

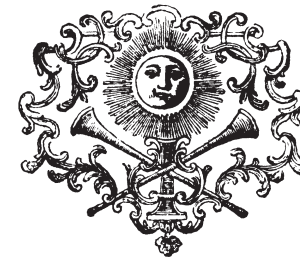
# THE FEDERALIST

a political review

THE FEDERALIST, YEAR LI, 2009

*To look for a continuation of harmony between a number of independent unconnected sovereignties situated in the same neighbourhood, would be to disregard the uniform course of human events and to set at defiance the accumulated experience of ages.*

Hamilton, The Federalist



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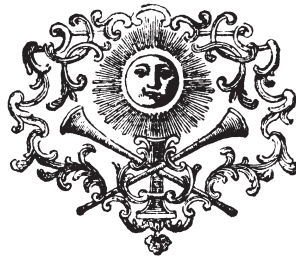
YEAR LI, 2009

# THE FEDERALIST

a political review

*Editor:* Giulia Rossolillo

*The Federalist* was founded in 1959 by Mario Albertini together with a group of members of the Movimento Federalista Europeo and is now published in English and Italian. The review is based on the principles of federalism, on the rejection of any exclusive concept of the nation and on the hypothesis that the supranational era of the history of mankind has begun. The primary value *The Federalist* aims to serve is peace.



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# The German Constitutional Court and the Future of European Unification

In order for any political battle to succeed, there first has to be a full and clear understanding, without mystifications, of the situation that the battle itself is setting out to change. Only in this way is it possible to establish, clearly, the instruments that need to be used and the steps that must be taken on order to reach the final objective. In this sense it is, for anyone committed to the founding of a European federal state, very useful to reflect upon the considerations advanced by the German Constitutional Court in its recent ruling (June 30th, 2009) on Germany's ratification of the Lisbon Treaty. The Court, indeed, examines the foundations on which the European Union is built and provides a lucid analysis of the weaknesses shown by the EU institutional machinery whenever the unification process runs into difficulties, and of the contradictions that emerge, within this framework, whenever the objective of creating a European federal state is raised. Thus, even though many commentators have interpreted it as an attempt to obstruct the process of European unification and strengthen the role of the national institutions, the ruling actually provides an excellent starting point for a federalist analysis of this issue, as it helps to debunk many of the myths that have precluded, and still do preclude, a real understanding of the process of European integration and the turn it could take in the future.

\* \* \*

The question put to the Court concerned the possibility that the attribution of new competences to the European institutions under the Lisbon Treaty (and thus the transfer of these competences away from the states) would leave the democratic principles on which the German legal order is founded devoid of substance, and the citizens powerless to influence the decisions affecting their own future. Because, according to the complainants, these decisions would, ultimately, be taken not by

national institutions answerable to the citizens, but rather by non-democratically legitimised European institutions.

This is not the first time that the *Bundesverfassungsgericht* has grappled with this question. In the 1990s, it was called upon to decide on the constitutional legitimacy of the law ratifying the Maastricht Treaty, and in fact decreed that the law was compatible with the German Constitution.

On that occasion, the Court emphasised the European Union's essentially internationalist character, highlighting the fact that it was not founded on a single European people, but that the source of its legitimacy was, instead, the member states and their peoples. In other words, the states, according to the Court, were still the "masters of the Treaties", which could be modified only by unanimity, and from which the states retained the power to withdraw (in other words, the states retained the power to take back competences attributed to the EU institutions).

These principles were confirmed by the ruling of June 30th, 2009, this time in view of the imminent entry into force of the Lisbon Treaty. The ruling indeed states that the new elements introduced by the Treaty do not substantially alter either the existing revision procedure, or the current nature of the Union's competences. The new Treaty revision procedure, which involves the convening of a Convention composed not only of government representatives, but also of representatives of the national parliaments and EU institutions, is essentially still based on intergovernmental mechanisms, given that, under it, any amendments proposed will come into force only if they are approved by a conference of representatives of the governments of the member states and ratified by all the member states in accordance with their respective constitutional requirements.

As far as the competences of the European Union are concerned, on the other hand, the Lisbon Treaty continues to be based on the principle of attribution, i.e. the principle according to which the EU acts within the limits of the powers that have been conferred on it. The right to determine the competences held at European level (*Kompetenz-Kompetenz*) thus remains firmly in the hands of the member states.

Hence, as the Court underlines, the European Union, even post-Lisbon, retains its confederal character, being an organisation founded on *cooperation* (or harmony) among *sovereign* states.

The first myth that the Court helps to debunk is thus the notion that the European Union is a *sui generis* organisation, distinct both from confederations of states and from federal states, being more evolved and more

complex than the former, and standing apart from the latter on account of its division of sovereignty between central and state level, if not for its overcoming of the classic concept of sovereignty.

In actual fact, these latter ideas confuse the concept of sovereignty with that of autonomy. Whereas an entity may be defined as autonomous when its authority to exercise given powers independently is a derived authority (i.e., conferred on it by other bodies that can, at any time, withdraw it), a sovereign entity is one whose existence is absolutely independent of the will of others. Once created, a sovereign entity no longer depends on its creators or its members; indeed, upon its creation, it acquires the power of self-determination. This means that the members of a federal state, once they have brought it into being, lose all power to condition its existence; confederal-type unions, on the other hand, once they have come into existence, continue to be conditioned by the will of the states that created them.

Therefore, however much the European Union has evolved compared with other existing international organisations, it is still to the concept of autonomy — not sovereignty — that we must refer when describing its nature. The existence and workings of the European Union depend on the will of the states that created it and are its members. Thus, the process of European unification is not *irreversible* because the member states retain the freedom, regardless of the will of the European institutions, to take back the powers they previously conferred on the Union. What is more, the idea that they might actually do this (a possibility inherent in the very nature of community building) is referred to explicitly in the Lisbon Treaty, which establishes that the Treaty revision procedure need not necessarily result in an increase of the Union's competences, but could also lead to a reduction of them (and thus to their being transferred back to the states). In the same way, the Lisbon Treaty contains a provision that would allow member states to withdraw from the Union.

All of this remains true in spite of the fact that the European Union possesses some traits considered typical of a federal state. Indeed, one need only scratch the surface to see that the EU institutions, whose smooth running depends on consensus among the member states, are in fact nothing like those of a federal state.

The *Bundesverfassungsgericht*, in references to the role of the European Parliament and to the principle of the primacy of EC law over domestic law, provides two clear illustrations of this point.

First of all, the European Parliament, in the Court's view, does not give the Union the democratic legitimacy that, in a democratic state, is

guaranteed by the representative body of the citizens. In the first place, it is an institution in which the European citizens are not represented on an equal footing: the seats in the European Parliament are not distributed according to a strict rule of proportionality to the size of the population; instead, in order to ensure an equal balance among the states, a criterion is adopted whereby euro-MPs from more highly populated countries each represent a greater number of inhabitants — a system that results in underrepresentation of the citizens from these states. As pointed out by the German Constitutional Court, “in federal states, such marked imbalances are, as a general rule, only tolerated for the second chamber existing beside Parliament”, whereas in the lower chamber, the principle of equality of citizens must always be upheld. As things stand, the European Parliament does not represent the European people as a whole; rather it represents the Europeans as citizens of their respective states.

Moreover, the close involvement of the states in the workings of the Union explains why the role of the European Parliament is so very different from that of a national parliament. Democracy within a state is realised by giving the citizens not only the right to elect a parliament (as in the European Union), but also the possibility, through their parliamentary representatives, to choose a government that will be answerable to the citizens for its actions. The European Parliament, however, does not fulfil this function, given that the decisions crucial to the life of the Union are taken by the European Council and by the Council of the European Union (which thus become, substantially, the Union’s government), in other words, by two organs that, by definition, guarantee equal representation of the states (not of the citizens) and are subject to no democratic controls at supranational level. Thus, although we may talk of democratic legitimisation of the EU through the European Parliament, what we are referring to is clearly a flawed form of legitimisation.

With regard to the primacy of EC law over domestic legislation, a principle enshrined in the case-law of the Court of Justice of the European Communities (ECJ) ever since the 1960s and seen by many as a sign of the Union’s federal nature, the *Bundesverfassungsgericht* makes the point that the ECJ, unlike supreme federal courts, does not have the power to override domestic legislation that is incompatible with EC law. Indeed, the application of EC law, the abrogation of incompatible domestic legislation, and the enforcement of ECJ rulings are all operations that, ultimately, call for cooperation on the part of the member states, whose behaviour the European institutions have very little capacity to force. Hence, the principle of the primacy of EC over domestic law,



too, is applicable only as long as the member states and their judicial authorities are willing to apply it, and it is understood that should the action of the European institutions jeopardise the sovereignty of the member states as a whole, the constitutional courts (the German one in this instance) will be free to intervene in order to avert this risk.

\* \* \*

In truth, affirmations like this last one, which have shocked many of those who have analysed the ruling, should be seen less as an attempt to slow down the unification process and more as an indication of the limits that the functionalist method, which has guided the evolution of the process of European integration thus far, is unable to overcome. Indeed, the *Bundesverfassungsgericht* does not rule out the possibility that the European Union might become a federal state. What it does rule out is the possibility that this transformation might come about through a gradual transferring of competences from national to European level, and in the absence of a conscious decision on the part of the governments, supported by the explicit consensus of the citizens.

In other words, this ruling (unlike the one the German Court issued in relation to the Maastricht Treaty) explicitly raises the issue of constituent power, and thus of the transfer of sovereignty.

It is, indeed, unthinkable that the European Union should be attributed the competences that are central to a state's sovereignty without first changing its own nature in order to become a state, i.e., an entity equipped with a democratic government that is answerable to the citizens. According to the *Bundesverfassungsgericht*, only a break with the existing rules will allow such a transformation to take place. In other words, the decision to create a new sovereign entity is not one that can be reached by the representatives of the member states *within* the EU institutions, or by the states acting under the ordinary Treaty revision procedure; it is, instead, one that will have to be adopted by the citizens outside the framework of the mechanisms provided for by current national and Community law. Indeed, the will to create an entirely new European political system will have to emerge — a will that cannot be considered implicit in the erosions of national sovereignty that the European citizens have accepted through their national parliaments' ratifications of the various Treaties during the course of the European unification process. The founding of a new power, which is what is called for now, will instead require that the citizens take back their constituent power, in order to

exercise it in a new framework.

This, in the Court's view, is the only solution capable of avoiding a "suspension" of the democratic rules and thus of guaranteeing, throughout the process, the citizens' right to share in the decisions that really affect their future. Because to persist with the rationale of simply increasing the powers of the current European Union would be to go on transferring competences away from national level, a level at which democratic legitimisation exists, yet without this entailing a transition towards a new state and thus towards a new form of democratic legitimacy.

The question of a common defence policy provides a clear illustration of this problem. Currently, responsibility for defence matters is still in the hands of the states, but Article 42 of the Treaty on European Union (as modified by the Lisbon Treaty) makes provision for the European Council, acting unanimously, to decide to introduce a common European defence, whose establishment the member states would nevertheless have to approve formally, in accordance with their respective constitutional requirements.

Some people, retaining a functionalist perspective, think that a true European defence policy can be achieved using the current mechanisms and propose that the Treaty should be modified to make it possible for the European Council, acting by a majority, to decide to adopt a common European defence, and subsequently to take majority decisions on all aspects of EU defence policy. This would amount to a moving away from a purely intergovernmental approach and result in a further extension (to the defence sphere) of the community method. However, as the *Bundesverfassungsgericht* points out, such a course would conflict deeply with the democratic principles on which the constitutions of the EU member states are founded. Whereas application of the principle of unanimity in the area of common foreign and security policy (provided for by the current text of the Treaties and also by the Lisbon Treaty) provides a guarantee that no member state can be obliged to take part in a military operation against its will, the proposed extension of qualified majority voting would make it possible for a body that has no democratic legitimacy (the European Council) to impose its defence decisions on a state. The *Bundesverfassungsgericht* makes it clear that Germany would be constitutionally prohibited from taking part in any Treaty amendment allowing this.

The Court's observations in relation to the majority rule raise, once again, the problem (particularly glaring in defence matters) of the

relationship between the central authority and the member states, even though the ruling does not make any specific reference to it. As long as the decisions taken at Community level continue to be directed at them, the states will retain their capacity to influence the action and the very existence of the supranational level, and the survival of the European Union will continue to depend on their will to cooperate. Accordingly, even should the European Council or the Council, acting by a majority, reach a decision on a defence matter, any member state opposed to that decision could refuse to act on it. Ultimately, the only means of forcing a state to adopt a certain behaviour is to use military force against it, but this would obviously lead to disintegration of the Union. The United States experienced just such a situation during the period in which the *Articles of Confederation* were in force: even though the federal authorities had the power to take majority decisions on matters relating to defence and the funding of the confederation, the member states refused to implement them, thereby causing the confederal machine to seize up. It was, indeed, the enormous crisis provoked by the confederal institutions' inability to impose any decision on the member states that led to the collapse of the rules established by the *Articles of Confederation* and the creation of history's first federal state.

The central authority, if it is to be truly independent of the member states, must have the capacity to impose its decisions directly on the citizens. With regard to defence, therefore, the power to recruit a European army would have to reside at federal level, and the effective formation of this army would have to be independent of the individual member states' willingness to contribute the necessary men and means.

However, as we have already pointed out, it is quite inconceivable that this kind of power might be transferred to a supranational level without the creation, first, of a proper government that is answerable to the citizens, in other words, without the creation of a European federal state. And it is also inconceivable that this state might be created without the citizens, first, being called upon to take part in a decision that, radically altering Europe's political configuration and transferring sovereignty from the nation-states to a new federal-type entity, would profoundly affect their future.

\* \* \*

Given the current situation — the process of European integration is struggling badly and the EU institutions are proving incapable of rising

to the challenges that Europe faces —, the German Constitutional Court's ruling not only comes as a timely reminder of the risks generated by the current drift of the process of integration and by the generally held belief that it is irreversible, but also serves, usefully, to highlight the roles played by the different parties involved.

On the one hand, never has the *voluntary* nature of the forms of cooperation introduced by the member states through the creation of the European Community and the European Union been as strikingly apparent as it is today. In the past (up until the end of 1980s), the partial successes recorded by the Community to an extent masked the real role played by the states; conversely, in today's highly unstable world, and in a European Union in which the spirit of Europe's founding fathers has been largely extinguished by successive enlargements, the power of the states to condition the process of integration and even to block the European institutional machine is clear for all to see.

Paradoxically, on the other hand, the EU institutions themselves emerge more as an obstacle to the building of a federal state than as a driving force towards this end. Indeed, not only do they necessarily support the need to preserve the current system, failing to conceive of anything beyond gradual reforms designed to allow themselves to go on working, they are also the arena in which efforts are made to reconcile the different demands of the states (some of which are openly opposed to any federal-type evolution of the process), and are therefore, by definition, bound to go on accepting compromise solutions.

In short, the German Constitutional Court has highlighted a stark choice that, now more than ever, there is no escaping: either to preserve the current confederal structure based on the existing Treaties or to decide to found, through a breakaway action, a federal state. There are two reasons for this: first, the decision to transfer sovereignty to a European federal state — a decision crucial to the future of the citizens, destined to give rise to a new form of political organisation — cannot be dressed up as a technical decision and adopted using mechanisms that fly in the face of the most basic rules of democracy; moreover, it is a decision that would have to be taken by the people as the ultimate holders of sovereign power. Second, in today's Union with its 27 members, some of which make no secret of their opposition to further forms of political integration, it is futile to imagine that Europe can evolve gradually in a federal direction; instead, thinking must, inevitably, turn to the prospect of a few states deciding to break with the existing Treaties in order to form the initial core of a federal state, presenting the citizens with a clear project to this end.

The *Bundesverfassungsgericht* has clearly woken up to this fact; it is high time the governments and political forces in favour of the creation of a European federal state did so too.

*The Federalist*

# Mario Albertini's Reflections on Kant's Philosophy of History and its Integration with Historical Materialism\*

LUISA TRUMELLINI

Kant's writings on the philosophy of history, despite being the work of one of the greatest philosophers ever, have received little scholarly attention, and had not even a fraction of the impact, in cultural debate, that his theoretical writings have had. Even nowadays, when there is considerable awareness and extensive discussion of cosmopolitanism, and Kant's writings are sometimes referred to from this perspective, there is still a tendency to ignore the complexity of the general ideas he raises. The idea of the course of history, which is at the heart of his political writings, is now actually rejected by modern political-cultural debate (far more so than it was around thirty years ago, when historical materialism, at least, with its strong empirical references, was accepted or certainly discussed); the question of the meaning of history and of the human condition, and the idea that it might be possible to identify a thread of progress not only material, but also moral, in the process by which mankind builds his world, are today considered too general, and thus useless or erroneous, and in any case remnants of cultural approaches now superseded. In fact, no one, other than Albertini, has ever set out to highlight the similarity

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\* This article continues the attempt, begun in *The Federalist* n. 1 2008, to piece together Albertini's ideas regarding the scope for introducing a scientific theory of politics. Albertini, as explained in the previous article ("Mario Albertini's reflections on a critical reworking of historical materialism", which readers are invited to consult for a more detailed reconstruction of this topic), developed these ideas in the political philosophy lectures he gave at the University of Pavia during the 1970s and up to the mid-1980s. In particular, my two articles use, as a reference source, the transcript of a complete recording of a series of lectures given in the academic year 1979-80 (the recordings of the first ten lectures are currently accessible in audio (mp3) format at the website of the Mario and Valeria Albertini Foundation, [www.fondazionealbertini.org](http://www.fondazionealbertini.org))

between, and complementary nature of, the ideas of Kant and those of Marx. Albertini, instead reflected at length upon the fact that the two raise similar issues and questions, and that the answers they produce, albeit on different levels, can be integrated with one another.

