

THE FEDERALIST

a political review

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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THE FEDERALIST

a political review

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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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Time to Switch to the Constituent Strategy

Today, seventy years since the start of the process of European integration, Europeans find themselves faced with a situation in some ways similar to the one created in the wake of the Second World War. In recent months, the Covid-19 pandemic has brought firmly to the fore, once again, the need to replace national sovereignties with a newly created European sovereignty. It is therefore very important, as we mark both the 70th anniversary of the Schuman Declaration and 40 years since the founding of the Crocodile Club, to recall the strategies espoused by the protagonists of those two historic events, respectively Jean Monnet and Altiero Spinelli. Expressing two different visions of the process of the European integration — the gradualist as opposed to the constituent strategy —, their battles allow us to interpret the current stage in this process and understand the steps that need to be taken.

Jean Monnet must be acknowledged for having grasped a fundamental concept, namely that the only way to prevent Europe from returning to the conflicts of the past was to identify a common European interest that could be embodied by supranational institutions capable of taking autonomous decisions, independently of their member states. This was the thinking that led to the birth of an organisation that, in addition to pooling the management of France and Germany's production of coal and steel (and thereby symbolising Franco-German reconciliation), by taxing this production, also found a way to partially self-fund its operations. However, the European Coal and Steel Community (ECSC) was a body with limited scope, and this fact, together with the collapse of the European Defence Community (EDC) project, set the stage for the creation of another organisation, the European Economic Community (EEC), which, in line with Monnet's idea that Europe could not be built overnight, had none of the independence of the ECSC. Indeed, following the collapse of the EDC and European Political Community (EPC) projects, which would have led to a true European political union, the

signatory states of the 1957 EEC Treaty decided that assigning self-financing powers to an organisation with aims as broad as those set out in this new Treaty would be both too dangerous and too restricting of their sovereignty. In short, the EEC was born of the idea that economic integration was destined to evolve gradually and naturally, through small steps, into political integration.

In Albertini's words, "Monnet's strategy has the advantage of being able to engage the active forces within nations without first requiring constitutional changes. Therefore, as long as the European objectives on the table do not require a transfer of sovereign powers, the member states can continue to apply, in full, their normal European policy." On the other hand, Albertini explained, in situations where the pursuit of European objectives demands the transfer of sovereign powers, gradualism offers no solutions, and the only valid strategy is that of Spinelli. In short, while gradualism can create the conditions for the achievement of an objective, the actual realisation of that objective demands a constituent decision, involving a transfer of sovereignty. As Albertini said, "Day by day, European integration, as it develops, creates a pluralistic European society, in other words, it destroys the exclusive national society which is the very basis of the nation-states. All this, however, rather than a gradual shift, must actually be understood as the preparation for an acute moment of transition. First, because, by definition, there can be no gradual transition to federal sovereignty, and second, because European integration by generating a large economy, gives the national powers a semblance of vitality, but this is only a prelude to their demise. As long as the states are confronted with European-level problems that they can easily solve together through collaboration (...), then they retain some power. But when they are faced with bigger problems whose joint solution demands a European government, then they suddenly find they are powerless".

The relationship between gradualism and the constituent strategy is the key issue facing the process of European integration today. On the one hand, the ongoing public health emergency and its economic consequences are making the member states, or some of them at least, aware of the absolute need to cooperate closely in order to contain the crisis and avoid the collapse of the Union; on the other, they are exposing the limits of gradualism, as they are showing the clear need to create — once the acute phase of the crisis is over — a Union that is no longer dependent on the member states, but self-determining and therefore sovereign.

The recent Franco-German proposal to create a 500-billion-euro recovery fund financed by bonds issued by the European Commission, followed by the Commission's own proposal to create a fund (Next Generation EU) whose financing would be linked to the next Multianual Financial Framework, thus mark the absolute limit beyond which gradualism can go no further. The current crisis has at last made it possible (for Germany in particular) to overcome the taboo of joint debt creation, and allowed the question of increasing the EU budget and creating new own resources to be placed firmly on the agenda. However, the need (imposed by the still prevailing gradualist approach) to proceed exclusively using the existing instruments means that this debt can, for the moment, be guaranteed only by a budget still financed largely by member states' contributions, or using resources whose ceiling is still decided by the states unanimously. Clearly then, whereas the states, in the present emergency situation, are likely to agree to guarantee a debt issuance still based on confederal mechanisms and on cooperation between sovereign nation states, once the emergency is over, the question of the need to endow the Union with the ability to finance itself independently of the states, and thus to guarantee the issuance of a true common debt, is bound to arise. This step must necessarily be based on a decision of a constituent nature, in other words a Treaty amendment that will alter the very nature of the Union, changing it from a confederal organisation into one that is capable of exercising its functions independently of the member states, and is therefore sovereign in its sphere of jurisdiction. In Albertini's terms, we can say that the present public health crisis has created the conditions for the acute moment of transition, when the various forms of voluntary cooperation between the states, based on the existing Treaties, will have to make way for European sovereignty.

The need for this transition, and with it the end of gradualism, emerges clearly both from the Commission proposal and from the words of Angela Merkel in an interview she gave on June 26, 2020. While the Commission proposal envisages the creation of new own resources in the coming years, and therefore implies the need to equip the EU with instruments capable of ensuring that these resources come from real European taxes rather than, as is currently the case, harmonised national taxes, Angela Merkel, went further, explicitly raising the issue of the Union's need to levy taxes, and therefore of the need to amend the Treaties to this end.

Clearly, creating a fully-fledged European federation will take time,

just as creating the US federation did, and it will be the final outcome of a process of which giving the EU powers of taxation, and thus fiscal independence, will be only the start. But this start will mark the switch from the gradualist to the constituent strategy, because it will lay the foundations for an institutional structure built on independent but coordinated levels of government, each able to meet, within its own sphere of jurisdiction, the needs of the citizens.

The Federalist

Europe: the Testing Ground for a New Model of Political Community

The curtain has just come down on 2020, leaving us facing a huge and challenging task. The Covid-19 pandemic has rapidly and dramatically exacerbated the crisis that has long gripped our societies as they grapple with complex transitions, both economic and social (linked to the need for a green transformation of the economy and the effects of the technological revolution), and also political, following the collapse of the old order. It has become more necessary and urgent than ever to redesign the international system and affirm a new doctrine for governing global interdependence, to address together the challenges facing the entire planet, and to define the necessary framework of reference values.

The latter part of 2020 brought the first developments that may help us to move in this direction: the creation of vaccines to free us from the grip of the pandemic; a turning point in Europe in the form of the EU's decision to implement (innovative) new common financial instruments; and Trump's defeat in the US presidential elections. These constitute initial steps, which could be good foundations on which to build, but only in the course of 2021 will it become clear whether we have the capacity to develop and consolidate this evolution; and it is above all within the EU that this capacity must be displayed, because many aspects of the post-pandemic world will be shaped by the EU's moves and by the role it manages to play. The United States has long been struggling to uphold its once established position of global leadership, and now even the solidity of its democratic institutions has been called into question. The shocking storming of the US Capitol on January 6, an attack fomented by the incumbent president, desperate to stop the democratic process by refusing to accept the results of legitimate elections, was the manifestation of a deep-rooted rejection of the country's democratic institutions. It is universally agreed that while Biden's election constitutes a necessary step towards bringing the country back together, the fragility of the American system is so great that there is

certainly no guarantee that this difficult task can be achieved. Internal divisions have been allowed to deepen precisely because the political thinking behind the US institutional approach has increasingly fallen short of what is required to tackle the problems that have emerged over the past three decades. Internally, American institutions and policies, which, moreover, when seeking to introduce change, have often been weakened or impeded by these same internal divisions, are inadequate in the face of the scale of the ongoing social crisis that has created a profound rift cutting across entire swathes of the country and categories of citizens. At international level, the USA is inevitably obsessed with the rise of China, to which it can respond only by aiming to rebuild its network of alliances, and its old vision of the international equilibrium, around containment of this new power. From this perspective, the EU could do one of two things: either opt for a subordinate role, in which it will struggle to manage the pressure applied by its American partner, or seek to enter the global stage as a player with a project of its own, thereby helping the world to move beyond the construction of a new bipolar order. The choice depends on how it intends to develop and shape its future.

In November, shortly after Joe Biden and Kamala Harris won the US elections, French president Emmanuel Macron gave a lengthy interview to *Le Grand Continent*, a magazine founded just over a year ago as the voice of a French independent think tank that deals with geopolitical studies and is based in Paris, at the Ecole Normale Supérieure, and in Brussels. His reflections centred, in fact, on his conviction that US doctrine is no longer able to act as a positive driving force in the world, and that Europe therefore needs to overcome its overreliance, both psychological and political, on this powerful ally. Macron, not for the first time, was at pains to stress that the time has come for Europe to start reasoning on the basis of its own vision and interests, also in order to defend the values it believes in and to prevent the world from sliding into a devastating bipolar confrontation. It is worth quoting a few excerpts from Macron's extensive interview with *Le Grand Continent*, as they clarify, effectively, the terms of the question and clearly underline the urgent need for Europe to develop its own strategy and become aware of the added value that it can and must represent at global level.

The gap that separates the USA from Europe, Macron says, concerns basic social values: "Our values are not quite the same. We have an attachment to social democracy, to more equality, our reactions are not the same. I also believe that culture is more important here, much

more”, but also geopolitical interests: “we have a different worldview, which is connected with Africa, the Near and Middle East, and we have different geography, which can mean our interests are not in line. Our neighbourhood policy with Africa, with the Near and Middle East, with Russia, is not a neighbourhood policy for the United States of America. It is therefore not tenable that our international policy should be dependent on it or be trailing behind it”. There are also marked differences between the respective political doctrines. The Washington Consensus is no longer able to offer solutions to the profound crisis of contemporary capitalism (now at “break point” to use the French president’s expression). The American model also lacks tools to address both the green transition of the economy and the fight against growing inequalities. Basically, Macron says, “our societies were also built on the paradigm of open economies and a social market economy, as we used to say in post-war Europe, which became less and less social, and more and more open, and which, following this Consensus, basically turned into a dogma whereby the truths were: less state intervention, privatisations, structural reforms, opening up of economies through trade, financialisation of our economies, with a rather monolithic rationale based on the accumulation of profits.” And this rationale, “based on the accumulation of profits (...) does not help us address and internalise the major changes in the world, in particular climate change, which remains an externality in the Washington Consensus”; instead, to govern a problem of this importance and this scale, it absolutely has to be “put back into the market”, as the European model aims to do through carbon pricing, for example. Similar arguments can be advanced with regard to the problem of the increasingly unsustainable inequalities that underlie the crisis of consensus currently afflicting our democracies. The exponential growth of these inequalities is destroying the democratic social pact, undermining the confidence of the middle classes, and fueling populist and nationalist forces. American politics struggles to think in terms of instruments geared at social protection, even though these, in such a complex phase of transition, are indispensable. In this area, too, Europe, unlike the USA, bases its approach on a model that makes social justice a priority, and has indeed developed political sensitivities and tools in line with this.

In general, the multilateral system built by the Americans after 1945 has entered an irreversible crisis. The very values on which this system was based are now being questioned, beginning with democracy and even the values of “[universal] human [and citizens’] rights, and

therefore of universalism based on the dignity of the human person and of the free and reasonable individual”, Macron confirms. Today, we are even witnessing an attempt, by some countries, to bring about a “reculturation” of the foundations of the international system, so that this system is no longer designed to promote sharing of the principle of universal rights, but rather to affirm relativism of values, justified also on the basis of different religious views. Given America’s espousal, under Trump, of this “reculturation” idea, not to mention the propaganda-based promotion of the concepts of sovereignism and white supremacy, it would be a mistake to believe that the United States under Biden will have the strength necessary to rebuild a cooperative international system grounded in the “universalism based on the dignity of the human person and of the free and reasonable individual”, especially if it is left alone to lead this endeavour. Conversely, the universal principles that underpinned the birth of the EU and can form the basis of international cooperation are tightly woven into Europe’s DNA; and in Europe there are ideological orientations and political forces that believe the way forward lies in the creation of global public goods, as in the case of the efforts to develop anti-Covid vaccines.

This is precisely why, Macron says, there is such an urgent need for a strong and united Europe, aware that it is called upon to shape the responses demanded by the challenges of the new era that is emerging, all the more so because the individual European states are now powerless. None of them has the strength to positively affect the construction of the new global system. Our nation-states are gripped by “a crisis of scale and efficiency”; and if boosting efficiency depends on the ability to make democratic systems more efficient, the difficulty, more generally, lies in the fact that “many of the problems are not at the level of the nation-state”. Therefore, Macron insists, only if we prove able “to build a much stronger Europe, the voice, strength and principles of which can carry weight ...[will it be possible] to get back on track with useful international cooperation that prevents war and addresses our current challenges” — a Europe with the capacity for “much more useful and stronger action”, as this is “the only way to impress our values, our common voice, to prevent the Chinese-American duopoly, the dislocation, the return of hostile regional powers.”

But to allow Europe to live up to this historical task, the EU must, crucially, build both its own strategic autonomy and its own sovereignty (also based on political identity and democratic legitimacy). Macron seeks to define these key aspects, too, clarifying, first of all, that

strategic autonomy is “the idea that we [Europeans] choose our own rules for ourselves.” He explains that addressing this aspect “means revisiting policies that we had become accustomed to, technological, financial and monetary policies, policies with which we, in Europe, are building solutions for ourselves, for our companies, for our fellow citizens, which enable us to cooperate with others, with those we choose, but not to depend on others, which is still too often the case today”. For Europe, pursuing strategic autonomy does not yet mean “talk[ing] about European sovereignty (...). [This] is a term that is a bit excessive (...), because if there were European sovereignty, there would be a fully established European political power in place. We are not there yet.” Strategic autonomy refers, rather, to the content of sovereignty. He also explains that before being able to build democratic European political power and sovereignty there has to be, in his opinion, a step devoted to structuring a European people: to have “European sovereignty, we would undoubtedly need European leaders fully elected by the European people”. Today, Macron points out, we have “a European Parliament that defends European citizen representation,” but in his view “these forms of representation are not totally satisfactory. That is why I strongly defended the idea of transnational lists”, considering these to be the right tool for helping the European people to emerge and develop transversally. In this way, a “new form of sovereignty (...) not national, but European” can take shape on the basis of true representation of the European people (in the European Parliament), alongside representation of the national peoples (in the Council and through the decisions of the Commission).

* * *

Macron’s considerations certainly show the size of the challenge facing Europe. Only by building European sovereignty can Europe hope to become capable of acting politically on a whole series of fronts relating to foreign policy and security (and of building “solutions for ourselves, for our companies, for our fellow citizens, which enable us to cooperate with others, with those we choose, but not to depend on others, which is still too often the case today”). Mere cooperation among member states, precisely because of their weakness, is not enough to allow Europeans to develop an adequate strategic vision that makes the EU a leading player not just as a market, but also on the global political stage. At the same time, sovereignty, meaning the democratic kind, where laws are approved by representatives chosen by the people, can

be exercised only within the state. No other juridical-institutional formula can guarantee popular sovereignty; the only possible alternatives are autocracies or the opaque power of big economic and financial interests. All this explains why building a democratic state at supranational level, in order to create political power on the scale necessary to be able to address today's problems, while also respecting the principle of democratic popular sovereignty, is the real challenge of our times, and above all for Europe. It is a new historical experiment. Indeed, while it is inspired by the precedent of the birth of the United States of America, the context is far more complex. In Europe, unity (thus far pursued through partial experiments, successful in terms of integration and the development of a very strong interdependence, but insufficient to create political power) must be achieved in the following setting, which combines very specific conditions, both political and cultural: first of all, there is no major external threat (on the contrary, for 70 years now, "global governance" and European security have been entrusted to external friendly powers); on the other hand, Europe is still prisoner to a cultural and political inertia that keeps the concepts of state and people tied to the idea of nation that developed in Europe after the French Revolution. A condition conducive to the building of European unity, on the other hand, is the presence of a single market model that, as it develops, demands (as shown by currency issues and the need for fiscal and political union) the creation of instruments of political governance; also conducive in this sense is the current crisis of American leadership and the collapse of the old-world order, with all the attendant risks for Europeans in economic and political as well as value terms.

These particular conditions are unprecedented in history, and make Europe, *de facto*, the testing ground for a revolutionary experiment that must culminate in the birth of a political community of a new kind — a community of destiny and values, or, put another way, a federation representing a new type of State of States. The European federation will have to ensure the coexistence of national and federal (European) sovereignty, defined and organised on the basis of a federal constitution capable of guaranteeing unity, also through the coordination, together with the autonomy, of the different spheres of government. Alongside the national identities, which will remain fully recognised, there will have to take shape a new, common identity, able to capture the features of a new (European) people that feels able to identify with and support a common project, a common vision, and specific shared values, as well as institutions capable of promoting them.

In the process, now under way, of defining the future of the European Union, the conceptual tools developed by federalist theory over decades of political struggle for a European federation can provide invaluable support. It is also with this in mind that we have decided to include, in this issue of *The Federalist*, the contributions presented during a debate organised in October 2020 by the Debate Office of the European Federalist Movement on the topic “Federalism and the concepts of political power, power, statehood and sovereignty”. We hope they will help to feed and drive the debate that has to unfold in Europe in order to allow the European federation to finally see the light.

January 2021

The Federalist

The Judgment of the German Constitutional Court: a Warning About the Future of the Process of European Integration*

GIULIA ROSSOLILLO

Introduction.

The German Federal Constitutional Court's judgment on the Public Sector Purchase Programme (PSPP)¹, delivered on 5 May, 2020, has prompted extremely negative reactions among many commentators, who have highlighted the devastating effects it could have on the process of European integration and on the measures, under discussion in recent months, to tackle the economic fallout of the ongoing public health crisis. The EU institutions have put up a united front against the *Bundesverfassungsgericht*, with the ECB declaring that the judgment in question will have no influence on its bond purchasing decisions and programmes,² the ECJ claiming to be the only body with competence for examining, and pronouncing on, the compatibility of acts of the European institutions with EU law,³ and the European Commission even threatening to open an infringement procedure against Germany.⁴

* A version of this essay without notes has previously been published in Italian on the blog of the Italian Society of International Law (SIDIBlog).

¹ The PSPP is one of the four so-called Quantitative Easing tools.

² *ECB takes note of German Federal Constitutional Court ruling and remains fully committed to its mandate*, European Central Bank Press Release, 5 May 2020.

³ Court of Justice of the European Union, Press Release No. 58/20 following the judgment of the German Constitutional Court of 5 May 2020, 8 May 2020.

⁴ Ursula von der Leyen's reply to Sven Giegold. https://twitter.com/sven_giegold/status/1259141585595437056?fbclid=IwAR0NLisDbWbAPW3Z5WXU9GVuYFvNqfGrXOVlkiQFNtqZoHp7xgFv3_aRyC0.

All the above stances are intended to prevent the German court's ruling from weakening the fragile balance that exists between the powers of the European institutions and the prerogatives of the member states — a balance that, in recent years, has survived only thanks to the institutions' efforts to compensate, through their actions, for the paralysis of the member states, which have proved incapable of finding common positions on issues crucial for the advancement of the integration process and have failed to address the need to modify the Treaties in such a way as to give the EU institutions the powers, at supranational level, necessary for Europe to act autonomously within its sphere of competence.

Yet although the tone of the sentence is categorical, with the German court failing to take into account the difficult role that the ECJ and ECB have had to play in times of crisis to save the single currency from collapsing, it is important to underline that the position of the German constitutional judges and the risks, for the EU, associated with their ruling are not the *cause*, but rather the *effect* of the problem at hand. This is because the contradictions inherent in the process of integration, which have been increasingly exposed in recent years by the impossibility of the member states ever reaching an agreement on the key issues they face (from immigration to the multiannual financial framework), are independent of the intervention by the *Bundesverfassungsgericht*. The German court has merely shone the spotlight on them, and if its words constitute a danger to the balance of the Union, this is simply because the current structure of the latter grants the member states, and their constitutional courts, a role that they would not be able to play within a federal system.⁵

The Principle of Democracy as a Structural Limit to the Primacy of European Union Law.

As the *Bundesverfassungsgericht* itself points out, this is certainly not the first time that member states' constitutional courts have claimed the right to disregard the primacy of EU law over domestic law when fundamental principles of their national constitutions are at stake.⁶ Sim-

⁵ On this point, cf. R. Müller, *Was gesagt werden muss, muss gesagt werden*, Frankfurter Allgemeine Zeitung, 8 May 2020. <https://www.faz.net/einspruch/kritik-an-ezb-urteil-was-gesagt-werden-muss-muss-gesagt-werden-16760755.html>.

⁶ In 1973, in the *Frontini* case (183/1973), followed the next year by a judgment, along similar lines, by the German Constitutional Court (the *Solange I* judgement of 29 May 1974). In the former judgment, the Italian Constitutional Court stated that in the event of a provision of Community law being found to have violated the fundamental

ilarly, clashes between member states' constitutional courts and the ECJ are nothing new.⁷

However, ever since it was called upon to confirm the constitutional legitimacy of the law ratifying the Maastricht Treaty, the *Bundesverfassungsgericht* has held that the principle of democracy set out in Article 38 of the *Grundgesetz* (Germany's Constitution or Basic Law) may be applied as a kind of structural limit to the primacy of EU law over domestic law. In fact, recourse to this principle can prevent the application of single rules of EU law that clash with the fundamental principles of the German Constitution; furthermore, by making it possible to verify whether or not the European institutions are acting within the competences attributed to them by the Treaties, it can also affect the EU's mechanisms of operation.

Article 38 of the German Constitution states that "Members of the German *Bundestag* shall be elected in general, direct, free, equal, and secret elections [as] representatives of the whole people". According to the *Bundesverfassungsgericht*, in addition to giving German citizens the right to elect their representatives in parliament, this article also implies that, through the body that represents them, they may influence and control the exercise of political powers. This provision, read jointly with Article 23 of the *Grundgesetz* — the one relating to limitations of national sovereignty in favour of the European Union —, implies that all transfers of competences to the supranational level that limit the fundamental powers of the *Bundestag*, and at the same time remove the exercise of these powers from the control of citizens, contravene the German Constitution. Such transfers would arise, in particular, were the *Bundestag* to be deprived of its budgetary powers, or of the right

rights guaranteed by the Italian constitutional order or the inalienable rights of the human person, it would declare the law implementing the Treaty of Rome constitutionally illegitimate, and so provoke Italy's withdrawal from the European Economic Community. This is the "counter-limits" theory, and it was reaffirmed by the Italian court, albeit in a more attenuated form, in subsequent jurisprudence.

⁷ In fact, when asked by the Italian Constitutional Court to clarify whether, contrary to the ECJ's own statement in the *Taricco I* judgment (of 8 September 2015, case C-105/14), the Italian judges could rule that the constitutional principle of legality prevailed over Article 325 TFEU and therefore avoid disapplying some provisions of Italian law concerning statutes of limitations, the ECJ (judgment of 5 December 2017, case C-42/17, *Taricco II*) admitted that, even though a domestic rule in conflict with a rule of European Union law should not be applied, this non-application must be overridden if the case involves "a violation of the principle of legality of crimes and penalties" guaranteed by the Italian Constitution. As for the German Constitutional Court, the possibility of departing from the jurisprudence of the ECJ had already been raised in the case of its request for an ECJ ruling on the Outright Monetary Transactions (OMT) programme.

to make decisions on the tax burden borne by German citizens or on questions of national spending, and they would constitute a violation of article 20 of the Constitution, according to which “state authority is derived from the people [and] shall be exercised by the people”, a principle that, under the terms of article 79 of *Grundgesetz*, is immune to constitutional revision.

Given that the EU, under the current Treaties, is an organisation built on cooperation among sovereign states, which remain the masters of the Treaties, and the German electorate — through ratification of the same by its representatives in the *Bundestag* — has accepted solely those limitations on national sovereignty that are necessary in order to create an organisation that lacked the means to autonomously determine its own sphere of action, the *Bundesverfassungsgericht* considers undemocratic any attempt by the Union and its institutions to deviate from this model without going through the procedure for revising the Treaties, and thus without obtaining the consent of the national parliaments. On the one hand, therefore, the German court maintains that sovereign powers cannot be transferred from the member states to the Union covertly, since this transfer would need to be a conscious choice by the citizens, made through their representatives; indeed, unless this condition were respected, the *Bundesverfassungsgericht* would regard any act of the European institutions that goes beyond the limits of the competences attributed to them as an *ultra vires* act, and therefore not applicable in Germany. At the same time, any transfer of sovereign powers to the EU institutions through a decision involving the *Bundestag* would be deemed compatible with the principle of democracy only if this act in no way diminished German citizens’ entitlement to influence and control the exercise of political powers, i.e., only if they could exercise this influence and control at supranational level through the European Parliament.

The German Constitutional Court and the Contradictions of European Integration.

The fact that this application of the principle of democracy to the process of European integration began with the Treaty of Maastricht is no accident. It was, in fact, in Maastricht that the member states, by deciding to create an economic and monetary union based on a common currency, while allowing economic and fiscal policies to continue to be managed at national level (and simply coordinated at European level), created a basic contradiction that has become increasingly ap-

parent over the years since.⁸ In other words, the transformation of the European Union from an organisation with a purely economic remit into one endowed (at least for some member states) with competence for monetary policy, an area traditionally linked to sovereignty, has increasingly exposed the inadequacy of rules designed for the single market, but instead applied in sectors that demand political decisions. This contradiction is closely linked to the German judges' criticisms of the ECB and ECJ, and it is a crucial element of the conflict between the German court and the EU institutions.

The constitutional judges' reasoning, in particular, is based on an alleged violation, by the ECB and the ECJ, of the principle of proportionality, that is, the principle, enshrined in Article 5 TEU, according to which "the content and form of Union action shall not exceed what is necessary to achieve the objectives of the Treaties."

The *Bundesverfassungsgericht* argues that, contrary to what was established by the ECJ in its judgment on the *Weiss* case,⁹ the BCE, in adopting the PSPP, went beyond the scope of what is necessary to ensure the monetary policy objective of maintaining price stability and supporting the general economic policies of the Union, and in so doing, entered the area of economic policy, which is the prerogative of the member states. It also argues that the ECJ, for its part, violated the principle of proportionality by presenting an incomplete and superficial analysis of the arguments concerning the instruments used by the ECB, and their proportionality with respect to the objectives pursued; this, it is maintained, had the effect of blurring the distinction between monetary and economic policy, and therefore affected the division of competences between the Union and the member states. Since the acts of both these institutions can, on the basis of what has been said above, be qualified as *ultra vires*, they cannot, the court argues, produce effects in Germany.

It must be pointed out that the *Bundesverfassungsgericht* states its case in cautionary terms, stressing that conflicts of this kind should be exceptional. After all, the uniform application of EU law would be fundamentally undermined, and the principle of primacy of EU law over domestic law nullified, should member states, through their courts, feel able to routinely disregard acts of the EU institutions that they deem il-

⁸ On the fundamental error of believing that the first new currency of the modern era could be created in the absence of a state, cf. M. Dani, J. Mendes, A. J. Menendez, M. Wulkinson, H. Schepel, E. Chiti, *At the End of the Law*, *Verfassungsblog*. <https://verfassungsblog.de/at-the-end-of-the-law>.

⁹ Court of Justice, judgment of 11 December 2018, case C- 493/17, *Weiss and others*.

legitimate. That said, the German court challenged the ECJ not so much for having affirmed a substantive principle in conflict with the fundamental principles of a legal system, as for having violated the terms of its mandate, by limiting itself to what, in the *Bundesverfassungsgericht*'s view, was an unsatisfactory verification of the work of the ECB. Without dwelling here on the problematic aspects of the application of the principle of proportionality in this case,¹⁰ it should nevertheless be noted that this position is dangerous, since it suggests that the ECJ's behaviour should be open to scrutiny not only in cases in which it fails to adequately justify a decision, but also when it reaches a decision on the basis of assessments not shared by national constitutional judges.¹¹

Most significantly, however, it should be noted that the real risk of the ECB's action thinning the boundary between monetary policy and economic and fiscal policy actually stems from the nature of the Economic and Monetary Union,¹² which has left the ECB obliged to step up its mission. Indeed, rather than simply guaranteeing the maintenance of price stability, it has had to go much further, even to the point of bailing out the single currency. Europe's original decision to transfer only monetary policy to supranational level, leaving economic and fiscal policy management in the hands of the member states, with these policies only coordinated at European level, has, in fact, been the cause of increases in disparities between the member states that, if pushed beyond a certain limit, will become incompatible with the very existence of the single currency. In the absence of a European economic and fiscal policy, and therefore of an adequate budget financed by own resources and independent of the member states — one that might allow the creation

¹⁰ On this point, cf. F. Martucci, *La BCE et la Cour constitutionnelle allemande: souligner les paradoxes de l'arrêt du 5 mai de la Cour constitutionnelle allemande*, Le club des juristes. <https://www.leclubdesjuristes.com/blog-du-coronavirus/que-dit-le-droit/la-bce-et-la-cour-constitutionnelle-allemande-souligner-les-paradoxes-de-larret-du-5-mai-de-la-cour-constitutionnelle-allemande>; P. Meier-Beck, *Ultra Vires?*, in D'Kart, Antitrust Blog. <https://www.d-kart.de/en/blog/2020/05/11/ultra-vires/?fbclid=IwAR2F3MEJOGvFone4f8atEB3uvx0-tA8loLL49C-IIDCYFEsxVLJR-ad0ne4>; J. Ziller, *L'insoutenable pesanteur du juge constitutionnel allemand. A propos de l'arrêt de la deuxième Chambre de la Cour constitutionnelle fédérale allemande du 5 mai 2020 concernant le programme PSPP de la Banque Centrale Européenne*, Eurojus 2/2020, pp. 151 ff., especially pp. 155 ff..

¹¹ On this point, cf. M. Poiaras Maduro, *Some Preliminary remarks on the PSPP decision of the German Constitutional Court*, Verfassungsblog. <https://verfassungsblog.de/some-preliminary-remarks-on-the-pspp-decision-of-the-german-constitutional-court/>.

¹² In this sense, cf. P. De Sena, S. D'Acunto, *La Corte di Karlsruhe, il mito della "neutralità" della politica monetaria e i nodi del processo di integrazione europea*, SIDiblog. <http://www.sidiblog.org/2020/05/14/la-corte-di-karlsruhe-il-mito-della-neutralita-della-politica-monetaria-e-i-nodi-del-processo-di-integrazione-europea>.

of European solidarity instruments designed to correct the imbalances between the states —, the ECB has indeed had to assume responsibility for bailing out the currency, which it has done through the bond purchasing programmes announced in recent years. Measures of this kind inevitably produce redistributive effects,¹³ because to an extent they have to compensate for a non-existent European political power; accordingly, in the context of the current public health crisis they have played, and continue to play, an indispensable role. In short, faced with crisis circumstances, the ECB had no choice but to adopt these measures, and the ECJ no choice but to justify their adoption.

The judgment in the *Weiss* case thus seems to have put the ECB in an impossible situation: having, in fact, been forced by the member states' inertia, and their willingness to delegate this role, to assume functions that should rightly fall to democratically legitimised bodies (specifically with regard to fiscal decision making), the ECB now finds itself accused, by the Constitutional Court of one of these very states, of lacking democratic legitimacy, and criticised for playing a role that it has no right to play.¹⁴

Future Perspectives.

The problem just outlined is highly topical, considering all that Europe has been going through in recent months. In the face of the Covid-19 crisis, the ECB (as in the past) proved to be the first institution capable of acting quickly and taking the action necessary to prevent a collapse of the eurozone. It did so by launching the €750 billion Pandemic Emergency Purchase Programme (PEPP), designed to support, in the main, the countries in particular difficulty. Although the *Bundesverfassungsgericht* has made it clear that the judgment in the *Weiss* case does not extend to these measures,¹⁵ there is nevertheless

¹³ As noted by H-H. Kotz, *Did Germany's Constitutional Court Inadvertently Strengthen the Eurozone?*, Project Syndicate, 11 May 2020 (https://www.project-syndicate.org/commentary/german-court-ecb-ruling-might-have-silver-lining-by-hans-helmut-kotz-2020-05?fbclid=IwAR2xqy12EV-D2zl-ufEb0oJSEnddiZ0FI9A_PbIIOuWs-KnIY9tdiPoFBz0c), "even in calm economic conditions, monetary and fiscal policy cannot be neatly distinguished and cleanly separated. Both afflict the economy through a 'common funnel' as the Nobel laureate economist James Tobin never tired of explaining. In a time of crisis, the supposedly clear-cut boundary inevitably becomes indistinct." Also cf. P. De Sena, S. D'Acunto, *La Corte di Karlsruhe...*, *op. cit.*.

¹⁴ As noted by J. Pisani-Ferry, *The message in the ruling*, Blog Bruegel. (<https://www.bruegel.org/2020/05/the-message-in-the-ruling>), "what the German judges are telling European leaders in their lopsided way is that decisions for which they ought to take ownership should not be delegated to an unelected body."

¹⁵ Bundesverfassungsgericht, Press Release No. 32/2020 of 05 May 2020, *ECB deci-*

a risk that they might produce redistributive effects seen as excessive, and thus assume the value of economic policy measures. This risk can be averted only by combining them with an instrument capable of intervening with huge resources, sufficient to guarantee the issuance of European debt securities capable of supporting the EU economy, and especially the economies of those states that struggle most to sell their bonds. The future *Recovery Fund*, whose methods of operation and financing are to be set out in a proposal being drawn up by the European Commission upon the request of the European Council, will be such an instrument. The size of this fund, as made clear by the European Parliament resolution of 15 May 2020,¹⁶ is closely dependent on the outcome of the discussions on the new MFF and on own resources, given that both these instruments would need to be increased in order to guarantee an adequate level of bond issuance.

And this brings us right back to the link between taxation and democracy highlighted by the German Constitutional Court in the judgment herein discussed.¹⁷ Indeed, in the view of the German constitutional judges, the power to make decisions on the tax burden to be borne by the citizens, or on questions of national spending, is one of the essential prerogatives of the *Bundestag*. Partial transfer of this power to supranational level can be deemed compatible with the principle of democracy only if the body that represents the citizens at this level, i.e., the European Parliament, is guaranteed full control of the exercise of this transferred power.

Thus, in order to free the action of the European institutions from the constraints highlighted by the *Bundesverfassungsgericht*, and create truly European forms of risk sharing, the EU must assume the power to make its own decisions on its income and expenditure, independently of the member states. This means two things: first, that the EU budget must be financed by own resources¹⁸ as opposed to contributions from

sions on the Public Sector Purchase Programme exceed Eu competences.

¹⁶ *New MFF, own resources and Recovery plan*, European Parliament resolution of 15 May 2020 on the new multiannual financial framework, own resources and the recovery plan, (2020/2631 (RSP)), https://www.europarl.europa.eu/doceo/document/TA-9-2020-0124_EN.html.

¹⁷ In this sense, cf. M. Poiars Maduro, *Some Preliminary Remarks...*, *op. cit.*, according to whom, the judgment “may be the final wake up call for the importance to deal with risk sharing through genuine own resources”.

¹⁸ On this point, cf. S. Cafaro, *Quale Quantitative Easing e quale Unione europea dopo la sentenza del 5 maggio?*, SIDIBlog, <http://www.sidiblog.org/2020/05/08/quale-quantitative-easing-e-quale-unione-europea-dopo-la-sentenza-del-5-maggio>; M. Poiars Maduro, *Some Preliminary Remarks...*, *op. cit.*

the member states (which currently account for approximately 70 per cent of it); and second, that the budgetary resources (their amount and type) can no longer depend on a unanimous decision by the Council, approved by the states according to their respective constitutional rules, as provided for by art. 311 TFEU, but must instead be decided through a procedure that fully involves the European Parliament. In other words, it means that some fiscal and budgetary decision-making power must be transferred to truly democratic European institutions.¹⁹

In this sense, the judgment in the *Weiss* case offers us some indications as to what the future might hold.

In fact, the *Bundesverfassungsgericht* argues that *ultra vires* acts committed by the European institutions could be legitimised ex post through Treaty revision according to the procedure provided for in Article 48 TEU. This suggests that the German court may be willing to be more tolerant of the measures taken, and being taken, in order to deal with the economic consequences of pandemic, providing these are set within the framework of an imminent revision of the Treaties that will see the EU creating an embryo of fiscal capacity capable of wresting part of its financing from the grasp, and will, of the single member states, and therefore becoming capable of guaranteeing a genuinely common debt issuance.

If the judgment of the German Constitutional Court finally raises awareness of the need to complete Europe's economic and monetary union and adopt solutions that represent a radical break with the current order, the shock it caused will have been worth it.

¹⁹ Vanistandael *et al.*, Op-Ed: *European Solidarity Requires EU Taxes*, EU Law Live. <https://eulawlive.com/op-ed-european-solidarity-requires-eu-taxes/>. In this sense, also cf. M. Avbelj, *The Right Question about the FCC Ultra Vires Decision*, Verfassungsblog, <https://verfassungsblog.de/the-right-question-about-the-fcc-ultra-vires-decision>, who says “if the EU fiscal union existed and if it was based on a meaningful EU budget, legitimated by a vibrant EU democracy, there would be no, or much less, need for ECB venturing with its monetary mechanisms into fiscal and hence democratic domains, for which it is neither competent nor accountable”; M. Dani, J. Mendes, A. J. Menendez, M. Wulkinson, H. Schepel, E. Chiti, *At the End ...*, *op. cit.*.

Green Deal, Digital Future, New Industrial Strategy: What is Needed to Ensure the Rebirth of the European Economy?

MASSIMO MALCOVATI

Reading the *European Green Deal*¹ communication published by the von der Leyen-led European Commission at the end of 2019, it is impossible not to hear echoes of the December 1993 “Delors Report”.² Leaving aside the formal differences between them, both these documents offer a profound and carefully constructed plan for the development of European society and the European economy, intended to help the EU address the challenges created by the technological revolution and the end of the bipolar world order. But the climates in which they were produced could not be more different. Whereas, at the start of the 1990s, a combination of circumstances — the collapse of the Soviet Union and subsequent affirmation of democracy in Central and Eastern Europe, Germany’s reunification, and lively economic growth that appeared to be offering developing countries a way out of poverty — suggested that the “Western” model had proved to be the ultimate success (one need only think of Fukuyama’s ideas on the end of history³), in more recent times, a seemingly endless succession of crises and critical

¹ European Commission, *Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions – The European Green Deal*, Brussels, 11 December 2019, https://ec.europa.eu/info/files/communication-european-green-deal_en.

² European Commission, *Growth, competitiveness, employment – The challenges and ways forward into the 21st century – White paper*, Brussels - Luxembourg, CECA-CE-CEEA, 1993, <https://op.europa.eu/it/publication-detail/-/publication/4e6ecfb6-471e-4108-9c7d-90cb1c3096af/language-en>.

³ Francis Fukuyama, *The End of History and the Last Man*, New York, The Free Press, 1992.

developments has thrown up dangers that have threatened, and continue to threaten, the EU's very survival. I refer, of course, to the repeated economic crises, the decline of the United States as a hegemonic power, China's rapid economic and political growth, the ongoing instability in different parts of the Middle East and Africa (and the consequent migratory crises), the increasing degradation of the environment and the pressing climate emergency, and finally the European countries' inability to counteract the economic and social effects of uncontrolled globalisation, which is driving the expansion, throughout Europe, of nationalist, racist and xenophobic movements. All these are phenomena exacerbated by the power vacuum in Europe, and now of course, we must add the disastrous coronavirus pandemic to the list.

It was therefore amidst hugely difficult circumstances that, on 11 December 2019, the von der Leyen Commission (itself the expression of a resurgence of pro-European feeling among European citizens voting in the June 2019 European elections) unveiled the *European Green Deal*. This document broadly outlines a process has multiple aims: to "transform the EU into a fair and prosperous society, with a modern, resource-efficient and competitive economy where there [will be] no net emissions of greenhouse gases in 2050 and where economic growth is decoupled from resource use"; "to protect, conserve and enhance the EU's natural capital, and protect the health and well-being of citizens from environment-related risks"; to "transform its economy and society to put it on a more sustainable path"; and ensure a "transition [that is] just and inclusive [and pays particular] attention to the regions, industries and workers who will face the greatest challenges". It underlines that all this "will not be achieved by Europe acting alone", and urges the EU to "use its influence, expertise and financial resources to mobilise its neighbours and partners to join it on a sustainable path".

In short, the *European Green Deal* does not merely address the need to control greenhouse gas emissions, but rather proposes a whole new development model that tackles, in a coherent way, the full range of critical environmental issues: pollution, raw material shortages, and the need for biodiversity protection and for effective management of areas inevitably exposed to the phenomena generated by global heating, as well as the need to stimulate innovation and manage social problems related to the profound changes in the mode of production brought about by this new economic model. The communication sets out a series of highly ambitious intermediate objectives, indicates tools for and means of achieving them, and lays down a timetable for reaching the final

objective. Albeit concisely, it outlines a profoundly innovative development model that hinges on a set of indispensable interventions — nevertheless insufficient on their own — through which Europe must rise to the challenges it faces, not least in order to meet the demands and respect the sensibilities of a large swathe of the European population.

With regard to greenhouse gas emissions, it is specified, in the communication, that the aim is to raise the reductions target for 2030 to 50–55 per cent compared with 1990 levels, and to achieve zero net emissions by 2050. To this end, actions are proposed across all the areas that can help to cut emissions:

- research into alternative fuels (and the progressive decarbonisation of the European energy system);
- the pursuit of greater energy efficiency and energy savings (through “smart” grids, new rules on the energy requirements of new buildings and on the energy re-qualification of existing ones, more use of multi-modal transport to help bring about a 90 per cent reduction in EU road transport emissions by 2050, a 75 per cent reduction in inland freight transport, greater use of public transport, and less traffic congestion in urban areas);
- the promotion of CO₂ storage and reuse, in this regard building afforestation efforts into land management strategies; and finally
- penalisation of the use of fossil energy sources, not only by having states ban any form of facilitation of their use, but also by introducing carbon pricing (i.e., a policy of taxing goods in proportion to the amount of CO₂ from fossil sources emitted in order to produce them; this would be applicable both within the EU and, through a border tax, beyond it).

Furthermore, given that “climate change will continue to create significant stress in Europe in spite of the mitigation efforts”, the Commission proposes to “adopt a new, more ambitious EU strategy on adaptation to climate change”, above all “to ensure that across the EU, investors, insurers, businesses, cities and citizens are able to access data and to develop instruments to integrate climate change into their risk management practices.”

The actions set out, if implemented, are destined to have a profound impact on the world of manufacturing. Nevertheless, the *Green Deal* seeks to go further; in a section headed “Mobilising industry for a clean and circular economy”, it addresses the closely related problems of the exhaustion of raw materials and pollution in its various forms. “It takes 25 years — a generation — to transform an industrial sector and all

the value chains. To be ready in 2050, decisions and actions need to be taken in the next five years”, the Commission explains. Convinced that the transition towards a circular and low emission-based economy is “an opportunity to expand sustainable and job-intensive economic activity”, the Commission document outlines the plan to adopt, in 2020, an EU industrial strategy designed to “leverage the potential of the digital transformation”, and “a new circular economy action plan” to help “stimulate the development of lead markets for climate neutral and circular products, in the EU and beyond.” It is stated that the “circular economy action plan will include a ‘sustainable products’ policy (...) based on a common methodology and principles.” This “will prioritise reducing and reusing materials before recycling them [and] will set minimum requirements to prevent environmentally harmful products from being placed on the EU market.” Action, in this sense, “will focus in particular on resource-intensive sectors such as textiles, construction, electronics and plastics.” With regard to this latter category, the Commission sets out plans to adopt “measures to tackle intentionally added micro plastics and unintentional releases of plastics, for example from textiles and tyre abrasion [and to] develop requirements to ensure that all packaging in the EU market is reusable or recyclable in an economically viable manner by 2030 [as well as] a regulatory framework for biodegradable and bio-based plastics”. It will also “implement measures on single use plastics.”

“The circular economy action plan will also include measures to encourage businesses to offer, and to allow consumers to choose, reusable, durable and repairable products. It will analyse the need for a ‘right to repair’, and curb the built-in obsolescence of devices, in particular for electronics”. To ensure that consumers receive “reliable, comparable and verifiable information”, and thus to reduce the risk of ‘green washing’, i.e., deceptive and misleading use of marketing spin relating to environmental issues, the “Commission will step up its regulatory and non-regulatory efforts to tackle false green claims.”

