du monde où l'on a tiré le plus de parti de l'association, et où l'on a appliqué ce puissant moyen d'action à une plus grande diversité d'objets.*

*Indépendamment des associations permanentes créées par la loi sous le nom de communes, de villes et de comtés, il y en a une multitude d'autres qui ne doivent leur naissance et leur développement qu'à des volontés individuelles".<sup>47</sup>*

<sup>45</sup> MILLON-DELSOL, CHANTAL, *L'État subsidiaire: ingérence et non-ingérence de l'État: le principe de subsidiarité aux fondements de l'Histoire européenne*, Paris, PUF, 1992.

<sup>46</sup> RICHARD, PHILIPPE, *Droits de l'Homme, Droits des Peuples*, Lyon, Chronique sociale, 1995.

<sup>47</sup> ALEXIS DE TOCQUEVILLE, *De la démocratie en Amérique*, I, Paris, Gallimard, 1986, p. 287.

Par dessus tout, dans les démocraties modernes, le *régime représentatif* s'est installé et le suffrage a évolué du caractère restreint au caractère universel.

Aussi, la doctrine constitutionnaliste reconnaît-elle que le mandat politique du député a pour conséquence d'amener celui-ci à participer au pouvoir législatif sur la base de sa conscience nationale et non en se fondant sur des consignes directs émanant de ses électeurs. *En principe son mandat n'est pas impératif mais représentatif*. Il ne s'éloigne pas pour autant de l'électeur dont il défend les intérêts. Ce dernier exerce dans certains cas un droit de révocation.<sup>48</sup>

Au vrai, la démocratie représentative n'est qu'une approximation mais une approximation réaliste de la démocratie. Dans ces conditions, le recours au référendum sur certaines questions d'intérêt fondamental garantit au peuple ses droits souverains et donne tout son sens à la démocratie comme gouvernement du peuple, par le peuple et pour le peuple. L'exemple des cantons suisses illustre le modèle d'une démocratie semi-directe fondée sur l'usage fréquent du référendum.

Dans les sociétés modernes, la démocratie est donc exercée par une élite censée représenter le peuple dont il tire son inspiration. Dans certaines circonstances, le peuple est consulté à travers un référendum et l'élu en tire les conséquences. Il peut arriver que le peuple ne soit pas seulement consulté mais qu'il décide en toute souveraineté de la réponse à apporter à la question qui lui est soumise en approuvant ou en rejetant une option sociale donnée.

À côté du régime représentatif, la théorie de la *séparation des pouvoirs* est censée fonder les régimes démocratiques modernes. *L'Esprit des Lois* de Montesquieu fait partie intégrante de la culture politique à tel point que tout régime qui s'en éloigne est perçu comme totalitaire. *L'Esprit des Lois* est entré dans l'esprit des gens.

Il s'ensuit que dans les sociétés démocratiques, l'organisation de l'État tourne autour de la *séparation des pouvoirs*. Le système électoral permet de faire intervenir les partis politiques dans l'expression du suffrage. La représentation proportionnelle apporte des correctifs à la représentation majoritaire afin de tenir compte des différentes sensibilités.

En définitive, dans un régime démocratique, l'État est au service du peuple ou de la nation, les deux notions étant parfois synonymes.

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<sup>48</sup> CHANTEBOUT, BERNARD, *Droit constitutionnel et Science politique*, Paris, Armand Colin, 13<sup>e</sup> édition, 1996; ARDANT, PHILIPPE, *Institutions politiques et Droit Constitutionnel*, Paris, LGDJ, 6<sup>e</sup> édition, 1994; PACTET, PIERRE, *Institutions politiques, droit constitutionnel*, Paris, Armand Colin, 15<sup>e</sup> édition 1996.

Subséquentement, tous les régimes démocratiques doivent compter, pour fonctionner, sur la mobilisation des citoyens. Mais l'abstention est devenue une pratique courante, quasi permanente aux États-Unis, les taux d'abstention atteignant 50% aux présidentielles et 65% aux législatives.<sup>49</sup> Une telle situation peut s'expliquer par *l'émergence de nouvelles formes de démocratie qui ne sont pas encore institutionnalisées*. On peut observer l'édification d'une démocratie technologique avec le rôle du savoir et de l'information, la mise en place d'une démocratie civile avec la montée de l'opinion publique. Si la première demeure élitiste, la deuxième s'enracine dans toutes les couches de la société et les citoyens, préoccupés par la "bonne gouvernance" capable de répondre à leurs besoins diversifiés et sans cesse croissants, interpellent continuellement les gouvernants. La démocratie a donc un avenir<sup>50</sup> mais elle se transformera nécessairement. On peut voir cette transformation dans la naissance d'une "*démocratie fonctionnelle*"<sup>51</sup> consécutive aux mutations de l'État. Mais la démocratie représentative ne disparaîtra pas avec l'affaiblissement de l'institution étatique. Malgré les résistances, elle tentera de se renouveler dans les sociétés internes et connaîtra des contraintes structurelles dans la société globale dont le champ politique demeure diffus et la structure fragmentée. Les voies de l'avenir se dessinent donc dans la *démocratie civile* ou "*démocratie d'opinion*" qui a besoin d'être "*pensée*".<sup>52</sup> Pour l'instant, la démocratie représentative tente difficilement de s'étendre dans des sphères socioculturelles différentes de celle de l'Occident.

### B. Résistances, progrès et défis

L'effondrement des régimes communistes n'a pas mis fin au totalitarisme. De nouvelles formes de résistance aux valeurs démocratiques s'expriment à travers divers types de pouvoir autoritaire. L'enjeu porte de plus en plus sur les tiraillements entre l'universalisme et les spécificités régionales ou locales.<sup>53</sup> Au nom du droit à la différence, fondement même

<sup>49</sup> SUBILEAU, FRANÇOIS, TOUNET, MARIE-FRANCE, *Les Chemins de l'abstention. Une comparaison franco-américaine*, Paris, La Découverte, 1993.

<sup>50</sup> SCHLESINGER, ARTHUR JR., *Has Democracy a Future?*, *op. cit.*, p. 2-12.

<sup>51</sup> THUOT, JEAN-FRANÇOIS, "Déclin de l'État et formes postmodernes de la démocratie" *Revue Québécoise de Science politique*, No. 26, Automne 1994, p. 75-102.

<sup>52</sup> MINC, ALAIN, *L'ivresse démocratique*, Paris, Gallimard, 1995.

<sup>53</sup> La Conférence de Vienne de 1993 a permis aux représentants des États membres des Nations Unies ainsi qu'aux organisations non gouvernementales de cerner cet enjeu. Cinq ans après cette conférence et dans le cadre de la célébration du cinquantième anniversaire de la

de la démocratie, des régimes politiques continuent d'embrigader les peuples et d'étouffer les libertés.

Si la dignité humaine est perçue comme valeur universelle à promouvoir, quels que soient la région et le pays, des divergences existent quant aux mécanismes par lesquels cette dignité doit être protégée pour préserver l'identité culturelle de chaque peuple. Ainsi, au nom du relativisme culturel certains régimes politiques développent une logique totalitaire. Or, à l'origine des régimes démocratiques se trouve la liberté, en premier lieu, la liberté de conscience. La sécularisation du pouvoir politique a eu pour effet d'amener l'individu à faire valoir les attributs inhérents à sa nature humaine.<sup>54</sup> Aussi, l'argument de la spécificité culturelle n'est-il valable que s'il vise *l'intériorisation des valeurs démocratiques* par l'individu et *son endogénéisation par la société* dans laquelle cet individu évolue.

En plus des arguments liés à la spécificité culturelle, la démocratie se présente parfois comme un commandement, un ordre exécutoire sous la menace d'une sanction et une tentative de promotion des valeurs individualistes. En dehors des pressions exercées par la société civile, bon nombre de régimes du Tiers Monde appréhendent le processus de démocratisation lancé au début des années 90 comme provenant d'une exigence des partenaires occidentaux et des institutions internationales.

En fait, malgré quelques résistances, le respect de la personne humaine demeure une des valeurs de civilisation les mieux partagées, du moins au chapitre des principes et des finalités. Les sociétés africaines par exemple se réclament de cette valeur en plus du communautarisme souvent proclamé. La *Charte africaine des droits de l'homme et des peuples* adoptée avant le renouveau démocratique actuel rend compte du tiraillement entre ces deux types de valeurs. L'idée de justice est immanente, même si sa mise en œuvre se heurte à certaines sensibilités régionales et locales. La prochaine célébration du cinquantième anniversaire de cet Acte fondamental qu'est la *Déclaration universelle des Droits de l'Homme* nous rappelle que celle-ci est:

*“concentrée sur l'homme indivisible, digne de protection en tous les aspects de sa personnalité, considéré comme membre de plein droit, sans intermédiaire de la société humaine dans son ensemble”.*<sup>55</sup>

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Déclaration Universelle des droits de l'homme, une évaluation des progrès réalisés est entreprise dans le cadre de nombreux colloques.

<sup>54</sup> Commission pontificale Justice et Paix, *L'Église et les droits de l'Homme*, Paris, Centurion, 1975.

<sup>55</sup> CASSIN, RENÉ, “Quelques souvenirs de la Déclaration Universelle de 1948” *Revue de droit contemporain*, 1968, No. 1, p. 20.

Les droits de l'homme sont universels malgré la diversité des régimes politiques censés les promouvoir et les protéger.<sup>56</sup>

Comme les droits de l'homme, *la démocratie postule l'acceptation de la différence, la reconnaissance de l'autre comme étant à la fois semblable et différent*. À cet effet, elle apparaît comme la traduction temporelle de la fraternité humaine. Par ce fait même et à travers *le processus international*, elle tend à devenir une valeur universelle à l'abri des particularismes. Toutefois, son extension géographique et son insertion comme valeur dans les chartes et déclarations n'entraînent pas nécessairement son respect en pratique par tous les régimes politiques<sup>57</sup> même si les organisations internationales, en premier lieu les Nations Unies, ambitionnent de promouvoir l'idéal démocratique. La difficulté vient du fait, qu'au-delà de la proclamation de l'égalité formelle entre les États, les relations internationales révèlent plutôt une inégalité de fait. *La démocratie dans le système international relève alors d'une vision prométhéenne des droits des peuples à disposer d'eux-mêmes ainsi que d'une projection téléologique de la fraternité humaine*. Elle est évanescence et se projette dans les sociétés internes. La mondialisation qui met en présence dans une même cité globale les individus et les peuples de diverses nations crée cependant un nouvel espace politique que la gouvernance mondiale pourra renforcer. James N. Rosenau qualifie cet espace de "*frontier*" lieu de rencontre de l'interne et de l'international, espace poreux en édification permanente pour parer à la "*fragmegration*", caractéristique du système international actuel qui est à la fois intégré et fragmenté.<sup>58</sup> Cet espace de liberté sera source d'innovations démocratiques.

#### CONCLUSION: *DISTORSIONS STRUCTURELLES ET INNOVATIONS DÉMOCRATIQUES*

La société internationale, sous la pression de la multiplication des échanges, s'est progressivement structurée sous divers scénarios intergouvernementaux, *l'interétatisme, le multilatéralisme, le fonctionnalisme, les régimes mondiaux* et depuis quelques années *la gouvernance globale* qui exclut le concept de gouvernement mondial tout en mettant en lumière que la planète, pour divers motifs, notamment écologique, économique, te-

<sup>56</sup> FILBECK, GIORGIO, *Les Droits de l'Homme dans l'Enseignement de l'Église: de Jean XXIII à Jean-Paul II*, Cité du Vatican, Libreria Editrice Vaticana, 1992.

<sup>57</sup> SABOURIN, LOUIS, *Mutamenti internazionali e paradossi democratici*, op. cit.

<sup>58</sup> ROSENAU, JAMES N., *Along the Domestic-Foreign Frontier: Exploring Governance in a Turbulent World*, Cambridge, Cambridge University Press, 1997.

chnologique et humanitaire, exige des types de coordination structurelle à caractère universaliste. Dans cet ordre d'idées, il appert en cette fin du XX<sup>e</sup> siècle que le concept d'un gouvernement mondial qui serait démocratique aura à surmonter des obstacles et relever des défis de taille. Qu'il suffise de mentionner quatre distorsions.

Il y a *premièrement* l'absence d'un *modèle* de gouvernement démocratique qui rallierait tous les acteurs des relations internationales. Si la démocratie fait des progrès dans beaucoup de pays, elle est loin d'être appliquée de façon uniforme. Un gouvernement mondial, fondé sur des préceptes et des concepts démocratiques tels que définis dans les grandes chartes, est donc confronté à ces distorsions ainsi qu'à la réalité des rapports de force dans le système international ainsi qu'à la permanence de la volonté de puissance, inhérente à la souveraineté étatique.

*Deuxièmement*, face à l'hétérogénéité de la société internationale, composée d'États à niveaux de développement différents, il n'existe pas de consensus sur la nature même d'un processus démocratique international qui veillerait à un meilleur partage des richesses mondiales. Le *système interétatique* engendre certes un *régime d'égalité* de droit entre les États mais la pratique sous-tend un *environnement mondial fait d'inégalités*. Les écarts de développement entre les États créent des tensions qui rendent difficile un compromis sur l'essence d'un gouvernement mondial démocratique. Ainsi, l'égalité juridique des États, fondement de l'ordre international actuel, est compromis par l'inégalité de fait liée aux déséquilibres dans les progrès économiques et sociaux.

*Troisièmement*, de nombreux acteurs privés viennent concurrencer l'État sur la scène politique internationale. La société globale ne supportera pas une régulation par le haut tant que le marché politique international demeurera soumis aux impératifs du marché économique. La désarticulation de la société globale compromet ainsi la mise en place d'une structure gouvernementale mondiale.

*Enfin*, la remise en question de l'État, comme principal agent économique et financier, a une influence directe sur sa fonction d'arbitre, de régulateur et de promoteur principal des droits humains. Ces tâches passent de plus en plus à des agents privés, à des médias incluant les technologies nouvelles, à des ONGs et autres groupes et entités qui créent des régimes de type nouveau dans l'ordre international et laissent entrevoir des démarches qui, si elles favorisent une structuration différente des échanges et des comportements, n'entraînent pas pour autant la mise en place d'un gouvernement mondial à caractère démocratique. Ces démarches débouchent plutôt sur de nouvelles formulations de l'idée démocratique avec le rôle prépondérant du savoir et de l'information.