*The Limits of Marx's Theory of Historical Materialism.*

In his attempt to get to the protoscientific crux of Marx's materialistic theory of history, Mario Albertini, having highlighted its contradictions, set this theory within the framework of Weber's *Idealtypus*; in this way, historical materialism, understood as a model to be used for probing, *exclusively and retrospectively*, the determinisms that underlie man's historical-social reality, emerges as a powerful instrument for studying historical transitions from one mode of production to another, phases in which the relations of production, the productive forces and the means of production all change radically, ushering in a new stage in the coexistence of men.

Even after this clarificatory exercise<sup>1</sup>, however, there remain many gaps in Marx's theory which have to be filled in and then incorporated before the intuitions the theory contains can become instruments really capable of contributing to a profound understanding of the historical and social situation. There emerge three points, in particular, that need to be looked at in depth: first, the idea of a deterministic movement of history, leading mankind towards complete freedom and equality; second, the idea of the mode of production as a dynamic phenomenon in which the constant emergence of new needs, creating a continuous spiral of mutually dependent changes, modifies the system constantly; and finally, the concept of ideology.

The idea of a deterministic movement of history destined to culminate in a final stage in which all men will be free and equal is, for Marx, a sort of assumption, a necessary condition central to his entire analysis that, precisely because it is postulated, he does not explain further. The concrete basis of this determinism, whose empirical mechanism Marx identifies, is the evolution of the mode of production. But since his analysis at no point explores the role of freedom in the historical process, it is impossible to see why this particular value, and condition, should constitute its culmination. Ultimately, then, within the framework of the elements that Marx takes into consideration, the final step in the course of history remains unexplained, and indeed impossible to explain, given that, for it to be plausible, it would have to be made clear how (by means

of what mechanism) it will be achieved, and also to have some idea of what the “realm of freedom” will be like. This is the reason why Marx refrains even from outlining the conditions necessary for the realisation of the final stage of history, preferring instead to leave it in a sort of utopian limbo.

Similarly, the theory (in itself enlightening) of the mode of production as a constantly dynamic process contains inconsistencies that must be overcome. As already mentioned, the constant evolution of the mode of production is due to the continuous emergence of new needs following the introduction of new means of production (which, let us recall, are both physical and mental, and thus also include political and religious ideas, laws, etc.). These new needs, in turn, bring about changes within the mode of production, i.e., in the productive forces and in the relations and means of production that develop. Marx thus pinpoints the general cause of the dynamism that characterises the historical process, but is still unable to explain the single changes constantly occurring within a given mode of production. Indeed, if we consider carefully the conceptual instruments that the theory of historical materialism puts at our disposal, we can see that they allow us to appreciate the best empirical viewpoint from which to analyse historical-social reality, starting with the fact that men *produce* their own means of subsistence, and also to highlight both the interconnected nature of all the aspects of the historical-social sphere, and the fact that these aspects must be compatible with the maintenance and development of the production system as a whole; further, they show us that when the elements making up the system are no longer compatible with each other — in particular when the social composition of the population no longer corresponds to the needs of the mechanism of production, or to use terms more similar to Marx’s, when there emerges, between the relations of production and the productive forces, a level of incompatibility that demands out-and-out revolutions (in the broad sense of the term) — then the whole system is undermined, triggering a crisis which brings the end of the old equilibrium and the birth of the new one. In this way, the determinisms underlying the *transition* from one mode of production to another are clearly shown, making it possible to see why there emerge profound global changes in demographic dynamics and the social composition of the population, and transformations at institutional level, in the law and in philosophical and religious ideas, etc. (even though the latter are never rigidly determining factors, but rather changes that render the means of production compatible with the new mode of production.<sup>2</sup>)



What these conceptual instruments do not explain, however, is the nature of the concrete changes leading to a global transformation. As an illustration of this point, one need only consider the evolution of European society over the centuries, from Roman times to (and including) the modern age, which took place entirely within the ambit of the agricultural mode of production, and, for this reason cannot, by definition, be attributed to a change in the mode of production: clearly, the specific causes of the profound changes that occurred over the centuries cannot be explored only within the general framework of historical materialism, but must also be sought on a specifically political, economic, sociological, or cultural (etc.) level.

Therefore, the whole theoretical structure of historical materialism is weakened by the fact that it can identify the element of necessity driving epochal transitions, whereas it is unable to grasp the essential conditions determining all the other changes in the historical process (in other words, it is weakened by the fact that the idea of determinism on which it is built remains, for most of the time, undefined). This fact indeed led to much uncertainty, both in Marx and in his successors, and, among other things, it paved the way for the success of the version of historical materialism in which the mode of production is confused with the economy, and the economy becomes the foundation “structure” for the other levels of human activity, which thus constitute the “superstructure.” This formulation, as Albertini demonstrated, runs deeply counter to the whole system of Marx’s theory and leads directly to a dead end, precluding, among other things, a true understanding of politics, philosophy, religion, art, etc., which (if the idea is applied with even a minimum of coherence) are reduced to mere epiphenomena; against that, it certainly has the advantage of concealing the fact that historical materialism is a theory that *is not able* to explain most of the social and political transformations that take place before us, doing no more than provide a general framework in which to set explanations for all that occurs in the long intervals of time that separate the moments of transition from one mode of production to another. By attributing the transformations taking place within a given mode of production to this one sphere (the economy) — which, *like all the other means of production*, is in continuous evolution —, one conceals, with a contrivance, not so much a gap in Marx’s theory as, quite simply, a point that needs to be incorporated. And as a result the whole edifice of historical materialism is rendered unusable. This is why it is essential to try and establish *whether* the transformations behind the evolution of the mode of production are in some way attributable to

determinisms still to be discovered and, if they are, *how* these can be investigated.

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The concept of ideology, on the other hand, is a fundamental discovery in the field of human sciences because it brings to light the passive dimension of thought. Ideology is the self-mystification through which men justify, and render acceptable to themselves, the relations of domination and subordination on which society is based and that somehow reflect the extent to which the common interest can realistically be pursued in the framework of a given production system. Indeed, as long as social inequalities correspond to key roles in the maintenance of the production system on which the survival of the whole community depends, acceptance of them coincides, in fact, with the common interest of that particular society. Thus, men tend *not to know* the purpose they are really serving: often, in pursuing their own selfish interests or accepting, as natural, the existing power relations, they are actually functioning as cogs in a machine they are not even aware of and that produces results that do not correspond to their individual will. Starting from this crucial consideration, however, two questions remain: first, that of the origin of the need which men feel to mask the inequalities among them, justifying them or denying them through recourse to false theories; and second, that of the relationship that exists between passive and active thought (i.e., how it is possible for regressive and positive use of reason to coexist).

Albertini, in his quest to resolve these shortcomings in Marx's theory, turned to Kant's philosophy of history and, by carefully comparing and integrating the thought of the two authors, managed to develop several fascinating theoretical elements that undoubtedly make a major contribution to efforts to develop a scientific theory of politics, of which reflection upon the course of history must be an integral part.

*Kant's Philosophy of History.*

Like Marx, Kant believes that history is moving in the direction of freedom, but that men are somehow carried towards this condition without their knowledge; in Kant, therefore, as in Marx, this movement of history is not free but somehow determined, and thus a sort of prehistory: everything that happens is attributable mainly to determinisms that individuals, albeit endowed with the faculty to exercise a degree of free will, do not control; this is not to say, however, that things happen

purely mechanically, their occurrence predetermined and established a priori. Rather, the movement of “prehistory” is determined by the dialectic between these determinisms, still to be identified, and that small measure of freedom that is already active in men, and for this reason it already constitutes history (albeit distinct from true history, which being driven by freedom, is yet to come).<sup>3</sup> At this point we must recall that Kant does not reason on the same level as Marx, that is to say the level of the historical-social dimension of man’s existence: his is not the time for doing so, the production perspective not yet being accessible in late eighteenth-century Prussia; absent, too, in his approach, are the revolutionary view and urgency of Marx, whose times, instead, are ones in which it is feasible for individuals to act politically. For Kant, then, the problem presents itself on the philosophical level of “oughtness,” i.e. of reflection upon the form of processes, not their content; he works at the level of the construction of hypotheses and models that can furnish criteria for reflecting on events, but that cannot yet explain them directly; hypotheses and models that, providing clarification of the terms and concepts, make it possible to shed light on and develop the presuppositions underlying historical materialism.

With rigour, Kant, in exploring the human condition — and thus the course of history, which is the level at which answers regarding our state, our nature and above all our future, can be sought — tackles the following questions: How does history begin? On the basis of what mechanisms does it unfold, and towards what final stage? And what are its characteristics? There are, in particular, three essays in which he tackles these issues directly, and on which Albertini focused: *Conjectures on the Beginning of Human History*, *Idea for a Universal History with a Cosmopolitan Purpose* and *Perpetual Peace: A Philosophical Sketch*. Once again, it is important to recall that Kant’s level of analysis in these writings — often read literally and summarily dismissed as texts typical of eighteenth-century literature — is *philosophical*, the level of the formulation of reasonable hypotheses; he is not analysing objective facts but conducting an analysis on a logical level in order to construct theoretical models able to give us the framework in which empirical facts can be *understood*.

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Kant’s aim, in probing the question of the beginning of the history of mankind, is to identify (on a logical, not an empirical level) the first act

in the transition from the purely natural world — mechanistically determined entirely on the basis of cause-effect relationships — to the world in which man emerges as a being endowed with the capacity to introduce into the process the hitherto unknown category of purposiveness. From this perspective, the first act in history coincides with the appearance of reason and with reason's first act, which, in Kant's analysis, sows the seed of freedom, inducing man to act on the basis of more than just his animal instincts; inducing him, for the first time, to go beyond the mere placating of physical stimuli in order to seek pleasure; inducing to arouse his senses through the prefiguring, in his imagination, of enjoyment that awaits him. Kant cites food and sexual activity to illustrate this point, and shows that reason, as soon as it manifests itself with these characteristics, forces man, ipso facto, to confront a series of problems: the problem of self-control and self-education (which does not arise in the purely instinctual sphere) and thus that of the realisation that he is master of his own destiny — an act that implies the dawning of an awareness of death, and of the fact that each individual has social responsibilities, starting with his own survival and the survival of his offspring. All this leads man to modify the way in which he relates to the natural world around him, which he begins to perceive a means to his ends. And this transition brings with it the need, in relations between human beings, for each individual to see all others, who have his same attitude towards the rest of nature, not as instruments to be used in pursuit of his own ends, but as his *equals*, that is to say as ends, too, rather than means.

Thus, from its very first act, reason reveals the whole of its plan, which is founded on the emergence of a purpose: indeed, reason, as it manifests itself, leads men to observe that they *are not* equal, but that they *must be* equal. This is the meaning of the unfolding of history, of man's journey from prehistory to history: reason is freedom and equality, and the possibility of its affirmation depends upon the full affirmation of these values. Reason first appears in a natural setting in which instinct prevails, and which is thus mechanistically determined; this appearance marks the start of a very long process in which reason itself must progressively build its own world in order to create the conditions that will make it possible to control the role of instinct in human activities and human relations. As long as this process is incomplete, many aspects of men's lives continue to be dominated by mechanical necessity and, in this context, reason and instinct coexist in a conflictual and dialectical relationship which is at the root both of mankind's moral and cultural progress, and of the evils of civilisation. Indeed, until reason made its appearance, events unfolded

naturally in a reality characterised by innocence and the absence of evil; man altered this situation, introducing a new, superior reality, based not on the naturalness of predetermined mechanisms, but on freedom and on the draw to achieve the one condition that can resolve his dissatisfaction with the state in which he finds himself: that of inequality among all men.<sup>4</sup> Abandoning this animal unawareness brings with it desires, and with them both the need for self-control and the vices that derive from the inability to achieve it, in other words, prohibitions and transgressions (the correct alongside the pathological use of reason).

These observations by Kant, on reason and nature, which might initially seem rather obvious, actually provide crucial clarification, without which it is impossible to explain the contradictions inherent in the human condition, or to understand what reason is. Much of the irrationalism that dominates contemporary culture is rooted precisely in an inability to understand reason as a constituent aspect of human life and to explain its development, which has been highly unbalanced: whereas the study of natural phenomena has advanced to extraordinary levels, the level of politics and other human sciences — and together with them civilisation — lags way behind. Kant allows us to get to the crux of all these problems, because with his theory of reason as a faculty that develops through the course of history, taking shape slowly and laboriously over time, creating by itself the conditions necessary for its full manifestation, he shows us the reasons why society and the human condition are still characterised by a mix of reason and violence (and why it is still impossible for reason to eliminate violence from reality); and the fact that reason, as a *natural faculty that manifests itself in life*, is part of man's nature and not just the sum of what it, itself, produces (which is what a large body of theory has tried to show, confusing reason with logic, or with science, etc., and thus getting caught in the vicious cycle that Hegel called “bad infinity” in which the subject is identified with its own object while, at the same time, the foundation of the latter is said to lie in the subject that produced it, and so on, infinitely).<sup>5</sup>

The Kantian idea that human history is the history of reason, in the sense thus far specified, also makes it possible to clarify some of the aspects of historical materialism that, for Albertini, presented theoretical shortcomings. First of all, it explains what, ontologically, man is: Marx characterises man empirically, identifying the action that distinguishes him from animals (his production of his own means of subsistence, by which he breaks the mechanical laws of nature and starts to build his own life); but Marx bases his ideas on an ideal type of man which, precisely

because it remains implicit and unclarified, cannot be evaluated and is largely unstable, being attributed with different meanings in different contexts. In fact, Marx's fundamental errors derive precisely from his fluctuating ideas on the nature of man: sometimes, erasing completely the factors of freedom and innovation (eliminating, with them, all scope for explaining that first act which constitutes man's break with the logic of nature), he presents man as entirely determined by the production mechanism and its unavoidable logic, while elsewhere he implies that production does not account for the whole of human life.<sup>6</sup> Kant's theory of man and of reason gets rid of these ambiguities, and makes it possible to avoid the trap that Marx's materialistic theory fell into. The concept of ideology provides the best example of this: Kant explains implicitly, in some passages even anticipating Marx, the root of man's need to hide from himself the persistent state of inequality among men, masking it with false theories. It is reason that prevents man from accepting and living easily with this reality, and that thus leads him to deceive himself in order to be able to tolerate it; and Kant shows us, too, that self-mystification, which is merely passive thought, does not exclude reason, but is the expression of its pathological use. Marx, despite clarifying the causes of the inequalities among men and the fact that, being the fruit of relations rigidly determined by the logic of the production system as a whole, they are independent of human will, nevertheless ends up, in the absence of an explicit theory of reason as a constituent human faculty, by taking ideology to mean *all* thought.

From this point of view, it is easy to see the complementary nature of Kant and Marx's thought. Kant provides a clear theoretical framework which clarifies the role of reason in history and fills in the gaps that weaken Marx's theory. Marx, on the other hand, highlights the empirical mechanisms that constrain the development of reason: the survival of society depends, primarily, on the maintenance of the mode of production of which it is, itself, the expression, and relations of production (the main source of inequality) can evolve only to the extent to which they remain compatible with the possibility of retaining the production mechanism; the transition to a subsequent system, compatible with a greater degree of freedom, is not voluntary, but depends on a development that, in turn, is governed by deterministic laws; the quest for complete freedom and equality cannot begin until a mode of production has been established that is free of need to conserve relations of subordination and oppression.

The intertwining of freedom and necessity that characterises history is further clarified by Kant in *Idea for a Universal History with a Cosmopolitan Purpose* in which he also raises the general question of the unfolding of history. The fact that manifestations of free will (that is, human actions) follow universal natural laws is a clear empirical observation: while the single case is always unpredictable, regular patterns can be seen to emerge if we consider the whole picture (Kant cites the example of marriages in this regard, but the idea is valid for all areas of human action). In human actions, then, there is a concurrence of freedom and necessity that can be explained only if it is made clear, as it is by Kant, that man's freedom is the freedom to become what he is: an animal endowed with reason whose biological makeup determines his scope for development. This is a development underpinned by the dialectic between instinct, determined ultimately by the impulse for self-preservation, and reason, which instead leads him to develop solidarity with other human beings (who are ends like himself) and to carve out some space for autonomous action, albeit within the context of a process largely shaped by determinisms to which he is subject. And reason, in man, rests on two pillars: one individual, because individuals are its real vehicles — the ones who actually think and act — and the other social, meaning all the institutions (language first of all) in which we conserve all that man's reason has produced, in such a way that the entire patrimony becomes transmittable and the past reasoning of the whole of mankind can live on in each and every one of us.

It is fundamental to highlight this social dimension of reason, not only because this alone explains the reality of this human faculty, but also because it is only by avoiding the naive mistake of regarding reason as the exclusive prerogative of the individual that one becomes able to conceive of the coexistence of necessity and freedom in history. This coexistence, in fact, manifests itself in the social sphere; unless we can appreciate the fact that reason has a social dimension, the idea that the historical process unfolds according to natural laws will seem incompatible with the existence of individual freedom, making it inevitable to conclude that the only force driving history is chance (in which case any attempt to understand reality would have to be abandoned). When forced to choose, Marx, who was indeed trapped by this naive view, opted for the existence of a law of necessity, and in so doing completely excluded any role of freedom in history.