Noting that a “sustainable product policy also has the potential to reduce waste significantly,” the *Green Deal* states that: “Where waste cannot be avoided, its economic value must be recovered and its impact on the environment and on climate change avoided or minimised. (...) In parallel, EU companies should benefit from a robust and integrated single market for secondary raw materials and by-products. (...) The Commission will consider legal requirements to boost the market of secondary raw materials with mandatory recycled content (for instance

for packaging, vehicles, construction materials and batteries).” In this regard, in particular, the document states that the Commission “will propose legislation in 2020 to ensure a safe, circular and sustainable battery value chain for all batteries, including to supply the growing market of electric vehicles.”

Pursuit of these objectives is necessarily based on certain prerequisites, of which the Commission is well aware: first of all, “access to resources is (...) a strategic security question”, which makes it essential to ensure “the supply of sustainable raw materials, in particular of critical raw materials necessary for clean technologies, digital, space and defence applications”. Second, “digital technologies are a critical enabler for attaining the sustainability goals of the *Green Deal* in many different sectors”, and with this in mind, the “Commission will explore measures to ensure that digital technologies such as artificial intelligence, 5G, cloud and edge computing and the internet of things can accelerate and maximise the impact of policies to deal with climate change and protect the environment.”

To tackle the climate emergency, combat pollution, and promote proper land management, the *Green Deal* also includes a plan to design “a fair, healthy and environmentally-friendly food system”, exploiting, as “key tools”, the EU’s “common agricultural and common fisheries policies”. The *Green Deal* pencils in Spring 2020 for the presentation of its ‘Farm to Fork’ strategy, which envisages: support to strengthen the efforts of farmers and fishermen “to tackle climate change, protect the environment and preserve biodiversity” (it is proposed that, in the period 2021-2027, at least 40 per cent of the CAP budget and 30 per cent of the Maritime Fisheries Funds should contribute to climate action); legislative measures to reduce the use of chemical pesticides, fertilisers and antibiotics; incentives for the creation of a circular economy in the food sector; and a ban on importation of “food that does not comply with relevant EU environmental standards”. To support its aim of preserving and restoring ecosystems and biodiversity, the Commission had been meant to unveil, by March 2020, a “Biodiversity Strategy”, expected to include the following elements: building on initiatives already under way (Natura 2000,⁴ e.g. by “increasing the coverage of

⁴ The Natura 2000 Network was established pursuant to the *Habitat* directive (92/43/EEC) with the aim of ensuring the long-term maintenance of natural habitats and species of flora and fauna that are threatened or rare at Community level. It consists of Sites of Community Importance (SCIs), identified by the member states in accordance with the terms of the directive, and Special Protection Areas (SPAs) established specifically for the protection of wild birds and arising from the amended *Birds* directive (2009/147/EC).

protected biodiversity-rich land and sea areas”); “effective afforestation, and forest preservation and restoration in Europe”; the creation of a ‘blue economy’ to contribute to “alleviating the multiple demands on the EU’s land resources (...), improving the use of aquatic and marine resources and (...) promoting the production and use of new sources of protein that can relieve pressure on agricultural land”; the development of European policies along environmental protection lines, and the identification of more sustainable land management methods.

To achieve the goal of a toxic-free environment (which in addition to “action to prevent pollution from being generated” also involves “measures to clean and remedy it”), “the EU and Member States will need to look more systematically at all policies and regulations”, and “adopt in 2021 a zero pollution action plan for air, water and soil”. This will be based on: monitoring, reporting, preventing and remedying pollution from air, water, soil, and consumer products; on “measures to address pollution from urban runoff and from new or particularly harmful sources of pollution such as micro plastics and chemicals, including pharmaceuticals”; and on tougher legislation against pollution from large industrial installations. Furthermore, the “Commission will review how to use better the EU’s agencies and scientific bodies to move towards a process of ‘one substance – one assessment’ (...). In parallel, the regulatory framework will need to rapidly reflect scientific evidence on the risk posed by endocrine disruptors, hazardous chemicals in products including imports, combination effects of different chemicals and very persistent chemicals.”

The Commission believes that current technologies are not adequate to achieve all this: to do so demands profound innovation in all sectors, and indeed represents a challenge “beyond the means of individual Member States”. In the face of this, it is suggested that at least 35 per cent of the *Horizon Europe* budget⁵ will be needed in order to fund (thus “leveraging national public and private investments”) new climate solutions “relevant for implementing the Green Deal”. On the other hand, “pro-active re-skilling and upskilling are necessary to reap the benefits of the ecological transition. The proposed European Social Fund+⁶ will play an important role in helping Europe’s workforce to ac-

⁵ The 9th EU Framework Programme for Research and Innovation (2021-2027), proposed by the Commission with a budget of 100 million euros, is currently being negotiated between the Parliament and the Council.

⁶ The European Social Fund Plus (FSE+) 2021-2027, approved by the European Parliament in 2019, aims to boost people’s, especially young people’s, chances of acquiring the skills necessary to rise to the challenges and changes in the labour market. It

quire the skills they need to transfer from declining sectors to growing sectors and to adapt to new processes.”

“The Commission has estimated that achieving the current 2030 climate and energy targets will require € 260 billion of additional annual investment, about 1.5 per cent of 2018 GDP [and that this] flow of investment will need to be sustained over time”. To meet these considerable needs, it proposes the following wide-ranging measures, designed to “combine dedicated financing to support sustainable investments [with] proposals for an improved enabling framework that is conducive to green investment”:

- involvement of the EU budget, through a proposed “25 per cent target for climate mainstreaming across all EU programmes”, as well as the introduction of new revenue streams or ‘own resources’: a tax on “non-recycled plastic-packaging waste” and allocation to the EU budget of 20 per cent of the revenue from auctions conducted within the EU Emissions Trading System;⁷
- allocation of at least 30 per cent of the InvestEU Fund to efforts to fight climate change;⁸
- collaboration with the European Investment Bank (EIB), which plans to double its climate target from 25 per cent to 50 per cent by 2025, “thus becoming Europe’s climate bank”;
- the creation of a “Just Transition Mechanism, including a Just Transition Fund”, in order to support “the regions and sectors that are

merges several previous programmes (the European Social, ESF; the Youth Employment Initiative, YEI; the Employment and Social Innovation Programme, EaSI; the Fund for European Aid to the most Deprived, FEAD; the EU Health Programme). According to the Parliament’s proposal, in the course of its seven years, the fund is expected to have a budget of 120.4 billion euros.

⁷ The emissions trading system has the dual aim of taxing greenhouse gas emissions and encouraging the quest to find less polluting production techniques. It was introduced by the EU in 2005 and in 2020 has reached the end of its third phase, under which the EU annually sets a ceiling on European greenhouse gas emissions and divides them into quotas, which are then auctioned by member states and purchased by polluting companies according to the extent of their emissions. Companies that exceed their purchased quotas face heavy sanctions, whereas those that manage to keep their emissions below the quotas purchased can auction off those they did not need. The revenue from these auctions goes to the member states, which should channel them into efforts to increase the use of alternative sources of energy. Currently, the system covers around 40 per cent of EU emissions. https://ec.europa.eu/clima/policies/ets_en.

⁸ The InvestEU Fund (on which an agreement was reached between the European institutions in March 2019) is the programme that, within the 2021-2027 European budget, will replace the Juncker Plan in promoting investments in the EU; it will bring together the European Fund for Strategic Investments (EFSI) and 13 other financial instruments currently included in the EU budget and aims to stimulate investment worth 650 billion euros.

most affected by the transition because they depend on fossil fuels or carbon-intensive processes (and) protect the citizens and workers most vulnerable to the transition, providing access to re-skilling programmes, jobs in new economic sectors, or energy-efficient housing.” The mechanism “will draw on sources of funding from the EU budget [the European Regional Development Fund and the European Social FundPlus] as well as the EIB group to leverage the necessary private and public resources”;

- a “review of the European economic governance framework” and of investor communication, in such a way as to promote sustainable investment.

In order to involve, as well, the budgets of the member states in the transition to the sustainable development model set out in the *Green Deal*, redirecting “public investment, consumption and taxation to green priorities and away from harmful subsidies”, the Commission envisages a “review of the European economic governance framework [that] will include a reference to green public investment in the context of the quality of public finance”, which could give rise to “possible future steps including how to treat green investments within EU fiscal rules, while preserving safeguards against risks to debt sustainability”.

Finally, the *Green Deal* does not overlook the fact that climate change and environmental degradation are global problems that demand global responses. Hence the calls: to strengthen “green deal diplomacy”, mobilising all diplomatic channels (the United Nations, the G7, G20, etc.); to respect the Paris Agreement, and support the efforts, to tackle climate change, of Europe’s immediate neighbours (the Balkans, Middle East, North Africa); to introduce trade policies designed to foster ecological transition, allowing only products that comply with European standards to enter the European market.

Ever since it was first unveiled, there have been doubts about the *Green Deal*, as regards both the true effectiveness of some of the proposed measures, and the adequacy of the resources envisaged. Furthermore, it received a very lukewarm reception from the European Council, mainly on account of the reticence of some countries, such as Poland and even Germany, whose economies are strongly linked to the use of energy derived from carbon-related sources (not just hydrocarbons, but also hard coal), and for which rapid decarbonisation would carry very high economic and social costs.

And this brings us to the true limit of the *Green Deal*: the funding of the project and each of the measures it entails (including ones that

fall within the exclusive competence of the EU, such as those relating to agricultural and fisheries policies) have to be negotiated among the member states, whose interests are inevitably divergent, meaning that the compromises eventually reached may fall well short of the ambitions expressed in the Commission document. Added to this is the fact that implementation of the measures resulting from the compromise in any case falls to the member states' governments, whose goodwill, time frame for transposition of directives and efficiency in this regard are highly heterogeneous. In other words, the main obstacle to the implementation of the *Green Deal* is the institutional structure of the European Union itself.

The question of the urgent need for a profound restructuring of the entire institutional set-up of the Union has been part of political debate for some time now, as most clearly shown by the idea of setting up a *Conference for Europe*, an idea initially floated by President Macron in his letter to the citizens of Europe⁹ and subsequently taken up by the President of the European Commission, the European Parliament and, albeit less enthusiastically, by the European Council. This Conference had been meant to take place at the start of May 2020.

The outbreak of the catastrophic coronavirus pandemic has exposed the European Union's limited ability to react to the health emergency in a unified way, and pushed its economy into an unprecedented recession. Furthermore, with the first acute phase of the pandemic behind it, Europe has been confronted with the need to decide how to rebuild, as quickly as possible, the fabric of its economy (heavily disrupted in all the member states) in order to reduce the severe social consequences that the recession is having and strive to maintain Europe's economic competitiveness in the world.

A return to the pre-pandemic situation is unthinkable: even prior to the explosion of the pandemic, the European economy had been struggling for some years, in clear need of a new development model able to respond to the many challenges presenting themselves at global level (the climate emergency, but also the growing scarcity of raw materials, the new international division of labour, and the emergence of new AI technologies, to name just the key ones).

On the one hand, this is a gigantic task that, once again, is beyond the means of the EU member states individually. Sufficient financial resources can be raised in a sustainable manner only at European level,

⁹ Emmanuel Macron, *For European renewal*, 4 March 2019, <https://www.elysee.fr/emmanuel-macron/2019/03/04/for-european-renewal.en>.

with the Union as such providing a guarantee of this. But even this objective remains out of reach unless the European Union can be attributed with the fiscal capacity (at least partial) that it currently lacks; this, in turn, can come about only through a modification of the existing Treaties or the signing a new treaty between the member states willing to rise to this challenge as one.

On the other hand, the basis for rebuilding the European economy cannot be the sum of various national political choices, each made with the national interest in mind, which is what would be the case were it to be decided to press ahead with the “Community method”, which provides for bottom-up planning and has no vision of the collective interest within which national choices should be set. And the more asymmetrical the pandemic’s effects on the different member countries are, the truer this becomes. In this framework, the *Green Deal*, together with the European Commission’s proposed *Digital Europe* programme¹⁰ and new *Industrial Strategy for a globally competitive, green and digital Europe*,¹¹ integrating the various Commission proposals, could represent the unitary framework in which to plan the rebuilding of the European economy, offering the range of structural measures necessary to create its backbone.

France and Germany have been the two countries most willing to highlight these needs. Indeed, on 18 May 2020, in a joint initiative, they launched the proposal to create a Recovery Fund worth 500 billion euros,¹² be raised on the markets and backed by the EU budget. For its part, the Commission, supported by the European Parliament, went even further, unveiling, on 27 May 2020, the *Recovery Plan for Europe*, a package of measures to be financed by a temporary fund, called *Next Generation EU*, worth 750 billion euros,¹³ which the Commission

¹⁰ European Commission, *Proposal for a regulation of the European Parliament and of the Council establishing the Digital Europe programme for the period 2021-2027*, 6 February 2018, <https://eur-lex.europa.eu/legal-content/EN/TX-?uri=COM%3A2018%3A434%3AFIN>; Id., *A Europe fit for the digital age*, https://ec.europa.eu/info/strategy/priorities-2019-2024/europe-fit-digital-age_en, and Id., *Communication: shaping Europe’s digital future*, 19 February 2020, https://ec.europa.eu/info/publications/communication-shaping-europes-digital-future_en.

¹¹ European Commission, *A new Industrial Strategy for a globally competitive, green and digital Europe*, March 2020, https://ec.europa.eu/commission/presscorner/detail/en/FS_20_425.

¹² *Initiative franco-allemande pour la relance européenne face à la crise du coronavirus*, <https://www.elysee.fr/admin/upload/default/0001/07/d4fe338244d28de018c5bf0c538c83c337285d0e.pdf>.

¹³ European Commission, *The EU budget powering the Recovery Plan for Europe*, https://ec.europa.eu/info/files/eu-budget-powering-recovery-plan-europe_en.

itself plans to raise on the financial markets through the issuance of bonds against a reinforced EU budget (i.e., boosted also by the introduction of new own resources). The Commission will then distribute these funds, partly through grants and partly through loans, among the members states, directing them “in pursuit of EU priorities to the specific and new financing needs that have been revealed by the crisis”. This move represents a radical advance in quality terms (creation of European public debt and conditionality linked to an economic policy decided at European level), and it could potentially be the starting point from which to create an autonomous EU fiscal capacity and generate the political power Europe needs in order to be able to manage, directly, the transition to the new development model.

These bold choices, if they are to materialise and, above all, to achieve their full potential, first need to overcome the obstacle of the EU’s decision-making mechanisms, through which the member states’ different visions on the future of Europe risk leading to compromises incapable of triggering the process of rebuilding the economy. Although the above measures are, admittedly, limited in time, their mere implementation would set a crucial new precedent within the process of European integration, and radically alter the whole backdrop to the *Conference for Europe*, which, now that the emergency caused by the pandemic seems to be easing, is finding its way back onto the agenda. At this point, all those — political and social forces, as well as citizens — who hold the federal objective dear should do all they can to support their realisation.

Political Power: From the Nation State to the Federal State*

GIOVANNI SALPIETRO

The Definition of Political Power.

This essay must necessarily start with a definition of the word “power”. Very broadly speaking, “power” can be understood to mean “the ability or capacity to do something” and it refers, among other things, to the exercise of “control, influence and authority” over others.¹

Power can be divided into types according to the “instruments” used to exercise it. Power, for example, can be “religious” or “symbolic”, if the actions of the target group are influenced by beliefs or symbols. On the other hand, in situations where material resources are used to influence the actions of those who have less of them, the power being exercised is “economic”.

Political science, ever since the birth of this discipline, has grappled with the question of how to define a further type of power, more complex and less clearly recognisable: political power. One of the most classic definitions of political power is that which links power to the exercise of force. We refer, therefore, to that current of political science that begins with Hobbes’ *Leviathan* and leads us all the way to Weber, who, for example, weaves the idea of force into his definition of the state as a “human community that (successfully) claims the monopoly of the legitimate use of physical force within a given territory”.² On this basis, the concept of political power emerges as inextricably linked to the concept of state, understood in the sense of the modern European state of the post-Westphalian system. It was indeed with the birth of the modern state

* Contribution presented during a debate on *Federalism and the Concepts of Political Power, Power, Statehood and Sovereignty*, held in Florence on 17-18 October 2020 and organised by the Debate Office of the European Federalist Movement.

¹ Collins English Dictionary, entry “power”.

² Max Weber, *Politics as a Vocation*, 1918. <https://www2.southeastern.edu/Academics/Faculty/jbell/weber.pdf>.

that political power began to take on its own distinct and autonomous form with respect to other forms of power (religious, economic, coercive). Political power can therefore be taken to mean the power of government as held first by modern states, and now by contemporary states, both understood as the only entities able (legitimately) to have recourse to the use of force. According to this framing, the possibility of resorting to the use of force is therefore the key characteristic of political power.

Actually, this idea of political (or government)³ power linked to the exercise of force/violence has been the subject of numerous criticisms and redefinitions in the literature, which, for practical reasons, cannot be examined in depth in this essay.

At this point, it is, I feel, worth highlighting a more complete, reading of the concept of the power of government, in which force is considered a less central feature. Indeed, Mario Stoppino, in *Potere e Teoria Politica*, challenges the idea that violence defines political power, and argues, rather, that the former is merely the specific means/instrument of the latter. The aspect on which Stoppino reflects in order to reach his broader and more complete definition of political power is not so much the instrument of political power (i.e., violence), as its function.

It is, he argues, the function of political power, meaning that which it produces, that defines and distinguishes it from other forms of organised social power. Stoppino explains that political power is, in essence, the power that produces power, in the form of rights, for a society.⁴

In every society — but this is particularly evident in liberal-democratic systems —, rights fall into four main categories: “freedoms”, “faculties”, “powers of authority” and “entitlements”; and each category imposes a duty of compliance on other individuals and groups.

Freedoms, such as the freedom to move within the territory of a state, the freedoms of assembly and association, and religious freedom, all demand compliance in the sense of non-impediment by the rest of society (including political authorities and their agents). Rights falling into the second category, such as the possibility to obtain (through payment of the appropriate price) certain things that are offered to the public, and powers connected with the right of asset ownership, come with specific obligations, and also depend on non-interference by other members of society. The third category of rights covers, for example,

³ Cf. Mario Stoppino, *Potere e Teoria Politica*, Milan, Giuffrè, 2015, p. 272, who points out that the word ‘government’, in addition to its specifically political meaning, can also be used in a generic sense, which indicates the management function of any group or organisation.

⁴ Mario Stoppino, *op. cit.*, p. 291.

the powers exerted by company directors over employees, which are underpinned by specific and stable rules designed to ensure compliance on the part of subordinates. Entitlements, finally, are the rights to certain amounts of money or shares of certain services (in the context of the system that, in modern terms, we call the welfare state).

All the aforementioned rights are produced by the government, or its agents, and they are more or less lasting and well established, and more or less widespread in society. Nevertheless, they are “guaranteed rights” that, in the event of non-compliance by other actors on the social stage, we can have reinstated by the judiciary. It is precisely this role, as a producer of rights, that distinguishes political power from other forms of power.

Having thus clarified the function of political power, we can now move on to an examination of the different ways in which it produces the aforementioned rights, in other words, the different forms of political production.

With reference in particular to the modern and contemporary European states, we can say that the first form of political production is regulation, by which we mean the establishment of the rules of the “social game”, i.e., the laws designed to guarantee order within a state (“internal protection”). Another form of political production, on the other hand, is aimed at guaranteeing “external protection”, and in this case we are referring to the establishment of the armed forces as a means of defending the people and their assets against external aggressors.

The above observations immediately bring us back to the question of violence: internal protection and external protection are the primary objectives of states, and states’ tendential monopoly of violence is the very instrument that allows them to guarantee these two forms of political production.

There are a further two forms of political production that particularly characterise modern and contemporary states: “facilitation” (that is, the production, through the minting of money or the establishment of a central bank, for example, of faculties, meaning rights designed to improve social interaction and cooperation) and “allocation” (which refers to the production of entitlements).

Finally, it should be added that political production (in its various forms) can work successfully only thanks to the support coming from other activities carried out by political authorities (or their agents). These are activities that cannot, in themselves, be classed as forms of political production, since they do not produce “rights” per se. How-

ever, they are indispensable tools for political production, and for this reason, Stoppino calls them “instrumental activities”.⁵ The following are the most crucial:

- I. *the organisation of the institutions and systems* involved in one form of political production or another (the armed forces, the judicial system, public health system, etc.);
- II. *the extraction of financial resources from society*, through taxation; after all, no institution or organisation can operate effectively without adequate funding.

To summarise, political power can be defined by its purpose, namely to produce guaranteed rights within the reference society. The political power’s primary objectives (supported by political production) are internal and external peace, which are achieved through the threat of the use of force, but political production (in the forms defined “facilitation” and “allocation”) also serves other purposes linked to the promotion of social cooperation. Finally, political power, to be effective, needs institutions capable of enacting political decisions and a system for gathering the financial resources needed to implement them in practice.

Political Power and the State: From the Nation State to the Federal State.

In the considerations thus far set forth on the relationship between political power and the state, we have referred to the “modern” state, a model created in the wake of the Peace of Westphalia of 1648. The modern state is one in which a sovereign entity endowed with legal personality exercises pre-eminent power (sovereignty) over a given territory, and holds a monopoly on the legitimate use of force. In the sphere of international relations, modern states formally recognise each other as equals. Historically, from the time of the Peace of Westphalia until the beginning of the nineteenth century, Europe saw the gradual establishment of absolute states governed by monarchies; in these states, political power was concentrated in the person of the sovereign (in some cases almost to the point of creating an overlap between the figure of the monarch and the state, a situation perfectly encapsulated by the exclamation “*L’état, c’est moi!*” supposedly uttered by King Louis XIV of France). From the French Revolution onwards, and with the emergence of the nationalist movements of the nineteenth century, the absolute state gradually made way for the birth of nation states, which were based on the (questionable) idea that the state should be

⁵ Mario Stoppino, *op. cit.*, p. 304.

an expression of the national people. However, notwithstanding the regime changes that accompanied the transition from absolute regimes to those of the nineteenth century, the affirmation of nation states left intact the principles underlying Westphalian sovereignty, namely that power is exercised within the state and that international relations are relations between equals. Westphalian-type sovereignty is therefore a concept related to the existence of a state, of any form (absolute, national or federal); even federal states (such as the USA, Switzerland and Germany) exercise Westphalian-type sovereignty.

There can be no denying that the political power structure adopted in Europe is that of the nation state. What we, as federalists, are anxious to clarify is the path that will lead to the creation of a political power above the level of the nation states. The novelty of the process of European integration lies precisely in the fact that its objective is the creation of a new power (in the sense of one that currently does not exist) that will unify the political powers of different states characterised by a very strong shared political and historical identity.

To this end, it is useful to mention Albertini's important examination, in his essay *La Federazione*, of the experience of the American founding fathers, Alexander Hamilton in particular. After all, their journey led to the overcoming of the political power of the individual states through the creation of a new political power designed for a level of government above them.

In 1778, the thirteen colonies, still at war for their independence, created their first common institutions, in particular, a Congress composed of delegates of the states. However, it should be noted that the powers of these common institutions were relatively weak (if not inconsistent) compared with those of the individual states. In addition, delegates could be recalled at any time by the states that had appointed them. So, while the Congress, in theory, could declare war, manage international relations, and organise the army, it lacked the executive and judicial bodies through which to perform these functions: in short, as explained by Albertini, it could issue army conscription orders, but actual the recruiting of troops was in the hands of the states; it could manage a common fund, but the voting on and collecting of taxes was done by the states. The Congress could therefore establish quotas of men and money, but to obtain them, they had to ask the states.⁶ From the above, it is immediately clear that this American situation of two

⁶ Mario Albertini, *La Federazione*, in Id. *La politica e altri saggi*, Milan, Giuffrè, 1963, p. 35.

and a half centuries ago left the Congress devoid of true political power, as defined in the first section of this essay, due to the absence of four key conditions:

- I. the power to produce rights;
- II. the ability to create external peace;
- III. institutions;
- IV. the ability to raise funds.

It is impossible, therefore, to speak of political power of this Congress, since political power continued to be held by the states. This circumstance is hardly surprising, given that these newborn American states' only point of reference, in a political sense, was the European model of separate sovereign states, which they sought to replicate. In America's case, however, leaving sovereignty entirely in the hands of the single states would have put the survival of the Union in jeopardy; essentially, their conflicting interests would have prevented Congress from adopting effective policies.

An alternative proposal, advanced by some, was to establish a single American unitary state (again, a sovereign state in the European mould) that would eliminate the sovereignty of the thirteen states. However, this option seemed impractical from the outset, as it was seen as a threat to the freedoms won through the revolution.⁷ Hamilton wrote: "The science of politics (...) has received great improvement. The efficacy of various principles is now well understood, which were either not known at all, or imperfectly known to the ancients. The regular distribution of power into distinct departments; the introduction of legislative balances and checks; the institution of courts composed of judges holding their offices during good behavior; the representation of the people in the legislature by deputies of their own election: these are wholly new discoveries, or have made their principal progress towards perfection in modern times. They are means, and powerful means, by which the excellences of republican government may be retained and its imperfections lessened or avoided. To this catalogue of circumstances that tend to the amelioration of popular systems of civil government, I shall venture, however novel it may appear to some, to add one more, on a principle which has been made the foundation of an objection to the new Constitution; I mean the ENLARGEMENT of the ORBIT within which such systems are to

⁷ Lucio Levi, *La federazione: costituzionalismo e democrazia oltre i confini nazionali*, introductory essay to the reprint of Alexander Hamilton, James Madison, John Jay, *The Federalists*, Il Mulino, Bologna, 1997.

revolve, either in respect to the dimensions of a single State or to the consolidation of several smaller States into one great Confederacy.”⁸

The novel aspect introduced by Hamilton was a completely new conception of the organisation of a state, and therefore of political power. His idea hinged on the creation of a constitutional area that would allow the coexistence of a number of states, and within which the common government would be:

- I. “national”, in terms of the source and manner of execution of its power — in the sense that this power derives directly from the citizens through suffrage, and is exercised directly over them through laws issued by a legislator and through administration by an executive body —; and
- II. “federal” in structure, as its sphere of competence would be limited by the competences of the member states, whose powers also derive directly from the citizens and directly address the citizens.⁹

In short, the federation is an association, which is endowed with its own powers, of members, which are also endowed with their own powers, and as such it entails different spheres of competence and different levels of government. Within this new organisation of power, the Constitution becomes the dimension within which the powers of the various levels of government (federal and state) are established. In this regard, it is worth citing the words of Kenneth C. Wheare, who, in his book *Federal Government*, defines the “federal principle” in terms of a “system of power sharing that allows the central government and the regional governments to be, each in its own sphere, coordinated and independent.”¹⁰

In practical terms, the step that allowed power to be attributed to federal level was Hamilton’s decision to introduce a federal tax system, in other words, to enable the federal political government, acting autonomously of the member states, to collect the resources necessary to pursue and achieve its objectives. In the *Federalist Papers*, Hamilton reflects on the need for the Union to be able to collect the resources necessary for the recruitment and maintenance of an American army, and highlights, in particular, the sticking point of a Union budget dependent on individual national contributions: “There is no method of steering clear of this inconvenience, but by authorizing the

⁸ Alexander Hamilton, John Jay, and James Madison, <https://guides.loc.gov/federalist-papers/full-text/TheFederalistPapers-9>.

⁹ Mario Albertini, *op. cit.*, p. 49.

¹⁰ Kenneth C. Wheare, *Federal Government*, London-New York-Toronto, Oxford University Press, 1963.

national government — which should be taken to mean federal government, *author's note* — to raise its own revenues in its own ways”.¹¹

Considerations on the European Union: Are We Moving Towards a European Political Power?

Finally, it is worth considering, briefly, the current European situation. The question to ask is whether, today, we can talk of a European political power. In the light of all that has been discussed in the previous sections, and on the basis of the definitions presented, it must be concluded that there is still no real political power (or power of government) at European level, much less of a federal kind. Even though European Union institutions exist, the competences they have are limited by the political power of the nation states, whose sovereignty over crucial matters remains intact.

Europe's great weakness, which has been evident ever since the sovereign debt crisis, is the lack of an autonomous budget, independent of contributions from the nation states (the same weakness that faced the American Congress before the US's federal leap). It is only by overcoming the EU's inability to address the enormous difficulties generated by its limited resources, and by the compromises reached by its member states, that the conditions can be laid for the construction of a European political power in the federal sense.

The adoption of the Next Generation EU plan, in response to the crisis triggered by the coronavirus pandemic, is certainly a great opportunity to finally address the issue of true European taxation. For the first time, the idea has taken root that borrowing directly on the market is a way for the EU to find the resources it needs; the next real leap — and this must be the main topic of debate in the coming months — is to affirm the principle that the EU, alongside the possibility of borrowing, must also have a power of taxation, in order to be able to its guarantee its debt repayments. It is emblematic that similar problems were faced by Alexander Hamilton, who, in *Federalist Papers No. 30*, wrote: “The power of creating new funds upon new objects of taxation, by its own authority, would enable the national government to borrow as far as its necessities might require. Foreigners, as well as the citizens of America, could then reasonably repose confidence in its engagements; but to depend upon a government that must itself depend upon thirteen other governments for the means of fulfilling its contracts, (...) would require

¹¹ For more on this, cf. *Federalist Papers* numbers 12, 21 and 30. This remark appears in number 21. Alexander Hamilton et al., *op. cit.*.

a degree of credulity not often to be met with in the pecuniary transactions of mankind (...).”¹²

Creating a European fiscal competence is the first step towards the realisation of a European political power, and therefore the first step in the battle for political unification of the continent; the Conference on the future of Europe, now imminent, will be successful if it succeeds in making this a priority issue in the debate on the future of the European Union.

¹² *Ibidem.*

Power Politics. The European Union and the International System*

UMBERTO MORELLI

The Evolution of the International System.

How can we describe the international setting in which the European Union (EU) operates?

Until the mid-twentieth century, the world had a multipolar international system. This system was dominated by the great European powers (as defined by the Congress of Vienna of 1815), which were intent on pursuing a balance of power policy in order to ensure that no one power could prevail over the others, and also to prevent further hegemonic attempts like the Napoleonic one that had just been thwarted. The foundation of the European system of states dates back to the sixteenth century, its subsequent establishment coinciding with the affirmation of Europe's hegemony following its colonial expansion. Around the turn of the century, however, a period that brought wars between the United States and Spain (1898) and between Japan and Russia (1904-1905), this system began to falter, as these two non-European powers entered the race to expand and colonise. The European system was definitively thrown into crisis by World War I, the first conflict that the European countries proved unable to resolve without the decisive intervention of a non-European state. Two circumstances — namely, the United States' return to isolationism after WWI, and Stalin's decision to consolidate the results of the Bolshevik Revolution by building socialism in a single country, which led to an inward-looking Soviet Union — allowed the European system of states to survive a further two decades, before the Second World War finally brought it to an end. No longer “great” pow-

* Contribution presented during a debate on *Federalism and the Concepts of Political Power, Power, Statehood and Sovereignty*, held in Florence on 17-18 October 2020 and organised by the Debate Office of the European Federalist Movement.

ers, all the European countries in turn (albeit some, like France, sooner than others, like Italy and Germany) were directly hit by the effects of the crisis of the nation-state — a phenomenon that federalist theorists had long been discussing (we need only recall the writings of Luigi Einaudi at the time of the First World War and the *Ventotene Manifesto*). Even the United Kingdom, the third of the “Yalta big three”, which had never surrendered to Germany and emerged from the conflict victorious, was no longer a great power; on a historical level, it too had been defeated, as shown by its dependence on US aid in order to survive.

The subsequent bipolar world order arose from this crisis of the European system of states. As Europe, which had once dominated the world, embarked on a process of decolonisation, it also found itself under the hegemonic control of the United States and the Soviet Union, and split in two by the Iron Curtain. Paradoxically, however, the two superpowers, although strongly opposed to each other in ideological, political, economic and military terms, were united in their role as keepers of international order. Each, within its own sphere of influence, was able to guarantee relative stability by imposing, to different degrees, its hegemony on its satellites. Stability between the two superpowers, on the other hand, was guaranteed by the balance of terror, the doctrine of mutual assured destruction, and their second-strike capability.

The end of the Cold War raised hopes that the Western and Communist worlds might meet on the common ground of democracy and the market economy. This view was espoused by political scientist Francis Fukuyama. His 1992 book *The End of History and the Last Man*¹ describes the history of humanity as a process destined to end with the affirmation of the liberal and democratic state. In the same year, the Secretary-General of the United Nations, Boutros Boutros-Ghali, at the request of the UN Security Council, drafted a document entitled *An Agenda for Peace. Preventive diplomacy, peacemaking and peace-keeping*.² This document acknowledged the end of the Cold War, the hopes in many countries raised by their newly won freedom, the broadening of the tasks facing the organisation, and the need to ensure that “efforts (...) to build peace, stability and security (...) encompass matters beyond military threats”. It also defined the terms preventive diplomacy, peacemaking, peacekeeping, and post-conflict peace-build-

¹ Francis Fukuyama, *The End of History and the Last Man*, New York, The Free Press, 1992.

² *An Agenda for Peace. Preventive diplomacy, peacemaking and peace-keeping. Report of the Secretary-General pursuant the statement adopted by Summit Meeting of the Security Council on 31 January 1992*, https://www.un.org/ruleoflaw/files/A_47_277.pdf.

ing, and called for cooperation with regional organisations, “reinforcement of the role of the International Court of Justice”, and secure funding for UN operations.

The reality, however, was quite different. The post-bipolar period brought a world that was no longer safe, but rather more unstable than before: unpredictable and anarchic. This new global disorder was described in many works, some with particularly impactful titles, such as, among others, *Le Nouveau Monde, de l'ordre de Yalta au désordre des nations*, by Pierre Lellouche,³ published in 1992, and *A World in Disarray: American Foreign Policy and the Crisis of the Old Order*, by Richard Haass (2017).⁴

Although the United States, seeing itself as the only surviving superpower, and with no USSR to impede its efforts to impose its own hegemony, briefly entertained the illusion that it might be able to establish a unipolar system, the fact is that, even today, the international system still has not found an alternative stable arrangement. Instead, it has swung between different possibilities: a return to a multipolar system built around several major powers (USA, China, Russia, Japan, EU, India); the emergence of a new bipolarism (between the US and China); or, as described in 2008 by American diplomat Richard Haass in *The Age of Nonpolarity*,⁵ a non-polar world in which international power is no longer concentrated in one, two or more poles, but widely distributed — shared between several state and non-state players exercising various kinds of power. Moreover, Haass argues that there are also other powers that should be added to the six major ones listed above. He refers, specifically to: regional powers (Brazil, Argentina, Israel, Iran, Saudi Arabia, Australia, Indonesia, Pakistan, South Korea, and so on), organisations of different kinds — global (the UN, International Monetary Fund, World Bank), regional (African Union, Arab League, ASEAN, etc.) and functional (International Energy Agency, World Health Organisation, OPEC, etc.) —, states within nation-states and large cities (California, New York, Shanghai, etc.), the multinational corporations that dominate the worlds of finance, energy and industry, global media channels (al Jazeera, BBC, CNN, etc.), armed militant groups (Hamas, Hezbollah, Taliban), political parties, religious institu-

³ P. Lellouche, *Le Nouveau Monde, de l'ordre de Yalta au désordre des nations*, Paris, Hachette, 1992.

⁴ R. Haass, *A World in Disarray: American Foreign Policy and the Crisis of the Old Order*, London, Penguin Press, 2017.

⁵ Id., *The Age of Nonpolarity. What Will Follow U.S. Dominance*, Foreign Affairs, 2008, <https://www.foreignaffairs.com/articles/united-states/2008-05-03/age-nonpolarity>.

tions, terrorist organisations, drug cartels, and NGOs (Gates Foundation, Greenpeace, etc.).⁶

*The Crisis of the Nation-State and the Need for a Copernican Revolution in Cultural Paradigms.*⁷

A key aspect of the current world system is the fact that the nation-state, for centuries the undisputed and almost unique protagonist of international relations, no longer holds the monopoly of power. Globalisation has undermined its three constitutive elements: sovereignty, whose scope has been reduced by global interdependence and by the establishment of international and regional organisations at supranational level; territories, which have been devalued by the deterritorialisation of many activities; and peoples. With regard to this latter element, it must be understood that popular consensus legitimises government actions, and therefore that this legitimacy is lacking whenever government decisions impact on third countries whose peoples had no say in choosing the decision makers. Furthermore, the homogeneity of the population, a myth belonging to nationalist ideology, has been weakened by the processes of hybridisation favoured by migratory flows.

The crisis of the nation-state, a concrete historical fact and a key heuristic element of federalist thought, indispensable for understanding twentieth-century history, requires us to overcome the tendency to view external reality from a nation-centric perspective. Indeed, all countries' citizens typically regard political, economic and social problems from the perspective of their own country (nation-state), apparently assuming that everything revolves around it. The spread of national-populist movements in recent years, supported by slogans such as *Prima gli italiani*, *Britain first*, *Love Britain*, *America first*, *Make America great again*, *Oui, la France*, *Votez patriote*, and so on, all modern equivalents of the deadly *Deutschland über Alles*, has led to a particular entrenchment of this mental habit. Such slogans are easy to understand and, in communication terms, highly effective (after all, who would possibly wish their own country harm?), but they have racist undertones and are also conceptually wrong, in the sense that they do not pursue their purported objective: the good of the people they address. The result of the nation-centric mindset is that each country's citizens believe that their

⁶ *Ibidem.*

⁷ This section returns in part to what was written in U. Morelli, *From National Cultural Paradigms to European/cultural paradigms: A Copernican Revolution*, *Journal of Social Science Education*, 18, n.3 (2019). <https://files.eric.ed.gov/fulltext/EJ1231800.pdf>.

national viewpoint corresponds to reality and cannot be questioned. This leads each people, without true grounds for doing so, to claim pre-eminence and makes agreements between them impossible. All this leads to clashes, verbal to begin with, but then violent, between various irreconcilable national positions and between opposing nationalisms.

In an essay written in 1942, Altiero Spinelli set out the logic of the nation-state.⁸ All countries, he argued, have sought to obtain an advantage at the expense of the others, a behaviour that stems not from some perverse desire to dominate, but rather from the firm belief that they are responsible for safeguarding the well-being of their own citizens, not the well-being of all people. In fact, he explained, nation-states, being conceived for this very purpose, were not even designed to take into account the interests of a broader community. Accordingly, there was nothing to prevent them from prioritising the interests of particular groups (an attitude encapsulated in the slogans *Prima gli italiani*, *Britain first*, etc.) over cooperation designed to protect the general good, a choice that was bound to lead, ultimately, to the use of force in order to impose these interests. Spinelli also predicted the degeneration of national democracy that we are witnessing today. He understood that national democracy, rather than channelling particular pressures and aspirations, would actually be subjected to them and even end up embracing them, given that they came from the “sovereign” masses. These pressures and aspirations, he went on, sprang from nationalistic considerations or the desire to defend privileges or immediate economic interests, real or perceived, but they were always partial and took no account at all of the true general interest. As a result, democrats, eager to represent the popular will, actually became instruments of particular groups. Spinelli also pointed out that any exclusivism, economic or ideological, defended by the sovereign state, was bound to evoke similar countermeasures by other sovereign states, leading to a poisoning of the atmosphere and generating the threat of war.

To use the nineteenth-century concept of the nation-state, considered sovereign, self-reliant and sufficient unto itself, as a term of reference for acting in today’s world is to use an atavism, a legacy of the past that took Europe to two world wars: it amounts to using a Ptolemaic criterion in order to try and navigate a Copernican, globalised reality. It can only lead to failure to understand the contemporary world, and thus to incorrect choices.

⁸ A. Spinelli, *Gli Stati Uniti d’Europa e le varie tendenze politiche*, in Id., *Il progetto europeo*, Bologna, il Mulino, 1985, pp. 39-81.

Instead, to truly understand our contemporary world, we need a sort of “Copernican revolution” in our way of thinking and acting; in short, we need to adopt a global approach that is able to grasp the interdependencies that bind states, and tackle contemporary challenges with appropriate tools. At the same time, we must reject the nation-centric approach that prevents us from seeing reality as it is.⁹ Adopting a global, Copernican logic means not remaining trapped by self-regarding interests; it means overcoming the strictly national point of view, which leads to exclusion and segregation of “others”, in order to be able to see things from others’ point of view and consider other-regarding interests, an approach that leads to inclusion and integration. The slogan *Humanity First* captures this need to think in global terms in order to rise to global challenges, and it highlights humankind’s common destiny.

History has taught us the grave error of the nation-centric logic. Let us consider, for example, the fact that the traditional idea of defence rests on the understanding that a country is safe if its enemy is weak; naturally, the weak, unwilling to remain so, strive to become strong. This is obviously bound to result in an arms race and instability. In reality, though, a country is really only safe when its enemy is too. At the 1919 Paris Peace Conference, the French prime minister, Georges Clemenceau, reasoning in nation-centric (France First!) terms, was determined to punish Germany, convinced that this was the best way to ensure France’s security. The result was Nazism and the Second World War. In 1950, just five years after the end of WWII, Robert Schuman and Jean Monnet, on the other hand, adopting a non-nationalist approach, included Germany in the process of European unification. The result was the Continent’s longest ever period of peace, democracy and well-being.

Overcoming the nation-centric mindset raises a further problem: the need to rethink the concept of nation. Is the nation a social group characterised by a set of common traits (language, religion, history, traditions, customs, blood), or is it a community that shares the same ideals and also embraces those who were born outside its territory? Does belonging to a nation depend on one’s blood, or genetic ancestry, a view that leads to the horrendous ideas of the mono-ethnic state and ethnic cleansing? Or does it instead depend on shared principles — on participation in a community that includes all the residents of a territory, regardless of where they were born, who wish to live together, abiding

⁹ On the Copernican revolution in our way of thinking, cf. E. Reves, *The Anatomy of Peace*, New York-London, Harper and Brothers, 1945.

by the same laws and having equal rights and duties? The idea that the state must coincide with a nation defined on the basis of birth leads to a closed society, intolerant of political, religious, cultural and social diversity, and hostile towards other nations. The identity element in cosmopolitan citizenship is what Habermas termed constitutional patriotism, a sense of attachment to values that citizens can identify with, regardless of their place of origin. Citizenship should thus be recognised as separate from ethnicity, but linked, instead to residence; accordingly, it should be open to all those who choose to live in a given territory. Fernando Savater recalls that in the Middle Ages there existed serfs who were bound to the land they worked; what we have today, on the other hand, are citizens who are bound to the land, given that citizenship rights still largely depend on the territory where a person is born.¹⁰

Regionalism and New Regionalism.

We therefore need to transcend the idea of the nation-state as the sole and exclusive political element within the organisation of humanity, and envisage more complex structures that overcome it: a distribution of power that, abandoning tribal identities, takes into account the problems that the different countries need to face together, and the interests that they share. What is called for now is a political community equipped to address challenges at different territorial levels: municipal, local, national, regional/continental, and now global, too. To ensure that these challenges are addressed effectively, there need to be political authorities, equipped with adequate powers and resources, in place at each of the aforementioned levels, so that problems can be dealt with where they arise. Political power is no longer monopolised by the nation-state as the single holder of power, but is distributed along a continuum that runs from very local to global. Regional integration is not optional; it is essential in order to solve problems involving continental areas, which cannot be tackled by individual states acting separately. The strategic doctrine of the EU, approved unanimously in 2003, indeed acknowledges the inability of individual countries to respond to certain problems on their own (“No single country is able to tackle today’s complex problems on its own”),¹¹ and thus the need for regional integration.

¹⁰ F. Savater, *Se il cittadino diventa un “cittadino della gleba”*, La Stampa, 8 April, 2014. <http://www.lastampa.it/2014/04/08/cultura/se-il-cittadino-diventa-un-cittadino-della-gleba-hYJQ7lccvYgIWpqcxJBDML/premium.html>.

¹¹ Council of the European Union, *A Secure Europe in a Better World. European Security Strategy*, cf. <https://data.consilium.europa.eu/doc/document/ST-15895-2003-INIT/en/pdf>.