Dans cet environnement en constante évolution, *la gouvernance mondiale* ne pourra tirer sa légitimité que *d'une acceptation des valeurs démocratiques par les acteurs de la communauté internationale*. *La nouvelle démocratie civile en quête d'institutionnalisation s'enracinera à l'intérieur des États et suscitera, par le jeu de la liberté des communications, une dynamique internationale qui mènera à son extension au milieu social international. Mais il s'agit là d'un long processus qui cheminera avec les exigences du monde post-moderne. En somme, c'est moins d'une nouvelle autorité globale internationale mais bien d'une nouvelle éthique internationale que la gouvernance mondiale a besoin pour intérioriser le projet démocratique, au seuil du XXI<sup>e</sup> siècle.*<sup>59</sup>

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<sup>59</sup> Je tiens à remercier M. Jean Maurice Djossou, associé de recherche au GERFI, pour sa coopération à la préparation de cette étude.

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*Discussion of the paper by L. Sabourin*

MARTIN

Thank you, Mr. Chairman. In talking about international relations very quickly we move into talking about interstate relations without realizing that even at a national level states are going through their own evolution, and this is particularly so with regard to the economy. At the same time, in the process of economic globalization, governments are not really the dominant player, which is rather the private sector. Now, it's very clear, in the social teaching of the Church, that the market, if this is a national market or a global market, requires a clear ethical and also juridical framework, if it is to function at all. We have the beginnings of rule-based systems, especially treaty organizations, like the World Trade Organization which actually can evolve and apply these rules. But the social teaching of the Church on the market also says that there are certain basic human interests which do not belong to the marketplace, and must be looked after in another way. Where do we begin to deal with these aspects in a new global economic system in which the state cannot intervene in the same way, and where do the instruments for this new solidarity on a global scale begin to appear?

I have a feeling that something is beginning to emerge, but that we are working very much at two speeds, and that the global market is moving forwards very quickly with the benefits for those who are the principal operators for that market, whereas the structure of a global solidarity is moving along at a much slower pace. The only instrument we have in order to bring about a structure of international solidarity are still negotiations between States, strangely enough, in which very often national interest plays a major role.

MINNERATH

Thank you. Professor Sabourin, you mentioned that the social teaching of the Church requires an international authority. There were already strong declarations in this respect by Pius XII, followed by the Encyclical *Pacem in Terris*, and also by Vatican II and John Paul II in one of his speeches to the UN. This request is motivated by the need to keep peace through

binding international law and sanctions. This theme is also connected with the notion of universal common good. In order to find out how international solidarity can work a universal forum for discussion must be available which focuses on binding conventions and a system of control for their application. This request for a universal authority should not ignore the danger inherent in all Promethean projects!

KAUFMANN

I am not convinced that your notion of a world civil society is the best concept by which to understand what is happening at a transnational level. The concept of civil society was related to the concept of the state, that is of a centralized form of multifunctional decision-making, whereas now what we see emerging are functional regimes at the world level, and also organizations which have limited purposes, which pursue specific social aims. So, how can we reconcile this notion with the notion of civil society?

RAMIREZ

Professor Sabourin, am I right in understanding this: that the kind of globalization we have is likely to go against the principles of democracy, because it is associated with international competition, trade liberalization, a free flow of goods and services that leads to the homogenization of culture? It has been said that globalization brings about a voiceless growth, a futureless growth. It has been cited that 358 billionaires belonging to transnational corporations control the global economy. I ask myself then: what is the antidote to this? In this context, how can we promote the well-being of people? At the Asian Pacific Economic Cooperation (APEC) Meeting in Manila, the Prime Minister of Malaysia, Mahathir, stressed the need for more development co-operation among countries rather than trade liberalization. Some of the movements that strive to create a balance in trade are in the area of alternative banking institutions – grameen banking for the poorest of the poor; and the Ecumenical Development Co-operative Society where Churches and Christians invest and these are loaned out to co-operative enterprises in the two-thirds world. There are many others. Some of these movements have been spurred by summits like the Summit on Social Development in 1995 and the Rio Summit in 1992. They are forces to balance elite globalization. According to Monsignor Martin, globalization has been engineered by private initiatives, by transnational corporations. The Church is also transnational; religious congregations, too. Is there a way by which we can harness these forces to bring about the real globalization we need, nurturing a culture of life, a culture of peace, a

culture where different cultural expressions of human dignity can be harvested to make people feel good about themselves and feel good about others? It is when people realize their dignity by contributing to something greater than they are that hopefully a world situation of well-being for all can come about.

MENSAH

Thank you very much. I just wanted to touch on one point: the question of world government. You said that it was utopian. Of course, it is utopian if one thinks of it as a structured central government; but there may be other ways of looking at it, and I think you yourself referred to one such way, that is the coordination of the decision process at the international level. I take it that you expect to have this not only at the intergovernmental level, but also at the level of all participants in the international decision-making process.

This to me is very important. We've been talking about civil society at the national level. At the international level non-governmental organizations, and even discrete sections of States such as indigenous peoples, have been accepted as legitimate participants in their own right. The idea is that all the different elements in national and international societies should be enabled to participate effectively in decisions which affect their interests. But we must also find a way of ensuring that the participation of these entities in the decision process is compatible with the democratic ideal, that is, there must be some form of internal democracy also in the different groups. This means that effective co-ordination of the international decision-making process should also entail a measure of democratization of the different components to the extent that this is possible. For if the units are to play a role in democratic governance, it is essential that they should be democratic in their own internal processes.

Another aspect which perhaps needs to be thought about is the question of international accountability. On this we have some very useful examples, especially in the field of human rights. The work of the United Nations Human Rights Commission has made a big difference to the way that people who suffer human rights abuses and people who are responsible for human rights abuses have come to perceive their obligations and rights in relation to the international community. We can also see similar effects from the work of the United Nations trusteeship system, which have enabled people and organizations in the colonies and non-self-governing territories to bring complaints before the Trusteeship Council. It may very well be that this is one way of gradually introducing a system of accountability in the international process. This will not, of course, create a central government,

but it will make governments all over the world at least feel that they have some international responsibility with regard to what they do in their territories and that there is a system and a common criterion for evaluating their performance, even within their domestic jurisdictions.

FETSCH

Die globale Welt funktioniert in zunehmendem Maße in den Güter- und Kapitalmärkten.

Zunehmend beanstandet wird das Fehlen einer Weltregierung mit entsprechenden Kompetenzen und der Möglichkeit, Rahmenbedingungen festzulegen und ggfs. Sanktionen durchzusetzen.

Strittig ist nicht so sehr die Frage, ob der weltweite Markt wohlstandssteigernd ist, sondern die Fairness-Frage, also die Herstellung von Bedingungen, unter denen man sich als gleicher Partner, als souveräner Käufer und Verkäufer gegenübertritt. Stehen hingegen die Verteilung von Subventionen, Standorten, Forschungs- und Entwicklungsmitteln, Sonderschutz gegen Auslandskonkurrenz und andere Privilegien auf der Tagesordnung, dann sind Konflikte vorprogrammiert.

Dies ist eine Folge davon, daß sich die bisher überwiegend nationalstaatlich verfaßten Ordnungen zunehmend einem internationalen Wettbewerb der Ordnungen selbst ausgesetzt sehen.

Da eine Weltregierung unrealistisch und auch nicht wünschenswert ist, kann die globale Welt nur durch freiwillige Übereinkünfte regiert werden. Partner hierfür sind immer mehr Zusammenschlüsse (Blöcke) auf der politischen Ebene wie z.B. die EU, die NAFTA usw., quasi-politische Organe und Einrichtungen wie z.B. GATT, WTO, IWF usw., wie auch die NGO's.

Es geht also bei der globalen Welt und ihrer Regierung nicht nur um globales Handeln und Wirtschaften, sondern vor allem um globale Verantwortung. Jede Art von Politik und Wirtschaft ist ohne ethisches Denken sittlich nicht verantwortbar. Dies setzt ein Bewußtsein für ein weltweites Gemeinwohl voraus, um den verschiedenen Bedürfnissen der Menschen Rechnung zu tragen.

Ein Gegensatz zwischen Gemeinwohl-Orientierung und Standortkonkurrenz besteht nicht. Vielmehr ist das Gemeinwohl eine Voraussetzung für den Wettbewerb. Das Gemeinwohl ist "die Gesamtheit jener Bedingungen des gesellschaftlichen Lebens, die sowohl den Gruppen wie auch deren einzelnen Gliedern es ermöglichen, die eigene Vollendung voller und leichter zu erreichen" (GS 26). Jedes Gemeinwesen hat ein spezifisches Gemeinwohl. Die globale Welt wird ohne die Anerkennung und bewußte



Entwicklung eines Welt-Gemeinwohls nicht möglich sein. Zu seiner Durchsetzung bedarf es gerechter und anerkannter Institutionen.

Daran mitzuwirken ist eine entscheidende Aufgabe aller Bürger. Auch für die Katholische Soziallehre erwächst eine neue Aufgabe, subsidiär Lösungen zu fördern und aufzubauen.

BONY

You spoke, I think, about new international ethics. I think that the problem of science and technology is so quick, so rapid, that you cannot but establish ethics of values at an international level. How can you conceive of such ethics? As far as these ethics are concerned, I am thinking about the enormous progress of information technology, of Internet, for example, which raises rather important problems. Is there a legislation, are there recommendations, can there be a world authority which could regulate to some extent the phenomenon of Internet?

ZAMPETTI

Prof. Sabourin, io ho letto con molto interesse la sua relazione che mi ha offerto degli spunti per alcune riflessioni.

Abbiamo parlato di globalizzazione e di mondializzazione. Io vorrei considerare un altro concetto che io ritengo molto importante e valido: il concetto di universalizzazione. Nella nostra storia sono emersi due grandi universalismi: l'universalismo politico dell'Impero romano e l'universalismo del Sacro Romano Impero che è durato fino alla pace di Westfalia, quando sono nati gli Stati nazionali moderni. Assistiamo ora ad un processo di disgregazione degli Stati nazionali mentre sta emergendo una nuova forma di universalismo direi a livello sociale, più ancora che a livello politico. Questo è molto importante anche perché Paolo VI nella *Populorum progressio* sosteneva la tesi validissima, ripresa poi da Giovanni Paolo II, secondo la quale lo sviluppo è il nuovo nome della pace. Ora lo sviluppo nasce nelle strutture della società che si articolano sull'economia. Ieri abbiamo parlato dell'organizzazione della società che è necessario sviluppare e incrementare, mentre diminuisce la forza e l'incisione della organizzazione degli Stati nazionali. Pensiamo al pullulare dei numerosissimi enti non governativi atomisticamente concepiti. Bisogna pensare ad una nuova organizzazione della società, ad una sua istituzionalizzazione. Direi che, forse, una ingegneria della società sia più importante di una ingegneria dello Stato. Capisco che non è un problema che si può affrontare in questa sede. Ma ho voluto sollevarlo perché l'universalismo politico deve andare di pari passo con l'universalismo sociale, che poi è l'universalismo della

persona umana che ha una dimensione appunto universale. Diventa allora importante prendere in considerazione la persona umana e l'organizzazione della società come un grande momento di analisi e di riflessione. Il concetto di sviluppo dovrebbe essere inquadrato in questa nuova prospettiva considerando che i problemi della società hanno assunto oramai carattere universale.

La ringrazio per la sua relazione, così bella e ricca di vedute sul prossimo futuro che si apre davanti a noi e nel quale la cultura avrà un ruolo determinante.

SABOURIN

You have been very kind to me, Mr. Chairman. I will be brief because I have heard more comments than questions. They have expressed a certain concern regarding the effects of globalization, especially in the fields of trade and finance which are controlled by a limited number of entities.

Mrs. Ramirez referred to the fact that 280 multinationals control the world economy; that is true in the manufacturing sector but not in most other fields. We are witnessing a process of integration which has become more and more visible during the last few years, notably in the financial sector. But, in fact, such a trend began years ago. On the one hand, we are not surprised that seven multinational companies control a very large part of the oil industry and about 20 companies share the car industry. In the banking industry, the situation is very different: thousand of banks operate on the international scene.

Mrs. Ramirez is asking how we could control these companies or at least influence them in such a way that they become more concerned about the well-being of people. This is a fair question.

First, let me say that globalization does not include only negative elements. The fact that I am sitting here next to you is due in part to the process of globalization. However, there are elements that we cannot control, you and I.

Second, I will reply to Professor Zampetti in the following way. I am not so preoccupied by the fact that there exist thousands and thousands of NGOs. I am by the fact that I cannot know most of them. The problem here is that a lot of people think that the NGO they belong to is more important than the others.

Third, I would reply to Mr. Mensah that one of the major problems between international agencies is that of co-ordination. It is fundamental within the UN system. If we look, for instance, at developmental aid, we cannot but deplore the lack of co-ordination. Since we recognize that we

cannot establish a central world instance with a lot of power, we are trying to devise new types of co-ordination. But the results are not very good.

I will conclude by saying that I am not as pessimistic as others when it comes to the role of ethics in world affairs. That does not mean that I am optimistic either. Twenty years ago, nobody in international organisations talked about ethics. The situation is very different today. The World Bank recently held a seminar on the role of ethics in development. Last week, in Paris, there was an important international conference on the role of NGOs in the struggle against poverty. Such discussions were unheard of a few years ago. Ethical concerns are introduced into the work of international agencies.

Monsignor Martin might wish to add a few words on the role played by the Pontifical Council of Justice and Peace in the field of international debt. The document prepared by the Council has had an influence not only in the Catholic world but also in many international forces, including the World Bank and the IMF. Thank you, Mr. Chairman.



## INTERVENTIONS INTERNATIONALES, SOVERAINETE DES ETATS ET DEMOCRATIE

THIERRY DE MONTBRIAL

### SUMMARY

The principle of State sovereignty has been at the root of public international law since the treaties of Westphalia (1648). In practice, limitations to this principle have constantly expanded, particularly in the second half of the twentieth century. For example, the idea that the "international community" can, and indeed in some cases should, intervene against "rogue States", as well as act to enforce or maintain peace in "failed" or "troubled" States, has gained ground. Nonetheless, there is no such thing as a world government. International organizations are in fact inter-State organizations. Any State has of course the right of self-defence against an aggressor, but clearcut aggressions have become scarce, and in most cases only the United Nations is entitled to make an intervention legal or legitimate. However, the United Nations is itself an inter-State organization, and its resolutions are more often than not perceived as biased because of the special structure of the Security Council. Moreover, the UN has no means of its own to enforce decisions, and to that effect it relies on the will of its members which play the game depending on their own national interests. In spite of its basic deficiencies, international law has become more effective over time and today it significantly contributes to moderating the potential effects of regional imbalances of power.

We argue that the term "the international community" is inappropriate. A more accurate concept is "international society". An important aspect of current transformations is the emergence of a world civil society which has positive but also negative sides which are too often ignored. This factor and others more or less related to the information technology revolutions induce medium and small States to associate themselves, thus creating new kinds of political units, the structure of which will become clear only through time. The most important process in this respect is the European Union which suggests, at a continental level, what a world government might be in a distant future. The idea of democracy is of paramount importance in this process.