Kant has a name for the mechanism through which the dialectic between instinct and reason, which underlies historical development,

manifests itself: “unsociable sociability.” Reason prompts men to associate with one another, because society is the setting in which they “feel able to develop their natural capacities,” but their selfishness leads them to compete with one another and to pursue, exclusively, their own interests. This conflict, which is destined to endure and to go on driving the historical process until such time as men have built a world in which reason can manifest itself fully and they can thus act freely, is the source of society’s evils, but also of men’s urge to act and develop their creative talents; art, philosophy, science, even the moral growth that is established through social and political victories (borne of the need to remedy the ills that men bring on themselves and on each other), are all the result of human endeavours prompted by the contradictory nature of mankind.

Through this concept of unsociable sociability, Kant thus identifies the type of antagonism that lies at the root of the evolution of history and is the means by which the culture that is paving the way for the world of freedom takes shape. Once again Kant, with respect to Marx, offers important clarification, because while it is true that Marx succeeds in identifying concrete antagonisms within society (the contrast between the productive forces and the relations of production), which are indeed vehicles of changes, he is unable to fit these changes into a general theory that goes beyond evocative references to explain how the affirmation of a single class, which acts in accordance with its own specific interests, can coincide with the realisation of universal values. In this regard, Kant, on the other hand, provides illuminating insight: in his view, the emergence of values (and their crystallisation in institutions that render their affirmation universal) stems from the clash between the selfish action of men and the concrete reality of reason; reason expresses itself through values, and when men are looking to remedy the ills they have brought on each other, it prompts them to seek and espouse them.

Kant also goes a step further than Marx, identifying the objective towards which history, in spite of itself, is advancing. His treatment of this question, unlike Marx’s, does not simply amount to a call for the crucial leap forwards that will project mankind into the “realm of freedom”; rather, it is an outlining of the conditions that will allow this to become a real possibility: the building of “a civil society that upholds the law universally.” Only upon the establishment of a “perfectly just civil constitution,” supported by a power that is *irresistible* (irresistible because, also being perfectly just, it is capable of realising the general will and of respecting the interests of all, and as such, is disliked by no one), will it become possible for all human faculties to develop to their full



potential. In this context, the individual, as an unsociably sociable being, does not change; it is society that, through its institutions, becomes *just* and creates the conditions that allow everyone to pursue their own interests while respecting the freedom of others. In a measure commensurate with the elimination of relations of domination and privilege, man's instinct ceases to manifest itself violently (in a broad sense, through the use of oppression or abuse), because such behaviours are no longer necessary or even "normal," and his competitive spirit instead finds expression in a framework that exploits the creative potential it harbours, but curbs its destructive impulses. The perfect civil constitution thus brings about that total coincidence of interest and duty that constitutes the only guarantee of the law's efficacy; in this setting, men can behave in a wholly moral way, because this is the realm of ends, in which all men are each other's ends and no one is anyone else's means.<sup>7</sup>

In this way, Kant sheds light on many points that Marx leaves obscure. Inasmuch as it fails to describe the final stage in the historical process, and to identify the element, present from the start, that indicates the direction in which history is moving, Marxian theory is forced to assume that the final leap forwards will coincide *not* with a change in the *behaviour* of men, but with an out-and-out transformation of the *nature* of men, who will stop being wicked and selfish, and will no longer seek to exploit others; in this way, the theory argues, it will become possible to achieve the equality and freedom of all. Although this situation is not theorised by Marx, many of his followers have taken it to be an obvious consequence of what he indicates. This utopian idea that men can be transformed has played an important role in communist thought, and many campaigns mounted by communist regimes have been justified on this basis.

Kant is clearly aware that mankind's journey towards this new stage in his existence is bound to be long and complicated (far more aware than Marx, who often seemed to believe that the communist revolution meant to carry men into this new dimension was imminent). The realisation of a perfect civil constitution in fact depends on the meeting of a series of difficult preconditions: there has to be "a correct conception" of its nature, as well as "great experience tested in many affairs of the world" and "good will prepared to accept the findings of this experience": in short, man needs to acquire the tools necessary to produce and perfect a legal doctrine capable of curbing all dishonest impulses, including those of the individuals who govern or who hold positions of power; he needs to learn from his own constant mistakes, and finally reach a point at which he feels he has no alternative but to make this crucial leap forwards; at the same

time, there must evolve a sense of civic responsibility so strong that every citizen inevitably assimilates the principles and values on which civil coexistence must be founded.

Only when these conditions are met does the establishment of a “perfect civil constitution” become *possible*, and this must clearly come about on a global level: for a universally just law to be established, violence must, in fact, be eliminated from all social relations, because as long as there remains even just one area in which relations of force still prevail, violence will continue to be an instrument that is both necessary and justified. The mechanism forcing men in this direction is, once again, the one that has led individuals to renounce their “unrestricted freedom” in order to live under a “law-governed civil constitution,” that is to say, the need to check the evils generated by the state of war of all against all (and by its consequences). Similarly, with regard to large societies and states, “nature has thus again employed the unsociableness of men ... as a means of arriving at a condition of calm and security through their inevitable *antagonism*. Wars, tense and unremitting military preparations, and the resultant distress which every state must eventually feel within itself, even in the midst of peace — these are the means by which nature drives nations to make initially imperfect attempts, but finally, after many devastations, upheavals and even complete inner exhaustion of their powers, to take the step that reason could have suggested to them even without so many sad experiences — that of abandoning a lawless state of savagery and entering a federation of peoples in which every state, even the smallest, could expect to derive its security and rights not from its own power or its own legal judgement, but solely from this great federation (*Foedus Amphictyonum*), from a united power and the law-governed decisions of a united will.”<sup>8</sup>

Once again Kant’s analysis emerges as complementary to Marx’s: historical materialism allows us to see that the precondition for fully realising the requisites outlined by Kant is mankind’s reaching of a stage in the mode of production in which the foundations for global interdependence have been laid and, moreover, in which there is *no longer any need* for relations of production that are *necessarily* — by their very nature — founded on inequality, and thus no further need for a mystifying ideology that theorises the power relations existing within society; equally, the stage reached in the mode of production must be one compatible with the equality of all men and one in which culture can have the transparency of reason and encourage respect by all towards all.

However, the merit of Kant’s model, compared with Marx’s theory,

is that it identifies the ground on which the way is paved for the final leap forwards, which, forced by the contradictions of international politics, takes place within the sphere of the institutions and of politics. Marx, therefore, uncovers the underlying mechanism, i.e. the incessant evolution of the mode of production, and shows that incompatibility between productive forces and relations of production lies at the root of all revolutionary transitions; but responsibility for the final solution falls to politics, which in this regard enjoys relative autonomy and adheres to its own logic, a logic which can be understood only in the light of the *raison d'état* theory.

As regards the criticisms aroused, now and in the past, by Kant's indication of the world federation (as the condition for resolving the problems of peace and the freedom of mankind), Albertini points out that Kant's vision can be properly evaluated on one level only: that of plausibility. Kant does not present future history as fact, but rather constructs a model, based on an extrapolated series of empirical elements and tendencies seen in the events of the past; from these he identifies a general trend on whose basis he develops a theory of the evolution of history: a theory that must subsequently be verified on the basis of fact. But we are — let us be clear — in the ambit of the working out of a model, which, even were it to find confirmation in the trend that has manifested itself to date, cannot necessarily be taken as a valid basis for predicting the future. As Marx points out, our knowledge is limited to the past, to things that have already happened; when we consider the future, we are working out concepts, we are not dealing with history, and we are not in a position to raise the question of the concrete realisation of the prospects we formulate. All we can say is this: if men do ever manage to solve the problems of peace, freedom and justice, this achievement will be due to their having created a world federation, the setting in which it is possible to establish a perfect civil constitution. Vice versa, until they succeed in creating, at world level, the irresistible power referred to earlier, they will not be able to find any radical solution to these problems.

### *The Philosophical Project of Perpetual Peace.*

The third Kantian essay analysed by Albertini, *Perpetual Peace. A Philosophical Sketch*, deals with the state of organised peace. It is a difficult text to interpret because it is often contradictory. Also, it has a literary form that is unusual for Kant, opening with a preamble (a “*saving clause* ... (by which) the author of this essay will consider himself expressly safeguarded ... against all malicious interpretation”) whose ironical tone

leads one to wonder in precisely what spirit Kant broached this topic (“the theorist’s abstract ideas, the practitioner believes, cannot endanger the state, since the state must be founded upon principles of experience; it thus seems safe to let him fire off his whole broadside, and the *worldly-wise* statesman need not to turn a hair.”) The text is structured rather in the manner of an international treaty, having a first section that contains the preliminary articles for a condition of perpetual peace among states, a second section containing the definitive articles, and then two supplements and two appendices.

In the preliminary articles making up the first section of the essay Kant famously echoes the classical canons of international law, citing the need for reciprocal respect among states and their pursuit of a policy of disarmament; for anyone wanting to take it literally, this first part could be read as confirmation, by Kant, that the state of permanent peace can be approached through the states’ acknowledgement of the international laws that govern their reciprocal relations. But, actually, it is difficult — also in view of the content of the rest of the essay — to give credit to this hypothesis, which runs counter to what Kant has always maintained, and indeed continues to maintain even in the very pages of *Perpetual Peace*,<sup>9</sup> which contain, among other things, the fiercest imaginable criticisms of international law (the fact that right cannot be decided by war and victory, and that a peace treaty cannot put an end to the permanent state of war which, moreover, cannot even “be pronounced completely unjust, since it allows each party to act as judge in its own cause.”) Thus, Albertini’s view is that this part is to be read as a parody, or rather, as a form of *reductio ad absurdum*: echoing the spirit of the clauses typical of international law (those clauses so beloved of the “practical politician” mentioned in the preamble), Kant brings out all their inconsistency and absurdity, reflected in the claim that in a situation of anarchy and permanent war, in which every state sees its own survival under threat, it is possible for there to be reciprocal respect founded on mutual trust and the introduction of a policy of disarmament, also underpinned by respect of the rule of reciprocal behaviour. In truth these articles seem to be preliminary articles not so much to perpetual peace as to reality as we know it.

Thus, the real preliminary article to *Perpetual Peace* is the first of the definitive articles contained in the second section, namely the one which states that “The Civil Constitution of Every State shall be Republican.” Kant here lays down a crucial precondition: the value of peace cannot, in fact, be realised without the prior affirmation of the values of freedom and

equality. Indeed, when Kant talks of a “republican constitution” what he has in mind is the pure representative democracy, a model which, irrespective of its particular form (parliamentary or monarchical), complies with the principle of the general will, and in which the people are the true holders of sovereignty; he is not therefore thinking of today’s highly imperfect democracies, in which power is still in the hands of elite groups and oligarchies that influence popular consensus. Thus, Kant prefigures a situation in which there emerges “the pure concept of right”: that is to say, law that realises the condition to which *all* men aspire — perfect law, which, in fact, is consistent with the freedom and equality of all (both legally-based), and for this reason, with peace.<sup>10</sup>

The situation Kant outlines is a crucial precondition, central to the possibility of establishing a state of universal peace, given that, until man succeeds in taking the essential step of freeing himself from injustice he will continue to lack the bases for putting an end to the state of international anarchy, that is to say, for drawing the states into a common “civil constitution.”

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In the second definitive article, Kant instead deals with the idea of a “Federation of Free States” as a condition for achieving peace. As regards the formulations used, it is a highly contradictory article, in which Kant is inconsistent in his definitions. Indeed, initially he maintains that the states must enter into a “constitution, similar to the civil one,” establishing “a *federation of peoples*”; he specifies, however, that this could not be an *international state*, because this is a contradictory idea, since a number of nations forming one state would constitute a single nation. And this contradicts the initial assumption, that is the right of nations in relation to one another.

A little later, on the other hand, struggling to conceive of the possibility of a state of states, he affirms that it is necessary for the states to form “a particular kind of league,” a “*pacific federation*” thereby creating the conditions necessary “to end *all* wars for good.” But in progressively defining the characteristics of this federation, he is brought back to the fact that “just like individual men, (states) must renounce their savage and lawless freedom, adapt themselves to public coercive laws, and thus form an international state (*civitas gentium*),” which just a little after this he calls a “world republic.”

It is obvious that Kant is unable to form a clear idea of the institutional

formula capable of meeting the need both to unite mankind and, in international relations, to replace relations of force with the rule of law. In his writings he approaches this problem rigorously and manages to get to the root of the question of peace, showing that the state of permanent war in which the states live is linked to the fact that the states, simply by failing to acknowledge a superior authority, constitute *ipso facto* a constant threat to each other (and will continue to do so until their entry into a common “civil constitution”)—therefore, peace can be guaranteed only through the creation of a universal power and universal laws. But the criteria available to Kant as he dwells on this issue are not sufficient to allow him to envisage a state of global dimensions. The only democratic model he can conceive of is that of the republic, that is, the model of a state founded on a single centre of power and a single level of political representation; a model quite unable to contemplate either the coexistence of many nations, cultures and traditions in a single state framework, or the possibility of governing a community that embraces the whole of mankind and a territory that comprises the whole world: the sheer distance between the centre and the periphery would rule out the possibility of exercising any form of control (unless drifts towards forms of imperial rule were accepted).

What Kant indeed lacks, because in his times it was still unheard of, is the federal state model. Even though the United States of America had already come into being, there was, in Europe at the time, still no awareness of its character as a unique institutional solution; actually, the originality of this solution is still not fully understood even today, given that it is often argued that the federal state is not a real state, and the federal state formula is applied more as a means of justifying forms of internal decentralisation than as a means of responding to the need to increase the size of the state. But the federal state *is* the answer to this need: in this type of state, power no longer lies, as it does in the classical model of the state, in a single centre, but in the constitution; moreover, there also exists a judicial power that is genuinely independent of, and unconditioned by, the government and serves as arbiter and guarantor; furthermore, the fact of having many levels of government, and thus of political representation, opens the way for the creation of a *state of states* in which sovereignty manifests itself not at the level of the central power, but at that of the constitution, which establishes the state’s multi-level structure. The sovereign people is a federal people of multiple identities, reflected in the constitution of which it, itself, forms the basis.

The federal model thus makes it possible to realise the “pure concept

of right” that Kant already saw prefigured in the republican state, but that is actually affirmed only in the federal state, where law controls political power, not the other way round; in this framework, it becomes conceivable to eliminate the inevitable contradiction that arises in the classical model of the state when the predominance of the central power over all other institutions, being so marked, leads those in positions of power to be tempted, albeit temporarily, to set themselves above the other citizens. In the federal state model, the (federal) people is the holder of sovereignty through the constitution; this, together with the fact that this absolute supremacy of the people’s fundamental charter is guaranteed by an effective system of *checks and balances*, with the judiciary power that oversees the upholding of the law enjoying genuine independence, allows both the creation of pure law (to use Kant’s terminology), and the existence of a power that is perfectly just, and thus enjoys the highest level of consensus.

The federal state in its pure form, which must by definition embrace the whole world, thus guarantees peace — understood both as the impossibility of war, and as the necessary condition for the freedom and equality of all citizens. Its institutional structure is compatible with a global democracy which offers men the instruments they need to start the new phase in their history that will be founded on their complete freedom. In the world federal state, politics somehow becomes a form of administration carried out in the interests of all citizens; it is no longer governed by rigid principles of *raison d’état* and it also stops being, at one and the same time, both an instrument of and an obstacle to the furthering of the process of mankind’s liberation. Clearly, as long as mankind remains divided into opposing states, and the *raison d’état* mechanism continues to determine political activity, the federal model will go on being reached only in part and being distorted by the relations of force that still dominate the world.<sup>11</sup> But this does not take away the fact that the federal state is, nevertheless, the only model that allows us to conceive of the possibility of increasing the dimensions of the state through the unification of the states that already exist, and thus of moving in the direction indicated by Kant. As Hamilton, too, recalled in the *Federalist Papers*, federalism, with its splitting of political representation, is one of the very few innovations in the art of government that mankind has achieved. The reason why contemporary political culture is still unaware of this, remaining stubbornly attached to the classical idea of the state built around a central power, is that the world has yet to see an example of federation that is the result of a unification of states that have renounced

their exclusive sovereignty in order to create a new supranational state entity (an example, in other words, of how mankind's division can be overcome and of the institutional model that can make this process possible). This is also the reason why Kant is not read and understood as a philosopher who laid the theoretical foundations of federalism, but is instead susceptible to incorrect interpretations that even transform him into a supporter of the confederation, which is glaringly false, given that Kant never endorsed the confederal solution; if he remained unsure about how to define the structure of the federal state, this is because he had no knowledge of its mechanism. In contrast, he is to be acknowledged as having presented with searing clarity the terms of the problem of peace, and its relationship with power and law.

### *Final Considerations.*

These last observations, relating to contemporary political culture, provide us with a reminder that this culture is still, to a very large extent, trapped by a naive and misleading idea of international law — international law is mistaken for true law and not understood as a reflection of the existing power relations between states —, or slave to a false realism based on the dogma that mankind's division into opposing states is a permanent condition that nothing can change. In spite of the fact that analysts and commentators are united in stressing that the worst contradictions of our times stem from the absurd situation of having a globalised economy in a world in which the dimensions of politics, being national, are inadequate to manage it (a phenomenon leading to an absence of democratic control of the processes that dominate and condition the life of everyone), no one seems prepared to look at the situation from a federalist perspective, even though, only sixty years ago, the federalist idea was very much the basis on which process of European integration was launched (actually, the lack of success of this process could be one of the reasons for the loss of faith in the federalist idea).

From this perspective, which highlights the failure of traditional political thought, Albertini's reflections thus become even more important — if this is possible — than they were in the 1970s and '80s, when he first formulated them. Summarising his indications very briefly, it can be seen that he deals with two main issues, and does so with remarkable clarity: one is the question of the need to build a solid political science and the other is the nature of the historical phase we are going through and the political prospects we face.