In the 1950s and 1960s, the Cold War and American hegemony led to the development of regional organisations. These were mostly inward-looking and focused on achieving internal commercial liberalisation, although political objectives were not excluded, such as, in Europe's case, that of overcoming the centuries-old Franco-German antagonism through economic integration. When the bipolar world order ended, regionalism took on other characteristics. The new regionalism of the post-hegemonic era has assumed comprehensive forms, encompassing non-economic sectors (security, protection of human rights, the environment, culture); it has also projected itself externally, and taken on the role of offering international public goods, such as stability, that the declining superpowers can no longer provide.¹²

What Form of Regionalism: Federalism or Intergovernmental Cooperation?

Regional organisation can have different institutional configurations. At one end of the spectrum lies an advanced form of integration based on common principles and rules, and in which superordinate bodies with effective powers take majority decisions independently of the governments of the member countries. This is a supranational form of integration, in other words, a federation that limits the sovereignty of the states. At the other end of the spectrum, we find an alliance of states that remain sovereign and cooperate within narrow sectors, aiming to achieve limited objectives through consultation between national governments; decisions must be unanimous. In this case there are no independent supranational bodies endowed with their own powers, the common institutional structure is weak, and decision-making capacity remains in the hands of the member states. This formula corresponds to a confederation based on intergovernmental cooperation.

Between these two extremes, intermediate institutional configurations are possible. European integration is a case in point, being the expression of a compromise between the need to tackle common problems together, which has led to definite movements towards integration, and the member states' reluctance to relinquish powers to supranational bodies. The attempt to reconcile the need for integration with this jealous guarding of national power has given rise to a hybrid institutional structure in which two systems coexist. First, we have the Community system, which has strongly supranational features, and en-

¹² Cf. M. Telò (editor), *European Union and New Regionalism. Competing Regionalism and Global Governance in a Post-Hegemonic Era*, Farnham, Ashgate, 2007.

visages qualified majority voting in the Council and important roles for the European Parliament, the Commission and the Court of Justice. This system works quite well and is responsible for the most important achievements of the process of European unification (the single market, the single currency, the ordinary legislative procedure that, by putting the European Parliament on an equal footing with the Council, guarantees the democratic legitimacy of decisions, European citizenship, and so on). Second, we have the intergovernmental mechanism, which deals with matters that touch on the delicate issue of national sovereignty. Within this system, the Council is required to take decisions unanimously (which clearly makes decision making difficult), the Parliament has a purely consultative role (meaning that decisions are not subject to democratic control), and the Court of Justice has no power of jurisdiction. Furthermore, in recent years, intergovernmental bodies (the European Council and Council) have taken on a more prominent role, while the Commission has seen its role downsized. This system, which respects state sovereignty, has slowed the integration process, produced limited results (as evidenced by the modest weight of the EU on the international political stage), and encouraged the formation of a hierarchy of national governments and the prevalence of the strongest.

This whole situation has created an efficiency deficit and a democratic deficit. The efficiency deficit is due to two problems. The first is the difficulty in reaching decisions, and it is an effect of the power of veto that paralyses the decision-making process. Moreover, since unanimity can only be reached by negotiating compromises that, in order to please everyone, are necessarily based on the lowest common denominator, the current decision-making system fails to provide effective answers. The second problem is the difficulty Europe has actually acting, because of the EU's paltry budget, which amounts to about 1 per cent of Europe's GDP (165 billion euros in 2019). And own resources account for only a small proportion of this budget, which is largely financed by national contributions. For comparison, it is worth considering that the US federal budget is 24 per cent of GDP, while the EU member states have, on average, a budget amounting to 44 per cent of their GDP, and that the entire European budget is smaller than that of a medium-sized EU member state! The democratic deficit, on the other hand, lies in the insufficient level of legitimacy of the European institutional system within which key decisions are taken that concern the lives of citizens. We refer, in other words, to the European Council and the Council's lack of answerability to the European Parliament and the inadequacy

of the powers of the Commission and of the Parliament itself. These efficiency and democratic deficits cannot be blamed on the EU; blame instead lies with the states that chose not to endow it with the powers and resources it needs in order to carry out its functions. Instead, responsibility for the EU's failure to address the crises it faces and its lack of influence at international level lies with the intergovernmental system, in which the member states pull the strings.

The EU: an International Player?

The instability of the post-bipolar world has brought to the fore the question of the EU's international role. Some commentators doubt that the EU can become a credible international player. One argument in this sense relates to the nature of international power. If it is true that international relations are characterised by power politics (realism) and nurtured in the shadow of war,¹³ which is waged by sovereign states, then clearly the EU cannot be a credible and effective international player since it is neither a state nor, having no armed forces of its own, a military power. Accordingly, its international role should be limited to the use of civilian instruments, such as diplomacy, humanitarian relief, and aid to underdeveloped areas. All this paints the EU as a civil, not a military, power.

While armed forces and the use of force are certainly not central to Europe's Common Security and Defence Policy (CSDP), these factors are key to America's role on the global stage. That said, in recent years, the EU has proved to be capable of mounting military as well as civilian missions (the former accounting for around a third of all EU-led operations). Furthermore, while there can be no denying that the use of force is a decisive element in international politics — soft power not supported by hard power weakens the credibility of the international player —, the wars in the former Yugoslavia, in Iraq and in Afghanistan all proved that military means alone are ineffective in resolving crises; the use of civilian means is indispensable, and in this regard the EU has shown itself to be a civil power that knows how to act on the international stage.¹⁴

A second objection, raised by those who view Europe from a national perspective, concerns the alleged lack of a European identity and of a common concept of security to underpin the EU's international action.

¹³ R. Aron, *Peace and War*, London, Weidenfeld & Nicolson, 1966.

¹⁴ On the EU as a civil power, cf. G. Laschi, M. Telò (editors), *Europa potenza civile o entità in declino?*, Bologna, il Mulino, 2007; G. Laschi, M. Telò (editors), *L'Europa nel*

It is impossible to compare the processes leading to the formation, respectively, of the European states and the EU, because the EU is not a nation-state. The identities and strategic culture of the former took shape over centuries-long histories of bloody wars, nationalistic and imperialistic pressures, and denial of citizenship rights to foreigners. The EU, on the other hand, was built peacefully, and is characterised by multiculturalism, tolerance and integration, not exclusion and marginalisation of the “other”. Even though, in the very early years, most Europeans were unaware of the existence of the European Communities, this did not prevent them from being created and starting to operate. This fact shows that Community policies (agricultural, monetary, foreign, security, etc.) work independently of the problem of identity.¹⁵ Nonetheless, the essence of European identity has been identified and is encapsulated by the principles expressed in the *Charter of Fundamental Rights of the European Union* and the values listed in art. 2 of the Treaty on European Union, both of which were approved unanimously. Just as national identity was not the premise for the construction of the nation-state, but rather the result of the state’s acting to create it through compulsory primary education, military conscription, the unifying effect of bureaucracy and the media (popular magazines, television, and so on), so European identity will grow out of specific actions by the EU (Erasmus exchanges, for example, are fundamental in this regard). Military operations and civil missions themselves can also contribute to the construction of the European identity, providing they are legitimised by the consent of the citizens and not decided through intergovernmental procedures that escape the control of the European Parliament.

As regards the question of strategic culture, there are certainly differences between the 27 EU member states — some are neutral, others are part of military alliances; two have nuclear weapons and are permanent members of the Security Council; some would like to see the introduction of European defence solutions, while others would prefer to rely on the Atlantic Alliance; and some have developed an arms industry, while others have not; they also have different ideas on the use of civil and military power. And yet none of these differences prevented the unanimous adoption of two strategic doctrines that inspire the operations carried out by the EU, namely the European security strategy

sistema internazionale, Bologna, il Mulino, 2009; J. McCormick, *The European Superpower*, Basingstoke-New York, Palgrave Macmillan, 2007; M. Telò, *L'Europa potenza civile*, Rome-Bari, Laterza, 2004.

¹⁵ J. Howorth, *Security and Defence Policy in the European Union*, Basingstoke-New York, Palgrave Macmillan, 2007.

for *A Secure Europe in a Better World* (adopted in December 2003, and revised in 2008) and the 2016 European global strategy entitled *Shared Vision, Common Action: A Stronger Europe. A Global Strategy for the European Union's Foreign and Security Policy*.

In conclusion, it is not only possible for the EU to develop a foreign, security and defence policy, but necessary too, both for reasons outside the confines of Europe (the evolution of the international system), and also for internal reasons linked to the dynamics of the integration process and the need to give credibility to the CSDP.

*The Need to Create a European Foreign, Security and Defence Policy.*¹⁶

The nature of the EU. The EU is made up of 27 countries, has a population of around 446 million (making it the world's the third most populous community after China and India), produces just under a quarter of the world's GDP, is a major importer of oil and gas, the leading commercial power, and the most important donor of aid to developing countries. An entity of this size clearly cannot be just a large market; its dimensions are such that it inevitably acts as a global player.

The new international scenario. From the 1990s, the strategic interests of the US and Europe, having converged throughout the Cold War period — the US could not allow the economic, industrial and technological potential of Western Europe to fall into Soviet hands —, began to diverge: the Pacific became the focus of America's strategic objectives, and Europe, its defence no longer a priority for the US, was left marginalised. The EU thus had to start looking after its own security, rather than simply relying on that produced by others. The need to create a European foreign, security and defence policy became even more acute with the election of President Trump and the ensuing uncertainty over American engagement in Europe. Trump is the first US president to have spoken out against European integration, and he indeed welcomed Brexit, inviting other European countries to follow the British "example".

The EU, instead of having the good fortune to be situated in the midst of friendly countries, has areas of instability on its doorstep. These extend from the Caucasus on its eastern border to the Middle East, North Africa and the area encompassing the Sahel and the Horn

¹⁶ This section returns in part to what was written (paragraph 3) in U. Morelli, *Forze Armate europee: un obiettivo ricorrente finora disatteso*, in U. Morelli, G. Romeo, L. Soncin (editors), *Forze armate europee? Riflessioni e proposte per una politica della difesa europea*, 2020, pp. 15-37, published in an online series by the University of Turin. <https://www.collane.unito.it/oa/items/show/66#c=0&m=0&s=0&cv=0>.

of Africa. Europe's neighbours, far from being a set of well-governed countries open to cooperation, are a source of threats (wars, instability, terrorism, crime), which have arisen in part as a result of Europe's absence in these regions, in other words the inadequacy, or failure, of European policies designed to promote their development and stabilisation. Indeed, such policies could have prevented the current political and economic degeneration and helped these countries evolve towards democracy.

The costs of Europe's absence in the defence field. The EU countries together are second only to the United States in terms of the level of military spending, yet their armed forces' efficiency is well below 50 per cent that of America's. In the early years of the new century, and in particular from 2008 onwards, the Europeans, driven partly by the economic crisis, chose to collect the "dividends of peace", by cutting defence budgets, including investments in research and development; and they did so at the very time that mission costs were rising. (It should be noted, however, that recent years have seen a partial reversal of this trend to cut defence spending as NATO has introduced a defence spending target of 2 per cent of GDP). In the same period, meanwhile, other countries, particularly China, Russia, India and Saudi Arabia, substantially increased their military spending (by 167 per cent, 97 per cent, 39 per cent and 112 per cent, respectively; sources: SIPRI, IISS).

The above cuts have not, however, been offset by increased cooperation at European level. The EU member states have 27 armies, 23 air forces and 21 navies. In 2016, Europe had 178 weapon systems (compared with America's 30), 17 tank models (versus 1 in the US), 20 infantry fighting vehicle models (versus 2), 29 types of destroyer and frigate (versus 4); 20 types of fighter plane (versus 6), 12 types of anti-ship missile (versus 2), and 13 types of air-to-air missile (compared with 3 in the US) (sources: NATO, SIPRI, IISS). More than 80 per cent of tenders and investments in research are carried out at national level; European cooperation is therefore an exception. This situation translates into duplication, lack of economies of scale, increased production costs, low levels of interoperability, overcapacity in some sectors, poor competitiveness of European industry, lack of European champions capable of competing with US and Chinese multinationals, and fragmentation of the defence market, which, being a sensitive sector from the perspective of national sovereignty, is excluded from trade liberalisation rules.

Albeit difficult to calculate, the cost of this absence of Europe in the field of defence has been estimated to amount to as much as 100 billion

euros each year, and that is in addition to the (incalculable) political and strategic cost of the EU's irrelevance on the international stage. This "non-Europe in the defence field" is a politically and strategically penalising state of affairs, economically unsustainable, and unreasonably costly, especially in times of crisis.¹⁷

Weaknesses of the national armed forces. Even though the war in Kosovo at the end of the 1990s had already highlighted the gap between European and US forces, and led to the decision to launch the European Security and Defence Policy (ESDP), the interventions of the European countries during the war in Libya in 2011 would still have been impossible without the support of the US, which took care of 80 per cent of in-flight refueling, 75 per cent of the hours of air surveillance, and all of the electronic warfare missions.¹⁸ Even today, without the support of American strategic capabilities, Europe would be unable to take care of its own security. It has critical capability shortfalls in a number of areas, such as strategic enablers, unmanned aerial vehicles, transport aircraft, precision munitions, air-to-air refueling, anti-access area-denial capabilities, suppression of enemy air defence capabilities, satellite communication, autonomous access to space, command and control capabilities, intelligence, surveillance and reconnaissance, cyber warfare, artificial intelligence, submarines and modern armoured fighting vehicles.¹⁹ Europe's strategic autonomy is limited to low-intensity operations.

The limitations of CSDP military operations and civilian missions. Having established the ESDP in 1999 — this was renamed the Common Security and Defence Policy (CSDP) with the Lisbon Treaty —, since 2003 the EU has launched 35 operations: around two thirds civilian and a third military. These missions have highlighted its ability to use both

¹⁷ V. Briani, *The Costs of Non-Europe in the Defence Field*, Turin, Rome, Centro Studi sul Federalismo, Istituto Affari Internazionali, 2013, <https://www.iai.it/en/pubblicazioni/costs-non-Europe-defence-field>.

¹⁸ US Department of Defence, *News Briefings with Vice Adm. Bill Gortney on Libya Operation Odyssey Dawn*, 2011, <https://archive.defense.gov/transcripts/transcript.aspx?transcriptid=4803>; C. Taylor, *Military Operations in Libya*, House of Commons, Standard Note SN/IA/5909, 2011, www.parliament.uk/briefing-papers/SN05909.pdf; P. Batacchi, *Le iniziative di Pooling & Sharing: impatto sulla base industriale nazionale nell'ambito concettuale della "Smart Defence"* NATO, Centro Militare di Studi Strategici, Rapporto di Ricerca, Rome, 2012, http://www.difesa.it/SMD/_CASD/IM/CeMiSS/Pubblicazioni/ricerche/Pagine/LeiniziativePoolingandSharing.aspx.

¹⁹ See the European Court of Auditors' report on European defence: European Court of Auditors, *European Defence*, Review No. 09, 2019, https://www.eca.europa.eu/Lists/ECADocuments/REW19_09/REW_EU-defence_EN.pdf.

military and civilian means to tackle the new threats that have emerged since the end of the Cold War. These threats were specified in the aforementioned 2003 strategy doctrine and in the 2008 review of the same:²⁰ international terrorism, the proliferation of weapons of mass destruction, regional conflicts, state failure, organised crime, competition for natural resources, environmental degradation, cyber security, threats to public health (pandemics), and piracy. All the aforementioned are less visible and less predictable than the threats associated with the Cold War, and they are not exclusively military. Accordingly, the answer cannot be solely military, and the use of both military and civilian tools has indeed been necessary. Furthermore, the traditional strategic doctrine based on territorial defence (the defence of borders against external attack) has had to be replaced by the concept of “defence abroad”, meaning the building of security outside national borders. This has led armed forces to adopt a new configuration, abandoning the model typical of the Cold War period (static territorial defence with heavily armed forces) in favour of a more agile and flexible expeditionary model, which is projectable abroad, professional and capable of dealing with asymmetrical and unconventional conflicts.

However, the EU’s missions to date have been the target of numerous criticisms, which have highlighted their limitations: its operations have been modest in scope, low intensity, and of little strategic impact; furthermore, characterised by a reticence towards the use of force, they were launched extremely slowly and generally involved small numbers of personnel. Moreover, their operational effectiveness was undermined by their excessively short durations, by limited mandates, and sometimes by the suspicion, among some countries, that the proposing country was seeking to pursue national interests. There were also difficulties in sourcing personnel, due to concurrent engagements in NATO and UN operations, while the nature of the funding mechanism (with the exception of civil missions and military missions and operations covered by a common operational budget) meant that the costs were borne by those who participate, and not covered by the European budget. The EU does not have its own permanent headquarters, even though this would ensure greater efficiency and avoid wasting time and resources. The different perception of strategic interests, due for example to geographical location (Mediterranean countries are more

²⁰ Concil of the European Union, *Report on the Implementation of the European Security Strategy. Providing Security in a Changing World*, https://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/reports/104630.pdf.

sensitive to the threat of terrorism and migration, Eastern countries to the danger represented by Russia), is another element that discourages participation in missions mounted to tackle threats in distant parts of the world. Old colonial links or commercial relations, on the other hand, can be incentives to participate. Finally, those situations in which an operation stands to benefit everyone encourage the phenomenon of free riding: this is when countries avoid getting involved in a mission on cost grounds, while nevertheless enjoying the benefits, e.g., regional stability, that it brings.²¹

In conclusion, EU missions still seem incapable of overcoming the limitations outlined: small scope, small size, and limited duration.

European Defence Dilemmas.

Having established the need for a European defence mechanism, the next issue to address is the hugely difficult and complex task of establishing a European army (one need only think of the difficulties raised by the possible communitarisation of the *force de frappe*, and by France's permanent seat on the UN Security Council, given the presence of neutral countries in the EU), a topic that demands specific examination, and thus goes beyond the scope of the present contribution. Having said that, some remarks need to be made. First of all, a European defence mechanism requires the establishment of a European political authority, as Spinelli had already pointed out in a 1951 memorandum to De Gasperi on the subject of the European Defence Community project.²² An army requires a foreign minister, a defence minister, and a finance minister, responsible, respectively for foreign policy design, defence policy, and decisions on military spending, in other words a government answerable to the European Parliament. An army without the backing of a political power is a troop of mercenaries.

Furthermore, there are two key dilemmas that need to be resolved:

²¹ M. Eilstrup-Sangiovanni, *Europe's Defence Dilemma*, The International Spectator, 2014, 2, pp. 87-102; T. Tardy, *CSDP in Action. What Contribution to International Security?*, Paris, European Union Institute for Security Studies, 2015, pp. 13-14, <https://www.iss.europa.eu/content/csdp-action-%E2%80%93-what-contribution-international-security>. On European defence, see also U. Morelli, *La politica di sicurezza e di difesa dell'Unione Europea*, in: G. Finizio, U. Morelli (editors), *L'Unione Europea nelle relazioni internazionali*, Rome, Carocci, 2015, pp. 25-42; U. Morelli, *La difesa europea e le relazioni in ambito ONU* in: G. Amato, E. Moavero Milanesi, G. Pasquino, L. Reichlin (editors) *Europa un'utopia in costruzione*, Rome, Istituto dell'Enciclopedia Italiana, 2018, pp. 524-537.

²² A. Spinelli, *Promemoria sul rapporto provvisorio presentato nel luglio 1951 dalla conferenza per l'organizzazione di una Comunità europea della difesa*, in S. Pistone (editor), *L'Italia e l'unità europea*, Turin, Loescher, 1982, pp. 191-206.

the nation or integration? America or Europe? Respect for national sovereignty is incompatible with the construction of organisations based on the sharing of political power. While many factors are known to be holding back the sharing of sovereignty in the areas of foreign, security and defence policy, just as many are pushing in this direction. While it is true that USSR and the Red Army, which served as a federating force, are now gone, there have emerged other threats that cannot be dealt with by the European states acting individually; it is also true that the very internal dynamic of the unification process leads in the direction of political union. Defence, given its bearing on the questions of democracy, political control over decisions, power and sovereignty, is not something that can be addressed solely through technical measures designed improve its efficiency; in short, it goes hand in hand with political union. Europe is an economic giant, and to equip itself with effective military resources, it must cease to be a political bit player. Is this possible? As we saw in the case of the creation of the single currency, it will take political will and determined leadership. Spinelli affirmed that the task of politics is not to do that which is possible, but to make possible that which is right.

The emergence of a political Europe is not compatible with the continuation of a US-dominated Atlantic alliance. The time has come to review relations within this setting and establish an effective equal partnership between the forces on the two sides of the Atlantic Ocean. Europe must choose: it can opt, with conviction and courage, for integration, or it can make the short-sighted and misguided choice of continuing to defend national sovereignty; it can choose to be a European Europe, allied with but independent of the USA, or an Atlantic Europe, trampled on by America.

Peace is Europe's structural vocation — in the Schuman Declaration, which marked the birth of European unification, the word peace is repeated six times in the space of a page and a half — and its process of integration is a crucial example and impetus for the affirmation of peaceful relations globally. However, if the objective, expressed at a congress of the European Federalist Movement in the 1980s, really is to *unite Europe to unite the world*, then Europe has to become fully federal.

The Concept of State and What It Means for the Process of European Integration*

LUCA LIONELLO

What Is a State?

In legal terms, a state is a political organisation that holds a monopoly on the use of legitimate force over a certain population, established within a given territory. States, in this sense, came into being as a reaction to the feudal political-juridical system that, strongly decentralised and with political power distributed on the basis of the lord-vassal relationship, had prevailed in Europe since the time of Charlemagne. The formation of these states began at the start of the modern era of history, when the kings (lords) of lands on the edge of the Roman Germanic Empire stopped recognising the supreme authority of the emperor and, helped by a professional, centralised and efficient administrative system, started taking control of certain fundamental aspects of sovereignty, including fiscal power and defence.

The concept of state summarised in the opening sentence of this article has also been incorporated into international law. Article 1 of the Montevideo Convention of 1933, for example, recognises the state “as a person of international law that should possess the following qualifications: (a) a permanent population; (b) a defined territory; (c) government; and (d) the capacity to enter into relations with (...) other states”.

For a state to exist, its sovereignty must be manifested both within (internal sovereignty) and outside (external sovereignty) its own borders. Internal sovereignty corresponds to the ability to guarantee, through the adoption of imperative acts, certain fundamental public services within the state territory: the collection of taxes, maintenance of public order, administration of justice, implementation of laws, provi-

* Contribution presented during a debate on *Federalism and the Concepts of Political Power, Power, Statehood and Sovereignty*, held in Florence on 17-18 October 2020 and organised by the Debate Office of the European Federalist Movement.

sion of essential services, minting of coins. External sovereignty, on the other hand, refers to a state's ability to be independent of other states. In today's world, of course, this cannot mean the pursuit of self-sufficiency and the closure of state borders; instead, it must be understood as the state's ability to participate in the process of globalisation on its own terms, choosing how, to what extent, and with which other sovereign subjects it wishes to enter into agreements and cooperate.

After this brief outline of the nature of state sovereignty, it is worth examining the features of *true* state sovereignty. First of all, state sovereignty is original, in the sense that the state's legal system is not born of any other system, but arises from an act of self-determination. The state's constitution is therefore a *Grundnorm*, a standard that needs no justification and from which all other laws applicable within the state derive. Second, state sovereignty has to be exclusive, or as Jean Bodin put it, *summa potestas superiorem non recognoscens*. This means that a state can prevent any external entity, public or private, from exercising its functions within the state's own borders. Accordingly, although this "rule" is less easily applied in today's globalised world, sovereign states can, should be it necessary, prohibit any kind of external interference in the exercise of their power within their own territories. Finally, state sovereignty must be effective, in the sense that failed states are, by definition, ones that have proven unable to exercise their sovereign powers over their own territory. Recognition by other governments does not influence the birth of a new state, except insofar as the establishment of political and legal relations with other countries can help a new state to consolidate its (external) sovereignty.

In the light of this introduction, let us now examine the question of the relevance of the concept of state to the process of European integration.

In political and academic settings there has, notoriously, been much debate over whether it might be possible to create European federation without a true state. In the same way, it has been argued that, following Maastricht and the introduction of the single currency, the Union has achieved a virtually stable, and definitive, level of unity. But these ideas are dangerous mystifications whose overcoming demands, first of all, that we clarify the legal nature of today's EU.

Why the EU Is Not a State.

Although the European Union has achieved a remarkable level of integration and represents, for its member states, a vital guarantee of well-being and progress, it is currently not a state, and certainly not a

federation; moreover, the level of unity reached through the process of European integration cannot be considered a consolidated and definitive outcome.

From a legal point of view, the EU today is an international organisation, albeit *sui generis*. Let us consider, then, some of its unusual features, which can make it seem like a state. First of all, it has legal personality, and is thus a subject of both domestic law and international law. It is responsible for key areas of sovereignty, including monetary policy and trade policy. It has an autonomous legal order (i.e., independent of those of the member states and international community) with direct effect and supremacy over national (even national constitutional) law. It is organised in accordance with the principles of the rule of law, democracy and institutional balance.

But, all this notwithstanding, the EU is still an international organisation. It is founded on a treaty between sovereign states, which, in order to pursue certain objectives together, have assigned it specific roles. However, the competences conferred on it remain limited and can be revoked at any time (principle of attribution). In other words, the member states not only have the power to decide, unanimously, to increase or reduce the Union's competences, they can also decide to dissolve and reorganise it as they wish. Moreover, each single state is free to decide, unilaterally, to leave the organisation (as the UK has done). It is also interesting that the constitutional courts of a number of EU member states argue that the principle of the primacy of EU law can be disregarded in cases where EU law is in conflict with the principle of attribution or with the national constitutional identity (this is a reference to the so-called counter-limits theory). In this sense, the Union is not a sovereign subject born of an act of self-determination, but a subject hetero-determined by its member states, which remain the "masters" of the Treaties and therefore of the EU itself.

In the light of all the above, it is easy to understand some of the structural deficits that currently afflict the EU, and will continue to do so until such time as its legal status is changed.

With the member states jealously holding on to certain key powers (in the fields of taxation and defence, for example), the EU's first and main structural deficit is a deficit of competence. In particular, because of the strict rules over the size and destination of the EU budget, the Union has limited resources with which to pursue its policies. Europe also has an efficiency deficit, as most key questions have to be decided by the governments acting unanimously. For this reason, in situations

where individual countries can potentially veto decisions, national egotisms can prevail, leaving the Union paralysed and incapable of deciding. Finally, since the European Parliament is unable to establish itself as a true co-decision maker alongside the intergovernmental institutions, whenever fundamental issues are under discussion (multianual financial framework, own resources, foreign policy), the EU also suffers from a democratic deficit. And this, in turn, explains why it is proving so difficult to establish, between the citizens and the European institutions, the direct relationship necessary to legitimise political action by the European Union.

Is It Possible to Create a Federation Without a State?

Following the landmark of Maastricht and the transition from European Community to European Union, it was argued that, although the latter still lacked the characteristics of a sovereign state, a new form of federal government was nevertheless being consolidated, and therefore that the goal of European unity had been achieved. This idea was popular for several reasons. Some have a general fear of the idea of European statehood because they confuse the concept of state with that of nation: in their view, the creation of a federation without a state would prevent the emergence of a form of “European nationalism”. Others are opposed in principle to the idea of “Europe as a power”, or rather to the birth of a new state among the existing states, arguing that this would consolidate the international system and constitute a further obstacle to the process of creating a world federation. According to this view, a federation without a state would instead represent a virtuous model of integration and serve as an example for other regional unification projects and for reform of the United Nations. Other, more substantive arguments have rested on the fact that the EU, just like federal states, functions according to the principle of subsidiarity (art. 5 TEU): on this basis, it has been suggested that national and European institutions already form a multilevel system of government wherein decisions are taken by the level best equipped to solve the citizens’ problems. In actual fact, the international nature of the Union is the very reason the principle of subsidiarity fails to be applied efficiently in the European legal order. Every time there arises a problem that demands a European solution, but also the exercise of those competences jealously guarded by the member states (taxation, internal security, defence, health, education), the European institutions can act only with the unanimous agreement of all the governments. The result, therefore is, at best, a

weak compromise solution, but more often a non-decision. Clearly, the subsidiarity principle can only be applied effectively if the vertical division of competences takes place within a fully sovereign subject. In a supra-state framework, on the other hand, it naturally clashes with the need to preserve the national interests of individual member states with respect to the general interests of the Union. In short, although appearances may suggest otherwise, a federation cannot exist without a state; only a confederation can.

Can Democracy Be Built Without a State?

A final point concerns the question of democracy. Over the decades, the EU has sought to create an institutional system that might enable it to respect the democratic principle in the same way as its member states do. This objective was achieved, above all, by the introduction, in 1979, of direct elections of the European Parliament and by the strengthening of the Parliament's role in decision-making processes. Today, the ordinary legislative procedure is based on the so-called co-decision principle, according to which acts are adopted by the Parliament, as the chamber representing the European citizens, and by the Council, as the chamber representing the states. Furthermore, over the years, various instruments have been introduced to promote "participatory democracy", such as stakeholder consultations ahead of proposals for legislative acts, the European citizens' initiative mechanism, the possibility of sending of petitions to the Parliament, and the right of recourse to the European mediator. Finally, there is the *Spitzenkandidaten* mechanism, which allows European citizens to choose the President of the European Commission through their vote in European Parliament elections.

However, in spite of these undeniable successes, the "democratic deficit" has still not been properly resolved, with the result that the EU today still fails to meet the criteria that it expects its own prospective members to meet. As we have said, all the key decisions relating to the internal functioning of the organisation (reform of the Treaties, own resources, multiannual financial framework) and to the development of certain sensitive policy areas (common foreign and security policy) rest on the unanimity of governments, while the European Parliament is left to play a more or less secondary role.

The weakness, or immaturity, of European democracy does not lie in the absence of a pre-existing "European people", as argued by the proponents of so-called *Volksdemokratie*. The fundamental problem is still the internationalist nature of the EU, that is, the fact that its most

important decisions do not reflect the will of the people, but rather that of the member states. As long as the national governments continue to be the masters of the Treaties, rather than the citizens, European democracy will remain incomplete. Only the creation of state sovereignty at European level can create a true European people, by sealing, in the form of a constitution, the existence of a community of destiny among European citizens and creating a relationship of trust between the latter and the Union itself, thereby eliminating the mediation role of the national governments.

Sovereignty*

GIULIA ROSSOLILLO

Reconstructing the debate that has grown up around the concept of sovereignty is an almost impossible task, given the sheer number of authors who have attempted to trace its contours and define its content. My aim here, therefore, is to focus on developing just a few reflections that can help to bring out the importance of this concept, both for federalist theory and also for understanding the development and future prospects of the process of European integration. In so doing, I shall be using sovereignty as a synonym of independence; for an organisation, this means self-determination vis-à-vis its very existence and actions, and thus the power to decide in the last resort within a given territory.

Sovereignty and Peace.

The importance, from the perspective of federalist theory, of a reflection on sovereignty is underlined, in particular, by the close link that exists between sovereignty and peace. The development of the concept of sovereignty coincided with the appearance of the modern state in its first forms, and therefore with the possibility of concentrating the monopoly of force in the hands of the sovereign. This was the start of the process that gradually allowed power relations between individuals established within a specific territory to be replaced by relations governed by law, and as such it marked the first step in the transition from anarchy to the achievement of social peace and the emergence of a common interest, superior to individual interests. As noted by Hobbes, the state, which holds supreme power, is the instrument serving to ensure “that those who have once consented for the common good, to peace and mutually help, may by fear be restrained, lest afterward they again dissent, when their private Interest shall appear discrepant from the common good.”¹

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¹ T. Hobbes, *De Cive*, p.28 <http://www.public-library.uk/ebooks/27/57.pdf>.

Therefore, even though sovereignty often has negative connotations nowadays, stemming from a tendency to think of it only in terms of its most authoritarian expressions, the concept actually refers to the formation of a legal system and the imposition of law, in other words, a system able to govern power relations and therefore replace force-based pursuit of purely individual interests. Because sovereignty corresponds to the creation of relationships based on law, law and sovereignty necessarily go hand in hand. And where there is no sovereignty, there is anarchy.²

At international level, however, the existence of multiple sovereignties, each independent within its own territory, is the very condition that makes war possible: peace, in the Kantian sense, will be reached only when power relations between states are replaced by international relations based on law, and sovereignty assumes a global dimension.

Sovereignty: Divisible or Indivisible?

If what we have just said is true, then it follows that the sovereignty exercised over a given territory has to be indivisible. Indeed, were there to exist within a given territory a number of independent subjects each able to decide in the last resort, the final decision would necessarily be reached on the basis of pure power relations between these subjects, and the very concept of law would be lost.

This consideration prompts two inter-related questions: how is sovereignty exercised within a federation? And is it possible today, under the current Treaty framework, to speak of the exercise of sovereignty by the European Union?

Many maintain that the existence of the European Union disproves the idea that sovereignty must be indivisible, given that within the territory of each member state, both the EU and the state in question exercise their respective powers, each within its own sphere of action.

To examine this view, we must first highlight, and overcome, two misapprehensions. First, because sovereignty is wrongly assumed to be divisible, the concept of sovereignty tends to be confused with that of competence;³ second, as we shall see later on, transfer and exercise of sovereignty are mistakenly taken to mean the same thing.

It is certainly true that the European Union, unlike other interna-

² On this point, cf. F. Rossillo, *Notes on Sovereignty*, *The Federalist*, 43 n. 3 (2001), pp. 161 ff., in particular p. 161.

³ A. Morrone, *Sovranità*, *Rivista dell'Associazione italiana dei costituzionalisti*, 3/2017, pp. 1 ff., in particular pp. 13 ff..

tional organisations, has the ultimate power to decide in certain spheres of activity, and can issue provisions that are directly applicable in the legal systems of the member states. In this sense, the Union is a highly advanced organisation that has no real precedents in history. However, since this power is neither original nor independent, the EU cannot, on this basis, be said to possess sovereign powers.

To further clarify this aspect, it is necessary to take a step backwards and examine briefly the difference between a confederation of states and a federation. Both these forms of political organisation rest on an agreement (treaty) through which a group of states limit their powers by transferring some competences to the supranational level. A confederation, however, never departs from the initial agreement, which remains the foundation of its existence and its functioning. Accordingly, it is the states that, having kept their national sovereignties intact and simply undertaken to exercise them together and in concert, continue to control the existence and functioning of the organisation. In short, a confederation depends on the will of the states to cooperate, and when this is lacking, the confederation ceases to function.

To create a federation, on the other hand, it is necessary to depart from the original agreement in order to start a constituent process that will lead to the creation of an organisation independent of the parties to the original treaty. And whatever form it takes (federal union of states or federation, to use the two terms that in Italy are favoured in particular by Sergio Fabbrini),⁴ it has to be clearly understood that states entering into a federal pact are agreeing to create a political organisation based not on a treaty, but on a constitution. In this sense, the power the federation assumes is original: we are no longer talking about power based on an agreement between states, but rather power based on an act, the Constitution, that is an expression of the will of the federal people. Thus, from the moment of its entry into force, it is the federal constitution that governs the exercise of sovereignty, both by the federation (at the federal level of government) and by its member states (within their areas of responsibility); in this setting, the existence of the Constitution “above” the level of the member states guarantees the indivisibility of this sovereignty; in short, there is only one sovereignty, which is exercised at different levels. In the light of all this, it is clear that, advanced as the EU undoubtedly is, its existence and functioning remain dependent on the will of its member states, precisely because it is based on

⁴ S. Fabbrini, *Which European Union? Europe After the Euro Crisis*, Cambridge, Cambridge University Press, 2015.

agreements (the Treaties) between them. In other words, the powers and competences it has derive not from a constitution that expresses the will of the European people, but from international treaties that can be modified only by mutual agreement between the member states.⁵ In Europe, therefore, sovereignty is still in the hands of the member states, and not the Union.

Although this reconstruction may seem to ignore the evolution of European integration process and the fact the member states' legal systems are now deeply intertwined (as confirmed by the difficulties relating to the UK's withdrawal from the EU), it should not be forgotten that the two aspects most central to the life of the Union, one internal — its funding — and the other external — its foreign and defence policy —, are still (as shown by recent events relating to the approval of the multiannual financial framework) conditional on the reaching of unanimous agreements between the member states, and are therefore dependent on them.⁶

The Joint Exercising of Sovereignty and the Creation of European Sovereignty.

The difficulty in identifying the holders of sovereignty in the highly complex setting of European integration also derives from the tendency to superimpose the ideas of “formal” and “substantial” sovereignty, which are actually separate concepts.

Worldwide, the growing interdependence between states, together with the ever-increasing size of the problems faced, has created a situation in which the formal holders of sovereignty, i.e., states, lack the tools needed to rise to the global challenges; as a result, their sovereignty is, to an extent, void of content and therefore meaningless. In Europe, which is fragmented into small sovereign states, this phenomenon is

⁵ As pointed out by S. Roland, *La substance du principe majoritaire en droit de l'Union européenne*, in F. Picod (sous la direction de), *Le principe majoritaire en droit de l'Union européenne*, Brussels, Larcier, 2016, pp. 203 ff., in particular p. 223, there is a profound difference between the formation of a state and the process of European integration, given that Europe lacks a fundamental text allowing the creation of an independent political body.

⁶ As remarked by T. Verellen, *European Sovereignty Now? A Reflection on What it Means to Speak of “European Sovereignty”*, *European Papers*, 5 n. 1 (2020), pp. 307 ff., in particular p. 316, the external and internal dimensions of sovereignty are closely linked, given that “for Europe to hold external sovereignty it must also exist as an institutional reality capable of governing its territory effectively. To construct an EU capable of governing its territory effectively, two elements are required: first, a European capacity to take decisions independently of individual constituent members, and second a capacity to enforce those decisions vis-à-vis those measures”.

particularly evident, and was, indeed, at the root of the integration process that led to the current European Union.⁷

In fact, through the creation of a market of continental dimensions and a highly integrated institutional structure, Europe's member states sought to address the impossibility of solving, individually, problems of a supranational dimension. And yet, from the outset, Europe's integration was founded on the premise of respect for the sovereignties of the individual member states, which, by signing the founding Treaties, took the binding decision to cooperate closely with each other. The paradox of the process of European integration lies precisely in the fact that, in some respects, the member states appear to have chosen a dead end street: aware of the impossibility of tackling many problems at national level, they established very close forms of cooperation; at the same time, however, to avoid relinquishing their sovereignty, they made cooperation relating to the most crucial sectors dependent on their unanimous agreement, thereby creating the risk of decision-making paralysis in the event of their failure to agree.⁸ These choices have had the effect of creating a sort of decision-making vacuum: the mechanism just described, which shows that sovereignty continues to be held at national level, risks making certain decisions impossible to take, given that, by definition, they demand a compromise between national interests, which cannot always be reached; at the same time, the failure to move towards the creation of federal sovereignty, and the consequent absence of an autonomous political power at European level, means that the Union is unable to take the said decisions independently of the states.

The creation of a European federation (the prerequisite for the birth of a sovereign Europe) would make a decisive contribution to bridging this gap between formal sovereignty and "substantial" sovereignty, since it would give Europe an organisation with the dimensions and weight necessary to address many continental-scale issues. That said,

⁷ Cf. A. Morrone, *Sovranità, op. cit.*, p. 9, who points out that as a constitutive attribute of the modern state, sovereignty necessarily follows its historical trajectory: that which has been defined the "parable of sovereignty" is merely a metaphor referring to the changes seen in the political form of the state, when this is viewed through the lens of sovereignty. (...) Indeed, the necessary connection between sovereignty and the state is (...) the main reason for ambiguity surrounding constitutionalist reflection on sovereignty. It can, in fact, be said that the fate of sovereignty depends above all on that of the state.

⁸ As highlighted by A. Bailleux, *The two faces of European sovereignty*, European Papers, 5 n. 1 (2020), pp. 303 ff., in particular p. 304, "in most fields of EU competence Member States have given up the unilateral exercise of their – increasingly illusory – normative supremacy in exchange for the collective use of a shared – but more effective – sovereignty".

precisely because of the now global scale of many problems, and the very close interdependence between the various states, it has to be recognised that a complete convergence of formal and “substantial” sovereignty can be reached only through world federation.

The fact that the sovereignty of the European nation-states is currently extremely weak certainly does not mean that it has disappeared, or that the concept of sovereignty no longer serves any purpose. This weakness is merely a historical circumstance, and evidence that we are going through a transition phase in which the individual member states, although formally still the holders of sovereignty, are forced, in order to give it substance, to exercise their powers jointly with other states, without having yet taken the crucial step of creating a federal sovereignty.

The peculiarity of the current period of transition from international organisation of sovereign states to some future federal-type organisation, whose configuration is still unclear, and in some respects unpredictable, is precisely why it is so difficult, today, to envisage exactly what role the member states will play in the European federation, both in its early stages and subsequently, when it is established. In this sense, the evolution of integration towards federation in Europe will not, for two reasons, follow the same course as the processes that led to the formation of other federal states, such as the United States and Switzerland: first, contrary to the case of different historical precedents, it was not the presence of an external threat that prompted the Europeans to pursue ever-closer integration, but rather the need to complete Europe’s economic integration following the introduction of the four freedoms of movement; second — and this is crucial —, European integration is unusual because it is a process involving states with consolidated national traditions, meaning that a future European federation must inevitably be founded on the principle of subsidiarity and assign its member states greater weight than that which is carried by the member states of “traditional” federations.

What is important to identify at this stage, therefore, is not so much the role of the member states in a future European federation as the point in time at which it will be possible to say that the crucial leap towards the affirmation of a capacity of self-determination at European level has been taken, given that this will mark the laying of the foundation stone on which to build a supranational political power, with limited powers, but endowed with sovereignty. For this reason, it has to be understood that the EU will not truly acquire self-determination without first acquiring the capacity to procure, independently of the

member states, the tools necessary for the exercise of its competences, and specifically, the power of taxation. This, however, raises the issue of creating true European democracy, so that the European Parliament (the body representing the citizens) can be empowered to determine the amount and type of fiscal resources the Union needs in order to deliver those European public goods that only the supranational level can guarantee. All these developments will mean that issues beyond the scope of nation states need no longer be entrusted to compromises between the member states, but can instead be decided by an embryonic European government.

Sovereignty, Democracy, People.

In the 1990s, there emerged the idea that sovereignty is an outdated concept, and it was even argued that we are moving towards a world without sovereignty.⁹ This view, still held by many, actually corresponds to a rejection of the very concept of politics and the common good, and ultimately it goes against the foundations of democracy. In fact, whereas sovereignty can exist without democracy, the idea that democracy can be built in the absence of sovereignty is unthinkable: any democratic order, to be defined as such, must be based on bodies representing the will of the citizens, and equipped to decide independently and in the last resort on the issues crucial to their lives.¹⁰

Therefore, those who argue that the European Union already exercises its own sovereignty in the fields within its competence, and can therefore continue to be founded on (albeit closely integrated) national sovereignties, fail to understand that democracy can extend beyond the ambit of the European nation-states, and that a democratically legitimised European political power can exist.

It makes no sense to talk of supranational democracy without accepting that sovereignty, too, can and must be exercised at this level: without supranational sovereignty, there would be no authority capable of representing a common interest superior to that of the individual states, and of deciding democratically in the last resort, independently of them.

⁹ In the sense that the concept of sovereignty makes no contribution to the distinction between confederation and federation. See, for all, O. Béaud, *Théorie de la Fédération*, Paris, Presses Universitaires de France, 2009.

¹⁰ As pointed out by A. Morrone, *Sovranità, op. cit.*, pp. 84 ff., those who theorise the prevalence of the market over politics and maintain that economic relations should be self-regulating on the basis of “private” rules are actually adhering to a technocratic model of society in which there is no common good pursued through democratically legitimised institutions, only individual interests governed ultimately by power relations.

It thus being established that sovereignty is closely linked with democracy also in the context of the European integration process, the next problem concerns the identification of a European people that can be recognised as the holder of this sovereignty and, as such, able in a constituent phase¹¹ to legitimise the creation of a European federal state.

The role of the European people in the EU's transformation into a federation has always been a much-debated topic. It has to be considered that when a regime change occurs within a state, identifying the constituent subject does not present particular problems, as the territory involved remains the same; the process of European integration, on the other hand, ultimately makes it necessary to increase the orbit of the state and of democracy, through the transition from a number of small nation-states to a single state of continental dimensions.¹² A common argument in this context is that creating a European federation is impossible, since no European people actually exists, only 27 national peoples; for this reason — it is argued —, before creating a political union, it is first necessary to create a sense of belonging to a single community. To follow this reasoning, however, is to fall into a vicious cycle. After all, can it not also be argued that creating a sense of belonging to a political community that has yet to be established is surely an impossible task, unless it is recognised that a “people” can be an entity based on something beyond common ethnic, cultural, and linguistic characteristics?