In the foreseeable future the international system will remain heterogeneous. Its basic components, that is the players within international organizations, will be: the

United States, as the only superpower; emerging Europe, as a new kind of political unit; Asia, still tempted to operate locally under the balance of power mechanisms, at least partially; and a number of weak and marginal States, many of them in Africa.

This paper analyses the problem of international intervention taking into account all these realities. It stresses the role and importance of democracy in this respect. In conclusion, we pay some attention to the cultural factor in general. International law and organizations have been shaped within the framework of Western civilization. Can the resulting system be said to be genuinely universal, and therefore legitimate all over the world, if it does not also reflect the culture and values of the other great civilizations which are part of the world legacy?

#### I. LA SOUVERAINETÉ DES ÉTATS ET LA POLICE DE LA SOCIÉTÉ INTERNATIONALE

Le principe de la souveraineté des États est à la base du droit international depuis les traités de Westphalie (1648). Un État est défini par trois attributs: un territoire, une population, un gouvernement. Aucun État ne reconnaît d'autorité qui lui soit supérieure, et donc qui ait compétence pour s'ingérer dans ses affaires "intérieures" et pour lui faire justice. Lorsqu'un État *reconnaît* un autre État, il en accepte normalement le gouvernement tel qu'il est, dès lors que ce gouvernement est effectivement en charge. Par exemple, la France n'a pas eu à reconnaître le gouvernement de Laurent-Désiré Kabila après la chute de Mobutu au Zaïre devenu République démocratique du Congo, puisque Kabila paraissait contrôler effectivement le pays. En particulier, du point de vue strictement juridique, la qualité plus ou moins démocratique d'un gouvernement ne devrait pas entrer en ligne de compte dans les rapports internationaux.

Dans la conception classique des relations internationales, les États se font la guerre lorsqu'ils ne peuvent pas ou ne veulent pas régler leurs différends par voie de négociation, dans les cas où de grands enjeux sont en cause. La guerre est alors, selon les formules célèbres de Clausewitz, "Un acte de violence destiné à contraindre l'adversaire à exécuter notre volonté" et "une simple continuation de la politique par d'autres moyens". Dans le passé, une guerre se déclarait et se concluait par un traité de paix, avec éventuellement un redécoupage des États. À l'époque contemporaine, ce modèle de la guerre interétatique ne correspond plus à la réalité. La légitimité du recours à la violence pour résoudre les conflits est de plus en plus contestée, et l'on est de plus en plus attentif aux conséquences extérieures (un économiste parlerait d'*effets externes*) des guerres, lorsqu'elles se produisent. On ne déclare plus les guerres et on ne fait plus

la paix. La plupart des conflits contemporains commencent dans des conditions ambiguës (les agressions caractérisées, comme celle du Koweït par l'Irak en 1990, sont devenues rarissimes) et s'apparentent au type de la guerre civile. Ils sont suspendus plus souvent qu'ils ne s'achèvent. Il en est ainsi en conséquence de la décomposition des derniers empires, en particulier la décolonisation et la chute de l'Union soviétique. On a donc assisté, au cours des dernières décennies, à la multiplication des "Etats ratés" (*failed states*; on parle aussi de *troubled states*) ou des Etats qui ne sont reconnus comme tels que par complaisance. Beaucoup de ceux qui, dans la dernière phase de la guerre froide, étaient maintenus en équilibre métastable en raison de la logique du système bipolaire, se sont effondrés aussitôt après.<sup>1</sup> Dans une guerre civile, par définition, le gouvernement devient incapable d'exercer son autorité sur l'ensemble du territoire. Cela ouvre généralement la voie à des interactions antagonistes avec l'extérieur et donc à l'internationalisation du conflit. Lorsque, au sein d'un Etat ethniquement, culturellement ou économiquement différencié, un groupe humain impose son autorité à l'ensemble de la population, quand bien même le gouvernement contrôle effectivement le territoire, l'anticipation d'un conflit à venir peut fournir la justification d'une ingérence extérieure, laquelle peut évidemment être menée avec plus ou moins de bonne foi. Car il est vrai que, dans certains cas, le gouvernement par une minorité peut être au contraire la seule manière à court terme d'éviter un conflit sanglant. C'est également au nom de la prévention de conflits futurs que l'on justifie les interventions contre les "Etats voyous" tels que l'Irak de Saddam Hussein, ou Haïti sous le régime militaire entre 1991 et 1994 (en anglais on parle de *rogue states*; Stanley Hoffmann dit *murderous states*). Il s'agit d'Etats hors normes. Le cas d'un Saddam Hussein envahissant le Koweït et multipliant les efforts pour acquérir des armes de destruction massive est évidemment extrême.

On voit en tout cas de quelle manière la notion de "droit d'ingérence" peut s'infiltrer à l'intérieur d'un système hétérogène. "J'appelle systèmes homogènes" écrit R. Aron "ceux dans lesquels les Etats appartiennent au même type, obéissent à la même conception de la politique. J'appelle hétérogènes au contraire, les systèmes dans lesquels les Etats sont organisés selon des principes autres et se réclament de valeurs contradictoires".<sup>2</sup> Les systèmes hétérogènes sont plus instables que les systèmes homogènes, plus sujets aux phénomènes d'ingérence. A l'extrême, on a les situations de type

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<sup>1</sup> Voir sur cette question: S. HOFFMANN, *The Purposes and Ethics of Intervention in the late 1990s*, The IISS 37th annual conference, Vienne, 6-9 septembre 1995.

<sup>2</sup> R. ARON, *Paix et guerre entre les Nations*, Calmann - Lévy, 1984, première partie, Ch. IV.

révolutionnaire analysées par Kissinger dans sa thèse de 1964 sur le Congrès de Vienne, et dont le système bipolaire et hétérogène de la guerre froide lui a fourni un terrain d'expérience.

Face à des Etats multi-ethniques, par exemple, l'affirmation du droit des peuples à disposer d'eux-mêmes est la forme d'ingérence la plus répandue. Le principe des nationalités — énoncé au XIX<sup>ème</sup> siècle dans le sillage de la Révolution française — a servi de fondement idéologique au redécoupage de l'Europe après la Première Guerre mondiale. Aujourd'hui, un courant idéologique postule l'avènement de la paix perpétuelle grâce à l'extension universelle de la démocratie, inéluctable si l'on en croit Fukuyama.<sup>3</sup> On aurait alors un système international véritablement mondial et parfaitement policé. Si l'on admet que la démocratie est la forme générale de gouvernement la plus compatible avec la morale — particulièrement avec l'exercice effectif des droits de l'homme — et en conséquence qu'elle est aussi le type de régime politique le mieux à même de minimiser le risque de conflits sanglants, on voit comment le sous-système démocratique, au sein de la société internationale, peut s'estimer fondé à revendiquer un "droit d'ingérence" dans les affaires intérieures des Etats non démocratiques. D'autres facteurs contribuent également à atténuer, de nos jours, la distinction entre ce que Tocqueville appelait les "affaires du dedans" et "les affaires du dehors". On pense ainsi à l'internationalisation des activités criminelles (drogues, trafics d'armes, etc.).

Ce point de vue permet de rendre compatibles les deux approches traditionnelles, réaliste et idéaliste, des relations internationales. Ici, le droit sinon le devoir d'intervention est justifié par la nécessité de prévenir des conflits futurs. Bien entendu, les Etats non démocratiques ne sont pas prêts à admettre le déterminisme qu'implique une telle théorie. La dynamique des systèmes humains est fondamentalement sujette à l'incertitude et rien n'est plus difficile que de discerner, dans une effervescence locale, les germes d'un conflit futur. De plus, l'un des principes les plus élémentaires et les plus sûrs de la stratégie est que la familiarité avec le terrain est une condition essentielle pour la compréhension des situations belliqueuses. Par exemple, les Serbes connaissent mieux le Kosovo que les Américains ou les Européens de l'Ouest. Ou encore: qui peut se permettre de donner des leçons de gouvernement aux Chinois, dont la civilisation et l'expérience politique sont plusieurs fois millénaires? Rien de plus difficile en pratique que l'art de la prévention des crises, et rien de plus facile que de tomber dans le piège de l'illusion du déterminisme rétrospectif. Autre difficulté de

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<sup>3</sup> FRANCIS FUKUYAMA, "The End of History", *National Interest*, été 1989.



taille: toute intervention extérieure doit avoir un but, et donc faire l'objet d'une stratégie. Par exemple, face au refus de Saddam Hussein de se soumettre aux réglementations de l'ONU, la "communauté internationale" n'a jamais été capable de formuler une stratégie cohérente, et les Etats-Unis eux-mêmes n'ont pas clarifié leurs choix. Autre exemple: que faire pour remédier aux carences des "Etats ratés", au-delà des actions purement humanitaires et nécessairement limitées visant à soulager un peu les souffrances qui en sont la conséquence?

Il convient de noter que l'équation implicite dans les raisonnements qui précèdent, à savoir que la démocratie — combinée à une prospérité économique justement répartie — assure la paix, est plus formelle que substantielle. Dans la réalité historique, toute la difficulté est de lever les obstacles qui s'opposent à l'accomplissement des conditions posées par le premier terme de l'équation, et cela ne se fait pas du jour au lendemain. Dans les Etats issus de l'éclatement de l'Union Soviétique, on n'est pas passé brusquement à la démocratie et encore moins à la prospérité matérielle. La stabilité du système international ne saurait résulter d'un coup de baguette magique.

En pratique, les limitations au principe de la souveraineté des Etats n'ont cessé de s'étendre à travers le temps, particulièrement dans la seconde moitié du XX<sup>ème</sup> siècle, mais de façon contractuelle et donc réversible. Les organisations internationales sont en fait des organisations interétatiques. Cela vaut pour l'Organisation des Nations Unies (ONU) elle-même. Un Etat qui déciderait de se retirer de l'ONU serait *ipso-facto* relevé des obligations de la Charte, mais évidemment à ses risques et périls. Avec le temps, l'ONU a cependant pris un caractère partiellement supranational ou supraétatique. Elle constitue de nos jours le seul cadre de référence pour la *légalité* et la *légitimité* des interventions internationales les plus importantes, en tête desquelles figure "l'action en cas de menace contre la paix, de rupture de la paix et d'acte d'agression" (chapitre VII de la Charte). Hormis le cas de légitime défense, seule l'ONU, dans l'état actuel des choses, est compétente pour décréter que des actions (sanctions, interventions militaires) dirigées contre un Etat sont "justes". Il est bien évident en effet qu'en l'absence d'une telle structure, chaque Etat serait tenté d'abuser en agissant à sa guise et selon ses intérêts propres, quitte à justifier ses ingérences au nom des considérations évoquées ci-dessus et donc au nom de la morale. L'existence de l'ONU n'élimine d'ailleurs pas tous les risques dans ce domaine. Les Etats-Unis, forts de leur supériorité écrasante dans tous les domaines, en ce XX<sup>ème</sup> siècle finissant, prouvent constamment combien ils sont tentés par l'unilatéralisme et par la confusion de leurs intérêts propres avec ceux de la "communauté internationale". Mais à

l'inverse, sans la puissance américaine, l'effectivité des résolutions de l'ONU, tout au moins dans les cas les plus graves, ne serait-elle pas encore plus faible qu'elle n'est? C'est dire que le rempart de l'ONU n'est pas très élevé. Déjà, à l'intérieur d'un Etat de droit, le système juridique et judiciaire n'est qu'un amortisseur, partiellement efficace, de la brutalité des rapports humains. L'imperfection fondamentale de toute construction juridique est encore plus manifeste s'agissant du droit international.<sup>4</sup>

Nous avons utilisé les concepts classiques de légalité et de légitimité. La *légalité* d'une action, c'est sa conformité vis-à-vis du droit international, dont l'établissement donne souvent lieu à d'âpres discussions, lesquelles ont du moins l'avantage, comme on vient de le dire, d'amortir les chocs. La *légitimité* d'une action se rapporte au sentiment d'adhésion des populations concernées. L'intervention conduite par les Etats-Unis dans le Golfe en 1990-1991 n'aurait pas eu les mêmes effets politiques si elle n'avait pas été approuvée par le Conseil de Sécurité et si d'autres Etats n'y avaient pas participé. Cependant, dans ce domaine de la légitimité, l'ONU souffre d'un biais fondamental. Le système du Conseil de Sécurité est en effet articulé autour des cinq membres permanents, dotés du droit de veto: les Etats-Unis, l'Union Soviétique à laquelle a succédé la Russie en 1991, la Chine (d'abord représentée par Formose, puis par la République populaire depuis 1971), la Grande-Bretagne et la France. Dans beaucoup de cas, les membres permanents sont à la fois juges et parties. Ce système répond au souci de doter l'ONU d'une efficacité qui avait fait cruellement défaut à la Société des Nations (SDN). Les pouvoirs particuliers attribués aux puissances réputées victorieuses en 1945 pouvaient paraître naturels sinon légitimes aux yeux des populations de la planète à l'époque. Tel n'est certainement plus le cas à la fin du XX<sup>e</sup> siècle. Le Japon et l'Allemagne, forts de leur accès au club des grandes puissances économiques et des grandes démocraties, ne sont plus disposés à accepter indéfiniment un statut de second rang. D'autres Etats du "tiers-monde", comme l'Inde souvent qualifiée de "plus grande démocratie de la planète", ne s'y résignent pas davantage.

Au-delà des pures rivalités de puissance pour l'accès au statut de membre permanent du Conseil de Sécurité se pose un problème général de justice ou d'équité. Le sentiment d'injustice se répand, au sein d'une population, lorsqu'elle se juge victime d'une inégalité de traitement face à

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<sup>4</sup> Voir par exemple: GUY DE LACHARRIÈRE, *La politique juridique extérieure*, collection "Enjeux Internationaux", Ifri/Economica, 1983 et GILBERT GUILLAUME, *Les grandes crises internationales et le droit*, Le Seuil, 1994.

des situations perçues comme semblables. Dans le monde arabe, par exemple, les opinions publiques s'indignent de l'inégalité de traitement des Etats devant la violation des résolutions de l'ONU. Pourquoi les représentants de la "communauté internationale" ferment-ils les yeux lorsqu'Israël, loin d'évacuer les territoires occupés conformément à la résolution 242 du Conseil de Sécurité, poursuit sa politique d'implantation, alors que les incartades de Saddam Hussein provoquent aussitôt la foudre? La réponse habituelle est évidemment qu'Israël est une démocratie et que les actions du gouvernement totalitaire actuel de l'Irak constituent une menace contre la paix d'une tout autre ampleur que l'expansion israélienne. Mais on sent bien que ce jugement ne règle pas complètement la question, loin de là. Autre exemple: la plupart des Serbes ne comprennent pas qu'on les cloue au pilori à propos du Kosovo, alors que l'ONU se montre fort discrète sur le comportement de la Russie en Tchétchénie, de la Chine au Tibet ou dans le Xinjiang, de la Turquie au Kurdistan (dont elle nie d'ailleurs l'existence), sans parler de l'indifférence de la "communauté internationale" lors du génocide commis par les Khmers rouges dans les années soixante-dix. "Selon que vous serez puissant ou misérable, les jugements de cour vous rendront blanc ou noir": l'observation de La Fontaine sonne également juste dans les affaires internationales.