With regard to the first question, Albertini, through Kant, draws a clear distinction between the philosophical level, at which politics can be defined, and politics as a concrete and observable reality; he identifies the sphere of autonomy of politics and the type of determinisms it is subject to, which are precisely the issues it falls to political science to deal with. Kant explains clearly, first of all, that the historical process arises from the interaction between, on the one hand, determinisms linked to mechanisms of self-preservation and, on the other, reason, which slowly emerges and becomes established, changing the world as it does so; and this interaction is, indisputably, at the root of the co-existence, in history, of the freedom of individual actions and the necessity of what Croce called “the occurrence.” To study historical events, it is thus necessary to work out *what* determinisms, and thus what laws, explain their succession.<sup>12</sup> In this regard, Kant does not provide answers, but only raises the question, also indicating the lines along which to proceed when embarking on a scientific study of society. Marx, through his historical materialism, highlights the deterministic mechanism that underlies the whole historical process (i.e., the production-based mechanism that binds mankind’s scope for development to the construction of a system that, by liberating him from need and from the struggle for mere survival, allows him to devote his energies to the development of civilisation) and, at the same time, sets out the real foundations for the growth of interdependence and, as a result of this, for mankind’s possible unification. He also makes it clear that the liberation of all men depends on the affirmation of a mode of production no longer founded on the division of roles, in society, into those who dominate and those who are dominated. Kant, given this basic mechanism, adds that politics is the field in which to expect the manifestation of the decisive contradiction (deterministic) capable of driving mankind to make the leap forwards into the realm of freedom: he thus highlights both the central role of politics as a sphere better able than other spheres of human action to favour the possibility of peace, and the need to develop a deterministic theory of politics, which starts from the assumption that men, collectively at least, do not freely decide their own destiny (instead try and build a solid political science starting from the false assumption that men are free is to enter a blind alley). Kant also specifies that the determinisms in the political field are linked to the logic of survival, both of power and of the states, confirming, albeit not explicitly, that the mechanism underlying politics in the “prehistoric” phase is determined by the *raison d’état*, and that it is on the basis of this doctrine that the foundations of a scientific theory of political action can

be laid.

But, as Albertini stresses, a deterministic theory of politics implies the need to distinguish the field of political science from that of political philosophy: events (the fruit of actions that are not autonomously determined, because it is not the individual who determines the event, but the species), can be *observed* objectively; however, they can be *understood* only in the framework of an idea that interprets determinism as the expression of a process that is leading mankind in the direction of freedom. The philosophy of history, which shows the purpose of the historical process, is an essential instrument for explaining that which cannot yet be observed (the potential still harboured, internally, by the production mechanism and politics) and for conferring, through all that is not observable, order on events and a meaning on history and politics, identifying their inherent determinism. Only political philosophy furnishes a theoretical framework in which it can be seen that politics is driven by external forces and thus that political science is valid only as a deterministic science; and it is, again, political philosophy that explains why, since Machiavelli himself, the view of politics as a search for the common good has always co-existed with the view of politics conceived as a means of maximising power. Kant allows us to understand all this, showing that the underlying historical plan coincides, precisely, with the progressive affirmation of the former over the latter; but at the same time he makes it clear that this philosophy is not the stuff of science — that is has no deterministic and observable properties and therefore cannot be a basis on which to construct a scientific theory; it is, precisely, *philosophy*, and as such remains exclusively in the sphere of the rational and understandable.

\* \* \*

The criteria of analysis furnished by Marx and Kant, for the simple fact that they define a philosophy of history and establish a few key points with regard to the founding of a scientific theory of politics, also help us to understand the particular historical moment in which we ourselves are living, and what mankind's prospects are, in terms of his scope for political action. The industrial mode of production has now reached a very advanced stage, characterised primarily by very close economic and financial interdependence globally and by a level of scientific knowledge and technological capacity that prefigure the possibility of a profound change in the production system, in a direction that many analysts, since

as long ago as the 1960s, have been calling “scientific.” Mankind could enter a phase in which production is based on the tendency to eliminate manual work thanks to the development of technologies that can replace manual activity in the workplace, a phase that would bring about a radical change in the social makeup of the population and thus progress for civilisation (by eliminating the structural need for the majority of the population to perform subordinate functions, it would lay the foundations for the “leap into the realm of freedom.”) Information technology and robotics may be seen to represent the first steps in this direction.

However, mankind today still wrestles with a grave contradiction in the form of the enormous global imbalances in development; it is a contradiction that, in the face of the deep and increasing integration of economic processes and of the financial and product markets, is unleashing fierce competitive tendencies that are devaluing the labour market and generating strong tensions in advanced societies;<sup>13</sup> this trend is seriously slowing down the evolution towards the “scientific” mode of production and is, for the moment, preventing the scientific and technological knowledge we already have from developing to its full potential.

Another factor slowing down this evolution is the inability of politics to govern the processes already under way. Even though financial and economic globalisation undermine the states’ prerogatives and plunge democracy into crisis, and even though mankind faces two potentially lethal global threats (global warming and the proliferation of nuclear weapons), politics remains trapped within the totally inadequate framework of the nation-state, while political doctrine is unable to pinpoint the solution — the gradual unification of mankind —, remaining, as we have said, unable to get beyond the model in which the people and sovereignty are embodied in the nation. The reason for this, as we have also said, is that the alternative model, that of the federal state, has yet to become an established historical reality: in some ways, man is already living in the situation, prefigured by Kant, in which the real risk of self-destruction could drive him to abandon his senseless divisions and create a global federal state. But numerous obstacles must be overcome before this can occur, given that we lack (to use Kant’s terminology again) “a correct conception” of its nature, as well as “great experience tested in many affairs of the world” and “good will prepared to accept the findings of this experience”: in other words, we are impeded by cultural and political limits, and by the still too many inequalities in the world. The logic determining these inequalities is likely to be enduring, given that its overcoming depends, largely, on the extent to which the dramatic

shortcomings of politics can be resolved. As for politics, the dead end reached, both in the practical sphere and in the sphere of political doctrine, would soon be overcome were steps taken to create a federal state, at least in Europe, by those countries that, having started the unification process, also shoulder the responsibility for carrying it through to completion, thereby presenting the world with an example of a new form of statehood (rather than continuing to perpetuate the myth that an international organisation of sovereign nation-states is all that it is possible to achieve).<sup>14</sup>

Kant and Marx also teach us that nothing in the future of mankind can be taken for granted, that it is impossible to make predictions about it, and that while philosophy and scientific theories allow us to set out the problems with great clarity, and to identify solutions, they are not enough to ensure that these are implemented. Ultimately, the responsibility shouldered by men, together with their actions, remains fundamental, which means that they have to face up to the possibility of failing and of being unable to control the processes that they themselves have triggered. Today, the truth of this fact is particularly evident in Europe, where the responsibility for choosing to carry through, or not to carry through, the process of political integration on a federal basis, with all that this would imply for the future of mankind, is the Europeans' and theirs alone.

#### NOTES

<sup>1</sup> With regard to the current interpretation of historical materialism, Albertini showed, in particular, how it is misleading to think of the mode of production in terms of a structure (this structure sometimes suggested by Marx himself, and almost always by Marxism after him, to correspond to the economy) and a superstructure, the latter thought to be determined by this underlying structure and to include, for example, the institutions and culture (thereby reducing these to mere epiphenomena). In truth, the mode of production embraces *all* the aspects of the historical-social dimension, whose reciprocal interconnection is brought out by historical materialism, as indeed is their necessary compatibility with the overall production system, whose constraints, material, sociopolitical and cultural, are clarified. For a more in-depth analysis, see "Mario Albertini's Reflections on a Critical Reworking of Historical Materialism" in *The Federalist*, 2008, year L, 2008, n.1. pages 13-50, which also looks at Albertini's criticisms of some of the most widespread interpretations of historical materialism, from the dialectical one to the one that sees the class struggle as the driving force of the historical process.

<sup>2</sup> For example, the industrial mode of production, in its first phase, was compatible with states of national dimensions, which could be centralised like the European ones or decentralised like Great Britain, or with states of continental dimensions, like the USA. But Russia, for example, also a state of continental dimensions, did not succeed in getting its

industrial revolution off the ground, and the reasons for this lie in the specific characteristics of that country and its regime. Even today, states of continental dimensions coexist with very small states, and the fact that the difference between the two, in terms of the political weight they carry, is enormous, does not take away the fact that the small states, too, despite their lack of political influence and their dependence on the global power balances, nevertheless survive and often manage to guarantee their own inhabitants the same level of social development enjoyed by the inhabitants of large states. Thus, while historical materialism is able to explain the compatibility or incompatibility of certain forms of state with the mode of production, to highlight the connections between political forms and the social composition of the population, and to explain why these forms succeed or fail, or account for their transformations, there is a need for specific concepts in politics, economics and the other social sciences, which can furnish the criteria for analysing and understanding these phenomena.

<sup>3</sup> It goes without saying that, here, the terms “history” and “prehistory” are not used in the usual sense, but in the context of the indications provided by Max and Kant.

<sup>4</sup> Kant explains very clearly (on this point correcting and completing the contribution of Rousseau, thus clarifying the substance of his thought, even though this is not the place to go into this aspect in any depth) how man, at the close of the prehistoric phase, attains his true nature, characterised by reason, building a world in which instinct (which man shares with the natural world, dominated by the urgency of survival) no longer has cause to manifest itself in a destructive way. Man’s nature does not change, in the sense that he remains a being whose essence (that which differentiates him from the rest of nature) is reason, but in whom animal instincts continue to be present: it is simply that in a world that creates the conditions in which all men are equal and free, violence *tends* — i.e., with the exception of single cases (pathological or special) — to disappear and totally moral conduct becomes possible, precisely because it is a possibility open to all. This situation of freedom and equality, which, precisely because it allows man’s true nature to manifest itself, corresponds to his true natural state, can manifest itself in full only at the end of the process; it is not, therefore, an idyllic state in which harmony based on innocence and lack of awareness reigns; rather, it is a condition in which reason exerts, all the time, a controlling function, serving to repress instinct, which at the level of the individual needs constant disciplining.

<sup>5</sup> Kant actually manages to be clearer than Hegel in his account of the fact that man becomes what he is, and that until he has created the conditions that will allow the full emergence of his nature as a being endowed with reason, then reason itself and instinct will continue to coexist and society will be characterised, above all, by abuses of power and by amorality. This mix of moral and immoral elements also characterises the institutions, which embody the results of civil progress and thus represent a driving force of further progress, but at the same time retain some violent and oppressive traits. In Hegel this mix is implicit and, precisely because it is not brought out clearly, remains obscure, in such a way that *all* human actions seem to be attributable to reason.

<sup>6</sup> In this regard, see the essay “Mario Albertini’s Reflections...”, *op.cit.*

<sup>7</sup> On this point, it is worth taking a brief and schematic look at the question of the moral behaviour possible in the prehistoric world. Weber, referring precisely to politics and to political action, pointed out that a moral code of behaviour cannot coincide with the absolute morality of principles, which is purely formal and independent of any empirical evaluation (it corresponds to Christian morality in its pure form, already prefigured by Socrates and subsequently theorised by Kant); this type of morality constitutes an essential stimulus and an essential guide, because it is the morality that leads to the emergence, in history, of values and ends; but for men it is, on a practical level, an impracticable morality, because it

embodies absolute reason and refers to an extreme situation, in which life is pure form and pure spirit. In the concrete reality of life, it is impossible to act without having, as a point of reference, our knowledge of the advantages that our behaviours procure, not only for us but also for others; in other words, without having a utilitarian perspective (often summed up in the maxim “the end justifies the means.”) Privately, every individual applies this criterion in his own daily experience, knowing that only the means compatible with the moral end he has set himself are acceptable, but at the same time contradicting, continuously, the principles of pure morality: this is true of parents, who need to educate and protect their children; it is also true of doctors, who often have to use painful procedures to treat their patients, etc. The moral criterion that can guide practical life, which is made up not of form alone but implies physical reality and thus the constant need to control (and often oppose) instincts, emerges in the concept of responsibility, which directs our behaviour, both private and public. This type of morality, the morality of responsibility, is the one through which man — a partial being incapable of living according to the pure morality of principles — manages, gradually, to establish universal values in the world, and is thus what guides good politics — politics that pursues, ultimately, the general good of its own community. One of the signs of the gradual advance of reason in history is the fact that the morality of responsibility finds itself confined, more and more, to individual behaviours, as collective behaviours coincide, increasingly, with universal principles.

<sup>8</sup> Immanuel Kant, *Political Writings*, Cambridge University Press, 1991, p. 47.

<sup>9</sup> In this regard see, among the others, the passage at the start of the second section which talks of the fact that the state of peace must be *instituted* (the italics are Kant’s) and which develops, also in the note, the idea that the prerequisite of peace is the entry into a civil constitution.

<sup>10</sup> As Albertini notes, the fact that the extension of forms of law is the main tendency to emerge in the history of mankind is explained by the fact that the condition of peace is, for men, preferable to the condition of war, and law provides the instrument through which to create the possibility of peace. But until law is established and affirmed on a global level — this requires, first, the creation of a perfectly just universal power to serve as its guarantor — each state has no choice but to defend itself in order to go on guaranteeing that small measure of law that it has managed to establish internally, and thus necessarily involves its citizens in violent behaviours that contradict the law. In this way, law is unable to guarantee the behaviours that its various forms prescribe. Because, remaining imperfect in this way, it tends to be contradictory and subject to violations. Until law can rid itself of the causes that lead to its own violation, it will not be able to guarantee peace. What Kant prefigures with this insight, relating to the fact that law, in its pure form, is manifested in the republican constitution, is precisely the fact that peace coincides with a state of pure law in which there no longer exist, at any level of world society, the destructive forces linked to the persistence of inequalities.

<sup>11</sup> For a more in-depth analysis, readers are invited to consult the many writings of Francesco Rossolillo on these issues, now collected in his complete works, *Senso della storia e azione politica*, vol.2, Bologna, il Mulino, 2009.

<sup>12</sup> It is here taken for granted that in talking of human sciences (history, politics, economics, sociology, etc.) and of the need to discover the laws that can explain events, we are always referring to intellectual tools able to sustain the specific investigation of concrete events, which are always the fruit of the dialectic between given determinisms and individual freedom (or simply choice), and thus need a theoretical framework of reference in order to emerge as *understandable* events. But only in their concrete individuality do they become *knowable* (as we have already said, echoing Marx, knowledge can be had only in retrospect, starting from the concrete event once it has occurred). For a more detailed analysis of this point see, again, “Mario Albertini’s Reflections...”, *op.cit.*

<sup>13</sup> See, in this regard, the editorial, “Politics at a Crossroads”, in *The Federalist*, 2008, year L, 2008, n.1.

<sup>14</sup> The federal model also offers the answer to another challenge today facing representative democracy, i.e., how to ensure political participation in a society in which the majority of the population, lacking adequate channels for becoming involved and educated in the concept of responsible citizenship, delegates the control of power to a small elite. If in the past (when there were marked social divisions but a relative internal homogeneity within each of the different social groups), the traditional parties effectively translated the needs of society into political demands, which they organised, channelling them in the direction of forms of political participation, today, in the face of the profound changes that are taking place in society and in politics, it is becoming urgent to find new channels. In particular, today we are witnessing, on the one hand a fragmentation of society — which has eliminated the old frame of reference, based on social classes, which had allowed different specific interests to coincide with the historical affirmation of universal demands — and on the other, a voiding of the prerogatives held at the level of national government, as a result of the globalisation of the economy. Providing this second problem is overcome through extension of the sphere of the state to supranational levels, possible through the institutional structure of the federal state, then the possibility, still linked to the federal model, of creating autonomous and responsible sub-state levels of government that create true forms of participatory democracy in the basic and intermediate communities, emerges as possibly the best solution to the problem of forming a responsible and participating body of citizens. More on these ideas can be found in the writings of Francesco Rossolillo, in particular in “Città, territorio e istituzioni” and in the many essays dealing with the topic now collected in the first volume of *Senso della storia...*, *op.cit.*

# Europe vis-à-vis an Unbalanced Multipolar World

*HAJNALKA VINCZE*

Europe's position on the global geopolitical chessboard, which is in a state of total flux, is far from certain. And this is in spite of the fact that the current processes of evolution began some considerable time ago and have long been showing, quite clearly, the general direction of the changes taking place. That which, following the disappearance of the Soviet Union, was described as "the unipolar period" is now moving inexorably towards its end, to the dismay of those who pinned, and those who would still like to pin, all their hopes on it. The USA, concerned as ever with holding onto its leadership in global affairs, has for some time shown irritation at talk of a "multipolar world," interpreting the expression as a sign of some kind of anti-American plot. In response to this, European leaders, French ones in particular, have repeatedly pointed out that the multipolar world, far from a design, is merely an observation.

## **The state of play — then the same as now**

Furthermore, this observation is not necessarily something to be celebrated (even though it might at first seem to be). Because while a world order structured around a single predominant concentration of power unarguably implies a strong temptation to abuse that power, it would be wrong to see multipolarism as the panacea: multipolarism, in itself, is neither a guarantee, nor a value. Indeed, there is nothing to say that a multipolar system has to be based on balanced relations of cooperation. What is more — and this is the part that affects us, citizens of Europe, directly — there is nothing to say that Europe will figure among the future poles of power. On the contrary, if current trends continue and become established, Europe runs the risk of becoming, as Hubert Védrine aptly put it, "the idiot of the global village."<sup>1</sup> According to the former foreign affairs minister, Europe's stubborn attachment to



the view (extremely naïve and specific to Europe) that it is already part of a great family, the family of the “international community”, will ultimately be its downfall. To this we can immediately add another fault, namely, the extraordinary ease with which the overwhelming majority of European governments have grown accustomed to living under an external power. In this regard, the identity of the power has no importance whatsoever. At the moment it is America, but the fact is that once the bases, both material (loss/relinquishment of autonomy in strategic areas) and psychological (a tendency towards alignment with the current superpower and self-censorship on the part of the European *élites*), of a situation of subordination have been laid, the fall into the trap of abdicating sovereignty is inevitable and the subordination is perpetuated regardless of the identity of the tutelary power.