In reality, as many have underlined, people and political organisation (people and state) are two closely linked, indeed inseparable, concepts. Therefore, if it is true that we cannot speak of a people unless there is a state organisation of reference for that people, it is also true that the very prospect of the founding of a new political entity creates

¹¹ The creation of a European federal state and therefore the transformation of the European Union into a sovereign entity, being the creation of a new power, may not involve all member states, or take place in ways provided for by the Treaties. As pointed out by J. Baquero Cruz, *What's Left of the Law of Integration? Decay and Resistance in European Union Law*, Oxford, Oxford University Press, 2018, pp. 175 ff., in reference to art. 48 TEU, “there is a trade-off between widening and deepening and a breaking point at which keeping the unity of the Union, valuable as it is, weighs less than the achievements of integration. If and when that breaking point is reached, perhaps it would be preferable to take note of the inner division, reducing the formal membership of the Union to a core group of States sharing comparable values and views about integration, while keeping the remainder States in another circle. (...) Perhaps this core group of member States could then again agree to modify the Treaties through a less dysfunctional procedure”.

¹² On this point, cf. G. Rossolillo, *European People, Constituent Power and the Building of a European Federal State*, *The Federalist*, 49 n. 3 (2007), pp. 196 ff., in particular pp. 204 ff..

the embryo of a people, a sort of people *in nuce*,¹³ whose existence will be consolidated as the state-building process is completed. Put another way, the progressive establishment of a people is part of the process of forming a new state.

With regard to the process of European integration, we can therefore conclude that to be able to talk of a true European people, a federation must be created between the EU member states (or some of them at least); in the meantime, it is up to federalists, by proposing a new organisation of power that overcomes national barriers, to raise awareness within this embryonic European people of the need to create a form of supranational democracy that gives them back the possibility of determining the choices central to their future.

¹³ P. Rosanvallon, *Le peuple introuvable, Histoire de la représentation démocratique en France*, Paris, Gallimard, 1998, pp. 344 ff., speaks of a *présupposition du peuple*: “la théorie démocratique suppose que le peuple préexiste à son organisation politique. Cet ordre a toutes les apparences de la logique. Mais le peuple est-il déjà là ou est-ce seulement la *présupposition* du peuple qui est prise en compte comme sujet politique ? Ce n’est pas la même chose. Si c’est le peuple, il est appréhendé en tant que donné social, sujet effectivement existant de manière autonome. S’il s’agit du présumé du peuple, il est à la fois saisi comme sujet et comme procédure. Dans ce dernier cas, l’objet de la politique est de faire vivre et d’activer cette présupposition (...). Comment activer cette présupposition ? C’est justement l’objet de l’expérience démocratique. Elle implique la construction d’un espace de confiance, de reconnaissance qui permet de rendre visible et de représenter ce qui n’existait auparavant que principiellement et procéduralement.”

Political Realism*

SERGIO PISTONE

The aim of this brief contribution is to clarify key aspects of the relationship between political realism, which is the most recent expression of the reason of state theory that began with Machiavelli, and the theoretical paradigm on the basis of which the European Federalist Movement (MFE) strives to understand the reality of international relations, and thus to determine its stance on, and practical approach towards, this reality.

Before going any further, it is necessary to underline two fundamental features of the federalist paradigm: first, its acceptance of the main ideas underlying the theory of political realism (whose leading exponents include, in particular, Morgenthau, Aron, Waltz and Mearsheimer), and second, its overcoming of this same theory on the basis of the teachings of Kant.

With regard to the first point, the realist paradigm rests on the basic assumption that there is a structural difference between states' internal and international relations, which creates a dichotomy between state sovereignty (founded on the state's monopoly on the legitimate use of force) and international anarchy. Basically, because internal relations are governed on the basis of legal rules, any conflicts within the state are resolved without recourse to force; in other words, peace is established as an expression of the structural impossibility of resorting to force. Obviously, this does not apply in the case of violent revolutions, civil wars, failed states and states that have never actually come into being: all these are examples of situations in which there is a return to (or a failure to overcome) the condition of war of all against all that underpins international relations.

By establishing the aforementioned monopoly on the legitimate use of force, the modern sovereign state has also succeeded, through a lengthy process, in part still ongoing, in bringing about a remarkable civilisation

* Contribution presented during a debate on *Federalism and the Concepts of Political Power, Power, Statehood and Sovereignty*, held in Florence on 17-18 October 2020 and organised by the Debate Office of the European Federalist Movement.

of the populations of modern states. The key aspects of this important process are, first, the moral advancement that comes from learning to relinquish the use of violence, and therefore from progressively rejecting the principle of private violence as a means of protecting personal interests, and second, the economic and social progress made possible by the certainty of law. Indeed, the state, as it evolved, underwent a series of deep transformations driven by the emancipating ideologies rooted in the Enlightenment, namely liberalism, democracy and socialism. Moreover, it should also be underlined that the peacemaking function of the state, rooted essentially in its monopoly on the legitimate use of force, has been consolidated in the Western world thanks to its integration with the rule of law and the separation of powers (liberalism), universal suffrage (democracy), and structured social solidarity or the welfare state (socialism). These mechanisms, which over the course of history have progressively been combined, help to prevent the state from being perceived as a power pursuing the interests of only one section of society instead of the general interest; this, in turn favours consensus and a reduction of the tendency to resort to violence. From this perspective, it is important to underline that political realism (and federalism even more) argues that the state, to correspond to the fullest description of the term, must be characterised by the structural presence of emancipatory ideologies.

Moving on to examine the realist vision of international relations, we find that these, unlike relations within states, are regulated on the basis of power relationships between the parties, given that, in this context, sovereignty as the key structural element is replaced by international anarchy, meaning the lack of a government, i.e., of a supreme authority with a monopoly on the legitimate use of force that can enforce a valid and effective legal system. In this situation, the elementary instinct for survival is such that trials of strength between the parties are inevitably the last resort method for resolving conflicts. As a result, war is always on the agenda — Aron has noted that relationships between states always unfold in the shadow of war — and every state is forced to practice “power politics”. This does not mean that it automatically pursues an overly aggressive foreign policy, but rather that, in formulating its foreign policy, it takes into account the permanent possibility of trials of strength, in the form of actual or threatened use of force, and seeks to set up (ready for use in extreme circumstances) a series of essential power resources (arms, alliances, guarantees of protection from major powers, pre-emptive filling of power vacuums), or alternatively to apply cunning and deception.

Having said all this, the idea that there exists a structural difference

between states' internal and international relations should not, according to the realist paradigm, be taken to mean that the international situation is simply a form of chaos, dominated by continuous, irrational and unpredictable clashes between states, and lacking any kind of order. Indeed, political realists highlight the presence of the following key structural elements that reduce the chaos of international anarchy and make its developments more predictable.

First, a hierarchy of states has been established that distinguishes major powers (those that are effectively able to look after their own security and interests) from medium-size or small powers (that, instead, must seek protection from one of the major powers). This has given rise to a sort of global government that, unable to guarantee structural peace, nevertheless mitigates the violent effects of international anarchy.

Second, a balance mechanism has evolved that, albeit unable to eliminate power conflicts, nevertheless prevents hegemonies and thus guarantees the existence of a pluralistic system of sovereign states.

Third, the above two elements, combined, have allowed states to live side by side, without however leading them to abandon power politics; this is the circumstance that explains the birth of international law and international organisations.

Let us now turn to the second feature of the federalist paradigm, mentioned at the start. Whereas the first, as explained, is recognition of the structural difference between internal and international relations, the second pillar of federalist theory is its complete rejection of the political realist argument that international anarchy cannot be overcome because the creation of a world state is not possible — an argument based on a nationalistic ideological prejudice that leads the plurality of states (and, by extension, conflicts between states) to be viewed as an irreplaceable element of progress. Whereas the key value of realism is the power of one's own state, the guiding-value of federalism, on the other hand, is peace, as reflected in the firm belief that, in the historical phase that began with the advanced Industrial Revolution, commitment to the progress of mankind is irrevocably bound up with the endeavour to overcome violence in international relations, and therefore to gradually unify humanity through the pursuit of a world federal state.

This orientation is underpinned by the enlightening reflections on peace developed by Kant, who, starting from a realistic view rooted in the dichotomy between state sovereignty and international anarchy, clarified beyond doubt that peace corresponds to an organisation of power that overcomes international anarchy, because it transforms

power relations among states into true juridical relations, and thus, through the extension of statehood on a universal scale (by means of the federal system), renders war structurally impossible. Kant's project of perpetual peace is based on a clear awareness that it will take humanity a very long time to mature and realise it, but also that it is a process that has a real chance of taking place. First of all, the overcoming of anarchy within states is a real historical precedent that makes it impossible to exclude in principle — here we see that Kant manages to overcome the anthropological pessimism of Hobbes and of today's political realists — the possibility of further progress that will ultimately result in the overcoming of international anarchy. Second, such progress will be favoured by the combined impetus of two powerful historical forces: i) the growth of trade (i.e., of economic interdependence, which will create more opportunities for conflict, but at the same time render ever more pressing the need to develop instruments for peaceful conflict resolution, so as not to undermine the benefits deriving from interdependence); and ii) the increasing destructiveness of war, an effect of scientific and technical progress, which is making it increasingly urgent to overcome, through concrete measures, the very system of war, so that mankind's destiny is not one of collective self-destruction.

It should be emphasised Kant's considerations, set out above, reveal a deeper realism than that of the of reason-of-state theorists and therefore of modern political realists, in other words, a realism that seeks the "actual truth", and avoids being trapped by ideological prejudices that lead the system of sovereign states to be regarded not as a phase in the evolution of humanity, but as an insuperable point of arrival. The realism that distinguishes the theory of federalism espoused by the MFE is, in fact, based on efforts to develop and probe this very aspect of Kantian thought. In this regard, it is worth underlining the growing recognition of the idea of the historical relevance of the struggle for peace. This recognition rests, fundamentally, on a full awareness of the consequences, on the evolution of states and interstate relations, of the epochal changes brought by the advanced Industrial Revolution, and now the Technical-Scientific Revolution. Political realists are certainly not unaware of the enormous importance of a series of phenomena: the growing economic interdependence between states (part of the process of globalisation), the advent of weapons of mass destruction, ecological interdependence, and the upsetting of global environmental balances. But since their ideological orientation leads them to perceive the plurality of sovereign states as an insurmountable difficulty, they fail to see

that these developments have introduced a new and hugely significant factor into the system of international relations: the historical crisis of the system of sovereign states (also called the “Westphalian system”) — a situation that makes commitment to overcoming international anarchy not only an ethical-political imperative, but also a very real political necessity.

The discourse surrounding this problem can be summarised by focusing on three key aspects.

The first concerns the extent of the economic interdependence gradually created with the advance of the Industrial Revolution and Post-Industrial Revolution. This brought to light the unavoidable need to create states of continental dimensions in order to avert social and economic decline and, therefore, to prevent democratic progress from drawing to a halt. But it also began a process destined, in the long term, to render even continental-size states obsolete and consequently to place on the agenda, in order not to impede progress, the project to achieve political unification of the whole of mankind. A grasp of the political implications of economic interdependence is indispensable in order to understand the fundamental developments of the XX century. The first of these was the decline of the European nation-states, which led to attempts to find hegemonic-imperial solutions to the problem of the need for a continental-size European state, and thus to the spread of authoritarian and totalitarian tendencies (accompanied by heinous crimes). The power of the European states dwindled as their absorption into the bipolar (USA-URSS) world order opened up the way for the dismantling of the colonial empires and, above all, for the process of European unification on a peaceful and democratic basis, a development that radically altered the situation in Europe, restoring momentum to socioeconomic development, democratic progress and peacemaking endeavours, and also stimulated, in other parts of the world, similar although much less deep-rooted processes (regional integrations). Then came the formation — this process accelerated sharply after the end of the Cold War — of an increasingly integrated global economic system dominated by the USA, which brought strong overall economic growth but at the same time recurrent, and increasingly severe, economic-financial crises and persistent serious social and regional imbalances (giving rise to destructive instability in entire regions and migrations of “biblical” proportions). At this point, it should be remarked that the development of global economic interdependence prompted the formation of international economic organisations (the IMF, World Bank, GATT-WTO, OECD, ILO, FAO, G7, G8 and G20) which, while they

have not produced a level of integration comparable to that seen in Europe, do underline the need to treat world unification as a real prospect, however distant, and no longer just a utopian idea.

The second aspect concerns the emergence of challenges deriving from the discovery of weapons of mass destruction (among which we can now also include cyber weapons) and the upsetting of the world's natural environment, which, together with the phenomenon of economic interdependence, are decisive factors in the historical crisis of the system of sovereign states. While the destructiveness of modern warfare, combined with the phenomenon of economic decline, presented the European states with the stark choice — “unite or perish” — that is at the very root of the process of European integration, the development of weapons of mass destruction marked the start of the extension of this choice to global level. In other words, it put the need to overcome war as an instrument for resolving conflicts among states onto the historical agenda, since a general war would mean not the continuation of politics through other means, but rather, as the consequence of a collective suicide, the end of politics altogether. And here it should be underlined that it is entirely unrealistic to think that the inconceivableness of a general war between the major powers constitutes structural protection against the risk of a nuclear holocaust. After all, there is no sure guarantee that deterrence cannot fail; moreover, it must also be considered that the inevitable proliferation of weapons of mass destruction will, in a setting characterised by chronic instability of the world's underdeveloped regions, eventually see these weapons finding their way into the hands of states, led by extremist and fanatical ruling classes, that have no democratic mechanisms, or even into the hands of terrorist organisations that do not have a territory that deterrence can hold to ransom. In reality, the value of deterrence and security policies aimed at arms control and reduction can only be temporary. In other words, all they can do is provide the setting within which, to be truly realist, the extremely difficult and long-term plan to eliminate structurally the possibility of wars — a plan to which there exist no valid alternatives — must be pursued through the building of a global democratic state. The same argument applies to the danger of an environmental holocaust. International co-operation alone cannot be regarded as anything other than a temporary remedy — one whose coherent development is possible only within the context of the gradual construction of a global state.

The third and final aspect concerns the decisive role, in favour of world unification, that a fully unified Europe is called upon to play. At

this point, it must be underlined that Europe is structurally designed to work towards a more peaceful, more just and more environmentally sustainable world. In essence, Europe has an ingrained tendency to act as a “civil power”, a power that pursues structural policies based on peaceful cooperation, and thus the overcoming of power politics. Precisely because European unification was born from the catastrophe of the two World Wars, as the first significant response to the historical crisis of the Westphalian system of sovereign states, the EU is genetically programmed to strive to export the positive elements of its own experience, which we might refer to as the European way of life (liberal democracy, the welfare state, human rights, environmental awareness, low military spending), as well as the unification process itself. Indeed, in setting out (in Treaties and strategic doctrine) its planned international role, the EU speaks not only of European interests and security, but also of world peace, to be built through the instruments of solidarity, the rule of law, the liberal-democratic system, the globalisation of human rights, and regional integrations. All this is concretely reflected in the leadership role that, despite Europe’s unification still being incomplete, is played by the EU in the areas of development and food aid, peace missions and the pursuit of human rights, as well as its key involvement in initiatives such as the International Criminal Court and agreements designed to combat the global ecological crisis. Obviously, to manifest this structural vocation far more effectively than it does at present, the EU needs to be much more than just an economic power. It also needs to become, through the adoption of a true common foreign, security and defence policy, a fully-fledged global player.

Other writings by the author on the topic dealt with in this presentation:

Considerazioni orientative sul tema della Casa Comune Europea, Proceedings of the 2009 Congress of the MFE in Catania, p. 99. <https://www.mfe.it/port/index.php/archivio/organi-statutari/congressi-mfe/24-archivio-documenti/documenti-del-mfe/congressi-mfe/4388-congresso-2001-catania>.

Political Realism, Federalism and the Crisis of the World Order, The Federalist, 58 (2016), p. 16.

Difesa europea e unione politica, Proceedings of the 2017 Congress of the MFE in Latina, p. 54, <https://www.mfe.it/port/index.php/archivio/organi-statutari/congressi-mfe/24-archivio-documenti/documenti-del-mfe/congressi-mfe/4392-congresso-2017-latina>.

L’Unione Europea di fronte all’alternativa: federazione europea o tracollo dell’Europa, Paradoxa Forum, July 2019.

Responsibility and Politics (and the Problem of Power)*

STEFANO CASTAGNOLI

Responsibility is an extension of awareness. The word derives from the Latin *respondere*, meaning to answer, in the sense of being ready to answer for our actions and the consequences they have.

If we accept the idea that the world is now a community of destiny (regardless of whether this is universally recognised), then we can assume that responsibility today should take on the meaning proposed by Hans Jonas in his work *The Imperative of Responsibility*.¹ Jonas was a theorist of a future-oriented concept of ethics called the ethics of responsibility.

In his view, the principle of responsibility should apply to everything we do, and he therefore argues that individuals “must” always consider (to an extent I would define extreme) the future consequences of their choices and actions: “Act so that the effects of your action are compatible with the permanence of genuine human life”.

Jonas, considering the now disturbing reach of human action made possible by technological progress, maintains that it has become crucial to develop a new theory of ethics able to address the ensuing possible catastrophic consequences on the life of our planet. We must fear that which can be produced by excessive technological advancement, linked to pursuit of the utopian promise of unlimited progress (which takes no account of the limits imposed by nature, seen merely as an object that can be manipulated at will).

“Duty to fear” the possible catastrophic impact of our actions must go hand in hand with the “courage to own” them, since assumption of responsibility is a crucial prerequisite to any attempt to address, and seek

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¹ Hans Jonas, *The Imperative of Responsibility: In Search of an Ethics for the Technological Age*, Chicago, University of Chicago Press, 1979.

political solutions to, the great problems of our times: overpopulation, the depletion of natural resources, and the problems of energy and the environment.

We might take the above ideas as a theoretical reference point when considering the issue of responsibility, an objective by which we should all be guided.

With regard to the relationship between responsibility and politics, which is the topic of this contribution, Max Weber's *Politics as a Vocation*² is undoubtedly a key reference text. In it, he considers some aspects of the question of the ethics of responsibility, albeit without taking his arguments to the extremes that Jonas does.

It is useful, for the purpose of our discussion, to note that Weber defines politics as "striving for a share of power or for influence on the distribution of power, whether it be between states or between groups of people contained within a single state". He therefore sees a strong link between politics and power.

In this regard, he suggests that legitimate power, or authority, can be divided into three types:

- traditional authority, stemming from long-established customs and practices (the power of the "prince");
- charismatic authority, stemming from the magnetic personality of a leader, warlord or politician;
- legal authority, stemming from a willingness to obey, meaning a readiness to fulfil duties in compliance with a rule.

Weber, discussing the concept of politics as a vocation, draws a distinction between:

- individuals who live "off" politics (politics is their main source of income); and
- individuals who live "for" politics, meaning those whose political engagement derives from personal passion, and for whom, in some cases, politics may be practised as a secondary profession.

He then goes on to identify three key qualities that politicians must possess: passion, a sense of responsibility, and judgement. The worst defect, on the other hand, is vanity, which can result in two "deadly sins":

- the absence of a cause to justify their actions;
- no sense of responsibility, which translates into the desire for power for power's sake.

² Max Weber, *Politics as a Vocation*, in: Id. *The Vocation Lectures* (D. Owen and T.B. Strong, eds), Indianapolis, Hackett Publishing, 2004.

According to Max Weber, politics and ethics cannot be bedfellows: the link between politics and the state's monopoly on the use of violence makes it impossible to apply absolute religious ethics to politics. On the other hand, it can be noted that all ethically oriented actions refer either to the ethics of principles or to the ethics of responsibility, and that these, albeit two opposing categories, can in turn be traced back to political behaviour.

The first category is characterised by reference to an ideal principle, which is the only criterion used to distinguish right from wrong. Accordingly, if this principle is right, every action inspired by it will be good, whatever its consequences.

The ethics of responsibility, on the other hand, is characterised by the need to carefully weigh up the consequences of one's actions.

However, no one can lay down when one should act according to one of these categories as opposed to the other, Weber says.

At this point, I wish to set out some considerations that may seem like a digression from the issues of responsibility and power. However, drawn from a presentation given at a national conference on psychosynthesis, they actually illustrate aspects of an individual-level approach to these issues.

The speaker was psychiatrist Daniele De Paolis, who set the scene: "We are in Jerusalem, outside the praetorium, and the governor of Palestine, Pontius Pilate, is addressing the high priests and the people: 'What shall I do, then, with Jesus who is called Christ?' Pilate asked. They all answered, 'Crucify him!' 'Why? What crime has he committed?' asked Pilate. But they shouted all the louder, 'Crucify him!' When Pilate saw that he getting nowhere, but that instead an uproar was starting, he took water and washed his hands in front of the crowd. 'I am innocent of this man's blood' he said. 'It is your responsibility.'" (Matthew, 27, 22-24)³. This Gospel excerpt offers interesting insights into the questions of power and responsibility. The episode recounted, in particular Pilate's gesture of washing his hands, has come to symbolise the refusal to accept responsibility. Accepting responsibility for our decisions, and ensuing actions, takes courage. What prevails in Pilate, however (although he cloaks his decision in the excuse that it is his duty to let the matter be handled by locals), is self-interest, specifically

³ Daniele De Paolis, *Potere e responsabilità*, XXIII Congresso nazionale di Psicointesi (XXIII Italian National Congress of Psychosynthesis), Castiglione della Pescaia, 24-27 April 2008, <http://www.psicointesi.it/congressi-convegni/volti-potere/giovedi-24-aprile-2008>.

the wish to lead a quiet life without taking any risks, and to keep afloat without assuming unnecessary responsibilities before public opinion. But the overriding sentiment in Pilate is deadly “indifference”, which De Paolis calls the slow death of humankind.

Responsibility — “answerability” — is something we are obliged to reckon with if we want to exercise the prerogative of the human species, namely the possibility to choose and decide. It is natural to feel anxious when we are faced with a choice, because there is always the risk “we might make the wrong one”, with all its attendant consequences. This is why people are so often reluctant to take responsibility for their choices.

But if we understand responsibility to mean the ability to act appropriately and effectively, then responsible choices must also mean free and conscious ones.

“‘Do you refuse to speak to me?’ Pilate said. ‘Don’t you realise I have power either to free you or to crucify you?’ Jesus answered: ‘You would have no power over me if it were not given to you from above. Therefore, the one who handed me over to you is guilty of a greater sin’” (John, 19,10-11). These words describe an approach to power that is, at once, both chilling and sublime. Pilate is a powerful official, working for Caesar: his main role is to keep order in what is one of the empire’s most turbulent provinces. Although his exchanges with his interlocutor elicit stirrings of conscience, he nevertheless ends up preferring a quiet life, not wanting to risk angering the people and, consequently, the emperor. The important point, however, is that Pilate has power over Jesus solely because it has been given to him by Caesar. Instead, the Pharisees and all the men of the Sanhedrin are “guilty of a greater sin”, since there is no Caesar above them; they are guided only by their own consciences and by their desire to perpetuate a caste-based power system. “Power” has a number of meanings: having the power to do something can mean having the faculty, ability or possibility to do it; power can mean energy or strength; it can also denote a role or position of command. The word “power” can refer, at the same time, both to the aforementioned energy (or role) and to its use. In psychosynthesis, all this is encapsulated by the term “will”. Will is the hidden power of human beings and it corresponds to our capacity or possibility to influence life. It is built on two cornerstones: freedom and responsibility.

In particular, it is our responsibility to transform our “potential” into “action”.

Power should always be treated as a means, not as an end, and we

can manage it only if we succeed in remaining detached from it: in short, to manage power is to use it, not be used by it (Seneca).

Although my digression ends here, there is a further aside that I wish to make, and it concerns the way in which some authors understand politics. According to Rosmini and subsequently Luigi Sturzo, politics should be understood as able to limit power.

This point brings us back to the original thread of this presentation, and allows me offer some closing thoughts on the question of power.

Let me start with a brutal example. A few years ago, in the USA, a man was arrested after keeping a number of women enslaved for years. Asked why he had done it, he answered starkly, "Because I could". In this case, the power exercised was absolute and unfettered by ethical limits of any kind. As such, it recalls the power wielded by the absolute sovereign in history (the sovereign, however, not just any man). But even without drawing such an extreme comparison, this case also illustrates the fact that power in itself is attractive, i.e., capable of giving pleasure: "the thrill of power". This explains why many people (far more than one might imagine) regard the securing of a position of power solely in terms of securing privileges, rather than shouldering greater responsibilities. And indeed, absurd as it is, human activity is sometimes organised in ways that, by equating maximum power with maximum privilege (rather than maximum responsibility), actually fail to associate power with responsibility.

When this happens, responsibility ends up being assigned to subjects without power (there are various possible examples, including one I could cite from my own field of work, which I will spare you). Responsibility without power is a distortion of the system, just as power without responsibility is (although the latter is perhaps easier to spot).

What this means, in relation to our discussion of the issues of responsibility and politics, is this: wherever humankind has established (political) systems inadequate for managing the problems faced, the decision makers within them find themselves burdened with responsibility for addressing problems, yet lacking the tools (power) they need to do so.

All this inevitably results in a lowering of the calibre of the political class (mediocre politicians), because the best people (those who want to realise, or "transform", their potential in the sense indicated in the comments referring to the psychosynthesis congress) will never be willing to devote themselves to politics as long as it remains "politics with a small p" (i.e., unable to address problems properly).

Therefore, although we think that political decision-makers have the power to decide things, they do not; and without this power, the risk is that the responsibility that should go hand in hand with power will also be lacking.

In truth, the only responsibility we have (each and every one of us) is to lead our world towards a situation in which it (and its problems) can be properly governed, in other words, to build a new power, starting from the European federation and designed to culminate in global federation.

I wish to end with a small observation drawn from one of the School of Health Management courses I have attended, but applicable to our movement, too. Assigning (although I would use the word assuming) responsibilities within an organisation is not the same as assigning (or assuming) particular slices of power. Instead, it means giving a person the opportunity to undertake to answer for his or her actions, and their consequences, in the full awareness of being part of a living organism in which every organic unit is made up of single parts (individuals) that have a conscience, an identity and a purpose.

Notes

9th MAY 1950. JEAN MONNET: THE REVOLUTION OF EUROPEAN SOVEREIGNTY

Every year, on Europe Day, the EU commemorates the declaration made by the French foreign minister, Robert Schuman, on 9th May, 1950, which led to the birth of the ECSC, the first milestone in the process of European integration. May 9th, 2020 marked the 70th anniversary of this historic event.

Behind Schuman's declaration, there lay remarkable commitment and endeavour, in the sphere of politics and political ideals, on the part of the individuals who drafted the memorandum Schuman took as his basis: Jean Monnet and his collaborators, particularly Etienne Hirsch, a member of the French Resistance who went on to become president of Euratom and subsequently of the UEF, and Pierre Uri, an economist who would later contribute to the drafting of the Treaty of Rome.

Although Schuman's declaration was delivered in a different setting, with different references, there are a number of similarities between that momentous time and the state of affairs today; these similarities lie in the constant efforts, on the part of national governments, to resist unification, and also in the now urgent need to make a qualitative forward leap towards the creation of a form, even limited, of European sovereignty.

Europe has, of course, achieved many important advances since 1950: the European Community has been transformed into the EU; a single market has been created and consolidated; a single currency, the euro, has been introduced and is now adopted by 19 countries; we have a European Central Bank; and since 1979 the European Parlia-

ment has been elected by direct and universal suffrage. And yet Europe still lacks a crucial ingredient, namely the sovereignty that, in certain sectors, would allow it to speak with one voice and assume the status of a global power.

Monnet, in his *Memoirs*, recalls the major problem of addressing the matter of how peaceful Franco-German relations might be achieved in a period (1949-1950) in which public opinion, both as a result of the Cold War and because of the difficulties finding a solution to the “German question”, was fearful and alert to the winds of a possible new war. Monnet’s intuition, the product of lengthy reflection, both personal and with his group, was that the Franco-German problem could be transformed from a difficulty into an opportunity, providing it were viewed from a completely different angle. In short, it needed to be approached in European rather than national terms.

Monnet started from the concrete issue of coal production in the Ruhr and Sarre regions, and the need to solve the problems related to the management of this area, historically contested between France and Germany, in a way that would create a form of European sovereignty, albeit within a limited field.

His long experience (gathered during both world wars) of collaboration and alliances between states had left him convinced of the fragility of cooperation alone as a means of governing interdependence.

“It is astonishing how little the word ‘alliance’, which people find so reassuring, really means in practice if all it implies is the traditional machinery of co-operation (...). Total war at the level of the Alliance seemed to have no meaning, and certainly little hope of being achieved. In each of our countries the civil and military war machine was preparing, as best it could, to wage its own war. (...) Governments were acting separately.”¹

Monnet had to face numerous issues and obstacles, but he was deeply convinced of the value of what he was undertaking, and was helped in his endeavour by the support of individuals and leaders of the calibre of Schuman and Adenauer, who grasped its importance.

In this regard, Adenauer, in his own memoirs, quoted by Monnet, recounts the following episode: “That morning I was still unaware that the day would bring about a decisive change in the development

¹ Jean Monnet, *Memoirs*, Introduction by George W. Ball, Translated from the French by Richard Mayne, New York, Doubleday & Company, Inc. 1978, p. 18. <https://archive.org/details/MonnetJeanMemoirs/mode/2up>.

of Europe (...), news came that an envoy from French Foreign Minister Schuman had an important message for me. [The envoy brought] two letters from Schuman to myself (...). One of them was a personal, handwritten message [in which he] wrote that the aim of his proposal was not economic but highly political (...). I immediately informed Robert Schuman that I agreed to his proposal with all my heart.”²

In the feverish days leading up to the agreement on the final draft of the Treaty, Monnet had very clearly in mind the crucial idea of European sovereignty, although, in the face of misleading attempts to reach intergovernmental agreements, it proved difficult to promote. On 22nd June, in a meeting with the leaders of the delegations from the five countries involved, namely Hallstein (representing Germany), Suetens (Belgium), Spierenburg (The Netherlands), Wehrer (Luxembourg), and Taviani (Italy), he worked hard to resolve the issue of the management of the conference, and how to overcome institutional problems. However, the delegation leaders all followed the same line, and it showed “the natural bias of men accustomed to negotiating agreements between States or between producers — more or less secret agreements restricting free competition. They found it hard to adjust to the idea that this regulatory role could be entrusted to the High Authority, acting openly and with sovereign power.”³

Some wondered whether “important technical questions could not be settled by intergovernmental agreement before the High Authority was set up”, which, as Monnet remarks, “was the very opposite of the spirit and procedure of the Schuman plan.”⁴

Monnet’s view on the question of sovereignty emerges very clearly in his reply to a note from Macmillan: “The Schuman proposals are revolutionary or they are nothing. (...) The indispensable first principle of these proposals is abnegation of sovereignty in a limited but decisive field (...), in my view, any plan which does not involve this indispensable first principle can make no useful contribution to the solution of the grave problems that face us.”⁵

Monnet recognised the various obstacles in the way of introducing of a High Authority, at supra-state level, which is the premise for adopting a federal as opposed to an intergovernmental logic: “Turn-

² *Ibid.*, pp. 302-303.

³ *Ibid.*, p. 325.

⁴ *Ibid.*

⁵ *Ibid.*, p.316.

ing to Spierenburg, I reminded him that intergovernmental co-operation had never led anywhere: 'I realize' I said, 'that there may be serious concern about the radical change which the French proposal represents. But remember that we are here to build a European Community. The supranational Authority is not merely the best means for solving economic problems: it is also the first move towards a federation'."⁶

The idea of converting a need into a political action was a very clear in Monnet, who recounts an environment that was willing to accept it, yet seemingly unable to promote it.

"Looking back on this mid-century period, one can hardly fail to be struck by the extraordinary ferment in men's minds about the idea of European unity. The political parties and militant movements dealt with it in their manifestoes; statesmen discussed it in their speeches; articles were devoted to it in the press (...) one has the feeling that so rich a current of thought could hardly fail to bring about European unity on the broadest front. And, indeed, the vocabulary and arguments still used on the subject today were already current then. But they had nothing to do with action."⁷

As the conference of the six founding countries got under way, there could be no doubting the importance of the work done by Monnet and his small group in those frenetic days: "by the time the (...) conference opened, I had on my desk a draft Treaty forty articles long containing in rough but recognizable form the basic structure for the organization of Europe. This text, which enlarged on the Schuman Declaration of May 9 and made it operational, was also the work of the same few people. Their contribution did not stop there: but, important as it was to be later, there is no doubt that this was an exceptionally creative phase. Such a phase in the history of ideas is always brief, and is often hard to distinguish from the later, practical phase which involves great changes for people and things."⁸ Significantly, Monnet adds: "In the course of what I said on June 21, I also went into a new aspect of the High Authority's independence. It should (...) have its own revenue, drawn from a levy on coal and steel production, and not depend on government subsidies to finance its administration and its operational work. Its moral and financial credit would make it the best-placed borrower in Europe."⁹

⁶ *Ibid.*, p. 328.

⁷ *Ibid.*, pp. 282-283.

⁸ *Ibid.*, pp. 321-322.

⁹ *Ibid.*, p. 324.

Notwithstanding the huge advances made in the field of European solidarity, and the help that the states are set to receive through the various European instruments that have been created to tackle the emergency, the historic challenge of the global pandemic, with the effects it is having on every aspect of life, is making one thing very clear: whenever a country, be it The Netherlands, Germany, or any other, rallies behind a national position and the defence of an alleged national interest, the old conflict between national interests and the European interest immediately returns to the fore.

Monnet was fully aware that such stances, while understandable and long established, only lead to confrontation. Today, like then, the question we have to ask ourselves is: can individual European countries, on their own, survive in the face of the immense problems of our times? If the answer is no, then it follows that a true European alternative must be created in the name of the “total solidarity” mentioned by Monnet, initially only in certain fundamental fields of course, but in such a way to ensure that the Union as a whole is kept from collapsing, thereby exposing the various countries to the risk of falling prey or victim to some other, extra-European, power just waiting for this to happen.

Just ahead of the Declaration on 9th May, Schuman in his preamble delivered before more than two hundred journalists in the *Salon de l'horloge* at the Quai d'Orsay, underlined the need for a profound change in international politics. “It is no longer a time for vain words, but for a bold, constructive act. France has acted, and the consequences of her action may be immense. We hope they will. She has acted essentially in the cause of peace. For peace to have a real chance, there first must be a Europe.”¹⁰

Subsequently, on 20th June, Monnet tells us, Schuman, opening the conference of the six participating countries, told them: “never before have States undertaken or even envisaged the joint delegation of part of their national sovereignty to an independent supranational body.”¹¹

This was an entirely new approach, fortunately one supported by Germany, which Monnet had prepared in his exchanges with Adenauer, telling him, among other things: “We want to put Franco-German relations on an entirely new footing (...). We want to turn what divided France from Germany – that is, the industries of war – into a common

¹⁰ *Ibid.*, p. 304.

¹¹ *Ibid.*, p. 322.

asset, which will also be European. In this way, Europe will rediscover the leading role she used to play in the world and which she lost because she was divided. Europe's unity will not put an end to her diversity – quite the reverse. That rich diversity will benefit civilization and influence the evolution of powers like America itself.

The aim of the French proposal, therefore, is essentially political.”¹²

Adenauer, addressing Monnet, was of like mind: “For me, like you, this project is of the highest importance: it is a matter of morality. We have a moral and not just a technical responsibility to our people, and that makes it incumbent upon us to fulfil this great hope. The German people have enthusiastically welcomed the plan, and we shall not let ourselves be caught up in details. I have waited twenty-five years for a move like this. In accepting it, my Government and my country have no secret hankerings after hegemony. History since 1933 has taught us the folly of such ideas. Germany knows that its fate is bound up with that of Western Europe as a whole (...).

‘Monsieur Monnet,’ he said, I regard the implementation of the French proposal as my most important task. If I succeed, I believe that my life will not have been wasted.”¹³

Accordingly, on June 13th, Adenauer addressed the Bundestag with the following words: “Let me make a point of declaring in so many words and in full agreement, not only with the French Government but also with M. Jean Monnet, that the importance of this project is above all political and not economic.”¹⁴

* * *

Today, unlike 70 years ago, the European Union has not just emerged from a ruinous war; nevertheless, it faces a series of grave problems that, if unresolved, threaten to wipe out the effects of years of integration. With the Covid-19 pandemic, the freezing of activities and trade in the single market, the repercussions of all this on employment and development, and the deepening of the states' national debts, Europe seems to be plunging into an abyss. And as long as it has at its disposal only the existing systems and institutions, which set the states in opposition to one another and encourage selfish national stances, it will struggle to get out of it.

Rocked by the pandemic, the single countries, rather than trying to

¹² *Ibid.*, pp. 309-310.

¹³ *Ibid.*, pp. 310-311.

¹⁴ *Ibid.*, pp. 319-320.

find a shared approach to their enormous problems, also in the health-care sector, have made their own choices, often even in conflict with one another. The Union, like the emperor with no clothes, has been left exposed, and what we see is that there is really no union at all. There is certainly no European sovereignty, or “total solidarity” as Monnet might have said — no coming together to tackle the problems that matter through a body that represents the whole.

National governments, and the structures, bureaucracies and civil servants that underpin them, are reluctant to give up their power and jealously defend it against the intrusions of a necessary, but new, emerging power that frightens them. Only the French president, Emmanuel Macron, perhaps mindful of the role played by France in 1950, has based much of his action, even before becoming president, on the idea of a political and sovereign Europe.

Among the EU institutions, the European Parliament, in particular, should claim to exercise this supranational European power, yet many MEPs are still trapped by what they know, and have yet to adopt a truly European mindset. They limit themselves to managing that which already exists, failing to see that this is no longer enough to ensure the survival of this institution. There is no more time to lose! It has become essential to abandon the national perspective and adopt a vision of things that shows us the common good, and indicates the unitary solutions to problems.

Jean Monnet, addressing Altiero Spinelli in 1952, said: “What we want is a revolution, and we must accomplish it with legal means, with statesmen who lack energy and any emotional commitment.”¹⁵

Anna Costa

¹⁵ Altiero Spinelli, *Diario europeo 1948-1969*, Bologna, edited by Edmondo Paolini, Bologna, Il Mulino, 1989, p. 140.

EUROPE AND THE LANGUAGE OF POWER

A surprisingly large number of people believe that the signing of the Treaties of Rome, on 25 March 1957, was the “founding act” of the European project, rather than the 1951 Schumann declaration, or the Paris Treaty of that same year. Actually, this is quite understandable, for two reasons in particular. The first is that the *de jure* birth of the European Union — i.e., of the institutions constituting one of the most advanced expressions of European integration — in Maastricht in 1992, and all the intermediate stages leading up to that point, derived essentially from the EEC (in fact, the Maastricht and Lisbon Treaties amended and extended the Treaties of Rome). The second is that although the process of European integration started with the Schumann declaration, the significance of the founding of the European Coal and Steel Community (ECSC) was severely undermined by the failure of the European Defence Community (EDC) project, which had been meant to pave the way for political union. As a result of the French National Assembly’s rejection of the EDC project, the governments of the Six (Italy, France, West Germany, Belgium, the Netherlands and Luxembourg) decided that it would be better to shelve, for a while at least, the objective of political integration, and to focus instead on the objectives of development and economic integration. In this sense, the first ten years of the EEC were, without doubt, a resounding success, given that the progressive merging of the member states’ markets, coinciding with the period of international economic stability and post-war reconstruction ushered in by the Marshall Plan, and unfolding under America’s protective wing, opened up, for continental Europe, completely unprecedented development opportunities.

Today, especially now that the goal of creating a strong European common market regulated directly by EU institutions has substantially been reached, the time has come to rediscover the drive, stemming from shared ideals, that helped Europe to take its first steps on the road to integration. Indeed, the novelty and the revolutionary character of Monnet’s memorandum lay not in the ECSC, whose creation it outlined, but rather in the significance that this new institution would assume going forward. On re-reading Monnet’s memorandum, and the subsequent

declaration by the French foreign minister Schumann, there can be no mistaking the idea that lay behind the creation of the ECSC. It was envisaged that this step would mark the start of the global affirmation of a united Europe — a Europe that could act as a third pole vis-à-vis the two superpowers, while also promoting a culture of peace. The creation of the ECSC was also a means of reinforcing the Europeans' awareness, gained in the wake of WWII, of their common destiny, and of conveying this awareness to the rest of the world. "The cold war, whose essential objective is to make the opponent give way, is the first phase of real war" Monnet remarked, before concluding "In effect, we are at war already".¹ Today, in the face of stark evidence that the shattering of the Cold War power logic (the mechanism of two opposing blocs) has left the world in a state of perennial instability, it has become necessary to give "the peoples in the 'free' countries hope in the more distant aims which will be assigned to them, (...) [in such a way as to create in them] an active determination to pursue those aims."²

From this perspective, it is crucial to draw lessons from the failure of the EDC project in order to strengthen our ambitions as Europeans.

These issues have been addressed by Josep Borrell, High Representative of the Union for Foreign Affairs and Security Policy, who, in a recent article, called upon Europe to "relearn the language of power".³ He began by underlining the need to recognise that it is still power politics that determines global balances. Indeed, the ruthless and crude use of this instrument (in particular by Trump's USA, Russia and China) is perhaps the ugliest evidence we have that this continues to be the case. Power politics, being based on the balance of power, allows states that, for various reasons, have assumed global importance to exploit their position, using it, like a weapon, to force their geostrategic interests onto the rest of the world. Other countries, being too small or underdeveloped, do not even have the cards necessary to participate in this "great game", and must therefore submit to the moves made by the big players. The result of this ruthless logic, whereby relations between states are governed not by war, so much as by the threat of it, is international

¹ Jean Monnet, *Memoirs*, Introduction by George W. Ball, Translated from the French by Richard Mayne, New York, Doubleday & Company, Inc. 1978, p. 290, <https://archive.org/details/MonnetJeanMemoirs/mode/2up>.

² Discussion paper by Jean Monnet (3 May 1950), https://www.cvce.eu/en/obj/discussion_paper_by_jean_monnet_3_may_1950-en-e8707ce5-dd60-437e-982a-0df9226e648d.html.

³ J. Borrell, *Embracing Europe's Power*, New Europe, February 14, 2020, <https://www.neweurope.eu/article/embracing-europes-power>.

anarchy. The solutions found to international disputes are often shaped by how and how effectively one state could potentially assert its prerogatives and apply its weight. In short, therefore, international relations can essentially be reduced to the need to weigh up the possible consequences of a hypothetical war among the countries concerned. And this brings us back to Monnet's consideration, namely that war is always at the centre of political and strategic thought. So, having established the primacy of the power principle, let us return to Borrell's article, this time to ask ourselves the fundamental, but rather tricky, question of the role the EU should play in the world. As Borrell points out, "It may, at first, seem difficult to face this challenge. After all, the EU was established to abolish power politics."⁴ Certainly, we appear to be faced with a striking paradox: on the one hand, we have an institution, born from the ruins of a war caused by German expansionism, that has always promoted the cause of multilateralism; on the other, "a harsher reality, with many actors ready to use force to get their way".⁵ But this is, indeed, the reality, and it has to be recognised as such. At the same time, it must be acknowledged that any EU role or intervention outside the current power situation is inconceivable. Naturally, it is important not to make the mistake of treating this affirmation as an absolute rule, and thus of elevating it to the status of an eternal paradigm. First, because this would play into the idea that the world is shaped purely by the clash of opposing and irreconcilable interests of states, and therefore has room only for strength and muscular confrontations. And second, and above all, because this interpretation offers absolutely no scope for change: indeed, viewed from this perspective, politics can do nothing more than support a power situation (no longer able to meet the challenges of our times) in which power politics is all that really counts.