En plus du problème de la légitimité de l'ONU se pose celui de l'*effectivité* de ses décisions auquel il a déjà été fait allusion plus haut. S'agissant de la réduction de la violence armée, on distingue les opérations de rétablissement de la paix (*peace enforcing*) et de maintien de la paix (*peace keeping*), selon leur intensité. Devant chaque situation concrète, il faut définir des buts et élaborer une stratégie, réunir les moyens militaires nécessaires et assurer leur financement. Actuellement, ces moyens ne peuvent provenir que des membres de l'ONU, sur la base de contributions volontaires. Dans le cas de la guerre de libération du Koweït, en 1990-1991 — certainement l'opération de rétablissement de la paix la plus ambitieuse jamais mise sur pied sous les auspices de l'ONU —, la coalition a été concrètement montée, de bout en bout, par les Etats-Unis. Washington a présenté ensuite la facture aux Etats les plus directement ou indirectement concernés sans leur laisser beaucoup de choix. Si le président Bush, en 1991, n'avait pas décidé de s'engager totalement dans cette affaire, aucune action militaire contre Saddam Hussein n'aurait été concevable. Dans le cas de l'ex-Yougoslavie, le grand tournant a également été le fait des Etats-Unis, en 1995. Non sans de bonnes raisons, Washington a imposé l'OTAN comme bras séculier de l'ONU avec des chaînes de commandement échappant complètement à l'organisation internationale.

Le débat se poursuit sur la question de savoir s'il ne faudrait pas doter

le secrétariat général de l'ONU de moyens propres. Mais la tendance ne va pas dans cette direction. Quelle est, s'interroge-t-on, la *légitimité démocratique* du secrétaire général, nommé par l'Assemblée Générale sur la recommandation du Conseil de Sécurité, et dont le statut est celui d'un haut fonctionnaire international? A chaque échéance, on constate les difficultés de sa désignation. En décembre 1996, la candidature de Boutros Boutros-Ghali a été écartée par la volonté des Etats-Unis, alors que tous les autres membres du Conseil de Sécurité souhaitaient le renouvellement de son mandat. Dans la réalité actuelle du processus de légitimation, il est improbable que les Etats consentent à l'ONU les moyens nécessaires pour lever des armées supranationales, et acceptent de déléguer au secrétariat de l'organisation le pouvoir d'engager des opérations militaires, et d'élaborer des stratégies. On imagine mal le Secrétaire Général de l'ONU dans une position comparable à celle de l'Empereur, dans le Saint Empire romain-germanique. Du moins peut-on souhaiter que le secrétariat puisse améliorer ses capacités d'analyse des situations.<sup>5</sup>

En fait, le Conseil de Sécurité fonctionne comme un directoire d'Etats dont la liberté d'action est tempérée par la nécessité de manœuvrer au sein de l'Assemblée Générale. Il s'agit en effet d'éviter une cristallisation des mécontentements. Ce directoire procède par marchandages. Ses membres échangent des pouvoirs, c'est-à-dire des capacités de mobiliser des ressources. Les membres permanents font, plus ou moins subtilement, commerce de leur droit de veto. Ces opérations d'échange mettent en œuvre des calculs d'intérêts, des distributions d'attention. Il s'agit souvent d'intérêts tangibles, particulièrement économiques (le contrôle du marché pétrolier et gazier par exemple, dans la région du Golfe et de plus en plus dans le Caucase et l'Asie centrale ex-soviétique), mais aussi d'intérêts immatériels tels que le soutien d'une réputation ou la défense de valeurs. En général, tous ces intérêts sont imbriqués. En 1990-1991, le président Bush a justifié l'engagement américain au Koweït en invoquant aussi bien le pétrole, la sécurité d'Israël et la nécessité de défendre l'ordre international avec ses valeurs sous-jacentes.

Comme toujours dans le domaine de la politique, les calculs d'intérêts, qui s'inscrivent dans la durée, sont perturbés par le jeu des émotions. Les opinions publiques sont volatiles, et peuvent exiger aujourd'hui des actions dont elles rejeteront fortement les conséquences demain. Il est parfois difficile pour des gouvernements démocratiques de résister aux pressions

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<sup>5</sup> Voir sur ces questions: *Words to Deeds: Strengthening the U.N.'s Enforcement capabilities*, Décembre 1997 (Final report of the International task force on the enforcement of U.N. Security Council Resolutions présidée par Lord Carrington).

temporaires des opinions. Ainsi les Etats-Unis sont-ils intervenus en Somalie en 1991, sous l'emprise de l'“effet CNN”. Faute d'objectifs clairement définis et a fortiori d'une stratégie bien pensée, ils ont dû se retirer sans que la situation locale n'ait progressé. A l'inverse, la “communauté internationale” est pour l'essentiel restée spectatrice des massacres dans la région des Grands Lacs africains en 1994 et à nouveau en 1996, pourtant largement causés par les manipulations douteuses de certains Etats occidentaux. Dans les deux cas, l'impuissance de la “communauté internationale” est la conséquence d'un manque d'*intérêt soutenu* de la part de ses membres les plus éminents. Plus généralement, aucune organisation internationale, pas même les Eglises, n'est encore assez puissante, c'est-à-dire dotée de suffisamment de ressources de toutes natures — matérielles et morales —, pour pallier les carences des Etats lorsque les enjeux sont principalement d'ordre humanitaire. Cela n'est pas nouveau. Il suffit d'évoquer les polémiques sur l'attitude de l'Eglise catholique pendant la Seconde Guerre mondiale vis-à-vis de la Shoah. Cet exemple montre d'ailleurs la complexité du problème. L'Eglise reconnaît aujourd'hui que son silence n'était pas seulement la conséquence d'un rapport de forces ou de l'ignorance du génocide mais aussi l'effet d'un antisémitisme contraire à l'esprit des Evangiles, et pourtant séculaire.

La question de savoir comment renforcer la moralité des actions internationales reste largement ouverte. Tout progrès, dans cette direction, est difficile. On l'a bien vu à propos de la création de la Cour pénale internationale permanente pour le jugement des crimes de guerre, dont la nécessité peut sembler évidente à toute personne de bonne volonté. Et pourtant, les Etats ont des raisons de se méfier, car ils redoutent, par son biais, de se trouver victimes de manipulations hostiles.

## II. SOCIÉTÉ OU COMMUNAUTÉ INTERNATIONALE?

Dans le langage courant, on se réfère fréquemment à la “communauté internationale”, comme s'il s'agissait d'un acteur autonome. Cette expression est, tout au mieux, une figure de style. Chacun connaît la distinction introduite par Max Weber, à la suite de Tönnies, entre les concepts de société (*Gesellschaft*) et de communauté (*Gemeinschaft*). Les membres d'une société sont unis par des liens d'intérêt. Le ciment d'une communauté est d'ordre affectif. Les collectivités humaines appartiennent rarement à l'un de ces types extrêmes. Une entreprise industrielle est une société, au sens de Weber, mais à la longue un sentiment de type communautaire peut se développer et agir comme un “multiplicateur de

forces” — au sens où les militaires emploient cette expression. D’où l’importance de la notion très contemporaine de “culture d’entreprise”. A l’inverse, une communauté dont le ciment est d’abord d’ordre affectif, comme une Eglise, ne dispose rarement que de ressources d’ordre moral. Elle a donc aussi des intérêts tangibles qui lui confèrent partiellement le caractère d’une société. Une *nation* est essentiellement une communauté. On cite souvent ce passage d’une conférence prononcée par Renan à la Sorbonne le 12 mars 1882: “Une nation est une âme, un principe spirituel. Deux choses qui, à vrai dire, n’en font qu’une, constituent cette âme, ce principe spirituel. L’une est le passé; l’autre est le présent. L’une est dans la possession en commun d’un riche legs de souvenirs; l’autre est dans le consentement mutuel, le désir de vivre ensemble, la volonté de faire valoir l’héritage qu’on a reçu indivis”. Une nation peut ou non constituer un Etat. La France ou le Japon sont des exemples quasiment purs d’Etats-nations. Même après la réunification, la nation allemande ne s’identifie pas complètement avec un Etat. De façon pas toujours pertinente, on parle aussi des nations kurde, arabe, chinoise, qui ne s’identifient pas non plus avec des Etats. Quoiqu’il en soit, il est clair que l’expression “communauté internationale” induit en erreur car la collectivité des hommes, prise dans son ensemble, ne répond nullement, même de loin, aux critères de Weber ou de Renan. Il existe un genre humain, mais l’humanité n’est ni un concept sociologique, ni un concept politique. Et si l’on peut parler de valeurs universelles, celles-ci n’ont jamais encore structuré une organisation de la vie des hommes à l’échelle du globe. Aussi, pour décrire le mode actuel de coexistence des Etats, l’expression de “société internationale” paraît-elle plus adéquate que celle de “communauté internationale”. Le phénomène contemporain de la mondialisation, tout à fait pertinent pour caractériser nombre d’activités économiques et surtout financières, et qui facilite la propagation des émotions collectives, n’altère pas fondamentalement le diagnostic. Il est concevable et souhaitable que, dans la durée et en raison du développement des techniques de l’information et de la communication, le réseau des interdépendances réellement planétaires se densifie au point de faire émerger une véritable communauté des hommes. Mais nous en sommes très loin encore. En attendant, il est abusif et trompeur de parler de “village mondial” (McLuhan).

On peut interpréter les Etats-nations comme des communautés politiquement organisées. Lorsque l’organisation est de type démocratique, elle obéit au principe de la séparation des pouvoirs. On peut alors distinguer clairement entre les branches exécutive, législative et judiciaire du gouvernement. Dans cette terminologie, le mot gouvernement est pris dans une acception large; le gouvernement au sens usuel n’est que la branche exécutive. Cependant, même dans les cas où cette séparation est la

plus nette (par exemple, aux Etats-Unis), les trois branches forment un tout systémique. Pour un Français, le pouvoir de la Cour Suprême américaine peut paraître exorbitant, et un homme d'Etat comme Michel Debré était prompt à s'indigner contre "le gouvernement des juges". Dans le même ordre d'idées, on peut s'étonner qu'à une époque où les Etats-Unis, devenus unique superpuissance, ont une responsabilité vitale pour le bon fonctionnement du système international dans son ensemble, le Congrès puisse bloquer des décisions comme l'augmentation des quotas au Fonds Monétaire International, pour des motifs de politique intérieure totalement étrangers au sujet. A l'inverse, l'hypertrophie de l'exécutif par rapport au législatif en France, ou encore l'étroitesse de la relation entre le garde des Sceaux et le Parquet, sont des objets d'étonnement pour un constitutionnaliste américain. Tant il est vrai qu'il existe bien des formes de gouvernements démocratiques, et que chacune est le produit de l'histoire d'une communauté concrète.

C'est le caractère systémique du gouvernement dans son ensemble qui rend possible l'effectivité du droit à l'intérieur d'un Etat. En particulier, lorsque le gouvernement est démocratique, les décisions de justice ne sont pas seulement mises en œuvre, sous la responsabilité de l'exécutif. Ces décisions, comme leur exécution, sont légitimes. Ces brèves considérations illustrent clairement la différence entre le règlement des conflits à l'intérieur d'un Etat et entre des Etats. La société internationale ne dispose pas des institutions qui lui permettraient de faire régner la paix par la loi, à savoir un gouvernement démocratique nécessairement mondial avec ses trois branches nécessairement indépendantes. Et elle n'en disposera pas aussi longtemps qu'elle ne formera pas une véritable communauté, c'est-à-dire tant que la population de la planète dans son ensemble ne reconnaîtra pas la nécessité et surtout la légitimité d'un tel gouvernement mondial. En attendant, le droit international continuera de jouer son rôle modérateur très imparfait dans les rapports interétatiques. Chaque Etat ou association d'Etats continuera d'échafauder les combinaisons propres à dissuader ou à punir rivaux, compétiteurs, adversaires ou transgresseurs. Bref, chaque Etat ou groupe d'Etats continuera de revendiquer le droit, en fin de compte, de se faire justice lui-même, dans un cadre de légalité et de légitimité plus ou moins ambigu. Néanmoins, on peut penser et espérer qu'avec la multiplication des réseaux d'interdépendance et notamment d'information, la marge de manœuvre des Etats, qu'il s'agisse de nuire aux autres ou se faire unilatéralement justiciers, ira en diminuant. Mais rien n'assure que le progrès sera linéaire. Pendant longtemps encore, des conflits sanglants risquent de se produire et de durer dans les régions de la planète où de grands intérêts ne sont pas en jeu. L'hypothèse de l'émergence d'un

nouveau système bipolaire hétérogène, autour des Etats-Unis et de la Chine par exemple, n'est pas inimaginable. D'autres configurations sont également concevables.

Un aspect significatif de la transformation actuelle de la société internationale est la formation d'une véritable "société civile" transcendant les frontières. Dans la tradition américaine, le développement de la vie associative est conçu comme une condition nécessaire à l'épanouissement des libertés. En Europe et sur les autres continents, l'idée de société civile a cheminé plus lentement, en raison de l'importance plus grande de l'Etat. Dans les dernières décennies, l'avènement d'une "société civile mondiale" se manifeste par de multiples organisations religieuses, humanitaires, écologiques, culturelles, mais aussi par l'importance accrue des *think-tanks* (en matière de politique internationale par exemple), etc. Les organisations non-gouvernementales (ONG) bénéficient même d'un statut aux Nations Unies. Ce phénomène est évidemment facilité par le développement des techniques de l'information et de la communication. Dans de nombreux cas, il est bénéfique, par exemple lorsqu'il contribue authentiquement à soulager la misère, à promouvoir les droits de l'homme, à faire prendre conscience de la nécessité de protéger l'environnement ou de prendre en compte les intérêts des générations futures, à faciliter le dialogue entre les hommes et les femmes de bonne volonté. Mais ces avantages importants ne doivent pas occulter certains inconvénients. Il arrive que des organisations se fassent manipuler et servent d'instruments de propagande ou de désinformation. A l'intérieur d'un Etat démocratique, les diverses expressions de la société civile s'inscrivent dans un cadre juridique bien déterminé. Dans un pays comme les Etats-Unis, la concurrence ne joue pas seulement entre les entreprises, mais aussi entre les associations. Tôt ou tard, celles qui dévient de leur objet sont rejetées et, le cas échéant, soumises à la justice. Les associations, pour asseoir leur légitimité, doivent être transparentes et rendre des comptes à la communauté (*accountability*). D'une manière générale, tels sont d'ailleurs les deux principes fondamentaux de la bonne "gouvernance". Au niveau international, ces conditions sont difficilement remplies, parce qu'il n'existe pas de gouvernement mondial. On en revient toujours au même point. Les Etats les plus petits et les plus ouverts se sentent de plus en plus impuissants. Dans le même ordre d'idée, l'importance croissante des entreprises multinationales, voire "globales", risque d'affaiblir les petits pays, dont les populations sont soumises à des forces extérieures sur lesquelles elles ne peuvent exercer aucun contrôle démocratique, et à des lois qu'elles n'ont pas contribué à forger. On pense par exemple à la prétention américaine à l'extraterritorialité de ses lois, telles les lois *Helms-Burton* ou *D'Amato-Kennedy*.