To their great consternation, the Europeans cannot even draw comfort from the idea that the danger they face is new, the changes recent, and their own weaknesses attributable to difficulties adapting to a world that is changing with bewildering speed, given that the fundamental problems they must urgently solve have been on the table for decades. This is shown by the report drawn up over thirty years ago by Belgian prime minister Leo Tindemans, who produced an astonishingly accurate diagnosis of the problem.<sup>2</sup> The issues and the questions he raised may now have taken on a different form and intensity, but their nature has certainly not changed.

### *The Prophetic Content of the Tindemans Report.*

Even though prime minister Tindemans addressed his 1975 report to his European counterparts of that time, most of the observations it contains still strike a chord today. His analysis of the global challenges is still relevant: “Inequality in the distribution of wealth threatens the stability of the world economic system; exhaustion of resources weighs heavily on the future of industrial society; the internationalisation of economic life makes our system of production even more dependent.” In the same way, the report does not sound in the least dated when it highlights the risks associated with the decline of the (European) states: “For thirty years the relative weight and influence of our states in the world has been continually reduced. In step with this, the national governments’ hold over the means that make it possible to influence the future of our societies has constantly diminished. Both internally and externally, the room for manoeuvre of the individual states has decreased. They attempt to maintain their balance in the face of pressures and factors

internal as well as external, which are outside their control. The danger of the effects of this two-fold spiral of impotence is great; it leads from weakness to dependence, which itself is a source of further losses.”

Equally pertinent today are Tindemans’ remarks on the expectations of the citizens and the strategic priorities that Europe must keep within its sights if it wants to be able to give them answers: “Our peoples expect the European Union to be, where and when appropriate, the voice of Europe. Our joint action must be the means of effectively defending our legitimate interests, it must provide the basis for real security in a fairer world.” To achieve this, “Europe must guard against isolation, against turning inwards on itself which would reduce it to a footnote in history, and also against the subjection and narrow dependence which would prevent it from making its voice heard. It must recover some control over its destiny.” On this issue, the Belgian prime minister’s views are absolutely in tune with the profound feelings expressed, with remarkable constancy, by the European citizens. Indeed, as shown by successive Eurobarometer surveys, public support for a CFSP (Common Foreign and Security Policy) and a European defence has continued to be strong (over 70 per cent), with a vast majority (over 80 per cent) agreeing that European policy in these areas “must be independent of the United States.”

One of the real virtues of the Tindemans Report is, indeed, the fact that Tindeman has no hesitation in pointing out certain uncomfortable truths about our relationship with the United States. Because it is undoubtedly rare, even nowadays, to find European leaders prepared to admit, for example, the obvious fact that the European project stemmed partly, if not mainly, from Europe’s need to carry some weight in its relations with the United States, or to suggest (what sacrilege!) that our respective interests, within this great transatlantic family, cannot always coincide completely. “Relations with the United States, who are at one and the same time our allies, our partners and occasionally our competitors, raise problems of vast proportions for the European Union. The need for Europe to speak with one voice in its relations with the United States is one of the main underlying reasons for the construction of Europe.” Accordingly, Tindemans says, we should be striving “to establish relations with the United States based on the principle of equality, free of any sense of dependence, which reflects at the same time both what is common in our basic values, interests and responsibilities, and the differences in the destinies of our two regions.”

*The American Factor at the Heart of the Problem.*

On this crucial point, which is the crux of the fundamental questions relating to European integration, the member states continue to have conflicting points of view. Or, as the Tindemans Report euphemistically put it, Europe's capitals are a long way, a very long way, "from arriving at a strictly identical appreciation of relations between the United States and Europe." This is hardly surprising. The United States has always been the great taboo subject in discussions on CFSP, even though the stances adopted by the different countries are determined, essentially, precisely in relation to "the unmentionable," i.e., the position of Washington, already well known and/or discreetly conveyed in advance; and even though the first question the leaders of other countries ask about EU foreign and security policy is whether it is designed to complement or counterbalance American policy. This is a question that goes unanswered — even among Europeans.

As early as 1973, at the time of the drawing up of the "Declaration on European Identity," the emergence of a subtle, but significant, difference between the English and French versions revealed the existence of diametrically opposing viewpoints. For the French, relations with America must not be allowed to influence in any way the affirmation of a European policy which, in their view, must remain independent ("*Les liens étroits qui existent entre les Etats-Unis et l'Europe des Neuf n'affectent pas la détermination des Neuf de s'affirmer comme une entité distincte et originale*": the close ties between the United States and Europe of the Nine do not affect the determination of the Nine to establish themselves as a distinct and original entity); the British, on the other hand, preferred to make it clear that they rejected even the idea that there might exist a contradiction between the two ("The close ties between the United States and Europe of the Nine do not conflict with the determination of the Nine to establish themselves as a distinct and original entity."<sup>3</sup>)

This fundamental difference is at the root of the future tribulations of the CFSP and ESDP (European Security and Defence Policy) and it also provides an explanation for the emergence of numerous surreal organograms, bizarre formulae and grotesque episodes. As remarked by Nicole Gnesotto, former director of the EU Institute for Security Studies: "While the Europeans find it fairly easy to agree on a more or less common view of the world, they are divided on the Union's role in managing the world's crises. Since that role is broadly a function of the type of relationship that each member country wants to build with

America, bilateral or within NATO, the Europeans have never managed to agree on the actual purpose of their diplomatic and military cooperation. The recurring debates on the virtues or vices of multipolarity or unipolarity, like the discussions on the possible degree of European autonomy on defence matters, are the most caricatural illustration of this latent division among Europeans on the Union's role and its relationship with the remaining superpower."<sup>4</sup>

At the risk of sounding repetitive, it must be reiterated that the relationship we today establish with America, be it one of dependence or autonomy, will determine our positions vis-à-vis any other power in the future. A position of subordination has lasting consequences, on a material as well as a psychological level. To resign ourselves to a position of technological and industrial dependence is to accept a definitive decline, which will result in our strategic sectors being reduced to the role of subcontractors, or destroyed altogether. Psychologically, relying on others for our defence encourages the spread of a culture of unaccountability and entirely strips us of our dignity. This is why Jean-François Deniau, French negotiator of the Treaty of Rome and first European commissioner for external relations, in his book, stresses the need for an independent Europe ("there is no other Europe") and draws attention to defence issues: "because sooner or later these issues condition all the others, and because there can be no sense of identity without the exercising of responsibility, and our most important responsibility is to retain the capacity to choose our own destiny, in other words, to defend ourselves."<sup>5</sup>

### **Myths, illusions and naïvety**

Like Jean Monnet, Deniau spoke of his confidence in the "strength of simple ideas". However, in this regard, the transatlantic relationship has turned out to be the exception that proves the rule. If the blend of platitudes, rhetorical outpourings, petty calculations and emotional-ideological blindness that, for Europeans, constitutes the basis of our relations with America has stood the test of time, it is because our *élites* have persisted in spreading profoundly naïve (or culpably misleading) ideas regarding questions of power and independence.

#### *Questions of power.*

The reluctance of Europeans to think in power terms is reflected, among other things, in their attempts to play down the significance of the

geopolitical situation, and in a complacent belief in the utopia of a “civilian power Europe.”

– The post-modern myth.

Europeans traditionally have a keen sense of their history, with all that this implies: different cultures, identities, and a mistrust of one-dimensional or simplistic interpretations. The importance we attach to these factors sets us apart from our cousins on the other side of the Atlantic. As remarked by Javier Solana, EU High Representative for the CFSP: “When Americans say ‘that is history’, they often mean it is no longer relevant. When Europeans say ‘that is history,’ they usually mean the opposite.”<sup>6</sup> This, however, does not alter the fact that since the early ’90s, Europe’s *élites* have been increasingly drawn to the American idea of the “end of history,” allowing themselves to be seduced and their vision clouded by talk of the wonderful idea of exporting the western model (often disguised as talk of human rights).

Post-modernist ideology, not content with placing us “beyond” history in some way, also wants to place us “outside” geography. Again, there emerge two opposing visions, this time reflected in the English and French translations of the text of the *European Security Strategy*, a document that European officials produce as a “visiting card” in their dealings with foreign leaders. Once again, subtle differences bear witness to profound divergences. Whereas, for the French, “*Même à l’ère de la mondialisation, la géographie garde toute son importance*” (Even in an era of globalisation, geography retains all its importance), the English feel it is enough to note that “Even in an era of globalisation, geography is still important.”<sup>7</sup> Here, we find the usual contraposition between geopolitical realism and an ideology that, in the name of post-modernism, would prefer to ignore reality. Yet the facts speak for themselves. Europe is but the small western tip of the vast Euro-Asian continent (geographers even call it a pseudo-continent) and, to the eternal regret of Atlantists on both shores, it remains separated from America by 6,000 kilometres of Atlantic Ocean. “America is not part of Europe... I think to have discovered this on the map,” General de Gaulle once remarked, not without a touch of irony.

– The myth of “civilian power Europe”.

French president Nicolas Sarkozy, with his propensity to overstate the obvious, sometimes runs into taboos, breaking them at a stroke and with

casual aplomb. Take, for example, his remark, in the New York Times, that “Europe cannot be an economic power without ensuring its own security.”<sup>8</sup> With this observation, as simple as it is logical, the French head of state, in a sentence, put an end to half a century of transatlantic masquerading and at the same time, as collateral damage, sabotaged the whole arsenal of pacifist propaganda. Indeed, abdication of responsibility in the military sphere, be it through a complacent belief in universal peace or a spirit of servility towards a foreign power, has direct repercussions in all areas and threatens the survival of a whole model of society. As Robert Cooper (Javier Solana’s *éminence grise* and director-general for external and politico-military affairs at the General Secretariat of the Council of the European Union) has remarked, with a frankness uncommon in Brussels circles, “It is highly unsatisfactory that 450 million Europeans rely so much on 250 million Americans to defend them. There is no such thing as free defence. At some point Europeans will find themselves paying for these arrangements. There is no guarantee that American and European interests will always coincide.”<sup>9</sup> Sooner or later, then, we may well find ourselves presented with the bill...

Moreover, this is something our friends on the other side of the Atlantic make no secret of; an official document published by the US Defense Department under Clinton, for example, commendably made this point quite clear: Our allies must be sensitive to the linkages between a sustained U.S. commitment to their security on the one hand, and their actions in such areas as trade policy, technology transfer, and participation in multinational security operations on the other.”<sup>10</sup> And these are not just words. As early as 1962, at the height of the Cold War, the US vice-president, during a visit to Berlin, the most sensitive place in Europe, brandished a threat to withdraw American troops from Europe should the Common Market slow down American exports of chickens to Europe...

As well as laying us open to pressure, not to mention blackmail, from a third party, our aversion to power leaves us with no credibility, and thus with no real influence on the international stage. Episodes like that of Sarajevo Airport, rebuilt with European money but inaugurated by the US secretary of state, are just the tip of the iceberg. As Robert Cooper pointed out, “the lack of credible force means that when it comes to questions like Kosovo, Iraq or Afghanistan the key decisions are taken in Washington.” And this is in spite of Europe’s considerable financial contribution and the presence of a sizeable contingent of European troops in the theatres of operation. In a real crisis situation, Cooper goes on, “Europeans would find themselves highly dependent on American good-

will.” But from the perspective of Europe’s power or impotence, the presence or absence of a “credible military force” is a question not of numbers, but of autonomy. Kori Schake, professor at the US military academy at West Point, National Security Council advisor during Bush’s first term, and adviser on national security to Republican presidential candidate John McCain during the 2008 election campaign, brilliantly puts her finger on this truth: “Without having genuinely autonomous military forces, Europe’s needs are subordinated to US priorities. The EU is left hostage to the concerns and potential veto of the United States....”<sup>11</sup> This, certainly, is something to be made patently clear.

### *Questions of independence.*

In reality, not everyone takes a dim view of the subordination of European interests to the desiderata of the United States of America. Those (on both sides of the Atlantic) who find that it coincides with their own interests, or who are resigned to it, tend to fall back on the following three specious arguments.

– The myth of American support for the strengthening of Europe.

It is still considered good form to acknowledge the unfailing support Washington has always given to the process of European integration. Leaving aside the reasons for this American support (far less altruistic than we would like to admit), we will concentrate here on its objective. In other words, it is worth specifying the kind of Europe whose construction the United States encourages. Certainly, there is no doubt that America’s support for the Common Market — the US was actually one of its instigators — was always wholehearted, conditional only upon the Common Market’s wise rejection of the idea of becoming a true economic community, which would implement policies (tariff, commercial, agricultural or industrial policies) designed to safeguard the interests of European citizens, just like the ones implemented, entirely legitimately, by the American authorities. In the same way, if the United States, after years of vehement protests and warnings, has ended up accepting the launch of the CFSP/ESDP, this is because it feels it can confine these policies within roles useful to its own purposes, allowing them to give it: a semblance of political legitimacy (for its diplomatic-military actions), a source of reinforcements (European troops that could be deployed under American command or control), and a captive market (benefiting the American arms industry). Washington still believes that its allies

could potentially be empowered by the existence of the CFSP/ESDP and thus keeps a watchful eye on developments, ready to scupper any initiative that might somehow jeopardise its own hegemonic position.

Because behind the complaints and obligatory smirks over Europe's alleged "incapacity" (illustrated by depicting Europeans as pygmies or paper tigers), America's concerns are actually of an entirely different nature. In one of his books Zbigniew Brzezinski, a leading figure and diplomacy and security expert in Democratic circles, kindly explains them to us: "With the EU's economic potential already matching America's and with the two entities often clashing on financial and trade matters, a militarily emergent Europe could become a formidable rival to America. It would inevitably pose a challenge to America's hegemony. (...) A politically powerful Europe, able to compete economically while militarily no longer dependent on the United States would inevitably contest American preeminence (...) and could confine the scope of U.S. preeminence largely to the Pacific Ocean."<sup>12</sup> It is thus hardly surprising that Brzezinski envisages — and he is not the only one — "complementarity with, but not autonomy from" the United States.

– The myth of complementarity.

For fifteen years now, it has been compulsory in transatlantic circles to laud this complementarity. But praise does not save it from falling into two basic errors. On the one hand, complementarity, as both America and most European governments understand it, is a one-way thing: it means, of course, the complementarity of Europe to America. It is thus easy to appreciate the structural nature of the tension between the will to retain absolute control over European security matters (embodied by NATO, the institutional framework of American protection) and the desire to have some room for independent manoeuvre (as expressed, despite all the internal dithering, by the launch of the European Defence Agency). As a result, not only are the two not complementary, they actually risk being antinomic. As remarked by Michael Cox, a professor of international relations at the London School of Economics, addressing the House of Commons, this contradiction is manageable "as long as the ESDP is not terribly serious." However, "if the ESDP did get very serious, there may be an incompatibility" and "it would be possible to imagine a situation in which the left hand could start fighting with the right."<sup>13</sup>

Added to this, the UK provides evidence of the consequences, disastrous for sovereignty, of a policy conducted under the banner of



complementarity. Former head of UK defense exports, Tony Edwards, argues that his country “maintains its capability to project power by an extraordinary reliance on the US for technology, equipment, support and intelligence.”<sup>14</sup> The analysis provided by former chairman of the UK’s Joint Intelligence Committee, Rodric Braithwaite, is no more reassuring. In his view, “American policymakers find them [the British] useful as spear carriers in the UN and NATO, and as reasonably competent military allies when it comes to a shooting war. From time to time they try to use the British as a potential Trojan horse, if European integration looks like being too successful.” Braithwaite also points out that now, by dint of pursuing “complementarity” with America, “in anything like a real war they [British forces] will only operate as an integral part of a US force, under US command and serving US interests.” The verdict is without appeal: “In contrast to the French, who preferred to plough a more lonely but independent furrow, co-operation with the Americans has robbed the British of much of their independence.”<sup>15</sup> It remains to be seen whether, in exchange, they have succeeded, or at least have some chance of succeeding, in gaining even a modicum of influence. Unsurprisingly the answer to this question is a resounding “no.”

– The myth of the power to influence on Washington.

To find a recent example of this, one need look no further than the role of prime minister Blair in the Iraq affair – and the “recompense”, in terms of influence, which he received for playing it. From the political perspective, the British ambassador himself has since confessed that London was not kept informed of the plans for the post-war period (and still less involved in the development of them). From the military perspective, it has become known, through revelations in the press, that British forces, once they come under American command, no longer have their own means at their disposal (an incident emblematic of this came right at the start of *Iraqi Freedom*: the British troops engaged on the ground needed the support of their own aircraft, but their appeals went unheeded. The US command had preferred to deploy the British planes in support of the American troops — in addition to USA planes). What is more, London was no more successful in the diplomatic sphere, as is shown by Tony Blair’s increasingly desperate efforts to display at least the semblance of a reward for his unconditional support. In this regard, Washington failed to oblige, either over the Israeli-Palestinian question or over the issue of climate change. As former German chancellor Helmut Schmidt re-

marked, the Anglo-American relationship “is so special that only the British know it exists.”