The abovementioned paradox can, however, be overcome if we separate the two sides of the question: on the one hand, we have a harsh global situation, and on the other, a Europe that is not equipped to act in this setting. Therefore, to ensure true affirmation of its founding values, which are already partially realised within national communities around the world — indeed, the affirmation of these values must be neither partial nor confined to certain geographical areas —, the EU must, as the High Representative puts it, "relearn the language of power". Unfortunately, this is precisely where the greatest difficulties are encountered, and they stem from the EU's cumbersome institutional structure, but

⁴ *Ibidem.*

⁵ *Ibidem.*

also from the fact that, crucially, political decisions depend on EU institutions, and since these operate according to the principle of intergovernmental cooperation, they generally have to be supported by the national governments unanimously. Borrell, too, highlights this now emblematic situation: “With unanimity rules, it is difficult to reach agreements on divisive issues, and the risk of paralysis is always present.”⁶ It is important, however, to view the question from the correct perspective, recognising that the unanimity requirement, which effectively hands the states a sort of “power of veto”, is merely a symptom of the current power situation within the EU, inextricably linked to the issues of sovereignty and where power ultimately resides. Indeed, unless we remember that this power, and sovereignty in general, are still the exclusive prerogatives of the member states, and entirely under their control, then the states’ failure to understand that “using their vetoes weakens not just the Union, but also themselves”⁷ will continue to seem amazing.

Two circumstances, in particular, help to clarify all this. First, unanimity voting has often been extended, almost routinely in fact, to areas in which the Treaties make no express provision for it, instead envisaging qualified voting. And yet even if, in these areas, majority voting were applied instead, it is likely that states that voted against the law or legislative act in the European Council would fail to apply it; after all, implementation has always been left to the discretion of the states. It would, in fact, be absurd to expect a government to sacrifice its sovereignty by implementing something it had opposed in the Council. There can therefore be no underestimating the political significance of the fact that, ultimately, unanimous agreements have always been reached in the Council, even at the cost of watering down political solutions, and without ever having to force a state’s hand: ultimately, the states have preferred to avoid opening up serious rifts that would expose the limits linked to the lack of European sovereignty and of a true European government capable of enforcing the decisions taken within the constraints of the Treaties.

The second circumstance is that the European Council, as the forum of the heads of state or government of the EU member states, has in a certain sense arrogated the right to decide even on matters that, strictly speaking, are not within its competence. This situation can be interpreted in two ways: first, as a sort of new version of the concert of nations that shaped power balances in Europe at the start of the nineteenth century, and second as evidence of the states’ growing awareness of the limits,

⁶ *Ibidem.*

⁷ *Ibidem.*

in the absence of European-level management of the most important issues, of the myopic formula of opposing national sovereignties.

However, despite this growing awareness, unless the power situation in Europe can be redrawn, European-level management is destined to remain exclusively the prerogative of the states and, therefore, often inefficient.

Close analysis of the situation in the euro zone provides an even clearer, and more emblematic, illustration of this problem. In this setting, a federal institution, the European Central Bank, is responsible for monetary policy, while fiscal and budgetary policy remain exclusively, and very firmly, in the hands of the national parliaments and governments. The introduction of the single currency, given the inevitably close links necessary between the countries signing up for it, nevertheless created the need for some kind of coordination in the field of fiscal policy. This took the form of an informal assembly of the euro area finance ministers (the Eurogroup). This situation, whereby the Eurogroup does not formally make decisions — these are still taken autonomously by the states —, serves as a kind of compass, and it shows us that there has, in fact, been been no change of direction at all: despite the existence of the single currency, the management of power in Europe continues to depend on the relations between states and, therefore, on the balance of power.

In Europe, there is one leader, in particular, who seems ready to take up the points raised by Borrell and willing to work to translate them into concrete solutions designed to effectively stabilise Europe's position in the world. The leader in question is the French president Emmanuel Macron, who presented his vision in a speech given at the École de Guerre on 7 February, 2020, on occasion of the 60th anniversary of the creation of the French nuclear force (known as the *Force de frappe*).⁸ Macron's political action in Europe has always been based on critical reflection on the issue of sovereignty, in particular on the crisis of national sovereignty, and the need to rebuild sovereignty at European level. A significant part of his speech was given over to an analysis of the current situation in the world, which, as he sees it, is characterised by three "paradigm shifts": the first, strategic, as shown by the abovementioned re-awakening of power politics, the second a "political and legal paradigm shift [in the form of] the multilateralism crisis and the regres-

⁸ Speech of the President of the Republic on the Defense and Deterrence Strategy, 7 February, 2020, <https://www.elysee.fr/emmanuel-macron/2020/02/07/speech-of-the-president-of-the-republic-on-the-defense-and-deterrence-strategy.en>.

sion of law in the face of power balances”,⁹ and the third technological. And in the midst of these disruptive trends, which seem destined not to lessen but only escalate, all Europe has at its disposal are the few tools created (from Maastricht in 1992 to Lisbon in 2007) during the twenty years of American hegemony that Macron calls “the era of peace dividends”.¹⁰ Indeed, although Europe’s decision (with the introduction of the single currency) to finally address the issue of national sovereignty, at least in relation to monetary policy, was undoubtedly a revolutionary step, and carried great symbolic value, in other fields, the European edifice still reflects the needs of a world scenario that no longer exists.

The most fundamental aspect of sovereignty is that it needs a government. Today, with the European states powerless in the face of global challenges, and ultimately unable to make their voices heard, even through the method of European coordination, a true European government, and therefore European sovereignty, is the only means of addressing the global issues. Only in this way, i.e., by setting up a new European sovereignty alongside the now powerless national version, can Europe become truly effective. According to Macron, the building (rebuilding) of these two levels of sovereignty must go hand in hand; however, since the creation of a European institution to which to transfer powers and competences in defence matters does not yet seem feasible (“For years to come when it comes to defence, Europe will only draw strength from national armed forces”),¹¹ it will be up to the single countries to fill the gap created by the growing lack of investments in the military field over recent years, and so contribute to the development of a “a shared strategic culture”, but he warns that “this [budgetary] effort means nothing if it is not implementing a strategic vision”.¹²

In his speech, Macron also offered a possible response to the questions raised by Borrell, strongly reiterating the need for Europe to speak “the language of power”. In just one passage, illustrating this point, he remarked: “For too long, Europeans have thought that it was enough to lead by example and that if they disarmed, others would follow. This is not so! Disarmament cannot be an objective in itself: it should first improve international security conditions.” The French president’s proposals for shaping this European strategic vision — he spoke of “tangible ambitions that we want to establish for Europe’s security and defence

⁹ *Ibidem.*

¹⁰ *Ibidem.*

¹¹ *Ibidem.*

¹² *Ibidem.*

policy”¹³ — move along two lines. The first involves a rethinking of Europe’s relations with its traditional ally, the USA: Macron argues that the centrality of NATO must not be questioned, but “our security (...) inevitably requires that Europeans have a greater capacity for autonomous action.”¹⁴ The second concerns the issue of nuclear deterrence: the *Force de frappe* plays a key role in the defence not only of France but also of Europe; after all a serious threat to any European country would inevitably affect France and, vice versa, France’s “nuclear forces (...) strengthen the security of Europe through their very existence and they have, in this sense, a truly European dimension.”¹⁵

Macron’s central point, which is part of the need to create, at European level, “a real policy of sovereignty”¹⁶ able to complement and reinforce national sovereignty, emerges in his formal airing, aimed at countries wishing to follow this path, of the possibility that French nuclear resources might be shared for the benefit of other countries: “I would like strategic dialogue to develop with our European partners, which are ready for it, on the role played by France’s nuclear deterrence in our collective security. (...) This strategic dialogue and these exchanges will naturally contribute to developing a true strategic culture among Europeans.”¹⁷ This proposal is highly significant since it fits in with the idea that the countries of Europe must take the federal leap in order to achieve the transfer of sovereignty that would guarantee them a true European defence policy. This transfer of sovereignty is the only way in which these countries, which currently depend entirely on the American umbrella to protect them, might find a credible alternative approach to the issue of their defence. Paradoxical as it may seem, in order to spread European values in the world, it is necessary to strengthen the defence policies of the member states and create a defensive capacity at European level (potentially also based on nuclear deterrence). But, as Macron points out, the choice facing Europe should not be viewed in such simple terms: “I do not believe that the choice is between a moral absolute with no link to strategic realities, and a cynical return to a lawless power struggle.”¹⁸ In actual fact, in a setting in which the actions of countries such as China and Russia and, in particular, the supremacy that China has achieved on the world stage, are pushing to the fore an

¹³ *Ibidem.*

¹⁴ *Ibidem.*

¹⁵ *Ibidem.*

¹⁶ *Ibidem.*

¹⁷ *Ibidem.*

¹⁸ *Ibidem.*

alternative model to the European one, and moreover one that could well become predominant, the need for a European player, even only in order to defend the European model, is becoming increasingly pressing. In seeking to “a different international order, with effective global governance which can set up and enforce law”¹⁹, Europeans have no choice but to reckon with the current power situation. When all is said and done, a European federal state will, in any case, have to act in a foreign policy dimension in which relations are shaped by the balance of power. And yet, the very founding of this state will be both a revolutionary act and a demonstration that international politics and power management can mean something different from brutal muscular opposition between states. It will therefore do much to promote this alternative approach.

Paolo Milanesi

ANTI-EUROPEANISM IN AMERICAN POLITICS IS HERE TO STAY. EUROPE MUST ACKNOWLEDGE THE FACT AND REACT

In recent years, the Republican Party has increasingly become the “Trump Party”. The vigorous defence of the president in the House of Representatives and the Senate, both in the Biden-Ukraine case and in the Russiagate affair (even by party representatives who prior to the 2016 primaries were considered “Never Trumpers”), reveals a Republican Party unprecedentedly submissive to the POTUS. The behaviour of the Republican policymakers and Trump’s popularity among Republican voters (shown by approval ratings of more than 80 per cent) are both signs that Trumpism, having started out as a peripheral phenomenon in 2016, has grown to the point of becoming the main current within the Grand Old Party. It will now take years, if not decades, for the party to return to more moderate positions, if indeed it ever does.

Today, a good three years after his surprise victory in the Repub-

¹⁹ *Ibidem.*

lican primaries and equally unexpected election as US president, Donald Trump is merely the spearhead of a strong and vociferous faction of the party — a faction that, until four years ago, had seemed destined to remain a minority voice, unlikely ever to get close to any positions of power and responsibility. Instead, as an effect of the deep polarisation of US politics, and the failure of moderate candidates like Rubio and Kasich to counter not just Trump's candidacy, but also the narrative he puts out, this faction has come to form the mainstream of the party once proudly led by the likes of Lincoln and Eisenhower. In 2016, Trump was the only Republican and only presidential candidate to openly support Brexit and, through declarations and tweets, to make no secret of his hostility towards the EU (and NATO). Today, an increasingly large part of the Republican base turns to Fox News or far-right conspiracy platforms such as Infowars and Breitbart for its information; moreover, extremist student organisations, such as Turning Point USA and the American Conservative Union, and political events like the Conservative Political Action Conference (CPAC, at which Nigel Farage has been a fixture in recent years, as a guest and speaker), have started to play an important role within the Republican Party. And as things stand, they look set to become even more important, especially if Trumpism proves to be more than a passing phenomenon.

From the pro-European and Atlanticist standpoint, the increasingly anti-European stance of the GOP, its voters and its élite is terrible news. Not only has the CPAC, as mentioned, embraced arch Brexiteers such as Nigel Farage, but the EU has also found itself repeatedly verbally attacked and derided by Trump and the individuals close to him, such as Mike Pompeo (who had no scruples about attacking EU diplomats and officials head-on during a visit to Europe). And all this has been accompanied by episodes like the (temporary) downgrading of the diplomatic status of the EU representative in Washington. In short, whereas outbursts like John Kerry's "Fuck the EU", muttered off stage and attributable to moments of frustration, once seemed to be isolated incidents, they now appear to be frequent occurrences.

NATO continues to be an important pillar of the Western order and, together with European unification, has been crucial in sustaining Europe's post-war peace, but it is important to realise that the anti-Europeanism of today's GOP constitutes a very real threat to the future of the Alliance. This is because this anti-Europeanism, more than just opposition to the European project *tout court*, extends to

a range of sectors. First of all, it extends to, and rejects, the very concepts of welfare and a more balanced relationship between the state and the business world. The anti-Europeanism espoused by the American right is the expression of an ideology based on opposition to the very idea of any form of social contract, however this manifests itself, be it in the form of public intervention in the economy (more or less acceptable depending on the conditions), a liberal order complete with an antitrust authority and structure, personal data protection, the idea of progressive taxation, or the fight for the environment. Europe and the EU, to those on the American right, meaning the conservative right in all its forms, paleo-libertarian or neo-authoritarian, is one and the same thing, and, in their view, represents everything that can be considered an enemy and an impediment to the realisation of their ideological project. The European Union is just an obstacle needing to be removed. Brexit, like support for anti-EU forces, is functional to the realisation of this plutocratic project, which combines the crudest, most selfish and most predatory expressions of the business world with a superficial, one-dimensional reading of liberal political and economic theory.

The fact that these views are so strongly held in one of the two parties making up the United States' two-party system is a very serious risk for the EU, greater than Putin's Russian revanchism — Russia's modest economic performance actually severely limits the success of its action —, and greater than the rise of China. In fact, whereas both China and Russia were, in different ways and to different degrees, competitors, and indeed still are, the United States has traditionally been the guarantor of order and of European stability. In the current setting, to allow the United States to continue to play a hegemonic role in the Atlantic system would be a very risky choice for Europe to make.

It is therefore opportune to seek other choices. Just as American and Australian tycoons and billionaires no longer have any qualms about financing forces inclined to fragment Europe and frustrate its efforts to tackle the climate emergency, Europe should have no qualms about reacting, and thus about pitting not so much "power against power" as "altar against altar", to quote the nineteenth-century Austrian Chancellor, Klemens von Metternich. The clash between the anti-environmentalist, anti-liberal, nationalist American right and a European Union that is still focused on multilateralism, the energy transition and zero emissions policies is, above all, an ideological conflict. The EU must, without hesitation, work to reach that section

of US civil society and the US elite, both Democratic and Republican, that still believes in the importance of proximity to and loyal collaboration between Europe and the United States. But it also needs to strive to reconnect with Americans of all backgrounds and situations, particularly those who were most susceptible to Trump's message in 2016. At the same time, Europe must finally become more independent of the United States, establishing a new relationship in which it is neither its adversary nor its subordinate, and in so doing must diversify its friendships and international relations. It must have, in its own right, a single and cohesive security and defence policy, for which it is accountable before the European Parliament. It must develop its own industrial policy, especially in relation to defence, so as to be able to break free from the United States. And the European budget must support these initiatives. In short, the European institutions will have to make a constitutional leap forwards, in order to have a European government capable of dealing with the aggressiveness of Republican politics. Although, from a political, historical and perhaps even emotional perspective, all this may seem undesirable, it will be the best strategy of defence against America's increasingly anti-European political discourse.

For a European opposed to unification, it would be all too easy to fall into the trap of thinking that the aggressive approach of the American right is the beginning of the end of the EU, and opens up new horizons of freedom for the countries of Europe. But this is an illusion; moreover, for an anti-European to hope for such a scenario would be counterproductive. After all, the ideological warfare being waged by the American right is aimed above all at reaffirming an American supremacy in *all* power relations — a supremacy in which everything is based on an all-or-nothing vision of international relations, wherein an advantage for one (the USA) must inevitably mean a disadvantage for another. The future trade negotiations between the UK and the United States, especially if Trump is re-elected, will be a first opportunity to observe this new power dynamic in practice. To all this, it must be added that, ideologically, the goal of the new, Trumpian GOP is to dismantle everything that is considered an obstacle to the realisation of the ultra-free-market and plutocratic social model championed in American conservative circles. Accordingly, it would do away with safety and environmental standards, get rid of any state involvement in the provision of public services such as health and education, and guarantee no protection of personal data (seen purely as a commodity); furthermore,

as shown by the environmental and Covid-19 emergencies, it would display total contempt for science, instead promoting irrational and anti-scientific ideas. European unity as a future prospect may not interest Europe's self-proclaimed sovereignists. But for all the aforementioned reasons, they should be even less interested in a future of total subjection, and less willing to accept a model of economic management and public administration entirely extraneous to European political and economic culture.

May 2020

Francesco Violi

MERCOSUR: A FUTURE IN THE BALANCE

In August 2017, the former Uruguayan president, Luis Alberto Lacalle, interviewed in the Argentinian newspaper *La Nación*, declared “Mercosur is in agony and no longer good for anything”.¹ In 1991, the same Lacalle, as president of Uruguay, had, together with the presidents of Argentina, Brazil and Paraguay, signed the Treaty of Asunción that created Mercosur. As repeatedly emphasised in the preparatory documents to that founding treaty, the original intention had been to pursue a project of economic and political integration along the lines of the European Union. But now, three decades on, Mercosur is in the throes of a crisis so deep that, also in view of the events of recent years, it can be feared to have run completely off course. To understand what has happened, and is happening, in that part of South America, it is necessary to analyse a series of issues, and to do so without forgetting, crucially, that it was not until the mid-1980s that democracy first made an appearance in the region. The creation of Mercosur served to consolidate the economic and political development of several young democracies, but in recent years, resurgences of nationalistic sentiment, populism and military nostalgia are undermining this integration project.

¹ *Boletín Parlamento Mercosur (BPM)*, La Nación, Buenos Aires, 8 August 2017.

The Parlasur.

Back in December 2005, the Mercosur Common Market Council (CMC) drew up a roadmap with the objective of arriving at direct elections of the Mercosur Parliament (Parlasur). It was envisaged that, in the first phase, sessions of the Parliament would be attended by elected members of the respective national parliaments. In accordance with the planned timeline, the first meeting of the Parlasur took place in 2006. Elections by universal suffrage, to elect the Parlasur members directly, were meant to take place in a second phase, specifically in 2014.² However, even though this proposal had been renewed in 2011 by the Mercosur Summit of Heads of State, in April 2019, the presidents of Argentina, Brazil, Paraguay and Uruguay, in a joint declaration, announced the decision to drop the plan for direct elections. By postponing the project indefinitely, they effectively abandoned the idea of a parliament directly elected by the peoples of the region.³

Each Mercosur state had, and still has, 18 representatives in the Mercosur Parliament, who meet once a month at the Parlasur headquarters in Montevideo. Under the terms of its 2005 proposal, the CMC wanted to move towards direct elections by universal suffrage, along the lines of the method used for electing the European Parliament, which had been introduced in 1979. But thorny problems immediately arose, the first being the number of representatives each state should be granted. Were this to be decided on a simple proportional basis, taking into account solely the size of the population, Brazil would immediately have an absolute majority in any voting scenario. Having more than 200 million inhabitants, it is far more populous than Argentina (45 million), Paraguay (7 million), Uruguay (4 million) and Venezuela (33 million). It was therefore necessary to find a formula that would allow all citizens to be represented, yet without handing any single state a ready-made majority. While the experts in electoral systems carefully analysed the various options, the politicians repeatedly deferred the question of Parlasur elections. When an agreement was finally reached on the number of MPs each country would be entitled to have (43 for Argentina, 75 for Brazil, 18 each for Paraguay and Uruguay, and 32 for Venezuela, making a total of 186), there arose the problem of the need to draw up, within each state, an *ad hoc* electoral law and create new electoral colleges. In the end, only Paraguay actually

² Cf. Consejo del Mercado Común, *Protocolo Constitutivo del Parlamento del Mercosur*, 8 December 2005.

³ *BPM*, www.ultimahora.com, Asunción and La Nación, Buenos Aires, 21 April 2019.

wrote its own electoral law and proceeded with the election, in 2018, of its 18 representatives. But, together with the aforementioned decision to drop the plan for direct elections, it was also decided to retain the current structure of the Mercosur Parliament, whose members therefore still have a dual (national and supranational) mandate.

The real problem with all this is that the Parlasur's powers have remained purely formal. Over the years, the Parliament has never assumed legislative power or been assigned a supervisory role vis-à-vis the Summit of Heads of State, and as a result even its directly elected representatives (those from Paraguay) have admitted to feeling futile, arguing that while the Parliament needs to be endowed with "legislative and control powers, the key characteristics of a legislative body, [...] these powers are currently assigned to the Summit of Heads of State, therefore our role is totally useless".⁴ This state of affairs is perhaps not surprising, given that the *Protocolo Constitutivo* of the new parliament gave it only purely formal and consultative functions;⁵ that said, it should also be added that, within the Parlasur, no group of parliamentarians has ever come together to speak out and fight for real powers. The situation that has evolved is well illustrated by the words of the Paraguayan foreign minister, Castiglioni, who declared that abandoning the idea of direct elections had been necessary in order to work out a better way of organising the activities of the Parlasur, "...even though there are [still] no plans to do so".⁶

Although the events of recent years culminated in the drastic decision to rule out direct elections of the Parlasur, this outcome must also be attributed to the profound divisions that have opened up between the member states on the future of Mercosur, with enlargement of the bloc to other countries leading to serious disagreements within the Summit. Nevertheless, it has been made quite clear that sovereignty in the region remains firmly in the hands of the single member states, as the events of 2019 indeed confirm.

Venezuela's Accession to Mercosur.

Mercosur, just like the EU, is open to the possibility of accepting new members. In 2007, Venezuela became the first new country to apply to join the bloc, following its decision, the previous year, to withdraw from the Andean Community of Nations (CAN).⁷ Before a

⁴ *BPM*, ABC, Asunción, 24 November 2019.

⁵ Art. 4 *Protocolo*, *op. cit.*

⁶ *BPM*, www.ultimahora.com, Asunción, 21 and 23 April 2019.

⁷ The Andean Community of Nations (CAN) comprised Colombia, Ecuador, Peru, Chile and Venezuela, until the latter decided to withdraw.

prospective new Mercosur member state can become a full member, however, a transition period is envisaged, during which it is required to attend meetings and sessions of the Summit and Parliament as an observer. Venezuela was formally granted admission to Mercosur in July 2012, but its membership triggered a fierce dispute between the member states that, even today, remains unresolved. In brief, Paraguay opposed Venezuela's membership from the outset, arguing that the anti-US policy, economic policy and social policy pursued by Venezuelan President Chavez went against the founding principles of Mercosur. Since a new country can become an active member of Mercosur only if this transition is approved unanimously by the parliaments of the member states, Paraguay's opposition should (and would) have made Venezuela's entry into the bloc impossible, had it not been for another dramatic turn of events the previous month. In June 2012, Paraguay had been temporarily suspended from Mercosur under the terms of the trade bloc's *Protocolo democrático*, which allows member states, through a unanimous vote of their parliaments, to temporarily suspend any state accused of violating democratic principles. In Paraguay's case the decision was prompted by an internal political crisis that saw President Lugo forcibly removed from office in the midst of fierce and widespread protests over his re-election.⁸ Because it was decided to hold the vote on Venezuela's permanent membership during the period of Paraguay's suspension, Venezuela was able to join the bloc. By the time Paraguay was readmitted at the end of 2012, Venezuela's membership was already a *fait accompli*. The presence of Venezuela in Mercosur immediately sowed deep discord and divisions, not least because of the divisive figure of its president, Chavez, whose anti-USA stance and frequent public outbursts fueled domestic foreign policy positions that were not aligned with those of the other member states, with the exception of Uruguay. Following Chavez's death in 2013, and the crisis that blew up in Venezuela in 2017, leading the Caribbean nation to the brink of civil war, it was decided, again through recourse to the aforementioned *Protocolo democrático* mechanism, that Venezuela should be suspended from Mercosur.⁹ But just as Venezuela's admission to the community had been decided in the face of opposition, its suspension, too, was not straightforward:

⁸ On the *Protocolo democrático* and the crisis in Paraguay see also: S. Spoltore, *Brasile e Argentina al bivio nel Mercosur*, *Il Federalista*, 54 n. 3 (2012), p. 160.

⁹ S. Spoltore, *Venezuela e Mercosur: la difficile via verso la democrazia*, *Il Federalista*, 59 n.2 (2017), p. 169.

indeed, it took a joint intervention by the presidents of Argentina and Brazil to secure Uruguay's agreement to this move. Uruguay believed that a US-led international conspiracy against Maduro (the new President of Venezuela) was under way, and held out for several months before finally bowing to the pressure from the two regional powers.

Enlargement continues to be at the heart of political debate between the Mercosur member states, as indeed does the more general question of the region's foreign policy, especially given the imminent entry of Bolivia and Chile. Barring new unforeseen events and delays, these two countries, currently assigned observer status, will become full members within the next two years.

The Next Countries in Line to Join Mercosur: Bolivia and Chile.

For both Bolivia and Chile, 2019 was a year of dramatic strife. It brought public protests and fierce clashes between demonstrators and police during which Bolivian president Morales was forced to flee the country in an attempt to quell the anger of crowds besieging the presidential palace and, in Chile, a military-enforced curfew following attempts to attack President Piñera.

All this paints a very bleak and frightening picture with regard to the future of these two nations whose histories include repeated coups (in Bolivia 150 in just under 200 years) and, in the case of Chile (under Pinochet), a harsh dictatorship. On examination of the tragic events, sparked by completely different issues, that have taken place in these two countries in recent times, there emerges an important new element to consider, namely the role, also different in each of them, of the armed forces.

The protests in Bolivia were triggered by the attempts of its president, Morales, to stand for an unconstitutional fourth term of office. Morales, wanting the Constitution changed precisely so that he might stand again, managed to obtain a referendum on the question. Although he lost the referendum, he was not deterred, and took his case to the Supreme Court. The Court, disregarding the referendum result, declared that Morales could stand for election, because to deny him the possibility to do so would amount to a contravention of the fundamental rights and freedoms of the individual. It should be noted that the Supreme Court was comprised mainly of judges close to Morales' party. At this point, the streets and squares across the entire country exploded with protesters demanding Morales' immediate resignation in the name of defence of the Constitution. The most important aspect to under-

line here is that Morales, during his years as president, had actually enjoyed broad popular support thanks to his successes in the economic field, which had resulted in a general improvement in living conditions throughout the country. Nevertheless, his extreme attempts to hold on to power angered the people, who, contrary to similar situations in the past, this time found support in the military, to the point that the head of the armed forces put pressure on Morales to leave the country in order to avoid further public unrest. That the army should champion the democratic constitution in this way was certainly a novel turn of events, not only for Bolivia but for the region as a whole. Meanwhile, Uruguay took a stand in support of Morales, and in this regard found itself isolated within Mercosur.¹⁰

In Chile, too, the role of the army in the face of public protests was significant. Again, the protesters wanted constitutional reform, but in this case aimed at bringing the pension system, health and education back under state control. During the years of the dictatorship, Chile had become a hyper-liberal state and these sectors had been privatised along US lines. Application of this model had, over the years, had serious consequences, putting an acceptable minimum pension beyond the reach of most people, and making a university education inaccessible to the less well-off, to say nothing of universal health-care. The government responded to the protests by calling in the army, in addition to the police, and imposing a curfew. To many people, the violence that followed looked very much like the start of a new dictatorship, and the international community, mindful of the events that preceded the 1973 coup d'état in Chile, immediately demanded a return to democratic rules. Faced with this pressure, the government was forced to call off the army and negotiate with the protesters. In short, on this occasion the international community was quick to respond to the first episodes of army violence, and succeeded in defusing the situation. Nevertheless, the attempted military intervention did garner some support from Brazil, under its newly elected president Bolsonaro, a former army captain.

Bolsonaro: President of "Brasil Primeiro".

Several years ago, the extensive *Lava Jato* investigation into institutional corruption, a political scandal involving three former

¹⁰ The Parlasur, in a statement issued on 11 November 2019, condemned the persecution of President Morales, forced into exile, and the intervention of the military both in Bolivia and Chile.

presidents, caused consternation and anger in Brazil, fueling popular protest and also a desire for a new leadership, in the Trump mould. Accordingly, Jair Bolsonaro won the 2019 presidential election on the back of a strong *Brasil Primeiro* message. At the UN Climate Change Conference that same year, he reiterated his position. In the very days that saw the world's attention focused on catastrophic fires devouring the rainforest, he declared that "the Amazon is Brazil's", and that it is Brazil's business what it does with it. The provocative and often arrogant tone of Bolsonaro's public declarations¹¹ is disconcerting, as indeed are his frequent changes of opinion regarding Brazil's role within Mercosur. During his election campaign, he repeatedly stressed that Brazil needed to be free to stipulate bilateral trade agreements outside the framework of the Mercosur agreements and the constraints they impose. Given Bolsonaro's constant criticism of it, some commentators suggested that he might even pull Brazil out of the bloc.¹² Yet in spite of all this, and just as his criticisms were stoking political debate among the other member states, in June 2019, on the occasion of a bilateral meeting with the then Argentinian president Macri, Bolsonaro unexpectedly proposed creating a single Mercosur currency: the *peso-real*. The Argentinian president was taken unawares, having had no advance warning of the proposal, nevertheless he expressed an interest in it. Meanwhile, the Central Bank of Brazil, in a public statement, declared that no studies were under way to support such a project.¹³ Therefore, most people took the proposal as just another of Bolsonaro's typical impromptu declarations.

In actual fact, back in 1997, the National Economic Development Bank of Brazil had already formulated a common currency project for the nations of the area, envisaging its implementation by 2012. Then, too, the intention had been to follow Europe's example, in that instance by replicating the European single currency project that, in 2001, had led to the birth of the euro.¹⁴ However, the idea was strongly opposed by Argentina, then led by Menem, who preferred dollarisation as a means

¹¹ Such as when he referred to Brazil's native Indians as almost human beings, remarked that dictatorship had been good for Brazil, that climate change is not real, that coronavirus is little more than influenza and that many people had died in Italy because it was a country of "old folk". And this is to say nothing of his anti-gay remarks.

¹² BPM, www.perfil.com, *El brexit de Latinoamérica: la posible retirada del Brasil del Mercosur*, Buenos Aires, 14 September 2019.

¹³ BPM, M24digital, *Moneda común del Mercosur no es estrategia, es una irresponsabilidad*, Buenos Aires, 18 June 2019.

¹⁴ L'Espresso, 29 May 1997.

of stabilising his country's disastrous finances.¹⁵ Bolsonaro's proposal nevertheless started a debate on the opportuneness of creating a common currency within Mercosur. In general, nothing was ruled out, although all the institutions in the area adopted a very cautious stance on the matter. In the debate between economists and the member states' central banks, it was underlined that this was, in any case, a project that would necessarily take a long time and have to proceed by gradual steps, as Europe's experience had shown. Alberto Graña, president of the Central Bank of Uruguay, for example, made this clear when he said "... we have seen the difficulties [in the process] that led to the birth of the euro and the difficulties [the member states still] have, given their different fiscal policies [...]. Objectively, thinking about a common currency means, among other things, [thinking about] alignment of macro-economic, monetary and fiscal policies [...] it will take time to analyse the path to follow in order to sustain this project".¹⁶

Bolsonaro, having raised this issue so unexpectedly, forgot it equally quickly, his attention being taken up, instead, with the presidential election campaign in Argentina, a debate he had waded into with some strong declarations. He even went so far as to claim that Brazil would leave Mercosur should the outgoing Argentinian president, Macri, fail to win another term, since Brazil would never be able to work alongside a Communist, which is how he viewed the Peronist candidate, Fernandez. At the end of 2019, Fernandez was elected President of Argentina. At this point, Bolsonaro, behaving as he had already done in other similar circumstances, initially made the new president the focus of some strong attacks, before then changing tack and underlining the need for close cooperation with Argentina, not least because, as some of his closest aides will have reminded him, Brazil and Argentina are each other's main economic partner.¹⁷

The EU-Mercosur Trade Agreement.

In the summer of 2019, the outgoing president of the European Commission, Junker, announced, with great satisfaction, the reaching of a

¹⁵ Cf. S. Spoltore, *Dollarisation in Latin America and the Mercosur Crisis*, *The Federalist*, 43 n.2 (2001), p. 129.

¹⁶ A similar tone was adopted by José Cantero, president of the Central Bank of Paraguay. *BPM*, *El Observador*, Montevideo, 7 August 2019.

¹⁷ A. Mori, *Argentina: debito e crisi sociale, due azzardi per Fernández*, *Ispionline.it*, 2 December 2019, <https://www.ispionline.it/it/publicazione/argentina-debito-e-crisi-sociale-due-azzardi-fernandez-24542>. Cf. also: M. Rapoport, E. Madrid, *Argentina Brasil de rivales a aliados*, Capital Intelectual, Buenos Aires, 2011.

trade agreement with Mercosur. After almost 20 long years of negotiations, this promised to be a historic deal — “promised to be” because it was actually just a draft agreement, still needing to be discussed and ratified (a lengthy process) by all the member countries of each of the two blocs. The news immediately galvanized into action the opposing lobbies on both sides of the Atlantic. We refer in particular, to the farming lobby in the EU and the metalworking industry in South America. Under the terms of the draft agreement, 91 per cent of the tariffs applied by Mercosur on goods coming from the EU would be eliminated and, at the same time, the EU would cut 92 per cent of the tariffs it charges on goods entering Europe from Mercosur. The latter would mainly be agri-food products, while most of the Europe’s exports to Mercosur would be related to the metalworking sector, especially the automotive industry. The draft deal has, in fact, been criticised particularly vociferously by the automotive sector in Argentina and Brazil, since the reduction in tariffs, albeit to be phased in gradually over a period of seven years from the agreement’s entry into force, would obviously affect its industries. The agreement would encourage imports, into the Mercosur area, of luxury cars from Germany and Italy, both of which already have industrial operations in the region that, however, produce only commercial vehicle or mid-range car models. The lower tariffs would also affect local producers of agricultural machinery and car parts.

But the strongest opposition to the draft agreement has come from Europe, where Austria has already said that it has no intention of signing any agreement, given President Bolsonaro’s refusal to acknowledge the dramatic Amazonian deforestation emergency linked to the need for new pasture land.¹⁸ Other arguments raised against the lowering of tariffs on agri-food imports concern the issue of food safety: the standards and controls, particularly veterinary controls, required in the Mercosur area do not match those that European farmers are expected to meet. Furthermore, many crops in Argentina, Brazil and Uruguay are treated with genetically modified products and used for both human consumption and animal feed: practices prohibited in the European Union.¹⁹ All in all, the future of this trade agreement remains uncertain, not least because all the member states of both blocs have, for the moment, suspended talks due to the pandemic. It is important to note that the agree-

¹⁸ *Commercio, dopo Francia e Irlanda anche l’Austria boccia l’intesa Ue-Mercosur*, Agrisole, Milan, 23 September 2019.

¹⁹ Cf. *UE Mercosur: l’Accordo della discordia*, Agronotizie, 27 August 2019. The objections of Europe’s farmers were practically unanimous across all 27 member states.

ment can come into force only with the unanimous agreement of all the countries involved, and therefore that it would be necessary to work on some of the national governments, given that the Austrian Parliament has already voted against the agreement, and France and Ireland have expressed markedly negative positions.

With regard to Mercosur's pursuit of trade agreements, there is, however, another gathering cloud. The Argentinian government has said that it intends to veto any possible trade agreements with individual third-party nations as long as the debate on the content of the EU-Mercosur draft agreement is ongoing. In fact, trade agreements are currently being discussed between Mercosur and Canada, South Korea and India. Argentina considers the proposed deal with South Korea, in particular, to be dangerous, as it would put the automotive industry at risk and encourage imports of Korean brands; it is therefore firmly opposed to it. These trade agreements, too, to enter into force, would have to be unanimously ratified by all the member states. Although Argentina's firm positions on this issue made it look as though it was this country's turn to want to leave Mercosur, Buenos Aires has issued statements rejecting such an idea. It was actually the Brazilian vice premier, Mourao, who calmed the waters, highlighting the importance of keeping debate within Mercosur alive in order to guarantee and protect the interests of every one of its member states.²⁰

A Future in the Balance.

The issues at the heart of political debate within Mercosur are the same ones encountered and addressed by Europeans and federalists in their fight for greater EU integration. Enlargement, the role of the region's parliament, and that of a common currency are topics whose exploration could lead to a strong federalist initiative also in the Rio de La Plata region of South America. As we very well know, European integration is a process that has known periods of impasse or tension between the member states,²¹ but also periods of great drive and energy, as well as important milestones, like the direct election of the European Parliament and the creation of the single currency. Throughout it all, France and Germany have always played a key role, just as Argentina and Brazil do in Mercosur. But what would happen, in Europe, were the French president or German chancellor to show

²⁰ *BPM*, Clarin, Buenos Aires, 14 May 2020.

²¹ One might think, for example, of recent debates over aid to be granted to states in difficulty owing to the coronavirus crisis.

each other the kind of disdain that Bolsonaro has shown the new Argentinian president? The EU would risk disintegration. Although in Mercosur, for the moment, there is no question of this happening, there are, nevertheless, clear signs of a general malaise: the crisis in Venezuela (still a member state but currently suspended); the situation in Bolivia (whose entry into Mercosur is at risk following the internal crisis that is impacting its relations with the bloc's member states); the desertion of the project for direct elections of the Parlasur; and Brazil's exceptionalist ambitions (*Brasil primero*), illustrated by its claims that it should be free to enter into bilateral agreements outside the framework of Mercosur. Furthermore, there is the question, herein merely raised, of the role being played, in the Brazilian government, by men with a military background. Bolsonaro is, as already mentioned, a former army officer, and on a number of occasions has celebrated the role played by dictatorships in the history of his country. The president aside, numerous representatives of the armed forces have been assigned ministerial roles in Brazil: the vice president and security minister (respectively, Mourao and Heleno) are both former generals, the defence minister (Azevedo) is a general, the science and technology minister (Pontes) is a former fighter pilot, and the secretary of government (dos Santos Cruz) a former general. As we have said, democracy in Brazil, as in the rest of the sub-continent, is still a very new phenomenon; having said that, even the EU has leaders that support illiberal democracy (in Hungary) or alter the Constitution to their own advantage (in Poland), restricting freedom of expression. Can these cases be taken as signs of a real threat to the democratic institutions and, with them, the ongoing processes of integration in Europe? Does the myth of national sovereignty hold greater sway than the desire for integration of peoples? These are profound issues that go beyond the scope of this short essay, but there is, nevertheless, one fact that needs to be underlined: the birth of Mercosur was possible precisely because of all that Europe had done from the Treaties of Rome onwards — the EU was its reference model. For this reason, it now falls to Europe to send out, once again, a very clear and strong message, this time by finally achieving federal reform of its institutions and by equipping itself with a government. But for these things to happen in the EU, a core group will need to succeed in overcoming the idea that national sovereignty is sacrosanct. In so doing, it would send out an important message not just to the rest of Europe, but also to the region, in South America, that has long watched the European

Union, and continues to do so. It would also serve as an extraordinary response to all those Chilean resistance fighters who, in the midst of their street battles, have been known to sing the EU anthem, Schiller's *Ode to Joy*, which looks forward to a day when all men will finally be brothers again.²²

Stefano Spoltore

BELARUS, RUSSIA AND THE EUROPEAN UNION

When the Soviet Union was dissolved in 1991, fourteen new, independent republics rose from its ashes. For the new Russia, these former Soviet republics were poised to serve as buffer states both westwards, towards the EU, and eastwards along its extensive Asian borders. One of these new republics, entering the international political stage as a sovereign state for the first time, was Belarus.

In the early 1990s, all these fledgling republics adopted new constitutions and presidential forms of government. The Republic of Belarus, whose Constitution was adopted in 1994, chose to preserve the old Soviet administrative and economic system. Thus, the country's transition from member of the USSR to independent state did not really change life for its citizens. The year of the new Constitution also brought free elections in Belarus, the only ones to date recognised as such by the Western world. The winner, among the six contenders, was Alexander Lukashenko, who came from the ranks of the CPSU. He has governed the country, as its president, ever since. Lukashenko is known to have boasted, on more than one occasion, that he voted against the decision to dissolve the USSR (he had been a member of the State Duma of the Russian Federation); unsurprisingly, therefore, from the outset, he took steps to confirm an institutional structure reminiscent of the Soviet one. This is a position

²² A. Dorfman, *Exorcising Pinochet: The Incredible Unending Trial of General Augusto Pinochet*. New York., Seven Stories Press, 2003. According to this account, a crowd of 70,000 was present at the national stadium in Santiago on 12 March 1990, where they listened to "Ode to Joy" (joining in with the chorus) played by the Symphony Orchestra of Chile to celebrate the return to democracy.

he has maintained rigidly, in spite of Vladimir Putin frequently remarking that “those who do not regret the passing of the Soviet Union have no heart, and those who would like to see it resurrected have no brain.”

Lukashenko has always remained attached to the model of state and politics that he previously defended in the USSR, particularly as an officer in the Soviet military (1975-1982), latterly also serving as a political instructor. In short, he is a man who was very much part of the Soviet state system.

From the start, Belarus, like most of the other new republics, was careful to maintain close political and economic ties with the new Russia.¹ However, more recent years have seen a weakening of this bond. Indeed, the relationship, increasingly strained, might even have reached breaking point, had it not been for the crisis of August 2020, which put it back on track.

Belarus and Putin's Russia.

Ever since the time of the Soviet Union's industrial transformation, the region's most important oil and mineral refineries have been concentrated in Belarus. From here, refined products were, and still are, exported mainly to Russia and the other three republics that, together with Russia and Belarus, form the Eurasian Economic Union (EAEU).²

The economy of Belarus is based mainly on industrial activities linked to mining; the country's dependence on Russia is due to its need to import crude oil and gas, of which it has none of its own. Belarus's energy needs are met almost entirely (99 per cent) by imports from Russia, to which it sells back refined products. As a result of this reciprocal arrangement, Belarus and Russia have become complementary countries; accordingly, in Belarus's 30 years of independence, Lukashenko has not felt the need to alter the industrial structure of the country, which, moreover, has a weak farming industry.

Since the 1990s, this energy dependence has forced these two nations to maintain close relations, and to begin with, Belarus, in particular, benefited greatly from this. Russia, lacking the large refineries necessary to meet the demands of its domestic market, resorted to a form of dumping, cheaply exporting huge amounts of raw materials (oil and

¹ The three Baltic states are the exceptions to this rule, having chosen to follow a different path after gaining their independence. In 2004 they became EU and NATO member states.

² The five members of the EAEU are the Russian Federation, Belarus, Armenia, Kazakhstan and Kyrgyzstan (or the Kyrgyz Republic). Putin, in 2011, took the initiative of promoting a regional market, which came into force in 2015.

gas primarily) to Belarus, which returned the favour by selling refined products to its main trading partner at advantageous prices.

However, this mechanism ultimately had the effect of putting Belarus entirely at the mercy of Russian energy policy, and produced a situation with an inevitable outcome. Up until 2013, with oil costing around 100 dollars a barrel (with peaks of over 110 dollars) and Russia selling it at below-cost prices, the Belarus economy flourished, its GDP increasing by around 7 per cent per year. This trend made it one of the richest of the new post-Soviet republics with the highest per capita income (over 6,500 dollars per year) and the most efficient health system, not to mention a literacy rate of almost 100 per cent. This rosy economic situation made Lukashenko popular, even though he was ruling the country with an iron fist, and silencing opponents through exile or persecution. For years, he was in fact considered Europe's last dictator.

Russia has long been known to use energy policy as an instrument of power and coercion in its external relations, both with allies and with countries with which it has commercial arrangements in place, such as the EU member states it supplies with gas. However, in late 2013, with the demand for oil falling, and the West introducing sanctions targeting Russian sales of this raw material, it started to become clear that this political use of oil exports was becoming less effective.

Indeed, since 60 per cent of Russia's GDP is linked to the extraction of oil, gas and other natural resources,³ a collapse or sharp dip in oil prices⁴ was bound to hit the Russian economy hard; and so, Moscow, to make up the loss of revenue, started to consider revising its pricing policy, which included charging some countries (including Belarus), which had previously enjoyed favourable terms, more for their oil. The event that prompted this change in policy, i.e., the outbreak of the crisis in Ukraine, came in 2013. In November that year, the Ukrainian government's unexpected decision not to sign the planned Treaty of Association with the European Union triggered a political crisis that rocked the country, and plunged it into a civil war between those in favour of association with the EU, and those who instead wanted greater integration with Russia, which, under Putin, was offering EAEU membership as well as immediate and substantial aid to prop up the disastrous Ukrainian economy. In short, Ukraine was split in two, and there followed rival demonstra-

³ Source: www.ispionline.it, 2 December 2019.