Ces raisons, parmi d'autres, pousseront de plus en plus les petits Etats à se regrouper. L'Etat-Nation, tel que nous le connaissons, est l'aboutissement d'un processus qui a commencé à la fin du Moyen-Age et s'est poursuivi jusqu'au début du XX<sup>ème</sup> siècle. L'unification européenne, amorcée en 1957 avec les traités de Rome, et qui s'accomplit depuis plus de quatre décennies par un double processus d'approfondissement et d'élargissement, fait graduellement émerger une nouvelle forme d'organisation politique, dont le terme n'apparaîtra sans doute pas clairement avant plusieurs décennies. D'ores et déjà, les Etats membres de l'Union Européenne ont abandonné des pans entiers de leur souveraineté au bénéfice d'institutions communes. La politique commerciale se décide à Bruxelles, la politique monétaire se fera bientôt à Francfort (la Banque Centrale Européenne sera en fait la première institution véritablement fédérale de l'Union), le droit européen s'élabore selon des cheminements complexes et s'impose aux droits nationaux, la Cour de Justice des Communautés Européenne est devenue une réalité sensible pour un nombre croissant de "citoyens" de l'Union, etc. Cette marche vers l'Union est partielle, car en matière de sécurité, l'Europe n'est pas encore prête à contester le leadership américain. Est-elle une véritable communauté comme le voulait son appellation avant le traité de Maastricht? Non, dans la mesure où l'attachement affectif de ses "citoyens" en est encore à l'état embryonnaire. Mais la densité croissante des liens tissés, la multiplication des signes tangibles comme le drapeau, le passeport, et bientôt les billets de banque, rendent vraisemblable la cristallisation d'un sentiment de type national, au cours du siècle prochain, qui donnera enfin consistance au vieux rêve européen. Alors seulement, l'existence millénaire d'une "culture européenne" prendra tout son sens, déploiera toutes ses possibilités. Il y aura encore, à l'évidence, bien des obstacles à surmonter, notamment pour résoudre des problèmes institutionnels d'une grande complexité, mais c'est ainsi que se forge ce "legs du souvenir" auquel Renan, à juste titre, attachait tant de prix. La gloire de l'aventure européenne est, précisément, de refonder l'avenir commun sur une accumulation d'actions et de victoires dont la nature est par essence pacifique, contrairement à toute l'histoire antérieure du continent. D'ores et déjà la question de l'ingérence ne se pose plus à l'intérieur de l'Union: nos affaires sont intimement mêlées, et nous avançons, les regards braqués les uns sur les autres. Cette ingérence, devenue naturelle, s'étend aux pays qui, tôt ou tard, ont vocation à nous rejoindre. L'avenir du Kosovo nous intéresse davantage que celui de la Tchétchénie, parce que nous savons qu'un jour plus ou moins prochain l'Union accueillera l'ex-Yougoslavie. Cette perspective donne sa véritable signification aux efforts entrepris pour y calmer le jeu. Sans l'espoir européen, la "décommunisation" de l'Europe de l'Est aurait pu être bien plus douloureuse encore. On pense

par exemple à la question des minorités hongroises, finalement bien traitée. Parmi les problèmes à résoudre dans les prochaines décennies figure également le rapport inégal entre l'Union Européenne et les Etats-Unis, actuellement trop marqué par les vicissitudes du XX<sup>ème</sup> siècle. Aujourd'hui et dans l'avenir prévisible, il n'existe pas d'organisation proprement européenne en matière de sécurité. L'Union de l'Europe Occidentale (UEO) n'a pas de consistance face à l'OTAN. Cette relation se décantera elle aussi dans la durée.

Si l'aventure européenne se poursuit favorablement, on verra donc émerger un nouveau type d'unité politique, adapté aux réalités de l'ère scientifique et technologique nouvelle. Il n'y aura peut-être pas d'Etat européen au sens classique, mais un *système* cohérent se constituera pour assurer la compatibilité et l'efficacité des trois fonctions de base d'un Etat: exécutive, législative et judiciaire. Ce ne sera pas encore un gouvernement mondial, mais un pas dans cette direction, un modèle réduit, en quelque sorte, à l'échelle d'un continent.

La pression dans le sens de l'organisation régionale ne se manifeste pas seulement en Europe. Elle s'exerce aussi en Asie (ASEAN, Forum de Sécurité de l'ASEAN, APEC)<sup>6</sup> et en Amérique Latine (Mercosur).<sup>7</sup> En règle générale, les processus correspondants sont beaucoup moins avancés que l'Union Européenne. Jusqu'à l'éclatement de la crise financière en Asie de l'Est, qui a mis un terme à la perception sinon à la réalité du "miracle économique" dans cette partie du monde, il était courant, typiquement à Singapour, d'opposer les avantages des organisations souples et légères (du type ASEAN) aux inconvénients des formules trop lourdes (du type Communauté Européenne). Après la crise amorcée en 1997, on ne peut plus porter le même regard sur cette question et les Asiatiques en conviennent. Les organisations trop superficielles ne sont pas capables de résister à des chocs violents. En l'occurrence, l'ASEAN n'a rien fait et, au Japon, l'exécutif s'est montré complètement impuissant, malgré la vocation naturelle de cet Etat à exercer la responsabilité de leader régional en

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<sup>6</sup> L'ASEAN (Association des Nations du Sud-Est Asiatique), créée en 1967, regroupe 9 pays: l'Indonésie, la Malaisie, la République des Philippines, Singapour, la Thaïlande, l'Etat de Brunei Darussalam, le Vietnam, le Laos et le Myanmar. Le Forum de Sécurité de l'ASEAN a été établi en 1994. L'APEC ou Forum de coopération économique Asie-Pacifique, a vu le jour en 1989. Il regroupe vingt-et- un pays (les 9 de l'ASEAN ainsi que l'Australie, le Chili, la Papouasie-Nouvelle Guinée, Taiwan, la Chine, le Japon, le Mexique, le Canada, Hong-Kong, la République de Corée, la Nouvelle-Zélande et les Etats-Unis).

<sup>7</sup> Le Mercosur ou Marché Commun du Sud, a été créé en 1991. Il regroupe le Brésil, l'Argentine, le Paraguay et l'Uruguay.

matière économique et financière. Par essence, un processus d'intégration implique une imbrication, nécessairement progressive et douloureuse, des structures. Le regroupement régional en Asie est une affaire beaucoup plus complexe qu'en Amérique Latine et même, sans doute, qu'en Europe, pour des raisons à la fois historiques, géographiques et démographiques. Le continent le plus peuplé de la planète est, davantage que d'autres, exposé au risque de conflits classiques (querelles ethniques, contestations de frontières, opposition d'intérêts économiques, etc.). Nul ne sait quand et comment se produira la réunification de la péninsule coréenne, dont l'accomplissement sera beaucoup plus difficile encore que celle de l'Allemagne. Face à tant d'incertitudes et d'insuffisances structurelles, l'Asie est donc sans doute la partie du monde où les rapports de puissance continueront le plus longtemps de se manifester à l'état presque brut. Les Etats-Unis continueront d'y tenir le rôle de clef de voûte d'une architecture en forme de toile d'araignée. Mais, à l'horizon de quelques décennies, il est vraisemblable de la dynamique d'intégration régionale exercera, là aussi, des effets plus tangibles.

Dans l'intervalle, on peut prévoir que le système international conservera un caractère composite, dont les principaux éléments sont: les Etats-Unis, unique superpuissance, la seule à avoir la capacité de projeter la puissance militaire en n'importe quel point du monde, mais dont la volonté d'exercer le leadership pour le bien commun est aléatoire; l'Europe en voie de former une nouvelle sorte d'unité politique, mais largement impotente aussi longtemps qu'elle ne se sera pas émancipée vis-à-vis de l'Amérique; l'Asie, encore largement soumise au jeu classique des rapports de force, du moins dans le domaine de la sécurité; un ensemble d'Etats plus ou moins marginaux ou délaissés, notamment en Afrique. Le système international restera donc durablement hétérogène. Les principaux facteurs d'hétérogénéité — naturellement interdépendants — sont: les différenciations religieuses, culturelles et géographiques; la mémoire collective de chaque communauté; les systèmes politiques; les écarts de développement économiques. Il est bien évident par exemple que, pour l'immense majorité des 1200 millions de Chinois, la légitimité de l'ONU n'a guère de sens. Leur pays est encore "l'empire du Milieu". Les polémiques sur les droits de l'homme, qui font les titres de la presse occidentale quand elle s'intéresse à la Chine, ne sont pas au cœur de leur vie collective, tant s'en faut. Les pays arabo-musulmans manœuvrent comme ils peuvent au sein des Nations Unies, mais n'intériorisent pas nécessairement les valeurs sous-jacentes à l'organisation comme les puissances occidentales, qui en sont à l'origine. A l'inverse, les pays de l'aire culturelle occidentale, marquée par le judéo-christianisme, sont de plus en plus sensibles à la pression universaliste

symbolisée par les thèses de la démocratie et des droits de l'homme, ce qui n'empêche pas les Etats-Unis, et plus particulièrement les élus du Congrès, de manifester épisodiquement leur mépris pour l'organisation que le Général de Gaulle, jadis, appelait "le machin".

Ainsi voit-on l'extrême complexité et, en définitive, la fragilité du système international. Samuel Huntington, dans son article puis dans son livre sur le choc des civilisations,<sup>8</sup> voit dans l'hétérogénéité religieuse et culturelle la cause fondamentale des guerres futures. Cette thèse a naturellement été contestée.<sup>9</sup> Mais il est vrai, pour qui s'emploie à analyser aussi objectivement que possible le système international, que la prétention des Occidentaux et plus particulièrement des Etats-Unis et de la France — en compétition dans ce domaine pour des raisons qui renvoient au siècle des Lumières et aux circonstances de la guerre d'Indépendance américaine — à s'autoproclamer dépositaires des valeurs universelles et phares destinés à éclairer la planète tout entière, cette prétention, donc, peut paraître, aux yeux de la majorité des hommes, manifester une arrogance difficile à supporter. Les autres civilisations ont participé elles aussi à l'édification du patrimoine de sagesse de l'humanité. Aussi longtemps que les institutions internationales ne porteront pas la marque de leurs contributions et continueront de refléter une sorte de néo-colonialisme culturel, leur légitimité ne sera pas complètement assurée.

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<sup>8</sup> "The Clash of Civilizations?", *Foreign Affairs*, Summer 1993; *The Clash of Civilizations and the Remaking of World Order*, Simon and Schuster, 1996.

<sup>9</sup> "Responses to Samuel P. Huntington's The Clash of Civilizations?", *Foreign Affairs*, Septembre-Octobre 1993.

*Discussion of the paper by T. de Montbrial*

ELSHTAIN

The model with which international relations thinkers tend to work is a model of international anarchy, a world in which States are engaged in self-help. You rejected that as an inadequate characterization of the international situation. You also reject any strong notion of community or “*gemeinschaft*” as a model, saying that that’s something that is perhaps being worked toward in the European Union, but it can’t actually be used to characterize the international arena. It would seem that the best characterization for the situation you describe would be something loosely described as an international society at work. We aren’t simply in a free for all; rather we are in a world with complicated agreements and with rules governing the situations between people. That being the case, how do you think it would be most effective for groups to build something like an international civil society and to move toward an ever more robust normative regime whereby one can evaluate the policies of States and of groups of States and of the international arena as a whole with reference to certain goods and ends having to do with the good of persons and with a more fluid and fair international arena? How would you start to suggest one could do that?

GLENDON

Just a short question: whether you want to say a few words about international interventions of a more indirect and subtle kind, such as interventions by conditioning grants of aid.

MARTIN

It’s important again always to stress that the building block of the international arena are sovereign States.

The European Union, for example, has attempted to move out of the category of an intergovernmental organization and to present itself as a sovereign international entity, but it has always been refused access to the United Nations in that category. The United Nations is only an organization open to sovereign States in the traditional sense.

With regard to the use of the term “international community”, this term is actually dangerous. The repeated use of this in a superficial way creates the impression in public opinion that an international community exists, and that it could, or should, intervene.

An article in *The Herald Tribune*, used the term on the recent Gulf crisis. In four occasions it was a meaningless phrase, but in three occasions it had a meaning, but a dangerous meaning. In all those three occasions it said: “The international community led by the United States has ...”. I think everybody knows what that means, but the consistent repetition of this phrase in a superficial way can lead to misunderstandings and manipulation.

There is another type of intervention. It is “get yourself invited in ...”: United States intervention in Panama and Granada, where a country would decide on the basis of its own national interest that a way can be found to intervene, and it happens. This question comes out when you begin to analyse the motivations of the use of the term “international intervention”.

MINNERATH

I’ll ask you only one question about the definition of nation which you have chosen. You mentioned a beautiful sentence by Renan according to whom a nation has to do with common memory and the will to live together. This conception refers to the French definition of nation since the Revolution. But there is another definition of nation in Europe, as witnessed by the famous debate between Fustel de Coulanges and Mommsen. The German way of understanding a nation is based on preconscious and pre-rational elements, such as language and culture. A definition of nation based on preconscious data has an impact on the way in which citizenship is conceived. *Jus soli* in the French conception, *ius sanguinis* in the German one. I wonder whether Mommsen’s approach is not the one that is most widely spread all over the world.

DE MONTBRIAL

Yes. The last point: I’m well aware of Mommsen’s definition. I am not really sure that it is so different from Renan’s one. Renan stresses the conscious aspect. There may be preconscious or subconscious aspects too, which are all part of the common heritage of the will to live together that is mentioned by Renan.

What we are creating is a Europe which looks towards the future. This may sound optimistic, but this is an optimism based on reason. I think that in fifty years time our great-grand-children will understand that for a hundred years we have been fighting many battles, albeit peaceful ones, to

create a new Europe taking advantage of our common culture. This is my interpretation. I think that each and every day we fight a battle – the Euro is one of them – in order to try and learn how to live together and how to settle our conflicts not by wars, as we have done for centuries, but through peaceful procedures as indeed is the case within a single State. It takes time. Even people who have a historical culture wish to give Europe time to constitute itself. It takes time. But let's not talk in terms of nations, or confederations: these definitions are misleading. Let's say that we are creating a new political entity, a common culture, based on pre-rational elements, but also quite a few rational elements.