Even the loyal British are now beginning to harbour doubts... According to a report published in 2006 by the prestigious Chatham House, and signed by its outgoing director, the foreign policy disarray under Tony Blair is symptomatic, more than anything, of a more general error of judgement, namely an overestimation of Britain’s power to influence. Indeed, “the root failure (of Blair’s foreign policy) has been the inability to influence the Bush administration in any significant way despite the sacrifice — military, political and financial — that the United Kingdom has made.” Actually, the report continues, “given the Byzantine complexity of Washington politics, it was always unrealistic to think that outside powers — however loyal — could expect to have much influence on the US decision-making process.”<sup>16</sup> But why, indeed, should they have any influence on the American authorities, whose task it is defend the interests of their own citizens? In truth, this is not a question of influence, but rather of possible cooperation. And cooperation means reciprocity. The problem for Europe, starting out from a position of dependence, is that it cannot enter into an equal partnership. One of the two parties is always in the position of being able to leave, or threaten to leave, the cooperation without any loss of its strategic potential, while the other (having destroyed the foundations of its independence) remains hostage to it. In short, it takes two to cooperate on an equal footing and the path that might one day lead Europe in this direction is the same one that leads towards its independence.

*European questions: the myth of “Europeanisation” as the miracle cure.*

It has to be said that increasing the impetus for European integration does not automatically mean following this path. A greater drive for European integration, without an urgent and widespread realisation of what is truly at stake, could actually take us in quite the opposite direction. To see things more clearly, the first thing to do is clear up confusion over the term “European”, which actually has two quite distinct meanings: one, bureaucratic and institutional, refers to the European level as opposed to, and above, the national level. The second distinguishes us from the rest of the world and refers, this time in a political-strategic sense, to our continent’s specific interests and priorities. These two meanings do not overlap at all. Supranationalisation does not automatically mean the adoption and pursuit of European interests in a geopoliti-

cal sense. Alas, as things currently stand, supranationalisation runs the risk of producing entirely the opposite effect. Since most of Europe's member states are reticent towards, if not hostile to, the idea of an independent Europe, any "progress" in the sphere of integration, as in the case of a switch to majority voting in strategically sensitive areas, amounts to a quashing of any aspirations for power and independence.

From this perspective, it can be seen that the two intra-European "conflicts" underlying most of the impasses in the integration process are different facets of the same problem. Whether the confrontation is between national and federal logic, or between the autonomist vision (which favours an independent Europe) and the Atlantist one (which wants a Europe that "complements" the United States), the debate basically hinges on the question of sovereignty. Starting from the principle that Europe was built to defend, not destroy, the sovereignty of its peoples, the two "conflicts" emerge as indissolubly linked. Indeed, a country with a high degree of independence and a keen sense of the power stakes (France, without mentioning any names!) will not accept and, above all, in the interests of Europe as whole must not accept the supranational design, unless it is on the condition that its strategic requirement for power and autonomy is shared and defended, with similar intransigence and to the same degree, by Brussels. As long as the member states go on opposing it, any drive for integration will force us deeper and deeper into a position of dependence. After all, as Tindemans pointed out, "an unfinished structure does not weather well: it must be completed, otherwise it collapses." To unravel this Gordian knot, we must do away with the myths once and for all; in other words, we must break with pacifist and Atlantist illusions.

As Jean Monnet succinctly put it in his memoirs, "The defeats I have encountered were less often due to men's natural limitations than to their deliberate refusal, blinded as they were by their particular system of reference, to see the evidence."

#### NOTES

<sup>1</sup> Hubert Védrine's address to the White Paper Commission on Defence and National Security, 4 October 2007.

<sup>2</sup> The Tindemans report on European Union, known simply as the "Tindemans Report", Brussels, 29 December 1975.

<sup>3</sup> Declaration on European Identity, Copenhagen, 14 December 1973.

<sup>4</sup> Nicole Gnesotto, *EU, US: visions of the word, visions of the other, in Shift or Rift*—

*Assessing US-EU relations after Iraq*, (ed. Gustav Lindstrom), EU Institute for Security Studies, Paris 2003.

<sup>5</sup> Jean-François Deniau, *La découverte de l'Europe*, Paris, Seuil, 1994.

<sup>6</sup> Javier Solana's Speech at the Institute for Security Studies of the EU, Paris, 6 October 2006.

<sup>7</sup> *A Secure Europe in a Better World—The European Security Strategy*, 12 December 2003.

<sup>8</sup> Interview with French president Nicolas Sarkozy in *The New York Times*, 24 September 2007.

<sup>9</sup> Robert Cooper, *The Breaking of Nations*, London, Atlantic Books, 2004.

<sup>10</sup> *Report on the Bottom-up Review*, Les Aspin, Secretary of Defense, October 1993.

<sup>11</sup> Kori Schake, "The United States, ESDP and Constructive Duplication", in J. Howorth and J.T.S. Keeler (eds.), *Defending Europe: The EU, NATO and the Quest for European Autonomy*, Palgrave, MacMillan, 2003, pp. 107-132.

<sup>12</sup> Zbigniew Brzezinski, *The Choice: Domination or Leadership*, New York, Perseus Books, 2004.

<sup>13</sup> House of Commons Defence Committee, *The Future of NATO and European Defence*, 20 March 2008.

<sup>14</sup> Contribution on the Commission's Green paper by Tony Edwards, quoted in "The European defence equipment market: Article 296 of the Treaty establishing the European Community and the European Commission's Green Paper", report submitted by Franco Danieli, at the Assembly of the Western European Union, 6 December 2005.

<sup>15</sup> Rodric Braithwaite, "End of the Affair", *Prospect Magazine* n° 86, May 2003.

<sup>16</sup> Victor Bulmer-Thomas, *Blair's Foreign Policy and its Possible Successor(s)*, Chatham House, December 2006.

# Notes

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## EUROPE AND RESEARCH

To understand how research works in Europe, one first needs to appreciate that whereas the nation-states are firmly in control of the funding and orienting of basic and applied research, and of support for research and industrial development, the European Commission's involvement in research is limited to the promotion of a few major common European projects, almost exclusively in the field of applied research. In the USA, which is our main competitor, the situation is quite the reverse: over the past decade the states of the US federation have invested only 1.9 per cent of their GDP in research, against the 2.6 per cent invested by the federal government.

The main framework of reference for research policies in Europe, both at continental level and at individual state level, is the Lisbon Strategy, a project adopted by the European Council and managed by the European Commission.<sup>1</sup>

The Lisbon Strategy project stemmed from the realisation at the start of the 1990s that two phenomena of vast proportions had begun to revolutionise the global economy and daily life throughout the world, Europe included: one was the emergence of globalisation, bringing constantly increasing interdependence of the world's economies, and the other was the technological revolution, characterised by the birth and spread of Internet and of new information and communication technologies. The EU leaders, aware of the key role played by technological innovation in economic and social development, realised the considerable risks their countries were running in the face of the increasingly fierce international competition in this sector. Thus, meeting in Lisbon in March 2000, the European Council set the EU a new and ambitious objective: to become, by 2010, "the most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth with more and better jobs and greater social cohesion." To pursue this objective, the European Council adopted a detailed and far-

reaching strategy. Indeed, the Lisbon Strategy makes provision for intervention in a number of sectors, namely scientific research, education, professional training, access to Internet and e-commerce, and reforms of social security systems. The strategy's objectives include increasing the level of investment in higher education in Europe, to make it equal to that recorded in the US (i.e. taking it from just 1.3 per cent to 3.3 per cent of the GDP), and the creation of a European space for research and innovation.<sup>2</sup>

Now, with the 2010 deadline upon us, it appears certain that the closing summit, should there be one, will be forced to remark that not one of the objectives set has been achieved. On the contrary, over the past ten years, Europe's economy and European society have felt very keenly the negative effects of globalisation, and the current financial and economic crisis is threatening to put paid to the unrealistic ambitions of the European heads of state once and for all.

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The Lisbon Strategy is built around the so-called multiannual framework programmes that, since 1984, have been the instruments used by the European Commission to establish and carry forward its policies in the field of technological development and applied research.

The one currently in progress is the Seventh Framework Programme<sup>3</sup> whose main aims are to increase the proportion of the annual EU budget spent on research, and to provide incentives for national and private investments in research.

It has four main objectives which are reflected in four specific programmes. These programmes provide the foundation on which European activities in the research sector are structured.

The *Ideas* programme aims to boost cutting-edge research in Europe, i.e. to encourage new discoveries capable of changing fundamentally our view of the world and our whole way of life. This programme is led by a scientific council which, working independently, is responsible for establishing the programme's priorities and scientific strategies.

Under the *People* programme, considerable financial resources are set aside with the dual aim of increasing mobility and career opportunities for European researchers and of enticing more excellent young researchers to Europe.

The *Capacities* programme, on the other hand, highlights the need to invest in research infrastructures so as to provide researchers with effec-

tive instruments for increasing the quality and competitiveness of European research. It covers, for example, plans to invest more in less efficient regions, in the creation of regional research centres, and in research designed to benefit small and medium-size enterprises.

The main programme, however, is *Cooperation*, which is geared at strengthening links between industry and research in a transnational framework. Its aim is to build and establish Europe's leadership in the research areas that the European Commission considers most important, that is, health; food, agriculture and biotechnology; information and communication technologies; nanosciences, nanotechnologies, materials and new production technologies; energy; the environment (including climate change); transport (including aeronautics); socioeconomic sciences and the humanities; security and space research.

The EU budget allocation for the Seventh Framework Programme amounts to over 50 billion euros, which corresponds to an average of seven billion euros a year, and more than half of this is absorbed by the *Cooperation* projects.

The European Commission is also able to direct technological innovation in Europe through the European Technology Platforms (ETPs),<sup>4</sup> European initiatives that encourage the industrial and academic research communities, the financial world and the institutions to pool their resources and define common research agendas in specific technological fields, in order to establish a position of global leadership for the EU.

There are currently 28 ETPs in operation, focusing on a range of sectors, including nanomedicine, sustainable chemistry, European road transport and urban mobility, global animal health, the electricity networks of the future, nanoelectronics, integrated information systems, manufacturing, the water supply and sanitation, the forest-based sector, "plants for the future", building, textiles and clothing, steel, photovoltaic energy, small and medium-size enterprises and high technology.

In truth, as well as being promoted at European level, the ETPs have also been developed considerably within the single states and this has given rise to problems of overlapping between, and thus coordination of, the initiatives mounted, respectively, by the states and by the EU. To give an idea of the general climate of confusion surrounding these initiatives, I would like to quote two paragraphs from a document published by the Italian industrialists' association Confindustria: "A very important issue is the definition of national positions on the ETPs, with a view to promoting and supporting some ETPs, but not others, so as to give priority to those of greater strategic importance for the nation ... In mid-

2004, the Italian Ministry of Education, Universities and Research launched a bid to create and support technological platforms in Italy, the aim being to build national equivalents of some of the programmes promoted by the Commission.”<sup>5</sup>

The main weakness of the European Commission’s research policies, however, is still the lack of attention paid to basic research.<sup>6</sup> The funding the Commission provides, through the framework programmes, is channelled almost entirely into applied research, with the aim of achieving practical objectives in the short and medium term, with scant consideration for the fact that applied research is, itself, driven by advancing knowledge and innovations produced in the sphere of basic research.

It should also be remembered that for some cutting-edge disciplines, like immunology and biotechnology, it is impossible to draw a clear distinction between basic and applied research. Indeed, in the US new discoveries in these fields are often translated into practical applications that are then exploited through academic-industrial collaborations.

Thus, Europe needs to build on its heritage of basic research, but at the same time to promote the transformation of this patrimony into technological innovation, the area where Europe is most wanting. Indeed, without basic research and effective operational instruments in the field of research policy, the idea of creating a knowledge-based Europe is quite inconceivable.

As a result of the present situation, Europe is falling behind its international competitors, both old and new, to a worrying degree. Statistics clearly show that scientists elsewhere are losing interest in moving to Europe, while Europe is having increasing difficulty holding on to the researchers it already has. The glaring drop in the number of Nobel prizes awarded to Europeans is, more than anything, symptomatic of this trend. The EU has more individuals graduating in scientific disciplines and in engineering than either the US or Japan, yet it fails to offer these graduates adequate career openings. Ireland, for example, often quoted as an example of a country successful in the field of research and innovation, is the European state most affected by the “brain drain,” losing one in four of its scientists and intellectuals.<sup>7</sup>

Indeed, in today’s research scenario, now global, Europe’s problem is not so much its exporting of skills (which could actually be interpreted as recognition of the quality of its education system) as its failure to attract skills from abroad. Sadly, in a survey of 15,000 European researchers awarded PhDs in the US in 2001, around 11,000 declared that they had no intention of returning to Europe.



Furthermore, reports published by the European Commission show, systematically, that the innovation gap between the US and Europe is continuing to grow. It is, in short, unrealistic to imagine that Europe, with the instruments it currently has, can compete in this field with the US, Japan and Asian giants like India and China.

Nowadays, only large states have the wherewithal to organise effective scientific and technological research, a fact clearly highlighted in an article by Alberto Mantovani, researcher at the Mario Negri Institute in Milan and at the University of Milan: “Let us try and imagine a United States in which there are no agencies and no basic research policy at federal level, a United States in which Kansas and Ohio, or California even, establish independently their own priorities, working out and managing their own research systems. Or a United States without the National Institutes of Health, which is the main federal body involved in the distribution of funds in the biomedical field and the basis of America’s scientific and economic supremacy in the biotechnology field.

“Research, more and more, demands critical mass and investments on a continental scale. Conversely, the European research sphere, inadequate and suffocating, emerges as fragmented and positively Lilliputian when compared with that of our competitors. Indeed, the current framework programmes focus on extremely specific and narrow topics, determined in accordance with a kind of top-down logic, in which decisions on the areas of interest come from above. Instead, the support given to basic research should be structured differently: the working programmes and scientific priorities of basic research need to be much broader than those of applied research. Furthermore, the European Commission has less funds at its disposal than the National Institutes of Health in the US.”<sup>8</sup>

In the light of these shortcomings of basic research in Europe, it is also possible to explain the so-called technological paradox that characterises research activity in European countries. While basic research in Europe has lost ground in the sectors of highest strategic importance, such as genetics and nanotechnologies, in which continental-level programmes and funding are essential, it retains its groundbreaking status in many other sectors, those in which the states are still able to provide the necessary resources. Conversely, Europe’s failure to exploit the results of its basic research, above all when compared with the US, is generalised. For example, European researchers publish just as much as their American counterparts do, but lag far behind them in terms of numbers of inventions, patents, licence agreements and spin-offs. The fundamental problem afflicting research in Europe is the growing gap between the

production of scientific knowledge and the capacity to transform this knowledge into technological innovation able to sustain the growth and development of the economies and societies of the European nations.

Europe needs a network of research centres, funders and businesses, in short a proper system (like that existing in the US) that, favouring the transformation of scientific research into new products and services, has the potential to bring about the creation of new industries, to attract new researchers, and to improve the global standing of European firms.

The lack of success enjoyed by the Lisbon Strategy is due not so much to political choices or an unwillingness on the part of the European institutions and national governments as to the structural shortcomings that underlie the poor organisation of research in Europe.

The Lisbon Strategy provides the umpteenth example of how cooperation among European states, far from guaranteeing achievement of the objectives set, is the root problem determining Europe's inefficiency and lack of credibility.

Indeed, as shown by political science and its collective action theory, the mere existence of potential positive effects is not enough to guarantee cooperative behaviour. In the course of the implementation of the Lisbon Strategy we have seen how single member states can benefit by deviating from the strategy pursued by all the other states, a phenomenon referred to as "the tragedy of the commons." It is, indeed, in the interests of a single state to delay the implementation of decisions reached collectively in order to try and exploit the initiatives set up by the others without sustaining the relative costs.<sup>9</sup>

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For some time now, the European Commission has been working on the idea of creating a European Research Council along the lines of the agencies that support basic research in America. However, the European Commission — as well as the scientific community that supports this initiative — still has to show public opinion in Europe exactly how it might succeed in changing the course of research in Europe. The excerpt from Mantovani's article, quoted earlier, which compares the different settings in which scientists in Europe and in the US work, highlights the link between the vitality of scientific research and the size of the framework in which this research is organised. The article stops there, however, failing to move on to the next, and fundamental, issue: the presence in America — and the absence in Europe — of a federal state able to gather, autonomously, the resources needed to fund research at

continental level, and to harness the support of research organisations, banks and businesses for major projects of common interest — a state which, as regards the results obtained, is answerable to the citizens, and free from national influences.

However, even recognition, at political and institutional level, of the importance of science, the availability of more funds for research and more rational use of research funds through the creation of an independent agency would not be enough to guarantee that these funds were well spent. A European Research Council brought into being by the European Council would inevitably have the same “genetic makeup” as the other European institutions, which are proving incapable of stopping the decline of the European states. Initiatives like the European Research Council project can slow down the crisis of scientific and technological research in Europe, but they cannot remove its root cause.

*Laura Filippi*

#### NOTES

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<sup>2</sup> “Building the ERA of knowledge for growth”, Communication from the Commission, Brussels, 6.4.2005.

<sup>3</sup> “Decision No 1982/2006/EC of the European Parliament and of the Council of 18 December 2006 concerning the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007-2013)”, Official Journal of the European Union, L 412/1 dated 30.12.2006.

<sup>4</sup> European Commission, “Technology Platforms – From Definition to Implementation of a Common Research Agenda”, Office for Official Publications of the European Communities, 2004.

<sup>5</sup> “Position paper su Piattaforme Tecnologiche europee e nazionali”, Confindustria, 10-05-2007.

<sup>6</sup> “Science and technology, the key to Europe’s future – Guidelines for future European Union policy to support research”, Communication from the Commission, Brussels, 16.6.2004.

<sup>7</sup> “Annuario scienza e società”, edizioni il Mulino, Bologna, 2009.

<sup>8</sup> “Per un European Research Council”, Alberto Mantovani, Darwin Issue no. 5 – Year 2 - I/II 2005.