⁴ The price per barrel of Brent crude oil fell down from USD 108 in 2013 to 43 in 2016. It rose to 71 in 2018, before falling to 64 in 2019. In September 2020, because of the pandemic, it dropped to 41 dollars.

tions between these factions in many cities (with pro-EU protesters even waving EU flags). This split led the easterly Donbass region, Ukraine's richest, to proclaim its independence, and it did so with the full support (including military support) of Russia. From then on, a silent war has been playing out in this mainly Russian-speaking region, causing thousands of deaths and the migration, to Russia and Ukraine's interior, of almost two million citizens. Ukrainian-Russian relations broke down definitively in 2014, when Crimea held an independence referendum with a view to its subsequent integration with Russia. This referendum, which was not recognised by the West, resulted in Crimea's detachment from Ukraine.⁵ Since 2018, a 19 km bridge, built in the space of just over a year, has physically linked the Crimean Peninsula to Russia, and its presence bears witness to the latter's interest in this region and determination to keep up the pressure on Ukraine's rulers, notwithstanding the intervening years of USA and EU sanctions.

In fact, as a consequence of Russia's aggressive policy towards Ukraine, the United States, followed by the EU, applied a series of economic and financial sanctions that, as mentioned above, led Putin's government, in 2014, to change its raw material pricing policy. As an effect of the new, higher prices, the Belarus GDP began to fall and inflation to rise, and these trends encouraged a revival of opposition to the regime. The period 2015-2017 brought protests in Belarus, which were repressed with violence. Moreover, in 2015, new presidential elections were held, which delivered Lukashenko, re-elected with over 90 per cent of the votes, his fifth consecutive mandate. In a half-hearted attempt to quell the protests, some timid liberal reforms were introduced, while nevertheless leaving 70 per cent of economic activity in the country under strict state control.

With the crisis in Ukraine in full swing, the protests mounted in Belarus during that period did nothing to change Western policies or attitudes: the aim of US foreign policy, supported by the EU, was still to weaken Russia. This indeed explains why, in the period 2014-2015, the USA invited Ukraine, Moldova and Georgia to join NATO, a move that had the effect of further entrenching Russia's position. Although the fall of the Berlin Wall had, symbolically, marked the end of the Cold War, fear and wariness of Russia had remained woven into US foreign policy, so much so that the Americans even managed to persuade all the former Warsaw Pact countries to join NATO, too. At the same time, the European Union displayed an openness towards these same countries, embracing them as

⁵ For more on the crisis in Ukraine, cf. Stefano Spoltore, *Ukraine Caught Between East and West*, *The Federalist*, 56 (2014), pp. 55-66.

new member states and thus taking its membership to 28 countries. Russia responded to these initiatives by forging ever stronger military and economic ties with China, and in 2015 Putin's regional market (EAEU) was launched. The EAEU member states also created the Eurasian Fund for Stabilisation and Development (EFSD),⁶ to be used as a source of financial aid in the event of internal or international crises. Under this scheme, Belarus applied for a USD 500 million loan to help its finances, but it should be pointed out that a good 300 million of this was earmarked to settle old debts, linked to the supply of gas, contracted with Gazprom, the main Russian gas and oil provider. The granting of this loan coincided with Lukashenko's refusal to accept one offered by the IMF, conditional upon the implementation, in the country, of restrictions designed to contain the spread of coronavirus infections. Lukashenko is among the national leaders who deny the coronavirus threat.⁷

Belarus and the EU.

The EU's relations with Belarus highlight, once again, a more general problem linked to the stance the bloc should adopt towards Russia.

As mentioned, Lukashenko's latest and umpteenth re-election as president triggered protests that were suppressed with unprecedented violence. The EU responded to the repression by expressing its indignation and offering full solidarity to the protesters and opponents who were imprisoned or forced to flee the country. As on previous occasions, the EU did not recognise the legitimacy of the election; this time, however, rather than merely issuing a simple statement of condemnation, it sanctioned and implemented restrictive measures against members of Lukashenko's entourage held to be involved, yet without touching the president directly. This response, albeit dictated by the circumstances, illustrated the considerable and grave political weakness of the EU.

Considering that Lukashenko has ruled Belarus, with an iron fist, since 1994, periodically being returned to power through elections that each time have been condemned as illegitimate, the question we must surely ask is, how can this be allowed to happen in a country that borders with Europe? In actual fact, the situation in Belarus is common to a number of former

⁶ The charter capital of the Eurasian Development Bank amounts to 7 billion dollars. The EFSD member states hold the following shares in this capital: Russia 65.97 per cent, Kazakhstan 32.99 per cent, Belarus 0.99 per cent, Tajikistan 0.03 per cent, Armenia 0.01 per cent, and Kyrgyzstan 0.01 per cent.

⁷ Lukashenko recommends treating Covid-19 with a sauna and a bottle of vodka. Even though he himself has been ill, he has called fear of coronavirus a dangerous psychosis, *Il Messaggero*, 9 May 2020.

Soviet republics: Azerbaijan, Kazakhstan, Turkmenistan and Tajikistan have all had the same presidents since the 1990s, and also seen a series of sham elections. Moreover, this list should also include Russia, given that Putin, switching between the roles of prime minister and president, has governed the country since 1999, and, following the constitutional referendum held there last July, could continue to do so until 2030. As Putin himself made clear to the *Financial Times* in 2019,⁸ liberal democracy cannot be adapted to Russia and its former republics. In these countries, therefore, elections and referenda serve only to give a semblance of popular legitimacy to what are, in fact, authoritarian governments.

Attacking Lukashenko politically and directly, demanding his resignation, would make it necessary to do the same with Putin. The latter, after initially failing to comment on Lukashenko's sixth re-election, eventually opted to confirm his unlimited support for his ally. Relations between the two had soured in recent years after Russia, hit by the Western economic sanctions mentioned earlier, had increased its raw material prices, plunging Belarus into recession, and causing it to record a drop in GDP and a sharp decline in wages (back to 2010 levels), and to run up ever-increasing debts with Gazprom.⁹ In 2019, Putin had suggested that Belarus could be merged with Russia, becoming to all effects, a part of it, a proposal that Lukashenko rejected with indignation. The recent popular protests, however, saw Lukashenko moving back into Russia's orbit: the president forcefully accused the EU and the US of fomenting the protests and riots, even to the point of exacerbating the KGB-led repression.¹⁰ However, this show of strength failed to stop the demonstrations in the country. These popular protests and the accounts given by opponents of the regime who have fled abroad should be reason enough to prompt the EU to step in and act in a mediating, peacekeeping capacity, thereby avoiding the mistakes made in response to the crisis in Ukraine, the price for which is still being paid today. This role could be particularly significant, given that the US has maintained a low profile vis-à-vis the situation in Belarus. Indeed, the US administration's response to the police violence has been confined to general statements of condemnation and talk of sanctions. Nothing more. The crisis in Belarus coincided with the US presidential campaign, during which foreign policy matters

⁸ *Financial Times*, 27 June 2019.

⁹ These debts with Gazprom were paid off with a loan from the EFSD, which is financed mainly (over 60 per cent) by Russia. The funds lent were thus returned to Russia's coffers.

¹⁰ Lukashenko's ideological attachment to the old USSR is illustrated by the fact that, after independence, the initials of the Soviet state police were not changed.

were not key issues either for Trump or for his challenger, Biden.

The protest demonstrations in Belarus have been staged entirely under the Belarus flag, with the protestors seeking neither a break with Russia, nor closer links with the EU. In Ukraine, on the other hand, the country was clearly split between two opposing factions, and saw the US, fully backed by the EU, supporting a clear break with Russia, and even proposing that the country should join NATO. The events in Ukraine seem to have induced the Belarus protesters to look for a “national way” in order to avoid either siding with or opposing either the West or Russia. Such a route would allow the country to play a bridging role between East and West, an opportunity that was missed in the case of Ukraine.

Since the end of the Second World War, a key, and consistent, aim of US foreign policy, under both Republican and Democrat presidents, has been to weaken the USSR, and subsequently Russia. This choice, legitimate (given America’s role as a global superpower) and supported by Europe has had the desired effect: US foreign policy weakened the USSR, and has perhaps weakened Russia. However, it has also brought the EU face to face with all its limits and left it economically fragile and in a position of political subjection. The EU could potentially play a mediating role between East and West, but in order to do so it would have to have its own foreign and defence policy, as well as its own energy policy — one that would not (in the case of some EU countries) leave it dependent on Russian gas.¹¹ However, not having these instruments, the EU, in order to show the world that it has its own voice, can at present only issue condemnations and timid sanctions against some of Lukashenko’s men. The fact is, as long as the EU continues to limit itself to supporting US foreign policy, the credibility of its declarations will remain weak and its actions ineffective, as the Ukrainian situation has sadly shown. Credibility has to be built on and supported by real power, and this is what the EU lacks.

The popular protests in Belarus thus seem unlikely to lead to a democratic outcome, but rather a worsening of the repression, also due to the interventions in support of the regime on the part of Russia, which is keen to avoid having hostile states on its borders.¹² Unfortunately, as

¹¹ The Czech Republic, Hungary and Bulgaria are totally dependent on gas supplies from Russia. The other EU countries import, on average, 25 per cent of their gas from Russia. Cf. *II Sole 24 ORE*, 24 April 2015 and www.insideover.com, 31 October 2019.

¹² Another former Soviet republic currently caught up in strife is Kyrgyzstan, a small country squashed between Russia and China. For the past 30 years, this country has seen repeated political struggles involving armed groups opposing the presidency. The latest elections, clearly rigged, have rekindled the armed struggle. Cf. *Corriere della sera*, 29 October, 2020. Elsewhere, tensions have resurfaced between Armenia and Azerbaijan (supported by Turkey) over control of the Nagorno-Karabakh region.

things stand, it seems impossible to imagine a scenario in which dialogue with Russia does not inevitably lead to open confrontation, replicating what happened in Ukraine. To change this, Europe needs to be able to act autonomously, and avoid limiting itself to issuing formal declarations of condemnation that unfortunately do nothing to advance the cause of the Belarus people seeking democracy. Debate at the imminent Conference on the Future of Europe is expected to focus on the question of how to lend credibility to EU policies. There is only one possible answer: Europe must have a government answerable to its Parliament for actions taken in the context of its own foreign and defence policy. Otherwise, without power, there will continue to be no credibility.

Stefano Spoltore

THE PANDEMIC CRISIS AND EUROPE

Scientists have long been predicting the arrival of a virus capable of infecting almost half the world's population and causing countless deaths, comparing the disastrous effects of such an event to the consequences of the *Spanish flu* pandemic of 1918-19, which killed millions of people in less than two years. In a report published in 2005, the National Academy of Science's Institute of Medicine drew attention to a large-scale outbreak of a form of avian influenza capable of infecting humans. "Evolution does not function on a knowable timetable", and influenza variants, especially, are highly unpredictable.¹ This is even truer when, particularly in the setting of today's globalised world with its dramatically increased levels of movement of goods and people, they become transmissible to humans. It should be pointed out that the *Spanish flu* epidemic did not originate in Spain. It is simply that the disease, which spread rapidly as a result of the movement of people at the end of WWI, was more widely reported in Spain, which was therefore believed to have been particularly badly hit. In a three-month period in 1918, over 40,000 US soldiers died of it, while police forces struggled to control unrest and riots due to widespread hysteria caused

¹ Laurie Garrett *The Next Pandemic*, Foreign Affairs, 84 (July-August 2005), pp. 3-23.

by fear of the disease. At that time, many deaths worldwide were not even officially attributed to the disease, which spread rapidly even to areas as far flung as Russia and South America. Spanish flu is estimated to have killed at least 5 per cent of the Ghanaian population in less than two months, while 20 per cent of that of Western Samoa fell victim to it. Official US and European estimates attribute at least 40-50 million deaths to the effects of the pandemic. Over a two-year period (1918-1919), at least a third of the world's population was infected and around 100 million people died. In 1917, hygiene movements sprang up both in America and in Europe, but were unable to limit the spread of the disease. It was not until 1933 that a British team finally isolated the virus responsible! Other flu waves followed in the late 1950s and the 1960s, resulting in tens of thousands of deaths in the USA. Later on, in the mid-1970s, the US president of the time, Ford, ordered the production of a vast quantity of anti-flu vaccines, sufficient to vaccinate the entire US population. In the end, however, the anticipated epidemic never materialised, and a kind of protest movement, opposed to government health policies, grew up as a result.

Influenza viruses are known to be harboured by wild animals, especially birds; it is also known that they can jump from these species to farm animals (mammals), and thence to human beings. China, for example, has tens of billions of chickens, 60 per cent of which are raised on small family farms. This facilitates transmission of these viruses. Indeed, when an avian flu virus infects another species — pigs, for example —, it can mutate and become capable of attacking humans. As with many infectious diseases, individuals who have had and recovered from influenza develop antibodies that protect them, for variable periods of time, against further infection by the same pathogen. But, as we see with influenza viruses in particular, the genetic material of a virus frequently undergoes changes with subsequent viral generations. These changes modify the characteristics of the viral particles and make the virus undetectable, at least in part, by the immune system of a previously infected individual. This explains why one year's flu vaccine can be ineffective the following year, and also why, over time, infections and epidemics tend to occur in cycles, as we saw most recently in the 1990s and the first decade of the XXI century. To date, at least a hundred viral influenzas of avian or animal origin have been identified. And yet in spite of this, the vaccine market in general still accounts for only 2 per cent of the global pharmaceutical market! Even though new technologies offer the promise of greater production capacity, pharmaceutical companies currently seem

unable to market more than 300 million vaccine doses annually! On this basis, it is believed that, under current conditions, 30 to 50 per cent of the world population could be infected in the course of an influenza pandemic. The terms of the problem are clear if we consider that the number of doses needed to vaccinate the entire US population against a flu virus is the same as the total number of vaccines produced globally in a year!

In this regard, and also with regard to the production and supply of crucial drugs, Europe is particularly dependent on China and India. Hubei, for example, the Chinese region where the coronavirus threat originated, produces a significant amount of pharmaceutical raw materials: Chinese drug exports to the rest of the world have quadrupled in recent years and are now worth over \$120 billion per year. India, in turn, relies on China to meet about two thirds of its internal needs and to support its pharmaceutical exports. As pointed out by Federico Fubini “in the course of this century, India and China have become the back kitchens of the major world brands whose names we see on the packets of the drugs we buy when we are not feeling well. We perceive a drug as ‘German,’ ‘Italian’ or ‘Swiss’, whereas in actual fact sometimes even the producer itself does not know exactly where, in the world, its ingredients originated. Only the supplier of the supplier of its supplier knows that. But an unforeseen event occurring at the original production site can be enough to upset the entire supply chain, with this effect even trickling down to our local pharmacies.”² In the case of Italy, according to the OECD, the added value created in India by medicines subsequently exported from Italy to the rest of the world more than tripled in the seven years from 2005. India and China have de facto become the sources of the big pharmaceutical brands exported and re-exported around the world.

In any case, the greatest challenge facing societies hit by a pandemic is ensuring that their healthcare facilities are able to cope with the sudden and unpredictable mass influx of patients into hospitals. Indeed, any pandemic will test healthcare systems, both globally and locally, to their limits. One need only consider that the World Health Organisation (WHO), despite operating a global pandemic surveillance and monitoring system, has an annual budget of just several million dollars. (Consider that against the budget of the city of New York, which tops \$1200 billion!).

It is also important not to make the mistake of thinking that one epidemic is enough to guarantee the immunity of an entire society. In times

² Federico Fubini, *Sul vulcano. Come riprenderci il futuro in questa globalizzazione fragile*, Milan, Longanesi, 2020.

past, when no remedies were available, recurrent outbreaks in Europe of smallpox, typhus, measles and influenza were linked to poor harvests. However, while epidemics nevertheless managed to leave the European populations partially immunised, the same cannot be said, for example, of those of the Americas. Spanish and Indian sources attribute the fall of the Aztec capital to an explosion of smallpox, while in South America, epidemics of smallpox, measles, typhus, plague, mumps, flu, diphtheria and measles recurred in ten-yearly cycles from 1519 to 1600. In that part of the world, it was not until the XVI century that the populations of the Mesoamerican and Andean areas began growing once again.³

While Covid-19 has not (yet) transformed our modern world, there can be no doubt that its impact on technological and social development will be felt for years to come, moreover in a situation of progressive US disengagement on the world stage and evident European powerlessness to offer real alternatives that might lead to the establishment of a new supranational institutional order, at both continental and global level.⁴ Increasingly evident, too, is the need to establish a structured system of government at different levels, from local to continental and eventually global.⁵

Today, around 50 per cent of global GDP depends on Asia, whose interdependence with the rest of the world is increasing all the time. Inevitably, therefore, mechanisms like those seen in the past, i.e., the outward expansion of European trade and production into the world,⁶ are now recurring today, but this time they are originating from Asia

³ Marcello Carmagnani, *L'altro occidente*, Turin, Einaudi, 2003, pp. 40-46.

⁴ Olivier Zajec, *L'ordre international qui vient*: "Il faut espérer que des évolutions politiques démocratiques sur le continent européen viendront perturber cette « mort cérébrale » qu'illustre en ce moment la focalisation exceptionnelle sur les résultats électoraux du suzerain américain. Ce réflexe révèle moins l'importance des États-Unis dans l'ordre international que l'impuissance européenne à imaginer une autre solution stratégique effective. Malgré les leçons de l'ère Trump.", *Le monde diplomatique*, November 2020.

⁵ The US public health chief in 1971 remarked that predicting influenza epidemics is like predicting meteorological changes, because pandemics, like hurricanes can be identified and their developments envisaged. However, epidemics are more unpredictable than hurricanes and the best thing to do is to estimate probabilities. Laurie Garrett, *The Next Pandemic*, op. cit..

⁶ Alfred W. Crosby, *Ecological Imperialism. The Ecological Expansion of Europe, '900-1900*, Cambridge, Cambridge University Press, 1986: "The breakup of Pangaea was a matter of geology and the stately tempo of continental drift. Our current reconstitution of Pangaea by means of ships and aircraft is a matter of human culture and the careening, accelerating, breakneck beat of technology. To tell that tale we have to go back not 200 million years, fortunately, by only a million or three.", p. 12.

and unfolding on a global scale, thanks also to the growing levels of interdependence in all fields. Species are showing less and less genetic drift, and cultural and geographical distances are reducing. And all of this can be attributed, at the root, not only to the Europeans' economic, industrial and political expansion, but also, on a biological level, to more intensive farming... and the diseases this brings.⁷

In the wake of the outbreak and spread of Covid-19 in Europe, the European Commission proposed “stronger crisis preparedness and response for Europe”.⁸ This proposal, which is actually more of an appeal to the member states to act correctly and to strengthen surveillance and the exchange of information, is not enough.⁹ Coordination of European, national and local policies must instead be institutionalised through federalisation of the system of government. Creating a “European Health Union” would, in fact, entail federal reform of Europe, so as to allow better coordination of the actions of the different levels of government, from continental to local. But the template for such a reform cannot be the centralised model of the Chinese state,¹⁰ which in any case proved unable to stop the spread of the pandemic; nor can we rely on the American model which, although federal, has proved woefully inadequate. Similarly, we need to move away from the current European model, which continues to be trapped by intergovernmental mechanisms, national vetoes and local particularisms. In the wake of the international spread of a “Brussels effect” in the economy and trade,¹¹ it has now become both necessary, and possible, to promote the spread, globally, of a Brussels effect at institutional level, too. On this topic, however, great uncertainty and confusion reign. Not just because of the strength of the resistance of the opponents of European unification and of those determined to protect the, now anachronistic, sovereignty of small states,

⁷ Charles Darwin in this autobiography remarked: “Wherever the European had trod, death seemed to pursue the aboriginal”.

⁸ *Building a European Health Union: Stronger crisis preparedness and response for Europe*. https://ec.europa.eu/eip/ageing/news/building-european-health-union-stronger-crisis-preparedness-and-response-europe_en.html.

⁹ Ben Hall et al., *How coronavirus exposed Europe's weaknesses*, Financial Times, 20/10/20, “When the pandemic struck, many countries were ill-prepared. As a second wave hits, what have they learnt from their early decisions?” <https://www.ft.com/content/efdadd97-aef5-47f1-91de-fe02c41a470a>.

¹⁰ The Chinese government grasped the gravity of the situation in Wuhan, but was very slow to raise the alarm internationally, waiting weeks before interrupting air traffic, as stated in Federico Fubini, *Sul vulcano. Come riprenderci il futuro in questa globalizzazione fragile*, op. cit..

¹¹ Anu Bradford, *The Brussels Effect, How the European Union Rules the World*, Oxford, Oxford University Press, 2020.

but also because, even among those who understand the need for deeper political unification, there is still great uncertainty and only timid support. And yet, as even the “timid supporters” acknowledge, the time for a forward leap has come. This whole situation is illustrated by a famous report presented, in the 1970s, to the President of the French Republic. In it, Alain Minc, together with Simon Nora, clearly set out the implications and potential of the imminent computer revolution.¹² While Minc recognised Europe’s potential, he was not yet able to see the need to move decisively towards a European federation, which he called “une construction *sui generis*”. And this remark confirms the truth of Machiavelli’s famous affirmation in *The Prince*, namely that, “...that there is nothing more difficult to carry out (...), nor more dangerous to handle than to initiate a new order of things”. But, as the challenge of Covid-19 now underlines, the time has certainly come to build a new order of things, and to build solidarity into a stable supranational federal institutional framework.

Franco Spoltore

¹² A summary of the 1978 Nora-Minc report can be found at https://fr.wikipedia.org/wiki/Rapport_Nora-Minc. In his book *La mondialisation hereuse*, Paros, Tribune libre PLON, 1997, Minc wrote: “The European Union is a *sui generis* construction. From a macroeconomic point of view it will be federal: a currency, a market, a right to competition and a fiscal policy framework. Strategically and diplomatically, it will remain confederal for a long time, even though internally, and without recognising it, France and Germany are now developing a complementary relationship”, p. 75.

Documents

APPLYING THE ECSC MODEL TO GIVE THE EU FISCAL POWER*

As recounted in Jean Monnet's *Memoirs*, at the start of the 1950s, just a few years after the end of the Second World War, a new war in Europe was widely felt to be inevitable, and the divergent interests of the European countries certainly made this a very real risk. Having barely recovered from the devastation of the war, and despite the lesson they ought to have drawn from that experience, the European countries, trapped by old patterns and old ways of doing things, were veering back towards the hitherto prevailing logic underpinning relations between nation-states, according to which each would negotiate individually with the aim of maximising its own benefits. A solution was needed that would reverse this logic and allow a common interest to emerge.

This is the spirit in which Jean Monnet, aware of the crucial importance of the historical moment, and also of the enormous political implications of this new perspective, conceived the European Coal and Steel Community project, which Schuman quickly embraced. The project was clear: coal and steel, being the basis of both economic and military power, had strong symbolic value; furthermore, the fact that, in Europe, these resources were produced mainly in France and Germany meant that their common management could provide a tangible image of the rapprochement between these two previously warring states. Coal and steel production was, as mentioned, a key sector, but also a

* A reflection paper supporting the MFE campaign *For Europe – a Community of Destiny*.

clearly defined one, therefore its joint management would, as stated in the Conclusions of the initial project, serve a political purpose: to weaken national sovereignty to a small degree, just enough to be acceptable to the states, while also inducing them to come together and reach the unity necessary for ensuring peace.

One aspect that emerges particularly strongly from Monnet's recollections of that time is his awareness of the revolutionary nature of the proposed project — a true leap in the dark —, as well as his tenacity in defending it against the numerous attempts, during the negotiations, to eliminate its crucial ingredient, namely the ECSC's, and particularly the High Authority's, independence from the member states.

This independence was linked to a completely novel feature for an international organisation: financial autonomy, stemming from the fact that the High Authority (the body corresponding to today's European Commission) funded the ECSC budget through levies on coal and steel production and by contracting loans (purely for the purpose of then granting loans to businesses).

Unlike what happens in the EU today, the above levies were not paid through the member states' budgets, but directly by the companies into accounts opened in the name of the High Authority. The ECSC thus had a centralised Treasury, and the means of collecting unpaid dues: it could charge penalties of up to 5 per cent for late payments and decisions on such pecuniary measures amounted to enforcement orders (applicable following mere authenticity checks by the authorities of the member states).

Although this fiscal power was limited, since the levies could not exceed 1 per cent of the annual value of the products, the methods for applying and collecting them were decided by the High Authority; furthermore, the 1 per cent threshold could actually be exceeded with the prior authorisation of the Council, acting by a 2/3 majority (and thus not unanimously).¹ Although no provision was made for involvement of the Assembly (whose role in the ECSC was marginal,

¹ Under the terms of art. 95, par. 3 of the Treaty establishing the European Coal and Steel Community, in the event of "unforeseen difficulties emerging in the light of experience in the application of this Treaty, or fundamental economic or technical changes directly affecting the common market in coal and steel", the High Authority (Commission) and the Council had the possibility to "adapt the rules for the Commission's exercise of its powers. In such circumstances the High Authority would conceivably have been able to procure sources of funding additional to those provided for by the Treaty, for example by resorting to contracting loans, an instrument normally allowed only to grant loans to businesses and not for the purposes of funding the organisation. Cf. A. Potteau, *Recherches sur l'autonomie financière de l'Union européenne*, Paris, Dalloz, 2004.

given that the latter's functioning revolved entirely around the High Authority), it is important to underline that the ECSC Treaty created and introduced genuine European taxes. As already mentioned, these related only to one well-defined sector, that of coal and steel production, but the key point is they allowed the organisation to fund itself independently.

The parallels with what we are today seeing with Europe and the integration process are extremely clear. The public health crisis that has exploded in the past month, combined with the EU's now glaringly ineffective operating mechanisms (one need only think of the failed attempts to approve the Multiannual Financial Framework), has exposed the fact that the member states are still tempted to let the logic of selfish national interests prevail. As the initial reactions clearly showed, had the crisis hit only some of the European countries (as opposed to rapidly emerging as a dramatic symmetrical shock), the idea of creating forms of solidarity between sovereign states would have remained inconceivable, given that such states, by definition, each pursue their own interests, particularly (in the context of the current generalised crisis of democratic politics) their own immediate interests. Therefore, although the increasing depth of the crisis is convincing even the so-called frugal member states to agree to aid measures for the countries in difficulty, and support for the weaker economies, it should not be forgotten that these mechanisms are still part of the logic of cooperation between sovereign states, which requires that the most "virtuous" — those with greater financial solidity — provide guarantees for, and lend extraordinary support to, the most fragile ones, whose hands are tied by the restrictions stemming from their almost unsustainable sovereign debts. In the immediate wake of the Second World War, the differences between the European states seemed to foreshadow the outbreak of a new war; in the same way, once the current pandemic has been overcome, the differences between states that we have been witnessing in recent years will return even more strongly to the fore.

The lesson to be drawn from the ECSC experience is that the solution to the current crisis, which in addition to a health and economic emergency is primarily a political crisis, cannot be found in tools that remain stuck within the logic applied thus far. It needs to be understood that what is needed is a project with real political value, capable of completely changing the relationship between the member states and the Union, by rendering the latter autonomous and capable of acting

within in its sphere of competence. A project that, although initially limited to certain sectors or certain resources, is able to finally break through the seemingly impenetrable wall of national sovereignty, so that the common interest might be allowed to prevail over the interests of single states.

The solution, as we know from the ECSC experience, is to assign the EU the power of taxation. Along the lines of that model, this power, initially applied in a narrow field, should be assigned to the European Commission which, like the High Authority, would establish the methods of application and collection of the taxes (within a ceiling decided by the European Parliament and the Council acting by qualified majority). These would then be paid directly to its Treasury, without going through the member states.

These resources could be linked to “European public goods”, like the environment, and therefore initially consist of taxes such as the border carbon tax, pending the addition of others in the future.

This is a solution that cannot be based on the current Treaties, as they do not give the EU the power of taxation. Instead, given that fiscal competence is still in the hands of the member states, it could take the form of a separate Treaty between the member states wishing to be part of it.

There is no point denying that this would be a very difficult transition, constituting a decisive step towards the transfer of sovereignty to supranational level, but the fact that the present crisis is dramatically affecting all the EU states means that it is also forcing them to be open to previously unthinkable ideas. In this sense, it should be seized as an opportunity. In the words of Jean Monnet, “les problèmes concrets, je le sais par expérience, ne sont jamais insolubles à partir du moment où ils sont abordés du point de vue d’une grande idée.”

Pavia, 22 March 2020

Giulia Rossolillo

THE FINANCING OF THE EUROPEAN UNION: A PROPOSAL FOR TREATY REFORM TO GIVE THE EU TRUE FISCAL CAPACITY*

In order to understand how the European Union is financed, and thus identify the political and institutional interventions needed in order to create the conditions for an adequate European budget, we first have to distinguish between two key aspects:

- 1) The procedure through which the resources available to the Union are decided;
- 2) The type of resources available to the European Union.

It is therefore necessary to understand whether the European Union is financed independently of the member states through European taxes, and thus already endowed with fiscal competence; and whether the creation of new European own resources would automatically swell the EU budget, effectively giving the European Union true fiscal capacity.

Finally, it is necessary to examine, briefly, the link between fiscal capacity, democracy and political sovereignty.

The Procedure for Deciding the Resources Available to the Union.

With regard to this aspect, reference must be made to Article 311 TFEU, according to which

“The Union shall provide itself with the means necessary to attain its objectives and carry through its policies.

Without prejudice to other revenue, the budget shall be financed wholly from own resources.

The Council, acting in accordance with a special legislative procedure, shall unanimously and after consulting the European Parliament adopt a decision laying down the provisions relating to the system of own resources of the Union. In this context it may establish new categories of own resources or abolish an existing category. That decision shall not enter into force until it is approved by the Member States in accordance with their respective constitutional requirements.

The Council, acting by means of regulations in accordance with a

* A reflection paper supporting the MFE campaign in view of the Conference on the future of Europe.

special legislative procedure, shall lay down implementing measures for the Union's own resources system in so far as this is provided for in the decision adopted on the basis of the third paragraph. The Council shall act after obtaining the consent of the European Parliament."

Thus, the procedure for determining both the *revenue ceiling* (and thus also the expenditure ceiling, given that the Union budget, as provided for in Article 310 TFEU, must be in balance), and the *type of resources* to be paid into the budget consists of a decision of the Council acting unanimously, which must then be approved by each individual member state in accordance with its respective constitutional requirements. The European Parliament is only consulted, i.e. it is only called upon to give a non-binding opinion.

It follows that:

- a) the amount and type of the said resources *depend on the member states' unanimous consensus* expressed both at supranational level (through a unanimous decision of the Council) and at national level (through approval by each individual member state in accordance with its respective constitutional requirements);
- b) the decision on the amount and type of the resources *is not a decision taken by the institutions of the Union independently of the member states*, given that its entry into force is subject to their approval at national level.

The Type of Resources Available to the European Union.

The 1957 Treaty establishing the European Economic Community stipulated that the budget revenue would consist of contributions paid by the member states, but it was already envisaged that the Commission would study the conditions under which those contributions could be replaced by own resources. To this end, the Commission was to submit proposals to the Council, and the Council, acting unanimously after consulting the Assembly, would recommend their adoption by the member states in accordance with their respective constitutional requirements.

The first Own Resources Decision dates back to 1970, and it introduced customs duties, agricultural levies and a percentage (up to a maximum of 1 per cent) of value added tax as sources of financing for the Union, the latter becoming an effective own resource only from 1975 onwards. A 1988 Own Resources Decision later added a fourth resource, consisting of a percentage of the member states' GNI.

The four own resources mentioned above are not homogeneous. Indeed:

- *the so-called fourth resource, i.e. the percentage of the member states' GNI* (which today finances almost 70% of the EU budget) does not differ in any way from the member states' contributions through which the EEC was financed in its early years. *Therefore, it is inaccurate to call it an "own resource"*.
- *Among the resources available to the Union, customs duties and agricultural levies are the most "own" in character*, in the sense that they are closely linked to the Union's powers, are paid in full into the Union budget, and their amount is not stipulated in advance. Member states are allowed to withhold up to 20 per cent of the amount of these duties and levies to cover the related collection costs.
- *The percentage of value added tax is a "weak" own resource*, and can in some ways be likened to state contributions: *it is not linked to the exercise of the Union's powers*, and in fact the states pay only a share of their VAT revenue into the EU budget. In short, *the percentage value is predetermined by the Own Resources Decision adopted by the Council and approved by the member states*.
- These resources do not go directly into the EU budget, but are collected by the member states and appear in their budgets. And it continues to be the task of the member states "to undertake prosecutions and proceedings for the purpose of the system of levies and refunds"² and "to take steps to this end vis-à-vis the parties involved". Thus, *the Union also lacks coercive means of obtaining payment of the resources*.

Is the EU Financed Independently of the Member States Through European Taxes, and Thus Already Endowed With Fiscal Competence?

As clarified by the Commission's Green Paper of November 1978 entitled *Financing the Community budget: the way ahead*,³ it is evident that any resource, to be deemed a true own resource, "has a fiscal nature, must be a direct charge on individuals or companies in the Community, and be independent of decisions by the Member States; there must also be an automatic link between the Community and the source of revenue, i.e. each economic operation on which the Community tax is levied. Even if the own resource is collected by the Member States, this is done on the Community's account. The revenue is not part of the income of the Member States and ought not to need to be either incor-

² ECJ, 4 April 1974, Mertens (joint Cases 178, 179 and 180-73).

³ *Financing the Community budget: The way ahead*, COM(78) 531, 21 November 1978, <http://aei.pitt.edu/1368/>.

porated into their national budgets or voted by national parliaments.”

Explaining the issue even more clearly, the 2016 Monti report on own resources underlined that, before talking about European taxes (and therefore the fiscal capacity of the Union), it is necessary to introduce a fiscal competence of the Union, in such a way that the *European Parliament is given real power to levy taxes*, without being subject to any fixed ceiling on expenditure. Therefore, a European tax should be *decided and levied by the European Union* and its amount should be determined by the *Union legislator*. This tax should then be paid directly into the Union budget. This possibility, the Monti report underlines, is not provided for in the Treaties, and therefore *the Union should first and foremost be granted the power to levy taxes*.⁴

If we analyse the existing own resources in the light of the above definitions of a European tax, it is clear *that none of them constitutes a true European tax*. Even the most typical own resources, i.e. customs duties and agricultural levies, are decided by the Council unanimously and approved by the member states in accordance with their respective constitutional rules; moreover, they form part of the budget revenue determined by the above-mentioned procedure, and the Union has no coercive means of obtaining their payment, since the task of and responsibility for collecting these dues lies with the member states.

Would the Creation of New Own Resources Automatically Increase the Size of the EU Budget and Lead to the EU Acquiring Fiscal Capacity?

The *key factors* making it possible to say that an entity has fiscal capacity, and can therefore finance itself independently, are:

- 1) *that it has the power to decide on revenue and expenditure independently of its component territorial authorities (member states or regions);*
- 2) *that this power of taxation is exercised directly on natural persons and legal entities and not via the member states.*

If this is not the case, and the link between member states and own resources remains intact, this entity cannot be said to have autonomy or, therefore, fiscal sovereignty.

The various proposals to create new own resources to be allocated to the Union budget, at the same time increasing its ceiling, do not have the effect of creating fiscal capacity, for two reasons: first, because the re-

⁴ *Future financing of the EU, Final report and recommendations of the High Level Group on Own Resources*, December 2016, pp. 16 and 24, ec.europa.eu/future-financing-hlgor-final-report-2016_en.

sources in question do not have the characteristics mentioned above, and second, because their creation falls within the framework of the mechanisms currently laid down in the Treaties: they are not decided autonomously by the Union, but instead by the member states; in particular, the Union does not have the right to demand them directly from natural persons and legal entities, since its decisions are directed at the states.⁵

Furthermore, given that it is in the member states' interest to reduce the percentage of GNI that they are required to pay into the Union budget (the so-called fourth resource), the introduction of new fiscal own resources, in addition to being decided not by the Union autonomously, but rather by the member states, *would be unlikely to have the effect of automatically increasing the Union budget*, except, at best, only marginally. After all, the member states would be keen the ceiling of the budget unchanged, in order to reduce their direct contribution to it.

The vicissitudes surrounding the financial transaction tax are instructive in this regard. Even had the directive establishing this tax eventually been approved (through the enhanced cooperation mechanism), payment of this resource into the Union budget would have depended on the Own Resources Decision being unanimously approved first by the Council and then by the member states. And while the relative Commission proposal stipulated that a share of the financial transaction tax levied at national level would be paid into the EU budget, it also specified that the GNI-based resource drawn from member states participating in the enhanced cooperation would be reduced accordingly.

Fiscal Capacity, Democracy and Political Sovereignty.

Overcoming the current system of EU funding is closely linked to the issues of democracy and political sovereignty. *Fiscal power is one of the key prerogatives of a parliament*, i.e. the representative body of the citizens, and *the European Parliament's lack of fiscal power is one of its main limitations*.

⁵ As stated in the Monti report (*Future Financing*, *op. cit.*, p. 24), "Typically, any variant of a VAT-based own resource follows this model, as would an own resource based on a financial transaction tax or on a carbon tax. Implementing Regulations at EU level can lay down the details of the harmonisation rules, the share of the amount of be [sic] attributed to the EU level, but all these own resources are based upon taxes existing or created at national level. The basic act of a tax can therefore be decided at EU level at unanimity, e.g. on the basis of Article 113 TFEU in the form of a directive such as for the Financial Transaction Tax. It is then transposed into national legislation, levied and collected by Member States. Whether its proceeds are used to finance the national or the EU budget is a separate decision". https://ec.europa.eu/info/sites/info/files/about_the_european_commission/eu_budget/future-financing-hlgor-final-report_2016_en.pdf.

To require that the state's representatives in the Council and at national level decide unanimously what resources should be available to the EU, leaving the Parliament solely the power only to express an opinion, goes against every rule of democracy. The states' representatives derive their democratic legitimacy from the national electorate, to which they are accountable. To claim that these representatives should be the ones determining the Union's resources betrays an unwillingness to identify a common interest of the European citizens — an interest that only the European Parliament, their true representative body, is entitled to express. *Fiscal sovereignty of the European Union therefore goes hand in hand with the building of supranational democracy.*

On this basis, it can be argued that conferring the power to institute a European tax would amount to granting the European Union political legitimacy. This tax — taxes being an intimate attribute of sovereignty — would allow the European Union to start acting as a “sovereign” entity carrying out political functions that further the pursuit of the general good of society.⁶

A Proposal for Amendment of Articles 310, 311 and 312 TFEU.

To establish an autonomous European fiscal capacity based on effective power of taxation in the hands of the European Parliament, it is necessary, first and foremost, to amend articles 310, 311 and 312 TFEU, which govern the budget of the European Union.

What follows, therefore, is a targeted proposal, which aims to highlight the *first necessary step for a more comprehensive reform*. Transitioning to true European political sovereignty is a highly complex process, in the face of which it is crucial to have a clear understanding of all the objectives central to overcoming the obstacles that, still today (and notwithstanding the achievements already recorded by the European Union), prevent its realisation. The first objective is, in fact, the attribution of autonomous fiscal power to the European institutions, the *conditio sine qua non* to allow the development of real supranational powers of government in sectors and policies identified on the basis of the subsidiarity principle.⁷

As already indicated, these are amendments that must necessarily be accompanied by a broader Treaty revision process (leading to a full

⁶ P. Boria, *Diritto tributario europeo*, 2nd ed., Milan, Giuffrè, 2015, p. 489.

⁷ The second point that must necessarily be addressed concerns the need to devise a reform of the Treaties that introduces the clause of majority ratification by the member states and includes a protocol or an *ad hoc* instrument to regulate the maintenance of the *acquis communautaire* for those states that do not want to accede to the new Treaty immediately, but that will remain an integral part of the single market.

and coherent new Treaty of a constitutional nature) that addresses the need to strengthen the EU's competences (certainly in the economic, health, migration, foreign and security policy, research and training sectors) and reform decision-making mechanisms to ensure the full co-decision of the European Parliament and the abolition of unanimity voting in the Council and of national vetoes. The *Conference on the Future of Europe*, with input from the national parliaments and European citizens alongside the European Parliament, may offer the framework in which to address this political debate of constitutional significance, essential for the birth of a genuine federal political union.

The European Parliament itself is already moving in this direction, both in its resolutions on the *Conference on the future of Europe* and, recently, with its approval of the legislative resolution concerning the system of own resources,⁸ which includes a passage specifying that: “*In view of future deliberations about treaty changes, and using the momentum of the Conference on the Future of Europe, the democratic legitimacy, accountability, resilience and alignment with major policy objectives of the Union budget’s revenue side should be further strengthened by granting the European Parliament enhanced competences in the legislative decision making and a more active role in the monitoring of the implementation of the own resources system as well as in the underlying sectoral legislation*” following the opinion expressed by AFCO (the Committee on Constitutional Affairs) at the request of the Committee on Budgetary Control.

Treaty on the Functioning of the European Union

A proposed Reworking of Articles 310, 311, 312 to Give the European Union True Fiscal Capacity

Art. 310

1. All items of revenue and expenditure of the Union shall be included in estimates to be drawn up for each financial year and shall be shown in the budget.

The Union's annual budget shall be established by the European Parliament and the Council in accordance with Article 314.

2. The expenditure shown in the budget shall be authorised for the annual budgetary period in accordance with the regulation referred to in Article 322.

⁸ https://www.europarl.europa.eu/doceo/document/A-9-2020-0146_EN.html.

3. The implementation of expenditure shown in the budget shall require the prior adoption of a legally binding Union act providing a legal basis for its action and for the implementation of the corresponding expenditure in accordance with the regulation referred to in Article 322, except in cases for which that law provides.

4. The Union shall ensure the budget respects the multiannual financial framework referred to in Article 312.

5. The budget shall be implemented in accordance with the principle of sound financial management. Member States shall cooperate with the Union to ensure that the appropriations entered in the budget are used in accordance with this principle.

6. The Union and the Member States, in accordance with Article 325, shall counter fraud and any other illegal activities affecting the financial interests of the Union.

Art. 311

The Union shall provide itself with the means necessary to attain its objectives and carry through its policies.

To this end, the Union may establish fiscal own resources and take out loans.

The following are understood as own resources of the European Union: a) direct charges levied by the Union, according to the procedure provided for by Art. 311 bis, on production or on the imports of goods and services by businesses or citizens of the European Union; b) contributions to the European budget made by member states on the basis of national taxes harmonised in accordance with the provisions of art. 113 TFEU.

The member states' contributions to the budget will gradually be replaced by fiscal resources allocated directly to the Union budget and determined in the decision pursuant to art. 311 bis TFEU.

Art.311 bis

The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt a decision laying down the provisions relating to the Union's own resources. In this context it may establish new categories of own resources or abolish an existing category.

The Council, acting by means of regulations in accordance with a special legislative procedure, shall lay down implementing measures for the Union's own resources system in so far as this is provided for in

the decision adopted on the basis of the third paragraph. The Council shall act after obtaining the consent of the European Parliament.

Art. 312

1. The multiannual financial framework shall ensure that Union expenditure develops in an orderly manner and within the limits of its own resources.

It shall be established for a period of at least five years.

The annual budget of the Union shall comply with the multiannual financial framework.

2. The Council shall, in accordance with a special legislative procedure and after obtaining the consent of the European Parliament, which acts by a majority of its component members, adopt a regulation laying down the multiannual financial framework.

3. The financial framework shall determine the amounts of the annual ceilings on commitment appropriations by category of expenditure and of the annual ceiling on payment appropriations. The categories of expenditure, limited in number, shall correspond to the Union's major sectors of activity.

The financial framework shall lay down any other provisions required for the annual budgetary procedure to run smoothly.

4. Where no Council regulation determining a new multiannual financial framework has been adopted by the end of the previous financial framework, the ceilings and other provisions corresponding to the last year of that framework shall be extended until such time as that act is adopted.

5. Throughout the procedure leading to the adoption of the financial framework, the European Parliament, the Council and the Commission shall take any measure necessary to facilitate its adoption.

December 2020

Giulia Rossolillo

Thirty Years Ago

Federalism and Human Emancipation*

FRANCESCO ROSSOLILLO

Introduction

1. *Truth and Decision*. 2. *Scepticism and the Theory of the "End of Ideologies"*. 3. *The Contradiction of Scepticism*. 4. *Structuralism and Hermeneutics*. 5. *History as an Approach to the Norm*.

1. *Truth and Decision*.