Let me go back to what Monsignor Martin said. For the time being, the European Union is not as such represented at the UN. It would make it easier to elaborate a common and foreign security policy. It will take a long time. But it is not insignificant that F. Mitterand and H. Kohl went together to Moscow and that the French and German foreign ministers go together to the former Yugoslavia, which means that we're slowly changing our attitude. The Weimar triangle which has initiated regular meetings between France, Germany and Poland has a historical meaning which goes beyond reconciliation between Germany and Poland. In the last two centuries the French and the Germans have always been playing ping-pong with Poland. This attitude has changed completely.

Now, as far as unilateral interventions are concerned, I think that the great danger is the increasing American unilateralism which we witness everyday in the relationship between the U.S. and the UN.

To Professor Glendon I would say that the World Trade Organization is an inter-State organization which is functioning rather well because all countries, including the United States, realize that it is in their interest to respect the rules of the game. These interstate relations may evolve towards a kind of community, but it will take time.

I'll answer very quickly about interventions. The negative aspect is that we intervene once our intervention is legitimized and legalized, but more than often we lack a clear perception of the goal to be attained and we are short of a strategy. I will just give two examples: first the intervention in Somalia in 1991 which ended in disaster because emotional reactions prevailed; second, the intervention in Lebanon at the beginning of the eighties. As soon as they were attacked the American and French withdrew troops which was exactly the aim pursued by terrorists in Lebanon. A positive example is that some sanctions can sometimes achieve results.

Going backwards, I would like to say something about the first question. I didn't hint at a complete anarchy. What we have is an international society, some of the elements of which are welded to each

other and some are not. Let's take an Academy. What an Academy says is important only if people listen to what is being said. And this depends on the respect that an Academy may inspire. Your question raises a point which is connected to often forgotten aspects of international law and procedures. The discussion is going on about the creation of an international criminal court. Within a state the judiciary is part of a whole. The three traditional branches – the executive, legislative and judiciary – are independent, but they are a part of a state. You cannot create a judiciary in a vacuum. I don't think we've stressed enough this point when we think about democracy. The independence of the various branches of government is only meaningful within a community.

KAUFMANN

I have three comments to make. First on your optimism in relation to Europe, particularly as far as Serbia is concerned. My impression is that Europe will be created within what were the boundaries of western Christianity. Up until now no Orthodox country with the exception of isolated Greece has been included in the European architectural design. This should give us some food for thought. Second, I go back to the problem that Professor Elsthain raised about the role of ethics: to what extent do you think that the Universal Declaration of Human Rights is a sort of ethical code for the future international community?

My third comment concerns the term "world society". In Germany we discuss a great deal whether there will be a *weltgesellschaft*, or whether this is a wrong description. In my opinion what is emerging is something sectorial, but what is missing is the co-ordination between all these sectors. This was at the nation level the crucial task of the state. The state was the agent that co-ordinated all the sectors, and this is an unusual problem for international relations.

VILLACORTA

I just have two questions for Professor De MontBrial. First of all, what do you exactly mean by Asia being comparable to the nineteenth-century conditions? It's not very clear to me. Maybe I missed it in your oral or written presentation.

Moreover, we know there's no international civil society yet in its ideal form, but we are all trying to build such an international civil society and that is possible through agents that would promote an ideal, a positive form of international intervention. I was just thinking of the role of the Papacy. No other non-governmental agent has that effective function, no Head of



State or Head of Government can equal the role that the Pope is performing. There is the accompanying role of the Holy Spirit even on people who are not Catholics. Could you kindly elaborate on these aspects?

FLORIA

About the nation and democracy: I think what does complicate the subject is when you look at the *organic* form of the state, the cultural idea of a nation is therefore something that starts to touch on certain questions which the authors of the nineteenth century had not even imagined; no one could imagine what an “organic” nation was going to be like, the way that Tocqueville had foreseen democracy could be, and the twentieth century furthermore has been the century of nationalist passions in their absolute form, and this is one of the major crimes, and on behalf of these “passions” there are thousands upon thousands who die. That’s why when we speak of the nation it’s very important to be clear, because the organic sense of the nation in its absolute form is incompatible with democracy. I’m certain of that. Thank you.

ZACHER

As you mentioned, you have chosen a relatively narrow interpretation of the subject. The subject as a whole would also have included what Professor Glendon meant: I am thinking of the “soft interventions”. When the World Bank intervenes in national affairs for example by saying: “you can only get some credit if your social security system is reformed in a certain way” there is a real conflict between international institutions and national democracy. And sometimes we have national democracy deeply discouraged because of that. And that really means a danger. On the other hand it is important that impacts come from outside, but on the other, for the development of national democracies, it’s also very risky that these interventions take place.

BARTOLINI

In general, I agree with the core of what you said, but there is one implicit element in your speech in which I completely disagree, and, very briefly, I’m going to say why.

The issue is the building of Europe, and, more precisely, your attitude towards such a process. You said there are too many people, particularly among the intellectuals, who don’t give Europe time to grow up. I feel I am one of those, but I think you are putting the question in a wrong way. The issue is not to give or not to give time for Europe to grow up. It is not an

issue of patience versus impatience. The issue is what Europe do we want to see growing and at what moment and on which aspects will we be allowed to express our preferences. Do we want a Europe on the basis of Article 85 in the Constitution, which constitutionalizes the goal of unbounded economic competition? It's something that has to be discussed. We can't wait for things to simply "mature". I think this is a very dangerous attitude. I heard you saying: "we are beginning to build and our children and grand-children will tell us ..." Well, I'm building nothing at all, I don't know about you. Somebody is building for us, maybe. Do we have to accept it in the name of the future or shall we discuss it?

But there is another important negative aspect in the attitude "give time", "let this grow up". This attitude risks blocking, not helping, European unification. This is because the building of Europe requires rigorous and contentious debates if it wants to avoid strong negative reactions of a "yes" "no" radical alternative. The process of integration has to be politicized; its aspects and crucial choices have to be discussed openly. The attitude that we should let the little animal grow up, even if it's not democratic, it's not national, is driven by more economic calculations, etc., is a risky attitude in my opinion. We do not know if we are going to like what it is growing into and I do not think we can wait until adulthood before judging and discussing.

DE MONTBRIAL

I would like to answer the last question first. Are we constructing Europe with a well defined plan and design or is it of self-organization? I think that the latter case applies. I think that in very complex matters the process is somewhat biological; the part that is deliberate is only a very small one. The Euro, for example, has become the focus for the future of the construction of Europe, but things could have been entirely different. So the question remains: how will Europe develop in the long term? I would like to tell Professor Zacher that I fully agree with him: we probably need a second meeting.

As far as my reference to the nineteenth century regarding Asia is concerned I meant two things: first the way in which countries like China envisage their relations with the rest of the world is power politics, as this was the rule in the nineteenth century; and Japan also pursues this kind of approach. The second point is that there's no institution of collective security in Asia such as we have in Europe. Japan has a virtual security treaty with the United States and at the regional level there is the Asian Security Forum, which is very limited.

You raised the crucial question of the role of the Papacy as a player in international relations. I would like to make two comments, actually two comments and one suggestion. The first comment is that the institution of the Catholic Church has evidently an enormous moral power, reflecting the size of the Christian community, but this power is somewhat hindered by its own memory. Let's think for example of the Shoa. Although the Pope recently made public a very courageous text, the Church has not stamped out entirely out of the fray, and this goes back to the first question which was raised about the geographical limits of Europe and western Christianity. If you look at the role of the Church in Serbia, or in Russia, the interests at stake are not exclusively spiritual interests. The Church is a major moral authority, but it does not keep aloof from matters because it is also a temporal institution.

The other comment is that the foreign policy of the Catholic Church is first and foremost concerned to preserve its vested interests. This somehow limits its scope of intervention. How can the Church as such become a more important player in international relations? This would be a wonderful subject for your Academy to discuss.

The third point was about how the geographical boundaries of Europe were to be those of what was Western Christendom. I would be ashamed, both for Europe and for Christendom. The construction of Europe is a lengthy process, the limits of which are still unknown. Will Russia or Turkey join the European Community? Probably not. But I reject a distinction between Western Christianity and Eastern Christianity. Then you raised another problem concerning the Universal Declaration of Human Rights. As you know the Universal Declaration of Human Rights was primarily supposed to be called the International Declaration of Human Rights. Professor Cassin requested that the word "International" be replaced by the adjective "Universal" at the last minute. Can we really claim that we elaborated universal rules in a club which is not universal but only representative of the Western world? This is a question of democracy. In other words, should there not be representatives of great civilizations in formulating such important statements?



V.  
GENERAL DEBATE



## REPORT OF THE GENERAL DEBATE

GLENDON

We are now in the final session of this plenary meeting on the democracy project. The Programme Committee met last night. We're enormously grateful to all of you for the richness of the papers, and the comment and discussions that we've had so far. And this morning we would like to ask you for one more great effort to assist us. We'd like to ask you to reflect further on the proceedings of the past three days, and to give us the benefit of your advice on what questions need to be further explored, what new questions need to be opened up in the future as this project continues.

RAMIREZ

Last March there was a regional meeting held in Malaysia, participated in by parliamentarians, academics, representatives of NGO groups, on the theme "values and governance". This was sponsored by the United Nations Development Programme and the Just World Movement led by a Muslim scholar, Dr. Chandra Muzaffar. The objective of the meeting was to explore religious values of different religious persuasions in Asia which may contribute to the practice of democracy. I would suggest that an expert such as Dr. Chandra Muzaffar could be invited to this Academy to expound on the deliberations and conclusions of this meeting. We know for a fact that most of the major religions come from Asia, a well-spring of socio-religious values. To what extent the values derived from these religions can bring about a mentality for an authentic practice of democracy is, I believe, a significant topic to discuss. We as Catholics are supposed to promote ecumenism in the year 2000, perhaps, also, we should expand this to fostering interreligious movements towards democratic practice.

SCHASCHING

Now when we speak about democracy and values, the question always comes up: "where are values born?" Values cannot be imposed by state

authority. Values must be born in society. Now we are facing this situation that society is changing rapidly and profoundly. Before, also in Catholic social teaching, it was clear society had stable elements. Family, local unions and professions and values were born in stable elements of society. Today we face the fact that these stable elements are changing rapidly and profoundly. Therefore the question: where are values born, transmitted, in a rapidly changing society? Because values are born, transmitted in a rapidly changing society. Because values are not imposed from above. They must be born in society. Which are the places?

ARROW

I find myself in full agreement with Professor Schasching. Let me say that there is a moral element to democracy itself, in addition to the moral values derived from civil society. That moral element is procedural neutrality. It is essential to modern Western democracy, and I am encouraged by some comments here that this is a model not only for Europe and its derivatives in the Americas but also for Asia and Africa. Neutrality is the basis of constitutional protection for privacy as well as protection of minorities. The moral content of legislation comes precisely because of this neutrality from the civil society outside the government. Indeed, the moral values come most strongly from those aspects of civil society which are least concerned with influencing the government. Those most concerned already partake of the government's neutrality. For example, political parties, as Schumpeter has emphasized, are essentially entrepreneurial; they seek power and reelection. But the way to get power is to respond to the public's values.

FLORIA

I would like to focus my comment on one or two observations which seem to me to be important for the future work on a subject which we can certainly not consider exhausted. The problem of ethics and democracy, the ethical dimension of democracy, has been dealt with by Professor Arrow from a standpoint which deserves to be considered and certainly discussed. I would say that in the case of unconsolidated democracies there is an unsolved debate regarding what we might call the short and the long term in the development of democracies in transition. In the short term many emerging democracies put the emphasis on a very strong political-economic decisionism. This is more or less justified and also accepted by society as long as the technical solutions are effective. The entire problem of the presence of ethics arises between the short and long term reflection; the observation can be made that the first phase of the emergency and effective



decisionism is seemingly indifferent to ethics, or at least that the ethics amount to the effectiveness of the decision and nothing more. In the second place, it seems to be advisable to establish to what extent democracy encloses within itself values. In complex situations there are three definitions of the ethics of democracy. Ethics which are to do with the type of leadership, the type of ruling class governing the democratic systems, the type of people working in the democratic system, and the reason why democracy functions this way – and this brings us back to Robert Putnam's study on democracy in Italy mentioned earlier. It is what I call the ethics of character. Secondly, what type of decisions are made in democracy, what are the characteristics of these decisions that differentiate them from other political systems. I call this the ethics of choice: what choices are made, what is the quality of the choices made in democracy? Lastly, what type of society evokes democratic competition, what type of society do the parties propose in democracy, what type of society do they create? These are ethics which I would call of the society or community. Thank you.

Utz

I would like to make two observations. The first is this: from the standpoint of moral theology, value has an absolute counter, that is, something that is not variable. The true value is the ultimate finality. The means oriented towards the true finality of man also have value. For example, the method of democracy has a value in relation to the finality of the human being, but it is not absolute; it is a value with reference, in relation to something. My second observation is: taking Aristotle, I could make a systematic classification of our conference. According to Aristotle a thing such as democracy must be defined on the basis of four causalities: material causality, which is civil society; formal causality, which is the government; final causality, which is the common welfare; and efficient causality, which is the citizens. It would be possible to make a systematic classification of everything we have done on this matter by defining on the basis of Aristotle's method, but evidently it is necessary to know that this is really a systematic classification. With regard to the last factor, efficiency, the citizen, and *à propos* of the efficient causality, it is necessary to reflect well on what the current conditions are. To apply a moral norm it is always necessary to know whether it is a univocal norm, such as in my opinion the definition of marriage, or a principle, an analogous value, for example private property. Private property is not an absolute value; it is an analogous value because it is valid in proportion to the common welfare, to

the extent that private property is useful for the common welfare, but it is not valid in itself. Thank you.

ELSHTAIN

I want to associate myself with the general comments that I have been hearing to do with the need for us to be able to evaluate values. How do values arise and what status do these values have? We need to remind ourselves that all the values of our political world are relative values. This means that we are not permitted to absolutize our earthly arrangements in order to make them in some way sacrosanct and beyond criticism. That leaves us with a very interesting question: "where do the values come from that enable us to evaluate those values that are being generated by our society, at any given point in time?" Many values are problematic as they represent a distorted notion of where the human good lies, in part because of the forces of consumerism and materialism that are at work; this puts us into a very complex moral universe. Democracy must help us to aspire to and to reach toward a common good able to affirm the dignity of persons. So democracy, too, must be subject to criticism as either failing to embody and fully realize the values that are constitutive of it, or as aspiring to more than any political system, including a democratic political system, can really aspire to, and that is to make itself an absolute rather than a relative value.