<sup>9</sup> “Per una nuova strategia di Lisbona”, Stefan Collignon, Italianieuropei, 02/2005.

## Federalist Action

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### A “FEDERAL CORE” IN A WIDER EUROPEAN UNION. HOW SHOULD THE CORE BE FOUNDED? HOW SHOULD ITS INSTITUTIONS BE STRUCTURED? WHAT SHOULD BE THE NATURE OF ITS RELATIONS WITH THE INSTITUTIONS OF THE WIDER UNION? \*

When talking about a multi-speed Europe or flexibility within the European Union, it is very important to assume a political perspective on the issue. Only by so doing can answers be found to the following questions: how should the federal core be founded, how should its institutions be structured, and what should be the nature of its relations with the institutions of the wider Union? Above all it is crucial to understand why a federal core is what we now need, rather than some other form of differentiated integration. An appropriate institutional solution will be found only if we can keep our ultimate, political, objective very clearly in mind.

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We all agree that Europe today faces two major challenges: the creation of a European foreign and security policy, so that Europe can speak with one voice in the international arena and provide for its own defence, and the building of a single economic and fiscal policy to complete the existing monetary union. It will take a democratically elected European government to rise to these challenges: after all, only a democratically elected government can legitimately make decisions on matters of economic policy and taxation (no taxation without represen-

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\*Report held at the IX International Seminar “Federalism and the European Unification”, Desenzano del Garda, 25-26 April, 2009.

tation) and questions of peace and war.

A European government responsible for defence, foreign policy and economic and fiscal policy implies the existence of a European federal state. And, given that some EU member states are unwilling to take integration as far as the creation of a European state, the problem we now face is how to build a federal state encompassing those European countries that do want to take this step, i.e. how to create a sovereign entity that would replace some of the existing EU member states (since the states joining this new entity would, in becoming members of a federation, lose their sovereignty).

Since this is our objective, it is clear that all the forms of flexibility built into the European Treaties are woefully inadequate: in short, none of the existing forms of differentiated integration brings into question the sovereignty of the member states, or was designed with the aim of creating a new sovereign entity — a new state.

And here, again, it is essential to stress the importance of the political perspective, the political objective to be achieved. Because each time, in the past, the idea of creating a multi-speed Europe or some other form of differentiated integration has been the subject of complicated negotiations in the absence of a clear political objective and a clear political will, the result has been unsatisfactory. We might cite, as an example, Schäuble and Lamers' 1994 proposal to create a "hard core" of European states, i.e. to make it possible for some member states (those ready to take this step, possibly drawn from among those belonging to the European Monetary Union) to form a core group and create a European government outside the framework of the existing Treaties and even against the will of the less integrationist states. However, during the negotiations leading up to the Amsterdam and Nice Treaties, this idea of allowing the process of European integration to advance at different speeds gradually lost its political significance as the original idea of creating a vanguard became reduced to a complicated flexibility formula — enhanced cooperation — that was never going to be of much use to those wishing to establish a European federal core.

As long as the sovereignty of the member states is not brought into question, it remains possible, within the framework of the Treaties, to seek forms of differentiated integration in an attempt to reconcile the interests of all the member states, but the provisions that result from these endeavours, precisely because they have been adopted by all the member states, including those not wanting to pursue deeper forms of integration, are by definition born of compromise and thus cannot help to solve the

problems now besetting the process of European integration.

This is seen clearly in the case of enhanced cooperation, a mechanism subject to a set of conditions (the so-called ten commandments) designed to guarantee that these cooperation agreements remain within the ambit of the Union or of the Community and are compatible with the institutional framework of the Union itself. Thus, the Commission can oppose any proposal for enhanced cooperation, every enhanced cooperation has to be authorised by the Council by a qualified majority, and the single member states have the faculty to request that decisions on recourse to this mechanism be referred to the European Council.

The creation of monetary union in Europe provides a further illustration of this point. When, in the 1990s, this step was decided upon, states like the United Kingdom and Denmark were already members of the European Community, and given that the decision was taken during the Maastricht Treaty negotiations, and thus in accordance with the procedures envisaged by the Treaties (i.e. through an intergovernmental conference deciding by unanimity), it was inevitable that the solution reached would be a compromise, namely the creation of a single currency in the absence of a common economic and fiscal policy. The adoption of a common economic and fiscal policy by the states wishing to enter the single currency would in fact have led to the creation of a government and thus of a core Europe within the European Union, a step that the United Kingdom, for example, would never have allowed.

There are two lessons to be learned from these experiences. The first is that the creation of a core group of states within the European Union (if our objective is to give rise to an entity able to speak with one voice) cannot be achieved through the mechanisms provided for by the existing Treaties. Since the European institutions represent all the member states of the Union, it would not be in their interests to allow some states to create a new sovereign entity, a more advanced form of integration, that could undermine the Community structure. In short, any decision on a multi-speed Europe taken by the European institutions is bound to result in an unsatisfactory compromise and not in the building of a federal core. Consequently, the decision to create a vanguard can be taken only outside the framework of the EU and Community Treaties, through a break with the procedures they currently envisage.

Were this to happen, it would, in fact, not be the first time that some member states had gone outside the Treaties in order to become part, within a separate unit, of a deeper form of integration. We might think, for example, of the Schengen agreements before the Treaty of Amster-

dam. In 1985 these agreements were signed by France, Germany and the Benelux countries outside the framework of the European Community Treaty. The difference is that the building of a federal core outside the mechanism provided for by the Treaties would have a much stronger impact because it would create a new sovereign entity, not just closer cooperation between sovereign states in a specific policy area.

The second lesson is that the political objective and the basic structure of the new entity comprising those EU member states ready to relinquish their sovereignty must be clearly defined and agreed upon from the very outset. In other words, were the task of defining basic aspects of this closer integration to be entrusted, subsequently, to a constituent assembly or to an intergovernmental conference open to all the states wanting to carry the integration process forwards, but without prior acceptance and definition of the central aim (i.e. to found a federal core responsible for foreign policy and defence and for economic and fiscal policy), the outcome could easily be a compromise solution liable to undermine the federal aim of the initial project, in short, nothing more than another form of flexibility like those contained in the existing Treaties.

This is the reason why the building of a federal core demands a strong political will on the part of several states. And it is up to these states to take the initiative of creating this new entity, by drawing up a federal pact establishing, above all, the transfer of sovereignty from the member states to the new federal entity, thereafter convening a constituent assembly entrusted with the task of drafting the new state's constitution. The decision to join (and thus to create) a federal core and the drafting of a federal constitution are, in fact, two separate steps, and the taking of the second depends on the accomplishment of the first.

And so we come to the definition of the basic characteristics of the European federal core. To tackle this issue it may be useful to refer to the Draft Treaty defining the Statute of the European Community adopted by the ad hoc assembly entrusted with creating a European Political Community in March 1953 and intended to complete the European Defence Community Treaty (which, of course, never came into force).

Albeit ambiguous on certain issues, this Treaty nevertheless contains many interesting elements and is certainly the most "federal" Treaty in the history of the process of European integration.

As far as the institutions are concerned, the Draft Treaty establishes that legislative power will be exercised by a Parliament composed of two chambers: a Peoples' Chamber made up of members representing the peoples united in the Community, and a Senate, made up of senators

representing the people of each state. The former will be elected directly by the citizens, in accordance with a uniform electoral system, and the latter by the national Parliaments, in accordance with the procedures determined, independently, by each member state. Legislation must be approved by each of the two chambers by a simple majority.

Executive power is conferred on the European Executive Council, whose president will be elected by the Senate, which will also appoint the other members of the European Executive Council. To assume its functions, this Council must receive a vote of confidence from the Peoples' Chamber and also from the Senate, in both cases conferred by a majority vote.

In short, this Draft Treaty made provision for the creation of a European government appointed by a Parliament directly elected by the European citizens. These institutions, according to the Treaty, will be responsible for European defence and have the power of taxation.

Judicial power on the other hand is conferred, under the Draft Treaty, to a court of justice whose function will be to ensure the rule of law in the interpretation and application of Community legislation.

The institutional structure envisaged by the Draft Treaty contains some ambiguities: the main ones are the existence of a council of national ministers composed of representatives of the member states that must approve by unanimity the amendments to the most important Treaty provisions (conversely, in a federal state, amendments to the constitution should be approved by a majority of the Parliament and of the states), and the fact that the foreign policies of the member states are merely coordinated. Nevertheless, this Draft Treaty clearly outlines the structure of a federal state (a government appointed by a two-chamber Parliament and a court of justice ensuring the rule of law in the interpretation and application of Community legislation) and could serve as a very useful model for the creation of a future federal core.

Indeed, in a future federal core, too, legislative power would have to be entrusted to a two-chamber Parliament, one chamber representing the citizens and the other the member states. The government would have to be elected by citizens or by the Parliament, and be democratically answerable to them. Judicial power, on the other hand, would have to be entrusted to a court of justice, endowed with the capacity to declare void any legal provision in conflict with the constitution.

As far as federal competences are concerned, the institutions of the federal core would be responsible for foreign policy and defence (which implies the existence of a European army under the command of a



European general staff, whose chief would be answerable to the defence ministry of the federal core) and for economic policy (which implies the power to levy taxes), although it would probably also be necessary to transfer to federal level competences concerning scientific research, technological development and the environment.

But if we look again at the Draft Treaty of 1953, there emerges another point that could be useful for our present purpose. Indeed, the Draft Treaty states that the Community created by the Treaty itself shall progressively exercise the powers and competences of the European Coal and Steel Community and of the European Defence Community and ultimately replace these two organisations. For the transitional period, the Treaty envisages forms of provisional government of the whole structure comprising the new European Community, the European Coal and Steel Community and the European Defence Community. Something similar can be envisaged for the period that would immediately follow the signing of a federal pact by member states intent on creating a federal core. Prior to the election of a constituent assembly entrusted with drawing up the constitution of the federal core, a provisional government would have to be created. Given that, at this stage, the federal institutions and the procedures for creating them would not yet have come into existence, this provisional government would still have an intergovernmental character. It could, for example, be composed of members chosen by the heads of state and of government of the signatory countries of the federal pact and submitted to a form of parliamentary control exercised by the members of the European Parliament belonging to those countries.

*The relationship between the federal core and the Union.*

First of all it must be stressed that acceptance, into the federal core, of an EU member state that was not among the original signatories of the federal pact should not depend on the fulfilment of technical standards, but only on the will of that state to relinquish its sovereignty in order to become a member state of a federation. Hence, the federal core would exclude only those states that do not want to be part of it, not those that fail to meet some formal requirement, technical or economic. This would belie the arguments of those who maintain that the creation of a federal core would be a means of excluding and isolating the poorest or newest member states.

The second point worth stressing is the fact that the Treaty establishing the European Community already contains, in article 306, a provision

designed to allow the existence and the completion of regional unions within the European Union. According to this article “the provisions of this Treaty shall not preclude the existence or completion of regional unions between Belgium and Luxembourg, or between Belgium, Luxembourg and the Netherlands, to the extent that the objectives of these regional unions are not attained by application of this Treaty.” The existence of this provision can be taken as a demonstration that the existing Treaties do not preclude, in principle, the creation of unions of states within the European Union. It should nevertheless be appreciated that the building of a federal core by some member states of the European Union would be very different from the specific experiences (regional unions between Belgium, Luxembourg and the Netherlands) that this provision refers to. Particularly because if this core includes — as it should do — at least three leading member states of the Union, its weight within the institutional framework of the Union, and in comparison with that of the other member states, would be considerable.

And it is precisely this that emerges as the central problem when examining the question of the nature of the relationship between a federal core and an enlarged European Union. In theory, one could refer to international law and apply the rules on the succession of states in respect of treaties, according to which any state born of a fusion between two or more states is automatically granted entry into an international organisation of which these states were already members. Accordingly, the federal core would replace its member states in the Treaty on European Union and in the Treaty establishing the European Community (thus in the Council and in the Commission, for example, the core would have a single representative taking the place of those of its member states) and would be subject to all the agreements (forms of cooperation and restrictions of sovereignty) imposed under those treaties.

Although this solution is possible juridically, if one considers the issue from a political perspective, it can clearly be seen that the creation of a federal core would upset the institutional equilibrium of the Union, because this new state would carry far more economic and political weight than the other members of the Union, and also that the core group would not be prepared to accept all the limitations on sovereignty imposed by the existing Treaties.

This last point deserves particular consideration. Once created, the federal core, like all new states — the creation of the American federation has shown this to be the case —, would inevitably need some time to establish its position and to withstand attempts on the part of its members

to reaffirm their sovereignty. It is natural that any state that is trying to consolidate and affirm its newly won sovereignty will resist the placement of restrictions on that sovereignty. This is the reason why some of the new member states of the European Union that were formerly part of the communist bloc, having regained possession of their sovereignty in 1989, are unwilling to relinquish any of it to the European Union institutions. It is, for example, difficult to imagine the federal core being willing to submit to the restrictions imposed by the Stability Pact, instead of fully exercising its sovereignty in the field of economic policy.

Therefore, a renegotiation of the relations between the federal core and the EU would be called for, even though it is difficult to imagine what the outcome of these renegotiations might be.

The first point to be stressed is that the core must stand as a single unit, especially in its relations with the European Union member states and institutions. Hence, the core would replace its single members within the European institutions themselves.

The second point is that all the states that are not particularly kindly disposed towards forms of integration other than strictly economic ones would have to remain outside the core group. It is thus possible that the bonds between the states that do not become members of the core will weaken progressively, until the Union is nothing more than a free trade area.

But there remain many other unresolved issues. If, for example, some of the euro-zone countries were to decide not to join the core, there would arise the problem of how to coordinate and regulate the economic policies of these states and the economic policy of the federal core.

*Giulia Rossolillo*

## Federalism in the History of Thought

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### JOHN JAY

John Jay (1745-1829), author of five *Federalist Papers*, is also one of the founding fathers of the American federation without whom, in the words of the second President of the United States, John Adams, “this country would never have been independent; Washington would not have been commander of the American army; three hundred millions of acres of land which she now possesses would have been cut off from her limits; the cod and whale fisheries... would have been ravished from her; the Massachusetts constitution, the New York constitution... the Constitution of the United States would never have been made.”<sup>1</sup> In the light of these remarks, it is worth reading the fourth federalist paper, written by Jay in 1787<sup>2</sup> and reproduced in this section of our review.

\* \* \*

A brief look at the key stages in John Jay’s political career is all that is required to understand the reasons for Adams’ view and to gain an idea of how, as a federalist, Jay influenced American history.

John Jay was a delegate to the First Continental Congress in 1774, representing New York State. He served as President of Congress from 1778 to 1779, before being sent as an envoy to Spain and France. In Paris, together with Benjamin Franklin and John Adams, he negotiated a peace treaty with Great Britain. On returning to New York in 1784 he took up his new position as the United States’ Secretary of Foreign Affairs (now known as the US Secretary of State), remaining in this role until 1789. His appointment, in 1791, as the first Chief Justice of the Supreme Court of the United States coincided with another short period spent representing the United States abroad, this time as an envoy in London, striving to prevent a new war with Great Britain and establishing the transit and trading rights, in North America, of the other European powers. In 1795, having completed this mission, he was made governor of New York

State, and went on to serve two terms. Finally, in 1800, having turned down a second mandate as Chief Justice of the Supreme Court and the possibility of running for the presidency of the United States, as the federalist candidate against Jefferson, he retired from political life and settled in a suburb just outside New York.

Clearly, these many high-profile roles are justification enough for remembering John Jay as one of America's founding fathers. But to highlight the particular part he played in the struggle to found history's first federal state, it is worth dwelling briefly on several key stages in his political career — moments that emerge as emblematic both of the historical period in which he lived, and of the remarkable clarity of vision with which, together with other federalists, he succeeded in setting American politics on the road to peace and prosperity.

\* \* \*

When John Jay became drawn to politics, through his involvement in the life of the institutions, both the continental ones and those of his own state, his hope, shared by most Americans prior to the Declaration of Independence, was that the differences with Great Britain would, as in previous decades, be resolved quickly and peacefully, and that ultimately a profitable union might be established between the two sides of the Atlantic. Indeed, as clearly shown by the "Address to the British People" (a sort of appeal for brotherhood and collaboration between the Americans and the British, written mainly by Jay), this was the prevailing sentiment among the delegates to the Continental Congress of 1775. However, in the space of just a few months this hope was destroyed by the intransigence of the British Crown and Parliament, which had absolutely no intention of granting the colonies any powers of taxation or self-government. Many years later, Jay, reconstructing these historical events, would recall this moment as the point at which the Americans were forced to stop merely talking about their independence and start fighting for it in earnest. That Jay and the people of New York State underwent a sudden change of attitude, replacing cautious reluctance to engage in armed struggle with a revolutionary stance, is shown by a resolution, drafted by Jay himself and approved unanimously by the provincial Congress of New York in 1776. In this document, the New Yorkers, lamenting the cruel necessity "which had rendered the Declaration of Independence unavoidable," made clear their endorsement of the reasons "for declaring the United Colonies free and independent States"

and their determination “at the risk of our lives and our fortunes” to support such a declaration.<sup>3</sup>

In subsequent years, particularly during his time as President of Congress, Jay was able to see for himself how extremely weak the cooperation between the colonies was; he also saw that the Union’s institutions lacked the power to conduct the war. Later on, he would further witness the effects of this fragility and impotence while serving as American envoy to Spain where, sent without adequate funding for the mission from the confederation, he was not even received by the representatives of the Spanish Crown. Indeed, Spain, although an ally of France against Great Britain, had no desire to support and legitimise the North American colonies’ demands for independence. Moving on to Paris, Jay quickly realised the naivety behind the mandate that Congress had given him, which was to negotiate peace with the British, but without upsetting the French government, whose collaboration was, instead, to be actively sought. In this difficult situation it was only thanks to the help of Franklin that Jay managed to find the funds and secure the guarantees necessary for the mission to continue. Furthermore, with Adams’ help he managed to form a realistic picture of the international situation — a picture far more accurate than the perception formed on the other side of the Atlantic. Contrary to what was believed in New York, Spain was not an imperial power still on the rise. And what America’s French allies actually wanted, without upsetting Congress, was to exploit the American War of Independence to gain military and commercial advantages at Great Britain’s expense. Moreover, Britain’s diplomats were well aware of the colonies’ growth potential — more so than the colonies themselves —, and had even gone so far as to formulate projections of North America’s demographic and commercial growth as far ahead as the mid-1800s. Jay, Adams and Franklin also realised that, in view of the increasing costs it was sustaining in quelling the “rebellion” of the American colonies, not to mention the military defeats it was suffering, Britain (the Crown more than Parliament) had reached a point at which it was willing to negotiate an agreement with the Americans.