Whoever decides to get involved in politics for a better world – and not with the sole purpose of winning reputation or power for himself – for this very reason makes a double profession of faith, however much he is aware of the fact. He must believe that the word “better” has, at least potentially, the same semantic content for all men, both for his contemporaries and for those to come, in other words applies to situations which are closer than the present one to a model of society based on values shared by everyone. This means he must believe in the existence of absolute values.

At the same time he must also believe that these values tend to be realized progressively in history, because whoever fights to change the conditions of society cannot imagine that the results of his efforts, in the concatenation of events, might in turn be the cause of irreversible involutions or regressions along the path of human emancipation, which would happen if history were a riotous and casual succession of contradictory and, in other words, meaningless events.

He therefore finds on the road to his *Selbstverständnis*, in his reflection on the reasons for his commitment, the connected problems of truth

* This essay was published in *The Federalist*, 32, n.2 (1990), pp. 109 ff..

– in the widest meaning of the term, which denotes the absolute nature of values – and the meaning of history. And he must then encounter and face up to scepticism, which denies both.

The choice of life of what Kant called the moral politician² therefore implies a philosophical option. On the other hand, this choice represents the only possibility of founding a philosophy able to escape the perils of scepticism. Philosophy is the discipline which investigates the foundations of experience (although it sometimes reaches the conclusion that there are none to be found): it is a *radical* science, because it takes nothing for granted. Being a search for foundations, it lacks foundations itself. The immediate data of consciousness from which to start meditation do not exist. Everything is mediated, so much that Husserl's philosophy, which proposes building the whole structure of thought on the immediateness of experience, paradoxically deciphers its structure only *at the end*, as a result of the complicated process of transcendental reduction.³ This is the reason why the beginning of philosophical meditation is always a problem. Philosophy, being a radical science, is a *circular science*, in which the starting point, considered from within the science, is always arbitrary, and coincides with the end.

The circle can thus be broken only *from outside*, precisely thanks to an active stand with respect to one's time, which determines the starting point of the philosophical reflection, thus avoiding falling into arbitrariness. Because if it is true that the ending point of philosophical meditation coincides with its starting point, the arbitrary nature of the latter affects the whole train of thought.

The fact remains that in this way the need for non-arbitrariness, for *foundation*, is transferred from philosophy to the existential choice which represents its precondition. Herein lie the roots of the coincidence of the search for truth with moral commitment, according to which it can be affirmed that truth is both the norm of knowledge and the norm of action (*verum et bonum convertuntur*). And it is a fact that no judge nor criteria for judgement exist to decide which existential choice is serious, and which casual and arbitrary, except the success of the project in which it takes shape, be it in the more or less long, or extremely long run. But as success only comes at the end, and can be

² *Zum ewigen Frieden*, p. 232 and ff. of V Volume of the Insel Verlag edition, Wiesbaden, 1960.

³ This kind of problem is present in all Husserl's philosophy. The problem of the radical nature of philosophy is specifically treated in the essay *Die Philosophie als strenge Wissenschaft*, published in *Logos*, Vol. 1, 1910/11 (I.C.B. Mohr), while the relationship of philosophy with *Lebenswelt* is the theme of the *Krisis*.

reaped by others, the only immediate confirmation can derive from a rigorous confrontation with one's own conscience, as far as it allows one to affirm, like Luther, *hier stehe ich, ich kann nicht anders*.⁴

This essay is then addressed only to those who have already found a meaning for their life in a certain type of political action, or who are unwittingly looking for it. Certainly, this is a limitation. But a limitation which belongs on the one hand to philosophy in general, whose assertions are never for everybody, but always only for those who are ready to understand and accept them. And which on the other hand does not mean to be definitive, because it is tied to a stage of the historical development in which men's projects are not yet compatible and mutual understanding is still not universal. The privilege of whoever believes in truth is that of being able to imagine a future in which all fences have been removed and everyone will be able to address himself ideally, when writing and speaking, to the whole of mankind.

2. *Scepticism and the Theory of the "End of Ideologies"*.

The philosophies of arbitrariness and unscrupulousness which prosper in our time each in their own way question the idea of truth. The suicidal temptation of the human spirit to destroy its very foundations by denying itself all legitimacy is as old as the history of thought. The history of philosophy has a curious spiral-shaped movement, which leads it to ponder over the same problems, although at ever higher levels of sophistication (certainly not of theoretical vigour). The central themes of those philosophers that call themselves "post-modern", or who refer to structuralism or hermeneutics, are after all the same as those of the Sophists and the Pyrrhonists: the relativity of knowledge, the impossibility of giving it an objective foundation, and thus the legitimization of arbitrariness.

In effect, when the "post-modern" philosophers claim that there can only be partial truths, they are making an obvious or aberrant assertion. The truth of something lies partly in the thing itself, and in part in its relationship with the rest of reality. This means that the entire truth of the smallest part of reality lies in the totality. The truth is the whole, and the whole is unknowable. The search for truth is an unending task, an *unendliche Aufgabe*; and every time we make an assertion we are perforce expressing a partial truth, which as such is never wholly true, but essentially *provisional*. But acknowledging this does not exempt

⁴ Here I am, otherwise I cannot do.

us from the duty of continuing the search for truth, of laboriously proceeding towards the comprehension of a totality which, being out of reach, is nevertheless concretely present as *Aufgabe*, and imposes on us a *norm* we must follow.

For the “post-modern” philosophers⁵ the theory of partial truths instead means that every assertion has in itself the criterion of its truth which depends on the linguistic conventions which are in turn arbitrarily adopted – and that it is therefore meaningless to pursue, albeit without losing awareness of the necessarily partial nature of one’s task, one single truth, in other words the comprehension of one world through a coherent thought. Thought, according to them, is not guided by any norm which is internal to it, and therefore it is essentially arbitrary. And the correlate of an arbitrary thought is an infinite multiplication of worlds devoid of relations with each other.

In politics modern scepticism has taken the shape of the theory of the *end of ideologies*.⁶ Its deep meaning is that men can no longer avail themselves of criteria to direct their lives within the context of historical and social reality, except that of accepting it as it is, and of possibly committing themselves only to changing a few marginal aspects, which do not undermine its global structure. The degree of conservative degeneration which political thought has now reached is revealed in a particularly insidious way in the attempt to pass off as *totalitarian* the effort to understand the essential characteristics of the historical and social situation of the time and to single out the institutional bottlenecks to be acted on so as to allow the progress of mankind’s emancipation process. The search for truth therefore is not only supposed to be meaningless, but also to betray the hidden will to impose a political and social system through force. Only those who renounce thinking are really free.

3. *The Contradiction of Scepticism.*

That scepticism confutes itself has been proved since the very beginnings of the history of philosophy. “If every representation is true, as said in an argumentation ascribed to Democritus by Sextus Empiricus, so is the assertion that not every representation is true, inasmuch as it exists as representation, and thus the assertion that every representation

⁵ See for all of them Jean-François Lyotard, *La condition postmoderne*, Paris, Les Editions de Minuit, 1979.

⁶ The theory of the end of ideologies was born in America with the work of Daniel Bell, *The End of Ideologies*, New York, The Free Press, 1960.

is true becomes false.”⁷ The fact remains that scepticism always rises again from its ashes, and at all times presents philosophy with the task of redeeming the idea of truth.

Scepticism has two origins. The first is of historical and social nature, and therefore contingent. It is to be sought for in the cultural atmosphere which is created in those phases of history in which the process of human emancipation seems to stall and thus the criteria for the orientation of action and thinking capable of imposing themselves on men by their own force come to be lacking. In these circumstances the philosopher is strongly tempted to exchange his own inability to find the way to truth with the very impossibility of finding it.

The second lies in what is for Eric Weil⁸ the essential alternative man has to face: the one between discourse, in other words reason, and violence. Scepticism is the attempt *to place discourse in the service of violence*, and it always reappears in the history of philosophy because non-reason is a choice which is perpetually offered to men, and against which, in as much as one considers it a pure category, no rational argument can avail because the criterion of violence is violence itself.

But violence fights reason also on its own ground, making use of its instrument – language – but denying its criterion – truth. And it is a fact that, if we deny all the objective criteria for determining the truth of an assertion, or the compound beliefs and orientations which makes up a culture, the only criterion for establishing who is right (and it is the problem for all those who use language to make assertions) becomes that of whoever prevails on the other independently of the truth-value of his discourse or culture, in other words of who has *more power*. Not without reason do the philosophies of scepticism so often resort to *cultural terrorism* to impose themselves. On the other hand, they cannot openly confess their instrumental character with respect to violence, for the very reason that they present themselves as discourse, but they lay, explicitly or implicitly, the claim to be accepted because of their intrinsic validity, that is, their truth. Therefore they irremediably remain prisoners of Democritus’ contradiction.

4. *Structuralism and Hermeneutics.*

This contradiction affects scepticism in all its manifestations. For the structuralists, for example, the categorical structures – those called

⁷ Quoted from Hermann Diels, *Fragmente der Vorsokratiker*, 1903, pages 258-59 of Vol. II of the 16th edition, edited by Walter Kranz, Dublin-Zurich, Weidmann.

⁸ See above all the introduction to the *Logique de la philosophie*, Paris, Vrin, 1967.

epistémè by Foucault⁹ – of different periods and cultures represent views of reality which are absolutely irreducible vis-à-vis each other. Any intercultural dialogue is therefore impossible – or would in any case be a pretence because every culture would interpret the other according to *its own* code, which is not translatable into that of the other, and consequently would not understand it at all. However, the structuralists are forced to make an exception for themselves. Foucault thought he possessed the faculty of understanding others' *epistémè*. And when Levy-Strauss studied the Amazonian Indians' culture, learnt their languages and discovered the meaning of their kinship relations and derived from his observations the consequence that they were totally heterogeneous systems with respect to Western culture, in actual fact he was claiming to be above both the former and the latter and was attributing to himself the exclusive privilege of understanding all of them.

More insidious – because less naive – is the approach of other philosophical trends, such as hermeneutics. The latter does not propose to pursue the truth, but simply to listen to tradition, to the echoes which reach us from the past, adopting an attitude which certainly intends to *comprehend*, but in the manner of aesthetic comprehension. Hermeneutics, then, assumes contradiction, acknowledges itself as the philosophy of ambiguity and multiple truths and at the same time considers itself one of them, thus apparently becoming hardly accessible to any questioning. But the fact remains that, at any level of theoretical sophistication, the contradiction inherent to relativism cannot be overcome. In actual fact, whoever is aware of being immersed in contingency, or of being enclosed within the horizon of a culture or language, places himself in an observation post which goes beyond contingency, or that particular culture or language. Whoever is wholly *inside* a horizon is not aware of it, because to know one is inside something one must be able to see its *boundaries* and therefore to realize there is something *beyond*. To be aware of swinging one must have an immobile reference point. This obviously does not mean that one has to know *what* is on the other side, or to be able to describe the immobile point. But knowing there is something beyond the boundary justifies the task of finding a content for the idea – at first only formal – of truth.

5. History as an Approach to the Norm.

What sense is there anyway in speaking of comprehension outside the horizon of truth? Comprehension, in whatever way it is interpreted,

⁹ In *Les mots et les choses*, Paris, Gallimard, 1966.

cannot be separated from the idea of an affinity between who understands and who is understood, from the idea of a *common ground*. This common ground, which every time has to be laboriously sought for, but is found only because it is already in existence, is in fact the truth, as a norm the validity of which is independent from the points of view of whoever understands and whoever is understood, and which acts as a link: between experiences, languages and cultures.

But the idea of a norm which is *immanent to history* implies that history itself be the process of realization of the norm. The validity of a norm requires the existence of a judge who finds it and applies it. If the norm is assumed to be transcendent, the judge is God (through his representatives on Earth). If instead transcendence is disregarded (which does not mean excluding it, merely acknowledging that it is a matter of faith) and at the same time history is denied a meaning, assuming that today there is no agreement on the content of the norm, it becomes impossible to single it out, and therefore the assertion that it exists loses all legitimacy and one falls back into scepticism and arbitrariness. Nor can it be claimed that every man has within himself the norm in a virtual state, because if today it is formulated in different ways, and there is no reason to believe that *tomorrow* everybody will formulate it in the same way, it remains unknowable, and therefore without effect. It is only thanks to the idea of the meaning of history that history itself becomes legislator and judge, as it is mankind that discovers along the way and applies – step after step, and at the cost of withdrawals and sacrifices the norm of truth and the good through the realization of a universal agreement.

The Sense of History

1. *The Two Dimensions of History*. 2. *Interpretation*. 3. *Sense as Tension*. 4. *The Context*. 5. *Comprehension and Event*

1. *The Two Dimensions of History*.

Whoever meditates on his relationship with the past cannot deny the obviousness of the observation that history is an objective process of which we ourselves are the result. We are *made* by history and to history we owe the language and the conceptual instruments with which we think of our past, and which each of us finds *already there* when we are initiated to the life of reason. Whoever is struggling to change reality cannot disregard the need that his project be *historically*

mature, in other words that the conditions for its feasibility pre-exist in the world, as the result of a process which is wholly independent from his action. Whoever deluded himself that he could change reality without being aware of this need would be a dreamer, whose efforts are doomed to fail.

On the other hand, if it is true that history *is there*, is an object for our comprehension, it is also true that the history of historiography proves to us how it is an object which changes under the historian's gaze. The Rankian illusion of describing the past as it really was – *wie es eigentlich gewesen* – has vanished forever. The past *as it was* cannot be freed from the subjective dimension of interpretation. It is enough to remember how the image of the past is radically transformed depending on the selection the historian makes according to his interests within the infinitely vast and complicated tangle of even the infinitesimal part of events which is accessible to our knowledge; or on the one he makes among documents according to his personal conviction of their credibility; or on any conditioning imposed on him by academic specializations (historical, political, economic, social, philosophical, artistic, etc.); or finally on periodization, which has so much influence on the perspective in which past events are placed.¹⁰

Man's relationship with his past is therefore marked by a deep contradiction: it is true at the same time that we are made by history and that history is made by us.

2. Interpretation.

This is the contradiction around which the debate on the nature of interpretation revolves, and which elicit two opposing answers, both of which unsatisfactory.

The first is the realist answer, which today is enjoying its moment of splendour above all in the field of musical interpretation. It is the illusion of performing ancient and baroque music *wie es eigentlich gewesen*, as it was performed during the times of the composer (with the same instruments, the same acoustics, even the same imperfections). It is an illusion which does not take into account two essential factors. The first is the impossibility of recreating today not the musical instruments, but the cultural and social atmosphere of the time, eliminating the screens created by centuries of evolution in taste and in the means of fruition of a work of art (it is impossible to recreate the courts of

¹⁰ Concerning this see the essays by Herbert Butterfield contained in the volume *Man on His Past*, Cambridge, C.U.P., 1969.

the German 18th century princes or of the Hannovers, or the occasions which led people to listen to music and conditioned their way of perceiving it, nor on the other hand can we destroy compact discs). The second is the fact that the aesthetic intention of the artist, beyond the literal text, is always eminently open, is a proposal entrusted to the sensitivity of those to come, and therefore cannot be locked up in the cage of a rigid interpretative formula.

The other answer is that which considers the text purely as a pretext, and the interpretation as an original work of art. We have all too often been afflicted by outrageous theatrical performances, where classical texts are “reinvented” by the director, for it to be necessary to give any examples. Today this irresponsible attitude towards the text is philosophically legitimated by the theorists of “deconstruction”, for whom “reading is transformation”.

For Derrida¹¹ “every sign is the sign of a sign”. His refusal of the “metaphysics of presence” means that language is a “system of references”, in which every sign always refers to another sign without ever being able to define the presence of what is signified, in other words of what the author of the text actually *wanted to say*. The author goes. The text remains as pure succession of signs which, not referring to a *presence*, that is, to a controllable reality, are reduced in the last instance to their materiality, and as such are totally available for the whims of the interpreter. Derrida does not deny the inevitability of the desire for the presence, but claims it is a desire that cannot be fulfilled.

In actual fact, for the term “interpretation” to find its correct meaning in the universe of discourse of literature, art, law and history, the two poles of the sign and signification must both recover their legitimacy. One must escape the dilemma between the position of Heidegger,¹² according to which the truth is already there in its entirety and is simply waiting not to be interpreted, but *revealed*, and the comprehension of the past is only *Wiederholung*, repetition, complete identification with the event, and the opposite one of Derrida, who in the name of the sign, “deconstructs” reality: two positions, it must be noted, that although they start with opposite premises, reach the same conclusion, that is the suppression of meaning. For Heidegger, in fact, the truth is in the not in the relationship between discourse and the thing, it is something which simply happens, and in which therefore there is no tension between sign and signification. Its

¹¹ Jacques Derrida, *De la grammatologie*, Paris, Les Editions de Minuit, 1967.

¹² Martin Heidegger, *Sein und Zeit*, 1927, consulted in the Max Niemeyer Verlag edition, Tübingen, 1963, pp. 385 and ff..

identification between philosophy and poetry underlines what for him is the exclusive relevance of the materiality and sonority of the sign.¹³

3. *Sense as Tension.*

What has to be recovered is the dialectic nature of interpretation and meaning as *tension towards truth*. It is the tension which appears in the meaning of the verb *semainein* used by Heraclitus in the famous fragment in which it is said that the Delphic oracle “does not say nor hide, but *means*” (*oute legei oute kryptei, alla semainei*).¹⁴ The act of meaning does not realize a static relationship of correspondence with the object. Correspondence is a limiting concept, to which whoever is in search of truth and, beyond him, the whole history of culture, come closer through signs, those which make up discourse, and which reason must make use of: signs which do not say nor hide, but provide signals or clues. Besides, truth revealed in its entirety, no longer mediated, and therefore partly concealed, by signs, is undescrivable. It is totality, and as such is incompatible with the determination of the sign: *omnis determinatio est negatio*. The fact remains that discourse finds its legitimacy as search for the truth. That of the presence, of *parousia*, to return to Derrida’s terminology, thus remains an unsuppressable need. But it is a need which explains all the history of philosophy, science, religion and art, and that cannot therefore be lightly dismissed, by simply declaring it unsatisfiable. Even if it is agreed that the search for truth is a laborious and endless process, doomed never to fully achieve its aim, there must however be a criterion to establish whether the pilgrim is going in the right direction, whether he is approaching his goal or going further away from it, even if the goal is known to be unattainable. The ultimate meaning is the idea of the reason of *parousia*, of the presence of the totality which is revealed without the mediation of language; but it has itself *represented* in the world by (imperfectly) determined meanings, to which the signs of language refer more or less faithfully, so as to justify the attribution of a truth-value to every sentence. The fact remains that the signification, as representative of totality, is *always in excess* with respect to the sign, so that the relation of the second to the first is, rather than a relation of correspondence, a *premonition*, the correctness of which must be verified in the future. “The rational meaning of every proposition, Peirce writes, lies in the future”.¹⁵

¹³ See in particular *Der Ursprung des Kunstwerkes*, in *Holzwege*, 1950, consulted in the 4th edition published by Klostermann Verlag, Frankfurt a.M.

¹⁴ In Hermann Diels, *Fragmente der Vorsokratiker*, *op. cit.*, on p. 172 of Vol. I.

¹⁵ Charles Peirce, *What Pragmatism Is*, *The Monist*, 15 (1905), quoted from Philip P. Wiener, ed., *Selected Writings*, New York, Dover Publications, p. 194.

4. *The Context.*

The march of mankind towards truth, however many and however long the wanderings, the returns, the stops along the way, is and can only be, progressive. This characteristic corresponds precisely to the dialectic nature of meaning, which is revealed in the tension between the single sign (or significant event) and the context. It is a fact that every part of a text (or a chain of significant events) can only be fully understood *at the end*, when the relationship of the part with the whole, which is an essential component of the meaning, can emerge. The founder of hermeneutics, Schleiermacher, writes that "Even within a single text, the single element can be understood only by starting from the whole; for this reason a correct interpretation must be preceded by a rapid reading, to get an idea of the whole."¹⁶ But it is just as obvious that the meaning of the context cannot be understood independently from the individual elements which make it up, because the context is formed by its elements. A rapid preliminary reading always proceeds from the beginning to the end, and consists of reading words. The individual words, or the single events in a meaningful process, therefore, have a meaning in themselves – albeit imperfect – and await completion by a reading of the whole text, or the course of the whole chain of events. If this were not the case, nothing could be understood, because everything is at the same time *context* with respect to its elements, and *element* with respect to the wider contexts in which it is included. And the context of all contexts is totality, which is never accomplished and therefore is unknowable as such. If comprehension is possible, this happens because in every word and in every event there is a *premonition* of the context and thus, in the last instance, a *premonition of totality*.

When referred to history, which in the human world is totality in its development, these considerations lead to the conclusion that the basic structure of historicity is the dialogue between the historian and the event and, more in general, between men and their past. On the one hand it is true that it is the context, in other words the chain of subsequent occurrences, that gives a meaning to the event; but the latter in turn is not a lifeless object: it *prefigures* the context, even if in an open manner. The event and the historian, the past and the present are therefore of the same nature, they are links of the same chain, and they establish a dialogue with each other, although the historian is in a privileged situation because he comes after and, having at his dispos-

¹⁶ Friedrich Schleiermacher, *Hermeneutik und Kritik*, 1838, quoted from Manfred Frank, ed., Frankfurt a.M., Suhrkamp Verlag, 1977, p. 97.

al a wider context, he can understand the event better than those who were its protagonists (while the protagonists have the privilege of living more directly the open nature of the event).

5. *Comprehension and Event.*

It must not be forgotten that, if it is true that the historian has at his disposal a wider segment of the historical context to interpret the event, he is not however *outside* the context, as the reader of a book could be. He is *in* the context, he is *part of history*, he is *situated*. This means that his comprehension of the past is not independent from his links with reality, from his interests and projects. *Verstehen ist selber Geschehen* – to understand is in itself to occur, Gadamer writes.¹⁷ Just like the event, the historian is not pure intellect, but *Dasein*, and therefore lives at every moment in that mode of being which is at the same time attention to the present, retention of the past and tension towards the future (*gewärtigend-behaltendes Gegenwärtigen* in Heidegger's terminology in *Sein und Zeit*).¹⁸

The historian thus does not place himself, with respect to a past event, as a subject towards an object, but in a relationship of *continuity of meaning*. The misunderstanding according to which it is possible to be in a position of pure intellection with respect to the past is a consequence of the division of social work which, by creating the role of the academic, gives rise to the illusion that theory and practice, the understanding of the past and the active planning of the future can be separated. In actual fact, the historian is but a specialized organ of society as a whole, whose life has one of its essential dimensions in the relationship with the past.

The various past and present historiographical trends express the different configurations which the relationship with the past takes on in the view of those forces which, by confronting one another, make up social dialectics. Not without reason the big changes in the prevailing trends of historiography have always followed the great political transformations of real history. To consider event and historical consciousness as parts of the same significant chain thus implies a tendential elimination of the distinction between theory and practice. The truth as the norm of knowledge tends to coincide with duty as the norm of action and the search for truth with mankind's march towards its emancipation.

¹⁷ Hans-Georg Gadamer, *Rhetorik, Hermeneutik und Ideologiekritik*, in *Hermeneutik und Ideologiekritik*, Frankfurt a.M., Suhrkamp Verlag, p. 69.

¹⁸ *Sein und Zeit*, *op. cit.*, p. 406.

Therefore the truth is at the same time something *to be sought* and something *to be made*, which is achieved by understanding and is understood by achieving, and history is the process through which mankind becomes its own truth by becoming aware of it.

Truth as Agreement

1. *Truth as Verstandigung and Peirce's "Community"*. 2. *Criticism and Comprehension*. 3. *The Historicity of Truth*. 4. *Violence in History*. 5. *Violence and Dialogue*

1. *The Truth as Verstandigung and Peirce's "Community"*.

But what does "to become one's own truth" mean? For as long as truth remains an ideal which is pursued but not achieved, it postulates the existence of an object of thought, which is outside it and to which it must try to adapt itself. The *adaequatio intellectus et rei* is in the first instance the criterion of truth. And it is a criterion which already points out that the search for truth is the opposite of the arbitrary expression of one's personal excogitations. It presents whoever ventures into it with the experience of a harsh confrontation with the "thing", with a reality which is beyond and outside us, which is certainly not produced by whoever thinks, but on the contrary strenuously resists comprehension. It is the painful experience of the *fatigue of the concept*.

On the other hand it is also true that, just as thought only exists for the object, likewise the object only exists in thought, and that the same judgement on the *adaequatio* of an assertion to a thing is at the same time an assertion, and therefore is itself internal to thought. So it is true that there is no *objective* criterion to determine in each particular case the nature of the object.

The same problem and the same apparent contradiction appear in the context of moral philosophy. It is true in fact that ethical reflection cannot exclude the subjective form of the voice of the conscience, or the categorical imperative. But the categorical imperative must have an objective content, without which it becomes Hegel's *conviction*, the uncontrollable assurance of one's good faith, which can be used as an alibi for any iniquity. And this content can only be given by public morality, by Hegel's *Sittlichkeit*, which the individual finds already there in social life.¹⁹ Moreover, the autonomy of the categorical imperative

¹⁹ G.W.F. Hegel, *Philosophie des Rechts*, 1830. On the concept of *Überzeugung* see §140. On *Sittlichkeit* see §141 and ff..

and *Sittlichkeit* are two terms both necessary to give a meaning to moral reflection and at the same time contradictory. It is true, in fact, that *Sittlichkeit* is the essential reference point that allows us to avoid arbitrariness in our choices and moral judgements. But it is just as true that it is the place of conformism and conservatism. Just as the autonomy of the moral command is at the same time the principle of arbitrariness and the place in which the contradictions of the existing system of *Sittlichkeit* become self-conscious and the conditions for overcoming them are created.

At this point it becomes necessary to ask whether that of overcoming the opposition between subject and object within the sphere of knowledge and in that of action, through a process in which they *become* and *acknowledge each other* as the same thing, should not be considered *tout court* as the *unendliche Aufgabe* of the search for truth.

But the elimination of the opposition between subject and object can only take place through the substitution, as criterion of truth, of the *adaequatio intellectus et rei* with the *Verständigung*, that is, of the *agreement* between subjects-objects which, through rational dialogue, elaborate a common vision of the world and by doing so promote the process of emancipation of mankind.

This can be achieved, in an indefinite future, in Peirce's *community*, that is, in a way of living together in which opinions will be expressed and freely evaluated, without the screen of prejudice. "So, Peirce writes, those two series of cognition – the real and the unreal – consist of those which, at a time sufficiently future, the community will always continue to reaffirm; and of those which, under the same conditions, will ever after be denied."²⁰

The achievement of truth thus becomes a process through which men create a world dominated by discourse, in which violence is suppressed and free rational communication among men is no longer impeded by any type of screen. But it is an agreement that will be achieved only *at the end* of the process. At this ideal final stage of the development of mankind the complete identification of theory with practice will be achieved because, when the object has vanished forever, mankind will advance exclusively through mutual persuasion and politics will turn into the art of rhetoric and into the *paideia* of Plato's *Republic*. Full legitimacy will be acquired by what Vattimo calls "the rhetorical horizon

²⁰ Charles Peirce, *Some Consequences of Four Incapacities*, in *Journal of Speculative Philosophy*, 2 (1868), quoted from Philip P. Wiener, ed., *Selected Writings*, *op. cit.*, pp. 39 and ff..

of truth",²¹ because truth will coincide with the *pithanon*, with what is convincing.

2. Criticism and Comprehension.

It must be emphasized that the idea of an agreement among reasonable men is a dynamic concept. The agreement is something which must be constantly recreated because the search for truth is an endless task, in the pursuit of which the frontier of knowledge moves further and further forward. The ideal of *Verständigung* cannot therefore be separated from the idea of criticism, which is in fact internal to dialogue, and is the prime mover of its advance. On the other hand criticism cannot be separated from comprehension. In a dialogue every statement which refers to a previous statement of the interlocutor always goes beyond it, and therefore denies it, and so degrades it to an object. But it can do this as it understands it, and thus preserves it. The Habermas - Gadamer controversy²² on the primacy of one pole or the other in truth often appears to be the juxtaposition of two unilateral views. Gadamer, like all the exponents of hermeneutics, thinks of comprehension without criticism because after all he does not believe in truth; Habermas, like all the exponents of the Frankfurt school, seems to think, at least at some stages of his meditation, of a criticism without comprehension because he does not believe in history as the history of the emergence of truth, and is convinced that the abstract ideal of truth is visible from the beginning in the totality of its determinations.

Now truth certainly does exist from the beginning, but only as a formal idea, and it develops only in history, progressively revealing its concrete content. Therefore it is true that criticism is carried out by applying universal criteria of judgement to a statement, or to a situation. But these criteria must not for this reason cease to be determined historically: otherwise whoever practises criticism does not understand the object because he does not share its historicity. The mediation between positive phenomenon and universal criterion is thus the *historical process*, as tension towards the achievement of universal values in history. If this mediation is lacking, if there is no common reference framework, comprehension is reduced to a kind of sympathy or phil-

²¹ Gianni Vattimo, *Dialettica, differenza, pensiero debole*, in Gianni Vattimo and Pier Aldo Rovati (eds.), *Il pensiero debole*, Milan, Feltrinelli, 1983, p. 26.

²² See in particular the above-mentioned essay by Hans-Georg Gadamer, *Rhetorik, Hermeneutik und Ideologiekritik*, as well as *Replik*, in Id., *Hermeneutik und Ideologiekritik*, op. cit.. In the same volume see Jürgen Habermas, *Zu Gadamer's 'Wahrheit und Methode'* and *Der Universalanspruch der Hermeneutik*.

ological curiosity, a dreamy conversation among the deaf, in which in reality nobody understands anything because everyone has his own criterion of truth, or has none at all; and criticism becomes the sterility of the simple negation, for which what is historical is false simply because it is historical, that is, not absolute, and which condemns itself to go unceasingly along the monotonous roads of negative dialectics instead of stimulating the object of criticism to evolve towards its universal idea.

3. *The Historicity of Truth.*

If comprehension without criticism leads to scepticism, criticism without comprehension leads to dogmatism and intolerance. An example of this, in paradoxical contrast with the theories he professes, is Popper's work,²³ with the superficiality and sovereign easiness with which he tries to liquidate in a few lines great philosophers such as Plato, Hegel or Marx. This derives from the fact that his approach does not consider the pole of comprehension. Therefore he does not place himself in history, but measures other people's theories according to a non temporal standard which in turn escapes criticism and cannot therefore be falsified. In Popper's philosophy the negative – *falsification* – is far more important than the positive – truth. But it is the very search for truth, of which the process of falsification is only a methodological instrument, which makes man a different creature from animals: *pantes anthropoi tou eidenai oregontai physei* – all men by nature aspire to knowledge: this is how Aristotle's *Metaphysics* begins.

Falsification is merely the consequence of the dissatisfaction which the insufficiencies of truth transmit at the stage of historical development it has reached. But it must not be forgotten that whoever is concerned exclusively with pointing out the contradictions and lapses in another's opinion, instead of trying to understand it with the aim of reaching an agreement, is merely a nuisance, certainly not a scientist or a philosopher.

The philosophy of falsification intended as basic structure of knowledge does not historicize itself, and thus doing does not feel any sym-

²³ Popper's philosophy of knowledge is contained above all in *Logik der Forschung*, Wien, Julius Springer Verlag, 1935, reviewed in successive editions up to the 9th, Tübingen, J.C.B. Mohr (Paul Siebeck), 1989, and in *Conjectures and Refutations*, London, Routledge and Kegan Paul, 1963, consulted in the 5th revised edition of 1974. His critique of metaphysics is contained in *The Open Society and Its Enemies*, London, Routledge and Kegan Paul, 1952, and *The Poverty of Historicism*, London, Routledge and Kegan Paul, 1957.

pathy, that is *comprehension*, for other people's theories, the sympathy which finds its justification in the fact that both theories, the one that judges and the one that is judged, have their origin in the common ground of history.

In reality no theory is ever actually falsified (and in this Kuhn comes much closer to the truth than Popper).²⁴ Science, and knowledge in general, proceed by replacing the previous theories with theories having a greater explicatory power. The former, however, retain some content of truth, without which the successive theories would never have been elaborated. This is the reason why Plato is still profoundly true and up-to-date. Man emancipates himself in the course of history because truth grows on itself. If every falsification were radical, it would make *tabula rasa* of all the previous theories and observations on the subject, and every time things would start all over again. The only truths handed down from ancient thinkers would be those that nobody has ever bothered to falsify, instead of being, as they are, the dawn of a knowledge which in subsequent history has continued to be enriched and determined. They are therefore *still* truths, and it is their very aural nature – the continuity between the meditation of the ancients and ours – which makes reading them such a deeply involving experience.

4. *Violence in History.*

It is a fact, however, that today the identification between truth and *pithanon* does not exist. Of course, to deny the link which unites them would be to bar oneself from the search for the meaning of truth. Moreover, Aristotle, although he distinguished clearly between truth and common opinion, admitted the close ties between them. He considered two types of reasoning valid: the demonstrative (*apodeixis*), which argues starting from the first truths or from assertions deduced from them, and the dialectic, which argues starting from opinions accepted “by everybody, or by most people, or by wise men and, among these, by all, or most of them, or the most famous and the ones enjoying the most prestige”.²⁵ Shared opinion is therefore placed at the same level as truth.

But the complete identification between true and convincing takes place *at the very limit*. If they were completely identified “now”, it would be impossible to avoid two types of contradictions. In fact, as

²⁴ Thomas Kuhn, *Structure of Scientific Revolutions*, Chicago and London, The University of Chicago Press, 1962, and Id., *The Essential Tension*, Chicago and London, The University of Chicago Press, 1977.

²⁵ *Topica*, 100a and 100b.

virtually no assertion is shared by everyone, "most people" might not coincide with the "wise men", thus making the criterion of truth indeterminate. On the other hand, the concept of "wise man" presupposes the idea of truth which one wants to define with it, and thus leads to begging the question. In today's reality therefore there can be conviction without truth and truth without conviction. It is enough to remember to what extent, especially in politics, conviction is a prerogative of demagoguery, discourse is manipulated through violence, consensus is reached through *ideology*, here meant as false conscience. This type of consensus must therefore be kept carefully distinct from the one realized through an unbiased dialogue among equal men. Only the latter, when it becomes general, can be identified with truth. But its realization *lies in the future*.

But what prevents Peirce's *community* from being realized now, in other words during the course of history instead of at its end? The truth is that history is not a text. It certainly has a sense, and in this aspect it is useful to compare the interpretation of the facts of history with the reading of a text. But it has not got one single author who creates it from beginning to end on the basis of an idea, and who can go back to the beginning to re-elaborate it, make clear its connections, balance its composition, eliminate its contradictions and obscurities. History is not the translation into words, or figures, or notes of a project (although the process of writing a text or of artistic creation certainly does not amount merely to the reproduction of a mental model). It is rather the process of emergence of sense from matter, from chaos, or from nonsense.

That of historical development therefore is not only the dialectics internal to sense, but it is also that of the relationship between sense and nonsense. This is the theme on which Habermas has focused above all.²⁶ He insists on the fact that a wide area of human action is of a non communicative nature as it refers to aspects of reality which are impermeable to dialogue, and which can be called from time to time nature, war, power, need or folly. It is that pole of the dialectics of reality which on the one hand is opposed to communication, but on the other represents its material foundation, just as the body, with its materiality its inertia and dependence on the laws of physiology is the home of the individual expression of reason, which dies with the death of the body.

²⁶ Jürgen Habermas, *Zu Gadamer's 'Wahrheit und Methode' and Der Universalanspruch der Hermeneutik*, *op. cit.*, in Hans-Georg Gadamer, *Technik und Wissenschaft als Ideologie*, *op. cit.*.

The nonsense cannot therefore be eliminated, because its elimination would involve the elimination of sense.

Habermas emphasizes that these aspects of reality must be tackled with *monological* procedures, such as instrumental action, criticism of ideology, strategic interaction.

The process of the progressive evaporation of the object cannot therefore be the process of its disappearance, just as it cannot be that of the dematerialization of the subject. Moreover, all the philosophical attempts at reducing nature to spirit have failed. It follows that technology as man's control over nature, and its continuous development – although it must be a sustainable development – remains an essential condition for the advance of the process of human emancipation. Thus Peirce's community will anyway have a material basis, represented by the work of the men who will be part of it and that of all the previous generations, and its existence will depend on that of its material basis.

But the progressive replacement of the monological approach to reality with dialogue is quite conceivable when the former involves the use of man's violence on man. Both manipulation (on the side of conservatism), the criticism of ideology (on the side of progress) and strategic calculation (on both sides) are tied to the persistence of violence and destined, with its disappearance, to be replaced by dialogue. It is still therefore legitimate to conceive of the history of mankind's emancipation as a process – certainly endless, but destined to go through well determined stages – in which needs tend to dematerialize, becoming more and more cultural needs, in other words communicative, work is reduced and is left to machines, war disappears and even the premises for folly come to be lacking, in a peaceful and egalitarian society.

Within this more limited context, the obstacle to the realization of Peirce's community is violence, and the history of its realization is the history of the elimination of violence. And as violence is impermeable to dialogue, it is inevitable that overcoming violence implies the use of monological procedures, which also belong to the sphere of violence. Concerning this, Habermas underlines with particular insistence the emancipating function of the criticism of ideology. It differs from the criticism internal to dialogue because whoever uses ideology to justify his power is considered inaccessible to persuasion. Dialogue, in fact, – to go back to an above-mentioned point – is not characterized because the conversing subjects have the same opinion from the start (otherwise

it would be idle talk) but because they are animated by what Apel – in opposition to Nietzsche – calls *Wille zur Wahrheit*, that is, by the sincere willingness to reach a common position, and therefore by open-mindedness to the interlocutor's criticisms. Where this willingness and open-mindedness are lacking, the relationship becomes a relationship of power, and therefore belongs to the sphere of violence. And this is precisely the case of ideology, in which the error is not a dialectic aspect of the search for truth, but is external to it and suffocates it because it is functional to the preservation of power.

It cannot therefore be defeated by persuasion, but by the corrosive violence of criticism: violence can only be abolished by violence.

5. *Violence and Dialogue.*

All this does not avoid the fact that, as it would have been out of the way to go too further in the identification between history and text, so it would be to forget that history remains a process with a sense. If in fact criticism of ideology were only the relationship between who makes the criticism and who justifies his power with ideology, it would be completely useless, because it would not be accepted by its recipient. Its emancipatory function depends instead on the fact that it is addressed to an audience which is open to dialogue and comprehension, which has to be *persuaded*. *Verständigung* thus still remains the only criterion for verifying the truth of an assertion or of the correspondence of behaviour to the norm. The foundation of truth is always dialogical, and the monological approach to reality is founded in turn on dialogue, which anyway provides the verification of its results.

But this can take place because, in the human world, the germ of dialogue is inherent in violence from the very start, that is because sense – albeit embryonically – is in all relationships among men. Hegel had seen this in his *Phenomenology of Spirit*, when he had identified in the essentially communicative need for acknowledgement the cause of the outbreak of violence which leads to the dialectics of master and slave. Moreover, the approach to reality of any human being in any situation is never purely monological. It is enough to recall that the relationship between analyst and patient in the psycho-analytical treatment, which Habermas considers as a paradigmatic case of the monological approach to reality, is founded on the common use of language. It is true that the analyst, at the beginning, tries to find in what his patient tells him a meaning that is not the obvious and conscious one, but the one he expresses without understanding

it, and that Mannheim called the interpretative meaning (*Interpretationssinn*);²⁷ but this happens with the purpose of creating a situation in which, after a series of imperceptible transitions, dialogue can acquire the fullness of transparency. It is enough to remember the function of propaganda (“psychological war”) in conflicts, through which each of the various parties tries to act upon man’s original faculty to communicate even to defeat the enemy in the most violent of human situations. Finally, it is enough to meditate on the fact that the very development of technology is the result of pooling knowledge and that its use cannot be thought of without collaboration among those who use it for a common purpose.

The State as Political *a Priori* of Communication

1. *In the Beginning was the Logos.* 2. *Provisional Truth.* 3. *The Universal Community of Communication.* 4. *The Ethical a Priori of Communication.* 5. *The State.* 6. *The State as Institution in Progress.*

1. *In the Beginning was the Logos.*

The idea of history as emergence of sense brings us to that frontier region of knowledge in which the antinomies of reason appear. On the one hand, that of the sense in history is precisely pure *emergence*, because before it reveals itself in its place there is violence and chaos. On the other hand it is impossible to escape the idea that sense, reason, the Good, and the capacity to communicate have existed in man from the very beginning at the state of *disposition* (Kant’s *Anlage*), of which history is the progressive translation into action. Moreover, for what is potential to become actual the presence of a factor is required bringing about the passage from one state to the other. This factor for religion is grace. But for philosophy it is only a dark point, unresolved and not resolvable, just as the origin of the universe, the appearance of life in the history of the Earth, birth and death intended as appearance and disappearance of a conscience.

It is an obscurity with which we have to live. What still remains, though, is the fact that whatever the incomprehensible mechanism through which this happens, reason cannot emerge exclusively from violence. Already at the beginning of philosophical and political think-

²⁷ Karl Mannheim, *Beiträge zum Sinn der Weltanschauungs-Interpretation*, Jahrbuch für Kunstgeschichte, I (XV), 4, (1921-22), taken from the collection of essays edited by Heinz Maus and Friedrich Fürstenberg, *Wissensoziologie*, Berlin und Neuwied, Luchterhand Verlag, 1964, p. 91.

ing, man was defined as *zoon politikon logon echon*. Therefore reason was already for Aristotle the distinctive characteristic of man as a social being. Thus it cannot but have had a role in the causation process which has brought mankind from the generalized violence of barbarity to the eve of the creation of a worldwide law order. If it is true that reason has been progressively – even if slowly – asserting itself in history, it is impossible to separate its assertion as a *result* of the process from its action as a *cause* of the process. *Logos*, intended as theoretical reason and practical reason, must thus have been present in man from the very beginning, even if its visible emergence in history may have resulted from accidental circumstances, like those imagined by Kant in his *Conjecture*, which anyway describes the hypothetical development of the process without explaining it. It is the problem posed by Meinecke in the introduction to his *Idea of Reason d'Etat*. If all history could be interpreted as a face-to-face confrontation between good and evil, he writes, the historian's task would be relatively simple. "But scientific historiography, he continues, has overcome this gross dualism – although not dualism in general, because the polarity between spirit and nature continues inevitably to appear. But together with it also appears the disturbing, disconcerting and often upsetting experience that nature and spirit cannot be as easily separated from each other as friend and enemy in war, but are inextricably interwoven."²⁸

En arche en o logos therefore, even if at the beginning *logos* was confused with nature, and even if the mechanism of its progressive predominance over nature remains not understood. It is once again Meinecke who notes, with extraordinary poignancy, how in history "the *raison d'état* of the powerful is ennobled through imperceptible transitions, and becomes the joining link between *Kratos* and *Ethos*", how the historical process continuously highlights "the transformation of natural instincts into ideas". Meinecke refuses "the hasty answer of positivism", "which explains these transitions by resorting to an ever better and more skilful adaptation to the objective of self-preservation". "What is only useful and necessary, Meinecke continues, could never lead beyond the stable technique of animals and their social organizations. Beauty and Good can never be deduced from the pure and simple useful but they arise from dispositions independent from man, from the spontaneous urge to instil the spirit in what is only natural, to the transformation of the useful into the ethical". "How a relationship of

²⁸ Friedrich Meinecke, *Die Idee der Staatsräson*, 1924, consulted in the Oldenbourg edition, München, 1957, p. 10.

causality and an essential difference between low and noble inclinations, between nature and spirit in man can co-exist: this is precisely the obscure mystery of life” he concludes.²⁹

2. *Provisional Truth.*

Besides, if it is still true that the definite truth of every assertion and the validity of every line of action lies in the future, in Peirce’s community, it is also true that Peirce’s future expands indefinitely, and the continuous widening of the context incessantly modifies the meaning of every event and the degree and manner of approval of every theory and every behaviour: and it is impossible to indicate a stage of historical development in which the consensus of the community will definitely determine what the truth is. Because waiting for the final verification cannot avoid being eternal, to prevent the idea of truth from being made vain, it must certainly be acknowledged that every assertion and every project contains an uneliminable component of betting; but also that it must be possible to make a verification, however partial and provisional it may be, at the present time. In other words it must be possible to read, in the single assertion or in the single project, an *anticipation* of its final meaning, which will coincide with what will be preserved of them in the endless series of successive *Aufhebungen* through which future history will proceed.