DONATI

My feeling is that in some of the papers there was sort of an idealization of democracy. Thinking of democracy as a value could bring us to hypostasize in a way democracy, to make democracy an hypostasis. I think we should be more distant from such a point of view. We should emphasize that democracy can be ambivalent in respect to values. We have to qualify democracy, anyway. In some papers of this session, there was the danger of forgetting that democracy, in Western countries, is thought of as a neutral entity, as Professor Arrow said; that democracy sustains what we can call an ethical neutrality in culture. I think that this is a very serious point, because it brings us back to Mandeville's paradigm, in which private vices support public virtues. It seems that to believe strongly in some particular value would be anti-democratic. This is all ambivalent, of course. There are a lot of specifications which should be made here. But what I want to emphasize is that we should take more distance from this view in order to be more involved in promoting a real democratic process, a real concept of democracy. So, I feel that we should expand a little bit the analysis of the liberal implications of the concept of democracy. This

implies, to me, to think of the relationships which link the public and private spheres, and to think of values in these different contexts, as deeply connected. We have to contextualize, in a sense to embody values in three different domains: the public, the private and the community domains. They are different. And we have, in a way, to differentiate values according to the specific domain we are talking about, so as to be able to rank values, to elaborate some form of order therein. The dichotomy between public and private spheres allows us to see how the privatization of values is going on in Western societies today. Such a privatization of values can be very dangerous for democracy itself. Thank you.

ZIOLKOWSKI

One of the basic values of democracy is freedom of thought and speech. It is the citizen's inalienable right to be informed. The advancement and growth of a free press became the main warrant of liberty, while the development of new technologies has widened the influence of the media. However, this has created the possibility of manipulating the consent of men. Thus, the central issue of contemporary democracy is the relationship between communication and power.

MINNERATH

Ne faut-il pas aussi se demander: que devient la démocratie lorsque les valeurs qui la fondent s'effondrent? Le système démocratique peut-il lui-même contribuer à l'effondrement des valeurs? Les Lumières nous ont habitués à l'idée que lorsque la société arrivait à se donner les bonnes institutions, la partie était gagnée. Or, l'anthropologie chrétienne et même l'antiquité gréco-romaine avaient une analyse plus réaliste. Les anciens disaient: tous les régimes connaissent une vie cyclique, car ils portent en eux-mêmes les germes de leur propre corruption, aussi longtemps qu'ils ne sont plus portés par la vertu des citoyens. Aristote, Polybe, Cicéron ont tous montré que la démocratie finit inévitablement par se corrompre lorsque les citoyens au lieu de chercher le bien commun utilisent leur liberté à poursuivre leurs seuls intérêts. Alors la démocratie se corrompt en démagogie, puis en tyrannie. Et lorsque les hommes sont au fond du gouffre, ils retrouvent les grandes énergies constructives qui ramènent la raison et le droit. Après les grands drames de l'humanité, il y a toujours comme un sursaut de vertu, un nouveau départ pour le meilleur. Or nos démocraties secrètent le permissivisme éthique, qui démobilise et pousse à l'individualisme. On dit même qu'il ne peut y avoir de valeurs éthiques admises par tous, car ce serait contraire à la démocratie. Les vertus de

liberté, égalité, solidarité doivent être intériorisées par les citoyens pour que la société puisse être durablement bâtie sur elles.

VON BEYME

Social theory in the twentieth century mainly tried to be value-free. This had a negative consequence, however: democracy was less considered as a value but rather as a procedure to mitigate the conflict between various values within a pluralist society. There is a new normative tendency for a revival of citizens' values which would presuppose a minimal consensus about common values in society. The mainstream, however, in a civil society agrees only on one value: conflict without violence. For the rest our representatives try to be responsive to various values. This is not an easy task because representatives are working in networks of interest groups and their responsiveness is highly selective. More fruitful than waiting for an overall consensus of citizens about democratic values seems to be to work on democracy as system which facilitates responsiveness to the citizen's needs without falling into the fallacies of populism.

DE MONTBRIAL

Le Prof. de Monbrial observe que le sujet est peut-être insuffisamment défini et qu'il en résulte sans doute un certain chevauchement dans le débat avec les sessions suivantes ainsi que le besoin de revenir aux concepts de base sur la démocratie. Il propose de subdiviser le sujet en plusieurs thèmes et en propose trois. Celui de "démocratie et communication".

Celui de "la démocratie et de son environnement" (économique, sociologique, politique) qui rejoint la question fondamentale soulevée par le père Minnerath: est-il possible de construire une démocratie sur un terrain miné? Il se réfère à la Russie et cite Soljénitsyne pour qui le régime de l'Union Soviétique a laissé le pays dans un état de ruine sur le plan des valeurs. c'est à cet égard un pays à reconstruire. Mais peut-on édifier la démocratie sur de telles bases et dans les conditions actuelles? Enfin il observe que le thème classique "morale et politique" paraît inévitable. Il rappelle qu'en politique, l'on est souvent amené à prendre des décisions à *court terme* qui vont à l'encontre de ce qui peut être considéré comme moral. Par exemple, le soutien à un régime corrompu. Les Etats-Unis et la France en sont coutumiers. De telles initiatives ne sont pas nécessairement condamnables si elles peuvent être justifiées par un objectif à *long terme*, porté par des valeurs. Stanley Hoffman dans *Duties beyond borders* et d'autres ouvrages a clairement distingué entre par rapport aux objectifs moraux. Cette perspective suscite deux questions: la démocratie est-elle le

meilleur des régimes politiques pour que la politique soit conforme à la morale et qu'est ce que cela signifie exactement? Enfin, comment améliorer la moralité dans le fonctionnement des démocraties?

SCHAMBECK

Wenn wir uns mit dem Staat und der zivilen Gesellschaft beschäftigen, muß festgestellt werden, daß der Staat in juristischer Sicht so weit tätig sein kann, wie er durch das Verfassungsrecht und durch das übrige positive Recht zum Handeln legitimiert ist. Die zivile Gesellschaft ist offener. In der zivilen Gesellschaft können sich Strukturen ergeben, ohne daß sie vorher vorgeschrieben sind. Die Voraussetzung für die zivile Gesellschaft — das haben bereits Vorredner vor mir angedeutet — sind die Grundrechte. Die Grundrechte des einzelnen Menschen öffnen im Staat die Möglichkeit der Entwicklung der Gesellschaft. Dabei müssen wir heute leider feststellen, daß es viele Alternativ-Szenarien im Bereich der zivilen Gesellschaft und im intermediären Bereich, wie Anarchismus und Terrorismus, gibt, die den Staat in seiner Existenz gefährden können. Folglich muß der Staat auch die Möglichkeit haben, sich in seiner Existenz sowie auch bezüglich der Freiheit und Würde der übrigen Menschen zu schützen.

Der Primärzweck des Staates ist der Rechts- und Machtzweck, der auf die Herstellung und Aufrechterhaltung von Ruhe, Ordnung und Sicherheit gerichtet ist. Ihm dient der demokratische Rechtsstaat. Auf seinen Wegen, nämlich den der Gesetze, sind kultureller Fortschritt, wirtschaftliches Wachstum und nicht zuletzt soziale Sicherheit anzustreben und zu erreichen. Das Gesetz, und zwar sowohl auf der Ebene der Verfassung als auch der des einfachen Gesetzesrechts, dient der Sicherung des rechten Verhältnisses des Einzelnen, seiner Freiheitssicherung, der Gesellschaft und des Staates.

MENSAH

I wanted to react to the point made by both Professor Schasching and, I think, Professor Elshtain. When we speak of values, I think it is important to recognize that sometimes we may be talking about two different things. First there are what I would call fundamental values, and then there are the means to achieve those values. Sometimes what appears to be a dispute about values may in fact turn out to be arguments about how to achieve a value on which there is basic agreement: for example, an argument about divorce may be about basic values, but it could also be only about the means to a value. To some the disagreement may be seen to be wrong in principle, while others may be addressing it in terms of whether divorce

undermines or supports the integrity of the family. The two groups may both agree on the sanctity of the family but may nevertheless disagree about the role of divorce in maintaining or undermining it. Differences about fundamental values and arguments about the most effective ways to achieve agreed values will persist in a democratic society. The important thing to remember, I think, is that one of the values of democracy, perhaps one of the essentials of democracy, is what I would like to call the “imperative of limitation”. Limitation not only as to the reach of state authority, not only also as to the reach of the power of the various components of society, but more fundamentally a limitation as to the reach and effect of the views and interests of any particular person or group in a democratic society. What I mean is even when the majority clearly believe in a value and the means of achieving that value, that view should not predominate to the exclusion of all others in a democratic society. There should be a limit to the reach of that majority view which enables other views and other conceptions and values to have their effect on the way of life of at least some of the people. I believe that it is important to recognize and accept that there will always be differences of opinion about the validity and relative importance of some values, and also about the most effective means of promoting values on which there is general agreement. But, above all, it is crucial to recognize in a democratic society the imperative of limitation because it is what makes it possible for different values to co-exist, even if there are clearly identifiable values which are accepted as the predominant and operative guides for the society as a whole. The need to balance opinions about values is essential in a democratic society, for otherwise we have a situation in which it is not possible to handle the problem of competing values in a creative way. Do we merely count heads and rigorously enforce the values of the majority on everybody or do we follow the “anything goes” approach and permit all and every view to have their way? If we are to enforce some values and suppress others what criteria are to be used to determine which is which? Is it possible to evaluate the predominant value, if so how do you do it? Who guards the guardians? Thank you.

#### MORANDE

I got the impression that notwithstanding the richness of the whole debate, we stand as at the beginning. We have not gained more clarity of the concepts and also not more consensus on many fundamental points. This moves me to suggest the organization of more workshops in the future, upon particular and differentiated aspects of the global phenomenon of democracy. Among the many problems that we should discuss in the future,

I would like to draw your attention to the following one. The Universal Declaration on Human Rights of the UN, and also the whole Western understanding of the “rule of law”, implies that government is the most important social virtue. We have inherited this conception from Aristotle, as Professor Utz observed. Sociologically speaking, that implies in turn that the political subsystem must have a rule role over all the other social subsystems. Up to the philosophy of Enlightenment this was the approach. Hegel even stated that human beings become rational only under the existence of the state. Notwithstanding this, sociologists agree nowadays in saying that the political subsystem no longer plays a rule role over all other social subsystems. It is properly a subsystem in relation to others and not a global system at all. The state becomes a new and powerful social actor, also a mighty entrepreneur. It owns and manages corporations in different social spheres, such as health, social communications, infrastructure and even production. As a particular social actor, with particular interests, it cannot be the neutral guarantor of the “common good” or, at least, it has serious difficulties in accomplishing this role. So I think that the Aristotelian virtue of government must be reviewed when it is applied to the state, adapting his view to the specific social circumstances of the present time. I make this comment as a contribution for the future determination of the subjects that our Academy will address.

BETANCUR

Gracias señor Presidente. Me dejó muy impresionado la referencia que hizo el profesor Solowski a la libertad de prensa y al derecho de estar informado y les quería hacer partícipes de una reciente vivencia. A mediados del año pasado se reunió en Panamá, en América Central, el Congreso de la Sociedad Interamericana de Prensa; y éste, el derecho de estar informado, fue el tema fundamental. Pero siempre encontramos el vacío “¿y quién garantiza esa libertad de prensa, y quién garantiza el derecho de estar informado, y quién le garantiza al que informa, es decir al periodista, sus comportamientos?” Esa reunión en ese congreso, de la Sociedad Interamericana de Prensa, era como un cementerio, porque estaban los hijos de los periodistas asesinados por informar, o la hija o la viuda. Es decir que el que lo presentaba, la Sociedad Interamericana de Prensa, como alegato para sustentar lo que el profesor Solowski decía, de la libertad de prensa y libertad a ser informado y a ser bien informado, era una serie de mantos fúnebres. Y entonces nos hacíamos la reflexión de ¿Y a quién se apela para garantizar el derecho de estar informado? Por ejemplo, ¿a quién se apela por una información incorrecta, inexacta de CNN?

## ARCHER

What is crucial is the relationship between democracy and civil society, but this is also variable. Firstly, democracies themselves lack homogeneity and thus display varying degrees of openness, semi-openness and closure. Therefore they have different degrees of responsiveness to civil society because the political structure functions as a gatekeeper. Secondly, the institutional processes through which parts of civil society can get their demands discussed in the central political arena require attention in their own right as filters. Thirdly, if democracy is to be participatory, then attention must be given to pressure groups and interest groups which link civil society to democratic institutions. Both the form of democracy and the nature of these oppositional groupings change simultaneously: we can only understand this mutual elaboration by examining their interplay.

## ELSHTAIN

One of the issues that came up yesterday was the question of how we are to evaluate the different manifestations of civil society and of group life. Anyone who knows anything about history knows that there are groups that often have pernicious effects through their actions. Here I would suggest that we cannot talk about a decent, democratic civil society without asking ourselves fundamental anthropological questions about the nature of persons, and "in what does the good of persons consist?". That question has to precede all our considerations of how we evaluate the different embodiments of civil society. There is sometimes a mistaken presupposition in certain democratic societies that every institution in society must look like a majority "one person, one vote" institution. That is, the institution must be modelled on a majority system, including the family and Churches. In fact, a rich democratic society is one that does not pre-suppose homologous structures that reinforce one another. Rather, there is a rich plurality of ways in which people associate. Families cannot be democracies in the way parliaments embody certain aspects of democracy. We do not decide Church doctrine by a majority vote. An emphasis on a plurality, or variety of different kinds of forms and structures as parts of a robust and well-functioning democratic society is the key. There is something else that needs to be emphasized, and that is the difference between participation and mobilization. The notion of participation, of persons being called to action in their communities in service to certain ends, goods and purposes is central to democracy and involves the wider good of a community. This is very different from people being available for mobilization. It is difficult to be swept up in great causes if you have the isolation of subjectivism. But



that is not of what a democratic civil society consists; rather, it consists of our capacities for being political in a civil way, as good neighbours building an ethic of solidarity through participation. Mobilization turns on people's isolation and people's loneliness, and a prior depoliticization and subjectivism of persons.

ZUBRZYCKI

I wish to suggest a paradigm within which we might focus our discussion on what Ludwig Erhard once called the social market combining the principle of the freedom of the market-place with that of social justice for the individual and the individual's moral responsibility towards society as a whole. The social market, the civilized market, contains three elements which make up its functioning profile. First, the safeguarding of human dignity: the state must respect the right of every person to a fully human existence. Therefore personal development, social justice, are basic freedoms of the civilized market-place. Second, solidarity to encourage people to see themselves as members of a common partnership or enterprise, in the family, local community and the workplace. And thirdly the principle of subsidiarity. The role of the state must be to encourage the market economy by providing a consistent legal framework and a system of regulation, but at the same time promoting personal responsibility and self-help rather than dependence. Hence, it cannot abrogate the functions of intermediate mediating structures as the essence of civil society.