All this convinced Jay of the need to get round the mandate conferred on him by Congress, which, after all, was too far removed from the reality of the situation, tended to send contradictory messages and was, basically, ill-informed about what was happening in Europe. With Adams’ accord, Jay established, for the American delegation, a series of essential premises for negotiating with Britain. First, there could be no sitting down at the negotiating table with any subject that had not, first,

recognised the independence of the United States (this, in fact, ruled out the participation of Spain, which did not want to give its own colonies a pretext to rebel); second, the outcome of the Treaty had to be considered a matter separate from the need to reach prior agreements with France; and third, it had to be acknowledged that the Americans' main interlocutor could only be the British government.<sup>4</sup>

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Following the signing of the Paris Peace Treaty in 1783, the Americans initially hoped that their future now depended on the maintenance and strengthening of the common institutions provided for by the Articles of Confederation. But this hope, too, initially shared by Jay and by most federalists, soon vanished. Once again it took only a matter of months for attitudes to change. At the end of 1784, Jay, in a confident frame of mind, wrote to Franklin, saying "the current Congress promises well, because there are many respectable members among whom federal ideas seem to prevail greatly." In another letter he told Lafayette "federalist ideas begin to thrive in this city." Later, in March 1785, Jay remarked that "even though much remains to be done, yet we are gradually advancing towards system and order." However, by the end of that very same year, in correspondence with Adams, his tone was different. He wrote "our federal government is incompetent to its object" and stressed the need for cooperation over "measures for enlarging and invigorating it." Then, at the start of 1786, he wrote, in despair, to Jefferson, saying that "the Confederation certainly is very imperfect, and I fear it will be difficult to remedy its defects until experience shall render the necessity of doing it more obvious and pressing." And in another letter to Jefferson he concluded that "our federal government is fundamentally wrong."<sup>5</sup> The reasons prompting Jay to say these things were manifold and included the impotence of Congress, growing unrest in the former colonies, economic and financial problems, unresolved sources of tension with Great Britain, and the fear of new wars. Not even the convening of the Philadelphia Convention seemed sufficient to steer the United States away from the chaos towards which it was moving. Yet the Convention was, most people believed, perhaps one of the last chances to reverse the tide of events. This is why Jay did everything he could to convince George Washington to take part in it and, through his authoritative presence, to direct it. For the same reason, in 1787, he wrote Washington a letter setting out his concerns and trying to outline a basic programme for the

meeting (Washington actually brought a copy of this letter with him to Philadelphia). Basically, the questions were: what should and could be done? How and through what institutions might it be possible to create a true American government founded on the will of the people and the states?<sup>6</sup> The problem was that even though the weaknesses of the Union's government were clear to see, there was enormous resistance to the idea of overcoming them. One need only recall that the New York legislature did everything in its power to get Jay excluded from the state's delegation to Philadelphia, and succeeded. However, the New York anti-federalists' boycotting of Jay did absolutely nothing to diminish his popularity and friendly relations with almost all the delegates to the Convention, who had known him for years, went to his home, regularly asked him for advice, and respected his moral authority as well as his legal and political expertise. Thus, he was kept constantly informed of proceedings in Philadelphia and even participated, indirectly, in the formulation of several key articles of the new Constitution, such as article 6, which introduced the supremacy clause, a provision which Jay particularly wanted to see included.<sup>7</sup>

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With the Constitution written, the next step was to secure its ratification in enough states to guarantee its entry into force. Jay, aware that this was an opportunity for the Americans to alter the course of their history,<sup>8</sup> embarked on a determined battle. He immediately accepted Hamilton's invitation to support the propaganda campaign in favour of ratification of the Constitution, contributing the series of articles that would go on to be included in the famous *Federalist Papers*. Then, by writing an "Address to the People of New York", he helped to undermine the position of the anti-federalists who insidiously favoured delaying ratification of the Constitution, or at least wanted its ratification submitted to a second convention. Finally, in the convention held in his own state, Jay played a key role, together with Hamilton, in transforming the anti-federalist majority, which had been elected by the people of New York and was opposed to ratification of the Constitution, into the narrow majority that ultimately did ratify it.<sup>9</sup>

Having won this crucial battle, the priority was to start consolidating the federal system of government that had been created and also, in Jay's view, to affirm the new state's sovereignty in the areas in which this had been conferred upon it by the Constitution, the first being foreign policy



and the administration of justice in conformity with federal laws and no longer in accordance with the interests of the single states. Here again, the contribution made by Jay, this time in his dual capacity as first Chief Justice of the Supreme Court and overseas envoy, was to prove fundamental. In foreign policy, he was well aware that any US intervention in the new tensions that were growing between Great Britain and revolutionary France would have disastrous consequences for America, both commercial and military, and thus he supported the policy of neutrality pursued by Congress and President Washington against those, such as the then Secretary of State Thomas Jefferson, who wanted the Court to decide in favour of intervention. Jay simply dismissed their appeals as “abstract questions.” On the domestic front, he made it clear, through several famous judgements, that under the new Constitution, the states were no longer the sole legislators and administrators of justice, and also that they would have to accept that their standing in the eyes of the law was the same as that of single citizens, and annul any legal provisions conflicting with the federal constitution.<sup>10</sup>

This, of course, was only the beginning. The interpretation given to the role of the Court, the Constitution and the supremacy clause has frequently been called into question in the course of US history, both by those wanting to see sovereignty restored to the single states and by those fearful, sometimes with reason, of possible abuses of federal power. Defended or attacked, it has provoked heated debates, attempts (successful and unsuccessful) to amend the Constitution, profound splits, and even a Civil War. What cannot be disputed, however, is the fact that the principle and exercising of popular sovereignty in the new federal state through the system of government and the checks and balances that Jay helped to introduce and get started, was to remain deeply rooted in American political life and, for better or worse, to determine its course.

#### NOTES

<sup>1</sup> A recent biography of John Jay, the first important text dealing with his life in over half a century, has helped to rekindle interest in the role played by this statesman. Adams' remarks appear in this biography. Walter Stahr, *John Jay: Founding Father*, New York, Hambledon and London, 2005, p. 386.

<sup>2</sup> This is an essay in which James deals with the crucial question of the United States' international position and the need for a single foreign and defence policy at federal level.

<sup>3</sup> *Op. cit.*, p. 62.

<sup>4</sup> Jay was quick to grasp the evil nature of power relations between states, and he never tired of reminding his fellow citizens of it, as indeed he did in a speech written, in collaboration with Hamilton, for George Washington: “There can be no greater error than

to expect or calculate upon real favors from nation to nation. It is an illusion, which experience must cure, which a just pride ought to discard” (extract from Washington’s farewell address of 1796), [http://avalon.law.yale.edu/18th\\_century/washing.asp](http://avalon.law.yale.edu/18th_century/washing.asp)

<sup>5</sup> *Op. cit.*, p. 241.

<sup>6</sup> “...The situation of our affairs calls not only for reflection and prudence, but for exertion. What is to be done? is a common question; but it is a question not easy to answer.

“Would the giving any further degree of power to Congress do the business ? I am inclined to think it would not ... The executive business of sovereignty, depending on so many wills, and those wills moved by such a variety of contradictory motives and inducements, will, in general, be but feebly done. Such a sovereign, however theoretically responsible, cannot be effectually so, in its departments and officers, without adequate judicatories.

“I therefore promise myself nothing very desirable from any change which does not divide the sovereignty into its proper departments. Let Congress legislate; let others execute; let others judge.

“Shall we have a King ? Not, in my opinion, while other expedients remain untried. Might we not have a Governor-General, limited in his prerogatives and duration ? Might not Congress be divided into an upper and a lower House ; the former appointed for life, the latter annually ; and let the Governor-General (to preserve the balance), with the advice of a Council, formed, for that only purpose, of the great judicial officers, have a negative on their acts? Our Government should, in some degree, be suited to our manners and circumstances, and they, you know, are not strictly democratical.

“What powers should be granted to the Government, so constituted, is a question which deserves much thought. I think, the more the better ; the States retaining only so much as may be necessary for domestic purposes, and all their principal officers, civil and military, being commissioned and removable by the National Government. These are short hints. Details would exceed the limits of a letter, and to you be superfluous.” (John Jay, letter to George Washington, 7 January 1787), [http://www.familytales.org/dbDisplay.php?id=ltr\\_joj4303](http://www.familytales.org/dbDisplay.php?id=ltr_joj4303).

<sup>7</sup> “This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any state to the Contrary notwithstanding.” (Art. VI, parag. 2 of the Constitution of the United States). This wording was based on the explanatory and application notes to the Peace Treaty drafted by Jay, *Op. cit.*, p.246.

<sup>8</sup> In essay 64 of the *Federalist Papers*, Jay, paraphrasing Shakespeare in *Julius Caesar*, “There is a tide in the affairs of men”, warns about the risk of squandering the opportunity to ratify the new federal Constitution: “They who have turned their attention to the affairs of men, must have perceived that there are tides in them; tides very irregular in their duration, strength, and direction, and seldom found to run twice exactly in the same manner or measure”, [http://en.wikisource.org/wiki/The\\_Federalist\\_Papers/No.\\_64](http://en.wikisource.org/wiki/The_Federalist_Papers/No._64).

<sup>9</sup> “There is much reason to believe that the majority of the convention of this state will be composed of anti-federal characters; but it is doubtful whether the leaders will be able to govern the party. Many in the opposition are friends to union, and mean well, but their principal leaders are very far from being solicitous about the fate of the Union.” (From Jay’s letter to Washington written just before the announcement of the names of the delegates to the New York Convention), *Op. cit.*, p.225.

<sup>10</sup> See, in this regard, the judgement *Chisholm v. Georgia* (1793), [http://www.cornellcollege.edu/politics/courses/allin/365-366/documents/chisholm\\_v\\_georgia.html](http://www.cornellcollege.edu/politics/courses/allin/365-366/documents/chisholm_v_georgia.html).

## THE FEDERALIST PAPERS: N. 4

To the People of the State of New York:

My last paper assigned several reasons why the safety of the people would be best secured by union against the danger it may be exposed to by *just* causes of war given to other nations; and those reasons show that such causes would not only be more rarely given, but would also be more easily accommodated, by a national government than either by the State governments or the proposed little confederacies.

But the safety of the people of America against dangers from *foreign* force depends not only on their forbearing to give *just* causes of war to other nations, but also on their placing and continuing themselves in such a situation as not to *invite* hostility or insult; for it need not be observed that there are *pretended* as well as just causes of war.

It is too true, however disgraceful it may be to human nature, that nations in general will make war whenever they have a prospect of getting anything by it; nay, absolute monarchs will often make war when their nations are to get nothing by it, but for the purposes and objects merely personal, such as thirst for military glory, revenge for personal affronts, ambition, or private compacts to aggrandize or support their particular families or partisans. These and a variety of other motives, which affect only the mind of the sovereign, often lead him to engage in wars not sanctified by justice or the voice and interests of his people. But, independent of these inducements to war, which are more prevalent in absolute monarchies, but which well deserve our attention, there are others which affect nations as often as kings; and some of them will on examination be found to grow out of our relative situation and circumstances.

With France and with Britain we are rivals in the fisheries, and can supply their markets cheaper than they can themselves, notwithstanding any efforts to prevent it by bounties on their own or duties on foreign fish.

With them and with most other European nations we are rivals in navigation and the carrying trade; and we shall deceive ourselves if we suppose that any of them will rejoice to see it flourish; for, as our carrying trade cannot increase without in some degree diminishing theirs, it is more their interest, and will be more their policy, to restrain than to promote it.

In the trade to China and India, we interfere with more than one nation, inasmuch as it enables us to partake in advantages which they had in a

manner monopolized, and as we thereby supply ourselves with commodities which we used to purchase from them.

The extension of our own commerce in our own vessels cannot give pleasure to any nations who possess territories on or near this continent, because the cheapness and excellence of our productions, added to the circumstance of vicinity, and the enterprise and address of our merchants and navigators, will give us a greater share in the advantages which those territories afford, than consists with the wishes or policy of their respective sovereigns.

Spain thinks it convenient to shut the Mississippi against us on the one side, and Britain excludes us from the Saint Lawrence on the other; nor will either of them permit the other waters which are between them and us to become the means of mutual intercourse and traffic.

From these and such like considerations, which might, if consistent with prudence, be more amplified and detailed, it is easy to see that jealousies and uneasinesses may gradually slide into the minds and cabinets of other nations, and that we are not to expect that they should regard our advancement in union, in power and consequence by land and by sea, with an eye of indifference and composure.

The people of America are aware that inducements to war may arise out of these circumstances, as well as from others not so obvious at present, and that whenever such inducements may find fit time and opportunity for operation, pretenses to color and justify them will not be wanting. Wisely, therefore, do they consider union and a good national government as necessary to put and keep them in *such a situation* as, instead of *inviting* war, will tend to repress and discourage it. That situation consists in the best possible state of defense, and necessarily depends on the government, the arms, and the resources of the country.

As the safety of the whole is the interest of the whole, and cannot be provided for without government, either one or more or many, let us inquire whether one good government is not, relative to the object in question, more competent than any other given number whatever.

One government can collect and avail itself of the talents and experience of the ablest men, in whatever part of the Union they may be found. It can move on uniform principles of policy. It can harmonize, assimilate, and protect the several parts and members, and extend the benefit of its foresight and precautions to each. In the formation of treaties, it will regard the interest of the whole, and the particular interests of the parts as connected with that of the whole. It can apply the resources and power of the whole to the defense of any particular part, and that more

easily and expeditiously than State governments or separate confederacies can possibly do, for want of concert and unity of system. It can place the militia under one plan of discipline, and, by putting their officers in a proper line of subordination to the Chief Magistrate, will, as it were, consolidate them into one corps, and thereby render them more efficient than if divided into thirteen or into three or four distinct independent companies.

What would the militia of Britain be if the English militia obeyed the government of England, if the Scotch militia obeyed the government of Scotland, and if the Welsh militia obeyed the government of Wales? Suppose an invasion; would those three governments (if they agreed at all) be able, with all their respective forces, to operate against the enemy so effectually as the single government of Great Britain would?

We have heard much of the fleets of Britain, and the time may come, if we are wise, when the fleets of America may engage attention. But if one national government, had not so regulated the navigation of Britain as to make it a nursery for seamen—if one national government had not called forth all the national means and materials for forming fleets, their prowess and their thunder would never have been celebrated. Let England have its navigation and fleet—let Scotland have its navigation and fleet—let Wales have its navigation and fleet—let Ireland have its navigation and fleet—let those four of the constituent parts of the British empire be under four independent governments, and it is easy to perceive how soon they would each dwindle into comparative insignificance.

Apply these facts to our own case. Leave America divided into thirteen or, if you please, into three or four independent governments—what armies could they raise and pay—what fleets could they ever hope to have? If one was attacked, would the others fly to its succor, and spend their blood and money in its defense? Would there be no danger of their being flattered into neutrality by its specious promises, or seduced by a too great fondness for peace to decline hazarding their tranquillity and present safety for the sake of neighbors, of whom perhaps they have been jealous, and whose importance they are content to see diminished? Although such conduct would not be wise, it would, nevertheless, be natural. The history of the states of Greece, and of other countries, abounds with such instances, and it is not improbable that what has so often happened would, under similar circumstances, happen again.

But admit that they might be willing to help the invaded State or confederacy. How, and when, and in what proportion shall aids of men

and money be afforded? Who shall command the allied armies, and from which of them shall he receive his orders? Who shall settle the terms of peace, and in case of disputes what umpire shall decide between them and compel acquiescence? Various difficulties and inconveniences would be inseparable from such a situation; whereas one government, watching over the general and common interests, and combining and directing the powers and resources of the whole, would be free from all these embarrassments, and conduce far more to the safety of the people.

But whatever may be our situation, whether firmly united under one national government, or split into a number of confederacies, certain it is, that foreign nations will know and view it exactly as it is; and they will act toward us accordingly. If they see that our national government is efficient and well administered, our trade prudently regulated, our militia properly organized and disciplined, our resources and finances discreetly managed, our credit re-established, our people free, contented, and united, they will be much more disposed to cultivate our friendship than provoke our resentment. If, on the other hand, they find us either destitute of an effectual government (each State doing right or wrong, as to its rulers may seem convenient), or split into three or four independent and probably discordant republics or confederacies, one inclining to Britain, another to France, and a third to Spain, and perhaps played off against each other by the three, what a poor, pitiful figure will America make in their eyes! How liable would she become not only to their contempt but to their outrage, and how soon would dear-bought experience proclaim that when a people or family so divide, it never fails to be against themselves.

*(edited by Franco Spoltore)*