VILLACORTA

I'm glad that Professor Archer emphasized the need to desegregate the concept of civil society and to derarefy democracy, because it is very important, especially for a social scientist like me, to be aware of this and to bring home the different frameworks that you have offered. They will help me and my students and colleagues understand the different issues. Now, whenever I am invited to forums on democracy in other countries, I am always asked: "what is the Catholic approach?" Or: "what is the Catholic framework to various social and political issues?" And I must confess that I am unable to answer these questions satisfactorily, not because of the inadequacy of Catholic social and political thought itself, but because of my lack of access to publications and materials on this subject. May I appeal to the distinguished members of this Academy, as well as my fellow professors who were invited here as guests, to share their writings? Even though they're not in English, we have translators back home. Now, I would like to be clarified on certain issues, rather than wait for your materials. I'd like to

be enlightened on certain, pressing civil society issues that I feel must be addressed as we approach the twenty-first century, in an increasingly post-modern world. I think that as Catholic intellectuals, we must be proactive and anticipate the emergence, if not the intensification, of certain issues that will be more the concern of social scientists and leaders in the next century. This coming century, as we know, will witness prominent tendencies. First there is the impact of high technology And secondly, greater pluralism and particularism of interests and consequently greater demand for these interests to be represented and for interest groups to participate in the decision-making process. And a lot of these interests are not the usual ones that we are confronted with, and that we are discussing right now. For example, gender rights. I don't think that our discussions have fully given attention to this aspect. More and more, for example, we will be confronted as Catholic intellectuals with the issue of alternative life-styles. Gay rights, for example. How do we address this problem? What about the demand of certain feminist groups to reinterpret the Bible, referring to a unisexual God and changing the prayers and even the Liturgy to make it more gender-sensitive.

There is also the matter of children's rights. The increasing demand on the part of the younger generations to speak out and to participate in family decisions, and even the decisions of government and business. There are other issues. Animal rights. The right to die. The death penalty. We're getting mixed signals about the Church's stand on the death penalty. Maybe it's my own ignorance, but I know that the Vatican has made a statement with respect to the killings or executions in Rwanda. But is the international Catholic community fully aware of the Church's stand on the death penalty? The right to information as a crucial element of democracy in civil society was also brought up. But where does the Church stand on censorship in cable and electronic communications? Does the right to information involve the lack of censorship or any kind of control over what comes out in the Internet, and so on? Then we also have to be clearer in the coming century about our approach to international relations, as we are confronted with greater transnationality. What is our approach towards global capitalism? I know that various people's statements have taken a stand against the excesses of capitalism, of free enterprise and so on. But as the world develops more complex modes of global capitalism, perhaps we should be equipped to respond to certain issues that might crop up.

There is also the issue of "terroristic" regimes. And how would we define "terroristic"? The balance between the welfare of the people, especially the children of Iraq, versus the need to censor the actions of the Saddam regime. Furthermore, how do we respond to the erosion of

national sovereignty? And – I don't know if this is a taboo subject – democracy within the Catholic Church itself. I'm always asked this question whenever I attend seminars on democracy in non-Catholic countries in Asia. Is there democracy within the Catholic Church? Then comes the role of women in the Catholic Church. And what about abortion and divorce in legal systems? What if these laws are sanctioned by the majority of people and their representatives? This can create conflict between democracy and absolute values. What if the majority of people want divorce and abortion, or some kind of family planning? Because this goes against the teachings of the Catholic Church, how do we grapple with this kind of dilemma? And lastly, the atomization of civil society, or of society itself. We see that communications, even education, have been highly atomized, made portable and individualized. This has implications for moral and religious education, and even democratic and other forms of political education. With the robotization of production, what are the consequences for labour, for social justice and democracy? Lastly, this may be my last chance to express my thanks to the Pontifical Academy for this privilege of participating for the second time in its forum on democracy. It has been tremendously enriching and fulfilling for me, both intellectually and spiritually, to be interacting with the leading minds of the world. I wish to thank you very much.

NOJIRI

I would like to repeat my opinion. Firstly, as I tried in my paper, the values of democracy must be distinguished into two categories: that is values as democracy as a form of rule, and those of democracy in the mind. And in the former case, values of democracy consist in a suitability or adaptability for the effective or just administration of social group. That is an instrumental value. But in the latter case, values of democracy lie in the mind respecting everyone as a person. This comes from a consideration of the dignity of man as a person. Secondly, the democracy which the Church supports must be that from the viewpoints of democracy in the mind. Thirdly, in connection with democracy, every culture has a speciality and a universality. And concerning democracy the universal value must be dignity of man as a person. If this is denied or missed, one would lose the reason why one recommends or asserts democracy. However, almost all cultures have in some way a common recognition of this point, that is of human dignity, however different their forms of expression are. But universal values are realized only in concrete reality. This reality is specific and changeable with social and historical conditions. So, in order for democracy to be achieved, it is inevitable to grasp the universality and speciality of

cultures, and to develop social and historical comparative studies of cultures. Thank you.

SCHAMBECK

Am Ende unserer mehrtägigen Konferenz über Demokratie möchte ich betonen, daß die Demokratie an und für sich als eine Form der Staatswillensbildung wertneutral ist. Es kommt darauf an, was man mit dieser Möglichkeit der Demokratie anfängt. So können auf demokratischem Weg Werte akzeptiert, positiviert und auch negiert werden. Wir sollten in diesem Zusammenhang auf den Ursprung der Werte hinweisen. Viele sind präpositiv und können von Religionen, Ideologien und Weltanschauungen, aber auch als Wertungen von beruflichen Interessen kommen. Diese Werte können ausgehen vom Einzelmenschen, von der Gesellschaft und vom Staat, aber auch vom intermediären Bereich, wie etwa den Massenmedien, die ab- und aufbauen. Der Staat der Gegenwart wird aber nur dann von seinen Einwohnern — und das ist mehr als bloß die Staatsbürger — ein bestimmtes Annehmen von Pflichten und Aufsichnehmen von Opfern verlangen, wenn mittels positiven Rechts der Einzelne nicht bloß normiert, sondern auch motiviert wird. Dabei müssen wir in einem Zeitalter des Terrorismus erkennen, daß die Menschen Werte anerkennen, aber auch nicht anerkennen. Terrorismus und Anarchismus sind leider auch in unserer Zeit erlebbar und verlangen eine wehrhafte Demokratie.

MARTIN

I'm going to push the definition of civil society farther, perhaps for some of you too far, to mention one societal actor and one societal phenomenon which we have not mentioned, but which greatly influences the quality of democratic life in all of our societies. The group is organized crime, and the phenomenon is corruption. It would be foolish to underestimate the significance today of the phenomenon of organized crime as a real threat to the functioning of democracy in many countries. We could look at, for example, the question of corporate corruption, particularly in the area of public sector contracts. It actually damages the democratic process. We could look at the corruption within political parties, and the corruption of political parties. There is corruption within the political administration where citizens' rights are effectively and severely damaged. We may joke about a phrase like "crony capitalism", but here again is an indication of how corrupt links between the corporate, the banking and the political sector undermine democracy, damage the economy, and eventually hurt the poorest sectors of all those societies. And

then there's the question of the corrupt citizens. The citizens who don't pay their taxes, and who do not play their fair share in a very important aspect of the democratic process. Maybe I should re-phrase all of this in a more positive way, in order to end with a positive thought. That transparency in the private sector and a certain culture in the business, banking and management of the economy are pre-requisites for effective democracy.

ZACHER

I'd like to comment on the deliberations of the ad hoc Committee on Democracy. As the Council of the Academy sees a chance of another meeting on democracy in the year 2000, the Committee was quickly ready to recommend that another meeting on democracy should be prepared. Hence the Committee has already accepted Professor Morande's suggestion. However, it's up to the Academy to discuss this.

Starting from the idea of another meeting on democracy, we asked what the subject of such a meeting could be. For this purpose we went through the programme and the discussions of this meeting and we asked which fruitful or even necessary points should be continued. But we also referred to the old list of subjects from our workshop, and we asked which are the major points that we should come back to. And there was one result. The report on the social teaching of the Church on democracy which our colleague Schooyans had prepared for the workshop made us become too much accustomed to the fact of being well-informed about this teaching, and we hence lost contact with this dimension during our further work. We did not really continue to see our subjects in the light of the social teaching of the Church and ask for the respective results which could contribute to a further development of this social teaching. So we found that for another meeting we should ask for a second report on the social teaching of the Church being elaborated after the workshop and after this meeting and especially directed towards the subjects of the next meeting.

Then we agreed that, as the discussion of this morning has already confirmed very intensively, much has still to be done in the field of values. The new paper of our colleague Schooyans points in the same direction. More and more individualism and individual attitudes are being defended and get enhanced room in our societies. But there is a decline in the protection of values which other parts of the society may find important. A prominent instrument in this direction are the non-discrimination clauses in the constitutions, laws, international agreements etc. They have a long tradition of protecting freedom, especially freedom of religion. But meanwhile we have an inflation of non-discrimination clauses. And individual attitudes

protected by a non-discrimination clause are conflicting with value convictions of other parts of the society. These parts have to give way. This is only one approach to the problem of values and democracy. But it underlines that for the further work of this Academy we should continue our debate in the context of the relationship between values and democracy. Another point coming from our old programmes is civil society. We saw that we did not find an answer for the situations where no civil society really exists. But I am also very grateful to Dr Mensah's contribution when he said that for Africa it's not so much a problem that there's no civil society, on the contrary, there may be a very strong civil society, but this civil society is not fitting into the democratic nation. But also for this reason we did not find a recipe how to produce civil societies, and how to bridge the gap between native civil societies and the needs of a democratic organization of a nation. We felt the Academy should not try to go further in questioning how to invent civil societies, how to produce them. However, we should come back to the question of the civil society in special contexts. We also found that we should not continue to discuss the international and the supranational aspects in a separate manner. We should rather include these aspects of international organization, international agreements, international interventions in broader subjects as suggested by Professor de Montbrial. On the other hand, we found that we lost contact with the problem of the real functioning of the democracy. With democratic structures, as Professor Archer made us think of before and as she said, there is an interplay between the democratic structures and civil society. We found that this is an important direction. We should talk about the right functioning and the right structures of democracy and correspondingly the dangers for the development of democracy. Democracy and civil society, this interplay, is always in peril of frictions and imbalances. Also, coming from the old list of topics, we found that there are a lot of very specific points where the problem of democracy is reflected in a concentrated and very concrete way, perhaps education, public opinion, media, market, labour etc.

And so we came to the *idea of a possible programme*. This could start with another and actualised approach to the *relationship between democracy and the social teaching of the Church* and then continue to ask about the *relationship between values and democracy* in a more specific sense. Our idea was to ask how to advocate, how to foster values in a pluralistic society by democratic means and within democratic structures. Perhaps we should, in the light of the intervention of Father Schasching, ask again about the generating of values.

The third point could be the interaction between civil society and

democratic structures and the adequate development of democratic structures. An interesting title for that could be "*The Ideal of Democracy and Political Reality*". Or: "*The Specific Situation of Certain Civil Societies in Relation to Democracy*". And then we should like to come back to the list of *special workplaces of democracy* like the *welfare state*, the *economy*, *labour*, also *labour organization*, *education*, *public opinion*, *media*, *religion* and *religious communities*, and finally *ethnic minorities* and *national democracy*.

That is about the line we would like to suggest for a further meeting of the Academy, which perhaps should then be the final meeting on the subject. We should find room for a broad discussion. Not to come to conclusions. We should not have majority decisions on recommendations on democratic policies. But perhaps we could find some outlines to finish with.

McNALLY

We have had two sessions on democracy – three if you count the workshop – and our final discussion is in the year 2000. My background as a judge inclines me to hear the case for both sides and then come to a conclusion. I know that you will tell me, and I accept, that one cannot come to conclusions on a subject-matter like democracy. But I remain hopeful that our final meeting will somehow draw the threads together.

Secondly it has occurred to me, and to others at this meeting, that we might impart a tremendous sense of focus and purpose into our deliberations if we were to invite representatives of other major religions to a future meeting. I think especially of Islam. The relationship of Christendom and Islam has the potential to become confrontational in the next century. We could improve on previous relationships and add purpose to our discussions, if we were to prepare a synthesis of our thinking on democracy as a basis for a discussion with representatives of Islam.

Otherwise I fear that all these ideas, wonderful as they are, will hang in the air and fade gently away.

GLENDON

Most of the matters we have been discussing at this session of the Academy could be gathered under the heading "social ecology". Supranational entities, national and local governments, the market, the structures of civil society and the individual human person all have great potential both for good and for harm. Various speakers have puzzled long and hard over their optimal relations to one another. How can societies maximize the benefits of government (at various levels), the market (at various levels), the mediating

structures, and individual liberty? How can each element of the social ecology be kept within some kind of normative or juridical framework without stifling the good that is proper to it? And without enabling any one element in the mix to overwhelm any other?

The ecological metaphor helps us to keep in mind that we are dealing with dynamic relations among complex systems that are constantly changing. It thus also suggests links between our work and what our brethren in the natural science academy call “complexity theory”, the infant science of complex, interacting systems in biology, fluid dynamics, and economics (an area where our two academies overlap).

The fruits of our deliberations, it is to be hoped, will help us to fulfil our duty under the statutes of our own Academy to “offer the Church the elements which she can use in the development of her social doctrine”. Our Academy, however, has also the duty to “reflect on the application” of that doctrine “in contemporary society”. Professor Villacorta remarked at one point that he is often asked what the Catholic Church teaches on these subjects. The frequency with which that question arises illustrates the truth of Pope John Paul II’s oft-repeated remark that the Church’s social teaching is one of its best-kept secrets!

Father Schooyans has performed an inestimable service by reminding us of the great principles of Catholic social thought (such as subsidiarity) that bear so closely on our democracy project. To his magisterial exposition, I would add only one reference that seems to me to be particularly relevant to the problems that have provoked the most lively discussion in this meeting.

In his October 1995 speech to the United Nations, Pope John Paul II spoke of a “legitimate pluralism” in forms of freedom. That notion of legitimate pluralism has important implications for our discussions of democracy and values, democracy and civil society, and democracy and international institutions. On the one hand, the approving reference to “pluralism” counsels against the “one right answer” temptation. There are many different ways, the Holy Father said, of pondering the tensions between freedom and order, the individual and the group. Thus, there is scope for many different versions of the democratic experiment. On the other hand, the word “legitimate” makes clear that not all activities carried out in the name of freedom are conducive to human flourishing.

This opens the door to a move from social ecology to “moral ecology” and to questions which our academy may be uniquely suited to pursue.