This partial verification to be sought in the present consists of an agreement of a certain number, more or less large, of our fellowmen, with whom each of us are in what Apel calls a *community of communication* (*Kommunikationsgemeinschaft*).

Of course, even this partial and provisional agreement could be lacking, and truth could dwell in a virtual community formed by a single man. But this could happen only for a relatively short period of time. And during this period, the only provisional verification of a theory or of a project can lie in the *rigour* – both moral and intellectual – with which man undertakes the confrontation with himself, as representative of a community which for the moment is only ideal.

The fact remains, however, that as long as there is a plurality of communities of communication, that in turn do not establish among themselves larger communities of communication, and in the last instance only one, we will live in a world of partial, and therefore multiple, truths as such not liberated from the violence of man on man.

²⁹ *Ibid.*, p. 13.

3. *The Universal Community of Communication.*

But at this point the problem is posed: if the origin of the error lies in the plurality of communities of communication, in each of which men find the only provisional verification of the truth of their ideas and projects, the necessary condition for the conclusive verification of the truth of any assertion and of any volition is the *fusion of everyone's horizons* into a *universal community of communication*, whose condition of possibility is moreover the pre-existence of a universal community of communication in embryo, which provides the common *generative grammar* thanks to which the barriers between cultures can be progressively overcome and the conditions are created for the search for a truth that is such for everybody.

4. *The Ethical a Priori of Communication.*

But the process of creating a universal community of communication must go through *institutions*. The human race, as it is made up of free beings – and therefore permanently confronted by the presence of *radical evil* – does not improve through the autonomous exercise of its rational faculties, but through the improvement of the forms of social life, i.e. the progressive establishment of law.

Karl-Otto Apel underlines that communication presupposes an *a priori* of an ethical nature: the *duty* of searching for truth together. For Apel too, it must be noted, truth invests the whole of men's lives. "In the *a priori* of argumentation, he writes, lies the *claim* of justifying not only all the 'assertions' of science, but, beyond these, all men's claims (even the implicit claims of men towards other men which are contained in actions and institutions). Whoever argues, acknowledges implicitly all the possible *claims* of all the members of the community of communication which can be justified with reasonable arguments, and forces himself at the same time to justify with arguments all his own claims towards others". "The meaning of moral argumentation, Apel writes later, could be expressed in the principle – which is not new – that all the *needs* of men, as virtual *claims*, to the extent that they can brought to agree, through argumentation, with the needs of all the other, must become an object of concern for the community of communication."³⁰ A community of communication thus exists wherever there are men willing to carry out the sacrifice of their individuality ("self-surrender"

³⁰ Karl-Otto Apel, *Das Apriori der Kommunikationsgemeinschaft*, in Id., *Transformationen der Philosophie*, Frankfurt a.M., Suhrkamp Verlag, Vol. II, p. 425.

in Peirce's terminology)³¹ which is the presupposition of that search for a common ground which is truth.

5. *The State.*

All this is true. But if one wants to consider the ethical *a priori* of communication not as a purely formal requirement, but as an attitude existing *in the world*, it cannot be conceived of outside Kant's *civil constitution*, in the absence of which men are removed from any moral duty except that of *entering into a civil constitution*, that is, into a social bond founded on law.

The moral *a priori*, Apel's *Grundnorm*, therefore postulates in turn a political *a priori*. Morality – remember Hegel in his *Philosophy of Law* – intended as call of the conscience or categorical imperative, is purely formal and has no content or reality outside civil society, in other words of the state as “reality of essential will”, which is the condition for the existence of civil society. The state is thus the real *a priori* of communication, and the universal state is the *a priori* of universal communication.

In other words, the *a priori* of the community of communication is the way in which men organize themselves in view of pursuing common purposes. Whoever has had a political experience has been able to verify to what extent institutions condition the process of opinion making. The obstacles to mutual understanding are thus represented by the incompatibility among the strategies that the different organized human groups have to pursue to guarantee self-preservation and to promote their assertion. Moreover, for the very reason that men are no angels, it cannot be supposed that they are animated by the wish to find truth unless they are driven to do so by a common interest, in other words by their belonging to a community of destiny. If the knowledge of which the institutional conditionings are sought is the collective knowledge of historical reality, in other words the awareness that a people has of the direction it is going – which is the knowledge that founds all the truth-criteria of specialized knowledges –, the only institution which makes possible that *Kommunikationsgemeinschaft* which is the real subject of research is the community of destiny *kat' exochen*, the institution of institutions, that is the state.

But the state is a two-sided institution. On the one hand, it is the framework within which the common good of citizens is pursued and peace is guaranteed through the creation of a legal order; therefore one in which discourse prevails over violence. Membership of the same state, lived from within, is thus the essential institutional condition for

³¹ Taken from Karl-Otto Apel, *Das Apriori...*, *op. cit.*, Vol. II, p. 424.

the formation of a common opinion on the important historical choices of a human community. On the other hand the state, as it is unbound by law, in other words sovereign, is the subject of war, and therefore the agent of violence in international relationships.

Concerning this, it is a good thing to observe that the definitions of the state as a legal order and as an instrument for the realization of the common good differ essentially from each other only until the juxtaposition between individual interests to be protected and collective interests to be promoted, and thus the juxtaposition between liberal state and social state, is highly significant. If the state were stripped of its violent and arbitrary aspect, and private and public interests tended to identify themselves in a realized democracy, protection of rights and promotion of the common good would identify themselves without residues in the idea of self-government.

Herein lies the core of truth contained in Hegel's theory of the state: the state is not only the extrinsic condition for pursuing knowledge and observing of morality rules as it ensures peaceful human relationships within the framework of a guaranteed legal order, but it is also the essential foundation, whatever the citizens' degree of awareness, of that deep identity of intentions, founded on a community of destiny, which represents the existential precondition of mutual understanding, and thus of the common search for truth or the *bonum commune*, which is the same thing.

The existence of a multitude of sovereign states, on the contrary, is the negation, at a higher level, of this foundation, and therefore condemns men to live in a world of multiple truths. And as every state has its *own* truth, it is only violence which can decide which of these should prevail over the others.

The state is therefore an institution marked by a radical contradiction: it is at the same time the affirmation and the negation of law, and of the criterion of truth. In international relations it is the agent and the cause of war, which is the negation of life, and therefore of all values, but it is at the same time, in the relations among its citizens, the guarantee of peace and law, and therefore of all other political and social values. While it arms citizens for war against other states, it disarms them in civil life. While it denies every criterion of truth in international relations, it represents the precondition of the search for truth in the relations among its citizens.

6. *The State as an Institution in Progress.*

For this radical contradiction to be overcome, the state must be conceived of as an institution in progress, which has been realized up to

now in history in imperfect forms, but which tends to overcome its own limits and to advance towards the realization of its idea, which is that of its full identification with the rule of law or with the idea of the *bonum commune*. It is a process in two stages, which are moreover strictly interconnected and do not have a relationship of strict temporal succession with each other. The first implies all states establishing within them an order founded on the acknowledgement of the values of freedom, equality and justice, in other words their transformation – at least tendential – into *republics* in the Kantian meaning of the term. It is an objective which is identified with the realization of liberal-democratic regimes and with the overcoming of the historical phase of class struggle. The failure to achieve this objective involves the persistence, in society, of situations which are objectively unlawful, as the existence of the oppression of man over man is in itself violence and causes in return the violence of the oppressed and excluded. The norms which legitimate oppression and exclusion therefore are not completely juridical, and the community they regulate is not yet completely a state.

The second is that of the overcoming of the world's division into sovereign states. It is the condition for the elimination of violence in international relations. And it is at the same time the condition for the completion of the transformation of the existing states, deprived of exclusive sovereignty, into *republics*. Violence is in fact indivisible, and its use in international relations pollutes juridical relations within the states as the *raison d'état*, in the name of the very guarantee of the rule of law, at least as far as this is not incompatible with the survival of the community, obliges political power to adopt courses of action infringing the very same rule of law.

The problem to be solved, therefore, is the Kantian problem of making states, as well as citizens, enter into a legal order. The complete realization of the idea of the state coincides with the creation of a *world-wide state* as a federation of *republics*.

The World Federation

1. *Truth and Democracy*. 2. *The Social Contract and the People as its Subject*. 3. *Natural Law*. 4. *Natural Law and Revolution*.

1. *Truth and Democracy*.

The concept of history as the history of the realization of the idea of state in the shape of a World federation provides us with the conceptual instruments for reconsidering key concepts of political philosophy

such as those of general will, social contract, people and natural law.

In the World federation, as institutional framework – and as such a necessary condition – of a universal *community of communication*, is revealed the democratic foundation of truth which Feyerabend mentions³² – even if in a completely different perspective. At the same time, as truth is a theoretical and practical idea, the creation of the conditions which make the final verification of an assertion possible is identified with that of the conditions which make the complete formation of the general will possible, intended as unanimous acknowledgement and volition of the common good. The pursuit of the latter is identified with the pursuit of truth.

It is clear that, for this to take place, it is necessary, as Rousseau had seen perfectly, for the general will not to be reduced to the will of the majority, but to be unanimous. Until this takes place, popular will is not really general, and therefore is not identified with truth. Politics remains marked by the arbitrary aspect of power.

Moreover, Meinecke points out the deep ties existing between the exercise of power and the realization of the conditions which make dialogue as common search for truth possible. Power is a two-sided relationship. On one hand it is the imposition of the will of one or a few men on the others. On the other hand it is inseparable from the idea of consensus, which is in the final analysis the subjective presupposition of the common good. No man, no political class can rule, in other words have power over somebody, if his power is not based on the consensus of a more or less large part of the people ruled; consensus which is precisely granted according to the ability – real or supposed – of that man or of that political class to achieve – to a lesser or greater extent – the common good. The pure and simple brutal use of violence is never identified with the exercise of power. Whoever exercised violence against everyone would be rapidly eliminated in any society. Even the use of violence against someone therefore presupposes the consensus, silent or expressed, of a certain number of other members of the community. The art of conquering power is the art of ensuring for oneself the consensus of all, or the majority, of the members of the community, or of those who in turn have the consensus of everyone or of the majority.

Therefore, the more perfect the consensus which is its basis, the stronger the power. Contrary to what the common use of the term would

³² Paul Feyerabend, *How to Defend Society Against Science*, in Ian Hacking, ed., *Scientific Revolutions*, Oxford, O.U.P., 1981.

seem to suggest, dictatorial regimes are the most fragile and short-lived form of the exercise of power.

In turn, the perfection of consensus is a function of three factors: a) its generality, b) its active character and c) its rational nature.

The generality of the consensus depends on the one hand on the diffusion of its presence within the community and on the other hand on the dimension of the community itself. The consensus solely of the majority – which therefore implies the exercise of coercion over the minority – although it is the foundation for by far the most advanced organization of social life that man has been able to produce up to now, leads to a weak and imperfectly democratic power. On the other hand, the consensus, even unanimous, obtained by a single fraction of mankind (a single state, a single party, a single group) is only imperfectly democratic because it is the instrument of the use of violence with the other states, parties and groups.

The active character of consensus depends on the motivations for which it is given. For as long as mankind, to guarantee its reproduction, has to resort to the division of labour, to face the challenge of scarcity, and until therefore politics remains the prerogative of a class of specialists, the consensus of those ruled will always be of a more or less passive nature. Ruled people are in fact concerned exclusively or predominantly with their individual projects, that is to *carry out their job*, and take part in the pursuit of the common good only in a very indirect and imperfect way, through the action of the *invisible hand*, in other words to the extent – wholly partial and unsatisfactory, and ever more partial and unsatisfactory the more the interdependence in the relations among men becomes accentuated – to which the common good can be the result of the composition of the divergent strategies having as their object the achievement of what the individuals believe is their own personal good. Consensus is then given only to the extent to which the rulers allow the ruled to pursue undisturbed their own interests, or promote them actively, and, to the extent to which this happens, it results in a kind of blank delegation.

Consensus therefore becomes more *active* the more time and need men have to concern themselves with the general interest. This is a tendency which today is increasing because, on the one hand, in the industrialized part of the world, the affluent society is imperceptibly depriving of meaning the very idea of individual welfare measured according to the possession of material goods and is leaving men an increasing amount of spare time, making it available for the pursuit of the common

good; and, on the other hand, the increased interdependence of social relations, with its inevitable consequences – the threat for peace and the progressive degradation of the environment, and thus of the quality of life – show with increasing clarity that there is no other good for which to fight except the common good, and no other to do it except the pooling of everyone's energy to save mankind from extinction or from the return to barbarity. An attitude of passive consensus towards a professional political class becomes more and more untenable under these conditions. The only activity with any meaning becomes the search for the common good. Consensus, even if through a process which is slow and full of contradictions, tends less and less to be a blank delegation given to one or more people, but to be the result of conviction of the soundness of decisions in which everyone has participated, and not to have any more its foundation in the selfishness of those who are quite happy that other exert power as long as they are not disturbed in the running of their own particular well-being.

Finally, consensus must be *rational*, that is, not founded on *ideology*. More simply, it must be founded on *truth*.

Power is intimately linked with truth (and therefore so is politics with culture) insofar as it is inseparable from the idea of the common good. But it is an equivocal link, which at the beginning is only virtual, or in any case partial, and becomes explicit with the advance of the human emancipation process, even if politics, up to the moment of its completion, that is of its suppression, remains the privileged place of mystification and violence. In the English courts of Shakespearian plays the only figure authorized to speak the truth was the jester, the "fool," who paid for the right to speak by being the object of general contempt. It is a situation which reflects a profound reality: that, if it is true on the one hand that power without truth is a weak power, not a real power, it is also true on the other hand that truth without power, in other words unable to guide men's behaviour, is not a real truth, if truth, to be so, has to become, by being shared by a growing portion of mankind, an agent of historical transformation.

But all this means that the birth of a truly irresistible power, in other words the realization of the *idea* of power, will coincide with its suppression. The realization of the *idea* of consensus (general, active and rational) coincides with the realization of the *idea* of self-government, in other words with the complete identification between rulers and ruled, with the voluntary execution on the part of the citizens of the rules they themselves have consciously assigned themselves.

The model of the World federation thus has a double relation with the ideal of dialogue. Thanks to its universal character, it eliminates all the institutional barriers which act as a screen for communication among men. But with it it realizes only a negative condition of universal communication. For this to be able to show in facts, it is necessary for everyone to feel invested with the responsibility of giving the concrete contribution of his participation in the achievement of the of the community in which he lives his everyday life, and with whose members communication takes place in an immediate and personal manner.

In this way, the unanimity through which the general will must reveal itself is not the result of an impossible addition of individual volitions with the same content, but it becomes the result of mutual persuasion through a permanent debate on themes which are familiar to everybody. Federalism, as it has been theorized by Albertini,³³ thus presents, in its complete realization, a cosmopolitical pole and a community pole, each of which integrates the other and gives it life and content. And the universal community of communication can exist only inasmuch as it is founded on the rational confrontation of a myriad local communities of communication, in which both the answers to local problems and the local contributions to the answers to problems which are set at the higher levels are elaborated, right up to the worldwide level. Peirce's *community* is in actual fact a community of communities. The federal constitutional structure, founded on independence and co-ordination among the various levels of self-government of growing dimensions, guarantees the compatibility of the strategies of the communities at the same level within the framework of a global law order, and thus creates the necessary conditions of compatibility to prevent the barriers to dialogue from forming again.

2. *The Social Contract and the People as its Subject.*

The idea of general will is inseparable from that of social contract. But in our perspective this cannot be a conjecture on the historical birth of the state, nor a theory whose purpose is exclusively that of founding its legitimacy, and that therefore does not leave the sphere of speculation on the ideal state. It is instead an idea that acquires concreteness as it poses itself as the *point of arrival* of historical development, which thus becomes *the history of the birth of the state*. The social contract thus comes at the end, in other words when – violence having disap-

³³ Mario Albertini, *Vers une théorie positive du fédéralisme*, Le Fédéraliste, 5 (1963), pp. 251 and ff..

peared from the relationships among men – all the decisions through which the *bonum commune* is achieved are the result of the unanimous and rational agreement of the citizens.

But the idea of the social contract could not avoid being present in philosophical meditation from the very start. It is enough to remember the Socrates of the *Criton*, for whom the citizen was tied to the laws of the *polis* by such binding agreements (*omologiai*) as to compel him in some cases to sacrifice his own life rather than avoid their rule, however unjust they might be.

And as the social contract, although it is present as an idea right from the beginning, is realized only at the end, thus it is only at the end that the idea of the subject of the contract, that is, the people, is completely defined. Certainly, as the subject of the social contract, the people can only be the people of a state because it becomes what it is exclusively thanks to the contract; but as the contract is *in progress*, is imperfect until the end, the people does not coincide with the state, but is in permanent contradiction with it and represents the prime mover of its evolution. Herein lies the foundation of the constituent power of the people – as the liberal tradition claims from Locke onwards – not because it is a qualitatively different entity from a state degraded to a pure instrument, but because, as an active subject of a process, it is always *beyond* its objectivity, which is precisely the state, and, because of its not coinciding with it, represents the prime mover of its development. This is the justification of the concept of “people before and above the constitution” (against that of “people in the constitution”) which, according to Carl Schmitt,³⁴ is the ultimate foundation of the legitimacy of any state order.

For Eric Weil³⁵ the idea of people – insofar as it is not identified with that of state – is a purely negative idea, which is identified with the residue of unlawfulness which persists in the historical forms assumed by the state. On the contrary, the truth is that the people – insofar as it is not identified with the state – is not only negation, but also affirmation of a form of state closer to the model of the social contract, because the people does not identify with the state precisely as far as the latter – being still far from the realization of its concept – violates the law.

This assertion, however, must be circumstantiated. Historical experience, in fact, shows very clearly how impossible it is to define the

³⁴ Carl Schmitt, *Verfassungslehre* (1928), consulted in the 1983 edition published by Duncker & Humblot, Berlin, pp. 238-39.

³⁵ Eric Weil, *Philosophie politique*, Paris, Vrin, 1971, p. 159.

boundaries of any people when one does not wish to make them coincide with those of a state. It is enough to remember the infinite succession of violences which must be attributed to the idea of “peoples’ self-determination”, due to the arbitrary character of the identification of the entity which must “self determine” itself.

In actual fact the people adjust to its concept only when it coincides with mankind and therefore identifies in perspective with the people of the World federation. Before reaching this stage, the concept of people, when separated from that of state, remains an essentially vague concept, without boundaries and without an identity, which never corresponds to the criteria with which one wants to define it.

From this perspective, the only assertion which can rightly be made is that, before the unification of mankind, it will be legitimate to appeal to the people against the state only when the overcoming of the contradiction approaches the objective of a World federation, while it will be illegitimate to do so when the aim is the opposite one of the assertion or reinforcement of an alleged national identity.

This does not obviously mean that the population of the World federation should not be pluralist. The opposite is true. But pluralism does not mean segmentation of mankind into definite groups, which are therefore closed in themselves. On the contrary, pluralism means multiplicity of the terms of cultural identification of every single individual, in contrast with the exclusiveness of national (or micro-national) identification, and therefore the possibility for everyone to fully express, free from the imposition of uniform and artificial cultural models, its own unrepeatable individuality. And the institutions of the World federation will have to take into account this open and articulated character of the world population by articulating in turn into multiple and mutually intersecting levels of self-government, which prevent the formation of exclusive or prevailing loyalties, and therefore allow the world democracy to be founded on the consensus of free and reasonable men.

3. *The Natural Law.*

Just as the social contract has a subject, the people, so it has an object: the law as idea, in other words natural law. Habermas³⁶ points out how the theory of natural law has historically assumed two distinct forms. The first is that of the classic liberal tradition of the English-speaking area, for which natural law was in force in a mythical

³⁶ Jürgen Habermas, *Naturrecht und Revolution*, in *Theorie und Praxis*, Frankfurt a.M., Suhrkamp, pp. 89 and ff..

state of nature which existed before human relations were corrupted by power. The social contract, therefore, in this perspective, has no other function than that of guaranteeing the compliance with the norms of natural law, which the citizens must constantly watch to avoid the contract being violated through the establishment of despotism. Classic liberalism sees civil society as autonomous from the state, which is merely its instrument – susceptible to abuses of every kind – and attributes to natural law an eminent function of guarantee.

The second is tied to the Enlightenment tradition, for which natural law, like civil society itself, only exists in the state, whereas the state of nature is identified only with anarchy and barbarity. This is the concept which is the cultural basis of the French Revolution. It identifies the fights of man with those of the citizen, and therefore considers them as essentially political rights. Natural law thus derives from the nature of the social contract.

This second concept has a fundamental element of ambiguity because, if it is not placed within the context of historical development and is not seen as its formal point of arrival, it runs the risk of legitimating arbitrariness. If the social contract in fact is an irrevocable pact with which men permanently give up their wild freedom delegating power once and for all to a sovereign, natural law loses all autonomous content and identifies with the arbitrary will of the latter: *non veritas sed auctoritas facit legem*. The idea of natural law negates itself and identifies with that of positive law.

Actually, it is true that, for the idea of natural law to have a meaning, it is absurd to look for its contents in the relations that would have existed among men in an idyllic state of primeval nature, in which their sense of justice still had not been perverted by the oppression of man over man. But it is just as unacceptable to identify it with the non historicized idea of social contract, thus eliminating its opposition to positive law. It is true, therefore, that natural law is the content of social contract, but only as far as this is understood as the completion of the state's evolution, as universal *Verständigung* within the institutional framework of the World federation.

It can certainly be objected that in this way, too, natural law loses anyway all its determinate content – just as in Hobbes' concept – to identify with the will that establishes it. But the difference lies in the fact that here the sovereign is represented by the people, and the will is that of all and each, in which the identification between *veritas* and *auctoritas* is achieved. Moreover the fact that the idea of natural law is

completely realized only at the end does not mean that it does not act in history as *uneasiness* and, confronted with a reality which in turn under various different forms denies it, it acquires a provisional, but determinate content, becomes project and ideology – in the positive sense of active vision of the future.

It is thus legitimate to affirm that natural law is at the same time an absolute idea independent from the stage of historical development, and as such purely abstract and formal, and a historical fact, with a content that changes in time, progressively approaching the idea. And it is only inasmuch as it takes on historical concreteness that it can assume the function of prime mover of the evolution of the state in its permanent attempt to adjust to its concept.

If instead the idea of natural law is totally removed from history and transported into the domain of abstract speculations on the ideal state, its theoretical function becomes only that of a sterile formal criterion decreeing the illegitimacy of all the existing positive law orders, characterized by an equally infinite distance from the norm.

4. *Natural Law and Revolution.*

A different concept of natural law involves a different concept of revolution. Those for whom there is no other law but positive law reject the legitimacy of any revolution, as it is a negation of the existing law order; even if they are obliged to acknowledge that, once it has been successful, a revolution establishes a new criterion of legality, admitting therefore that their faithfulness to the existing order has as its only foundation the permanence of the power which imposes it.

This attitude is diametrically the opposite of that of the classical liberals, for whom natural law is an eternal and supra-historical system of norms, which represents the object, defined once and for all, of the social contract. The violation by power of natural law thus involves a violation of the social contract and this in itself legitimates the revolution.

This is a theory which in itself hides the seeds of arbitrariness, because no state, as a concrete historical formation, realizes the abstract and formal ideal of justice. On this basis, any attempt at revolt in the name of arbitrary and indefinite ideals becomes legitimate. Simple negation which is the most comfortable and stupid of attitudes, because it gives people the illusion of being dispensed from the duty of thinking and seriously facing reality – is elevated to the dignity of revolutionary struggle, just as Trotsky's puerile ideal of permanent revolution is legitimated. Just as Hobbesian conservatism does not see

that the historically realized state – whatever its forms and stages of evolution – is not yet the state which fits its idea, so liberal irresponsibility runs the risk of making people deaf to the equally important fact that the historically realized state is anyway a state in progress, whose positivity is the expression of the degree of civil maturation of a people and is therefore infinitely superior to the irresponsibility of indeterminate negation.

The truth is that natural law is a powerful factor of historical evolution, but only inasmuch as it assumes itself historically determined figures, which allow it to question the existing legal order not on the basis of an abstract ideal but on that of a concrete project, which intends to replace the existing order with another more advanced one, which is however already virtually recorded in the facts. Nevertheless, for it to be legitimate to say that every historically active form assumed by the idea of natural law is more advanced than the system it is questioning, it must refer to an ideal, which acts as absolute norm. And this is why every historical revolution always seems to disclose to those who experience it the prospect of mankind's final emancipation, of universal brotherhood; but on the other hand, to really leave a trace in history, it must also be able to outline an order which is definite and historically situated, and which represents a concrete alternative to the one which is being questioned.

The Revolutionary and his Morality

1. Reason in the State and outside the State. 2. The Revolution. 3. The Morals of Responsibility. 4. Dialogue in Revolutionary Action.

1. Reason in the State and outside the State.

History intended as history of the state can be interpreted as the permanent dialectic tension between two distinct figures of reason.

The first is that which appears in the institutions, and in particular in the state, or in the legal order in which the state tends to identify itself in its concrete historical configurations. Naturally it is an imperfect manifestation of reason, because the law is linked ambiguously to power. As we have already mentioned, Meinecke's work is the clearest illustration of the radical laceration which has always marked the deep nature of politics. The ambiguous character of power has always been linked to the fact that, in the past, the degree of interdependence of relations between men has narrowed – and therefore falsified – the

meaning in which the expression “common good” could be thought of, as it referred it to human groups which, because of the division of society into classes and mankind into sovereign nations, did not coincide with mankind in its entirety: to pursue the good of one of them thus meant – albeit to a different extent according to circumstances – clashing with the pursuit of the good of all the others, and therefore in most cases involved such an uncontrolled use of deception and violence as to restrict the area of the struggle for power to those individuals for which power as such was the first of priorities, whatever the means to be used for conquering, keeping and increasing it. The achievement of the common good consequently became a pure by-product of the struggle for power.

Nevertheless, some of the men in power have been able to conceive of grandiose designs, and to become a reference point for all the cultural and moral energies of a historical period. These are what Hegel calls *weltgeschichtliche Menschen* (cosmic-historical men), who identify themselves so completely with history that they do not even consider the problem of the price to be paid in moral terms for the realization of their design, in pursuing which the aim of extending their own power cannot be dissociated from that of promoting the common good.

The second form is shown through the forces which, by acting on the contradictions of the existing state orders, promote their progressive transformation into increasingly advanced settings, which slowly widen the area of dialogue to the detriment of the area of violence.

As a matter of fact, for all the first part of the history of mankind – which, albeit rather arbitrarily, we can say lasts until the French Revolution – reason as a factor of transformation has shown in history through the action of unconscious forces, whose objectively rational nature was traced back by Kant to *Providence* and by Hegel to the *cunning of reason*.

In that phase of mankind’s history conscious innovative reason could appear only in the public, but not the political form, of *testimony*, as in the cases of Socrates and Christ. For these two great figures of the history of reason the contradiction between power and truth was so radical that the truth for which they lived was able to assert itself, albeit through long maturation, only at the cost of their violent death. But theirs was not a political struggle. For Socrates,³⁷ in the Athens of his time, he who wanted “to fight for justice and keep himself alive for a while”, should *idiotieuein* and not *demosieuein*, in other words

³⁷ Plato, *Apology of Socrates*, 31 and 32-34.

he should have kept himself out of public life. And the essential relationship of Christianity with power is indicated in the command “Render unto Caesar the things which be Caesar’s, and unto God the things which be God’s”.

Otherwise, it is also true that the same testimony, to the extent to which, in the longer or shorter term, it influences the historical process, is rarely pure and can rarely be dissociated from elements of strategy. This ambiguity is particularly evident in Christ’s preaching, concerning which it has been possible to legitimately pose the question of whether it was only a testimony or also a revolution.³⁸ In any case, he himself made use of violence, chasing the merchants from the temple, and made a clear distinction between who was with him and who was against him.

2. *The Revolution.*

With the French Revolution a phase of the historical process starts in which the transformation of the institutions through conscious design and rational action becomes conceivable.

The *bonum commune* of mankind becomes a political ideal, and not only a philosophical or religious one. It becomes conceivable *for the individual* to take up responsibility for mankind’s process of emancipation and to identify this objective with the conscious result of his struggle, just as a political action becomes conceivable which looks for the source of its power to change reality in the *appeal to reason*. Thus the figure of the *revolutionary* is born, uniting in itself, although in an imperfect form, that unity of theory and practice which will be realized in perfect form only *at the end*, and which *in history* shows only at the level of the species. In contrast to the figure of the philosopher as *official of mankind*, according to Husserl’s expression³⁹ – who assumes an objectively conservative role because by confining himself to pure theory, in actual fact he abandons practice into the hands of the existing power – is the figure of the revolutionary as *militant of mankind* for whom interpreting and changing reality are the same thing.

It is true that today the *bonum commune* of mankind cannot be achieved yet because its institutional preconditions still do not exist, albeit – taking on a different shape each time – it has been the ideal reference point of the great liberal, democratic and socialist revolutions.

³⁸ See for example Oscar Cullmann, *Jesus und die Revolutionären seiner Zeit*, Tübingen, J.C.B. Mohr (Paul Siebeck), 1970.

³⁹ Edmund Husserl, *Die Krisis der europäischen Wissenschaften und die transzendente Phänomenologie*, Den Haag, Martinus Nijhoff, 1962, p. 15.

Just as it is true that each of these revolutions, from being universal in its designs, has become national after seizing power. This is the dialectic at the root of the ambiguous term “ideology”, which denotes at the same time every great project of historical transformation and *false conscience*. It is an ambiguity which measures the distance which up to now has always existed between the idea of the common good referred to the whole of mankind and its partial and imperfect realizations in historical reality, and together that which exists among the ability of men to rationally project the future and the results of their action. But the growing awareness of the contradiction between values and facts today has become a factor which cannot be neglected in the analysis of the historical process, although the possibility of overcoming it looms far away in the future. Mankind – for the first time in history, and urged by the danger of self-destruction – is trying to take its fate into its own hands. Those who were *objects* of a design of Providence are becoming *subjects* of history and are little by little discovering that they are Providence.

3. *The Ethics of Responsibility.*

The revolutionary phase of the historical process is destined to be followed by the federalist phase, in which violence will disappear from institutions and politics will become a free exchange of opinions among reasonable men. It will therefore be suppressed as such, identifying on the one hand with law and on the other hand with dialogue and *paideia*.

But today we are still in the revolutionary phase, in which rational political action certainly has its own space to appear, but in an institutional context in which division, oppression and mystification, in other words violence in Weil’s sense, still prevail. Revolutionary action must take this into account.

It is certainly true that in their global historical meaning revolutions are essentially cultural revolutions, as they replace the old paradigm with a new one, which changes the meaning of social life by introducing new cultural criteria for interpreting it, through the institutional changes they realize. But, considered from the standpoint of the revolutionary, who has to decide and act, history cannot be reduced to the history of spirit. He must ask himself the question of how to tackle the concrete violence that exists in the context he acts in, and which is – at least partly – impermeable to discourse. He cannot therefore refer to moral criteria which oblige him to adopt only ways of behaving that will become universal in the federalist phase, in other words to use the free confrontation of opinions between equal men as an exclusive in-

strument of political action, because his aim is to create the institutional conditions of the latter, which do not yet exist. This is Weber's problem of the ethics of responsibility.⁴⁰

The ethics of responsibility is not merely the acceptance of the ambiguous principle – on the basis of which any misdeed can be justified – of the legitimacy of the use of immoral means to achieve a moral purpose. Besides, in every enterprise that proposes to make mankind advance along the road to its emancipation through a process, every stage is at the same time *end* with respect to the previous stages and *means* with respect to the following ones. It follows that it is impossible to distinguish the end from the means clearly in revolutionary politics and therefore to justify, in the name of the ethics of responsibility, the immorality of the means by resorting to an end which is indeterminate as to the moment of its realization and content.

In actual fact, the ethics of responsibility does not justify anything. Precisely because it is the assumption of responsibility for the consequences of one's actions, it is in fact an explicit *a priori* renunciation to any justification which is not the actual realization of a progressive political design. In other words, the ethics of responsibility is not an ethics of *ends* – meant as objectives which are present only in the mind of him who acts – but an ethics of *results*, with respect to which the subjective and uncontrollable moment of conviction, or good intentions, is quite insignificant. If this is forgotten, and the formula of the morals of responsibility is used without being aware of the gravity of its implications, it becomes an alibi to cover the *morals of levity*, the confusion of one's convenience with one's duty.

The ethics of responsibility rather expresses the dramatic awareness that there is no political choice in which evil does not hide, and that evil is also and above all hidden in the inertia that does not oppose the violence taking place outside us. It therefore implies that whoever acts politically to promote mankind's emancipation should consider his action as the sum of its consequences, in other words should inscribe it in a *strategic design* and apply his judgement and moral will to the design as a whole.

4. *Dialogue in Revolutionary Action.*

It is therefore true that the ethics of responsibility refuses the axiom – contradicted by reality – that from good only good can derive and evil from evil. But to refuse it does not at all mean to believe

⁴⁰ Max Weber, *Politik als Beruf* (1919) now in Id., *Gesammelte politische Schriften*, Tübingen, J.C.B. Mohr (Paul Siebeck), 1958.

that good cannot come from good and therefore that dialogue among equals for the common achievement of a result has no place in political life.

The opposite is true. Precisely because in history – which does not have a termination – everything is end and means together, reason in politics must be realized along the way: it must in other words be *in the process*, not only at the end of it. In revolutionary action therefore dialogue, persuasion, loyalty, truthfulness, spirit of solidarity, when used responsibly, that is, so as to make a revolutionary design advance, are not to be placed in the domain of the ethics of principles, but in that of the ethics of responsibility.

Obviously we must not overlook the fact that today politics is still intrinsically different from charity, or from *paideia*, and that what represents the difference is violence. Violence, in turn, is inevitable because the revolutionary's action clashes with obstacles which resist rational conviction.

But the fact remains that reason, that is, dialogue among equals, in revolutionary dialectics plays an irreplaceable role. We have already seen that the objective of revolutionary action is that of a periodical re-formulation of the social contract through the *re-founding of the state*.⁴¹ And that every historical form of state is the expression of the degree of maturity reached by the process of evolution of reason. Indeed, the state is the way in which objective reason shows itself in history, so much that, as already mentioned, the only possible rational behaviour in a hypothetical condition of anarchy, i.e. absence of state, is that of abandoning it by entering, according to Kant's expression, into a civil constitution.

Of course, in a politically divided world, rational dialogue can be carried out only within the institutional context of the existing states, and therefore only on themes which do not question their survival. Its rationality is therefore defined by precise boundaries (although the imperfect nature of the state opens breaches in those boundaries which allow reason to go *beyond* the state in the form it has here and now). There are indeed in history phases of *crisis of the state*, which are *eo ipso* also *crises of reason*, in which, as happened with tragic evidence in the case of Nazism and Fascism, dialogue is obscured and violence penetrates into all the recesses of civil life.

⁴¹ This idea is used as a historiographical criterion by Hermann Hintze. See the essay *Staatenbildung und Verfassungsentwicklung*, in Id., *Staat und Verfassung. Gesammelte Abhandlungen zur allgemeinen Verfassungsgeschichte*, Göttingen, Vandenhoeck & Ruprecht, 1978.

But not for this does the state stop being the expression of reason, even if of a reason involved in a crisis. The enemy which the revolutionary struggles against always presents an aspect which is – albeit imperfectly – rational, and therefore sensitive – even if only in part – to the lesson of reason. And this is why, when the revolution is successful, the old system falls first of all under the weight of its own contradictions: which undermine only a rational construction, and that only reason can explode.

It follows that, if mankind's process of emancipation produces more and more rational forms of social life, so much that today in a part of the world the state corresponds more or less to the Kantian model of the *republic*, this cannot avoid affecting the forms assumed by the revolutionary struggle, which intends to make them progress further. The lower the content of violence of the state, the lower the content of violence of revolution. While in the 16th century murder was a normal instrument of political struggle, so much as to be theorized by the political scientists of the time, today, at least in the more advanced parts of the world, it no longer exists (even if it is practised in exceptional circumstances and in the shady borderline zone between politics and criminality).

This means that the intensity of the moral conflicts that the ethics of responsibility must face tends to be attenuated with the humanizing of political life, because it is one thing to kill and another to shout slogans during a march, even if both are manifestations of violence. The ambiguity of the relationship between good and evil, between violence and discourse, makes the progressive transition from one to the other possible.

In reality the dichotomy friend-foe – which so fascinates simple or immature natures – is quite inadequate to describe the revolutionary situation, in which whoever is fighting for the new order does not simply deny the form in which reason takes shape in the previous order, but only denies its limitations. And violence, which has always made its appearance in the great revolutions of the past, must be mainly attributed precisely to the *limitations* of the rational character of the old order. In fact, if it is true that a revolution opposes the present form of reason with its own virtual form which overcomes the limitations of the first, as they appear in its historically mature contradictions, it is normal for it to privilege the instruments of reason in the confrontation on whose ground it is superior to the existing order. And to the latter therefore remains only the choice between surrender and the use of violence.

Moreover, if reason were not in some way *hidden* within violence, if violence and reason were shown in historical reality at the pure state, like two polarities which are both impermeable to each other's language, violence – brutal power – could not be stopped from prevailing, and mankind would never have lifted itself out of the state of barbarity. If this has not occurred, it is because in certain historical circumstances *truth becomes power*.

But reason, dialogue, communicative transparency are linked with revolution in another way. If it is true that, contrary to what the Plato of the *Republic* believed, it is not *paideia* which makes laws useless, but it is the laws that educate men, and that therefore to change men one must change the laws, it is also true that it is men, in their turn, who change the laws, and that therefore to change the laws one must change men. Reason coincides with the state only *at the end*, but, in the transition, to question the limitations of the historically existing forms of state through revolutionary action presupposes that reason can also emerge *outside* the state.

This does not mean that it emerges *independently* from the state, because the revolutionary design is defined exclusively by being in opposition with the limitations of the existing state, and therefore could not exist without the state. But it is still a manifestation of reason which goes *beyond* the state, and that is not therefore conditioned by the existing institutions, or is conditioned by them only as far as the latter have engraved on them the virtual image of their complete realization.

The bearers of this reason outside the state, or rather within the state in its future form, are the revolutionary groups. As such, they can survive and reinforce themselves only if the relations among their members are inspired by the values which give their project a meaning. Precisely because, for them, reason is not *anchored* in the state, against which they are fighting, their motivations must be rigorously autonomous, in other words moral, and their relations founded on dialogue and solidarity. If each of them should use his fellow revolutionaries – present and potential – as instruments, the revolutionary design would be destined to fail at the outset as it would be deprived of its only strength. The ideal of a world without violence must in a nutshell grow in the relations among those who are consciously committed to its realization. It is true that the ideal will be achieved imperfectly because men are not angels: but it is just as true that this is the ideal that must be constantly pursued.

Appendix

1. On “Saying What One Thinks”. 2. Rule of Law and Incompatibility of the Concrete Moral Standards. 3. Progress and Responsibility.

1. On “Saying What One Thinks”.

The opinion that truth is subjective, that is, relative, has entered into the common way of thinking. The newspapers are full of the confessions of famous people who tell *their own* truth about something. The virtue of sincerity presented in this way acquires an ambiguous meaning. The duty of being sincere does not identify any more with that of *telling the truth*, but with that of *saying what one thinks*. But in this meaning the term becomes ambiguous because it confers an absolute value to the expression of one’s thought, whatever it is, to the detriment of the duty *to think the truth*. In actual fact, whoever in the name of sincerity expresses false, vulgar or wicked thoughts, does not accomplish an act of sincerity, but of falsity, vulgarity or wickedness. Morality does not command *to say what one thinks*, but *to think before speaking*, avoiding the expression of hasty judgements and arbitrary opinions. In reality sincerity, meant in its equivocal sense, can become superficiality, or indecency, or aggressiveness, or all these things together. Not for nothing boasting of always saying what one thinks is characteristic of silly and quarrelsome people. To be sincere in the true sense of the word means to carry out that laborious process of identification with reality – however one intends it – which involves renouncing the expression of one’s opinion just to prevail over others.

2. Law and Incompatibility of Concrete Moral Standards.

According to Kant, law is “the whole of the conditions in which everybody’s will can co-exist with the will of the others according to a general law of freedom”.⁴² I think it is a wholly correct definition, as long as one considers that it is purely formal. It is therefore impossible, contrarily to what Kant thought, *to construe*, unless in abstract terms, the content of law starting from this definition. In other words, it can be established in abstract terms that everyone has a right to the protection of a private sphere, of property, of personal safety, of the free expression of one’s opinions, etc. But when it is a matter of establishing *concretely* the content of these liberties infinite difficulties arise, because,

⁴² Immanuel Kant, *Metaphysik der Sitten*, page 337 of Vol. IV of the Insel Verlag edition, Wiesbaden, 1960.

however one defines it, their protection, under certain circumstances, cannot avoid damaging what others think are *their* liberties. The content of law cannot therefore be *construed* starting from his concept, but must be established on the basis of the ethical standards which prevail in a certain society. If common standards do not exist, no norm can achieve the respect of everybody's freedom, because in any case someone will feel that his freedom has been infringed by some behaviour that others consider legitimately appertaining to *their own* sphere of freedom. The norm resulting from this will thus always be the result of the prevarication of one part of society over the other, and therefore will only be imperfectly lawful.

This problem, which has always existed and has made the legitimacy of any legal order problematic, is becoming acute nowadays because the increase in interdependence and the consequent spreading of the awareness of the tremendous economic and social imbalances which exist among the various regions of the world give an irresistible impulse to the phenomenon of the migration of large masses of people from the poorer countries to the richer countries of the Earth, in this way putting incompatible cultures in contact with each other. It follows that the legal orders of the developed part of the world begin to be put to the test by conflicts caused by ways of behaving which for some are the expression of moral and religious duties, or anyway are perfectly legitimate, while for others they are offensive, to the point of being legally punished (such as polygamy, or homicide for religious reasons). These contradictions were allowed to be underlined with academic complacency, as proof of the validity of the theories on the relativity of values and the incommunicability of cultures, until the contrasting ways of behaving which determined them were carried out by populations without relations among them (except for those guaranteed by some anthropologist who travelled back and forth between the Amazonian forest and Paris salons). On the contrary they have been causing dramatic problems since inter-ethnic contacts were established involving whole communities, that feel the values on which their identity is founded to be mutually threatened.

In this situation the answer cannot be toleration, which is an attitude that cannot be held in the face of radical diversity, but only of relative diversity, within a framework of substantial homogeneity of the basic values. When we find ourselves facing behaviour that our civilization condemns as criminal, toleration identifies with complicity, and becomes criminal itself. It becomes a characteristic attitude

of the privileged, who profess it in the safety of their mansions, while the beggars slaughter each other in the streets; and it disappears as soon as the gates of their mansions are knocked down. In any case, the preaching of toleration in reality shows itself to be quite useless, because conflicts are *really* solved through violence, even if it is violence dressed up as law.

The problems posed by the traumatic contacts between radically different cultures which characterize our time and will characterize much more dramatically the years to come do not have a *just* solution – that is, a solution which defends the sphere of freedom *today* felt as legitimate by both the parts involved. There will always be only unjust solutions, in other words with some content of violence, whatever its victims may be. Which does not prevent the fact that, on the one hand, the problem is posed by reality, and requires an answer; and that, on the other hand, there are answers which are less unjust than others, able to facilitate the evolution of social life towards situations compatible with a regulation really based on law, and not on force.

However, it certainly will not be Levy-Strauss's philosophy that will allow the world to overcome the traumas it is about to undergo because of the more and more intense, extensive and frequent contacts among cultures that today are radically incompatible. The reign of law will not arise in societies which are divided into watertight compartments, in which cultural communities do not communicate – and where what is a duty for me is a crime for my neighbour; but when all the men in the world agree on the content each one's freedom should have, in other words when there is a universally agreed system of fundamental values and, within this framework, the differences between cultures will not be perceived as violations of somebody's freedom, but as an enriching factor for everyone.

Therefore, if on one hand law is the *premise* for a full universal *Verständigung*, on the other hand it is founded by a virtual agreement, which only awaits sanctioning by law to be completely realized.

An open and evolutionary policy can only really be conceived on the basis of the rational trust that a progressive and controlled approach between deeply different cultures is destined to lead, albeit at the end of a pathway paved with difficulties, to a universal fusion of horizons, in other words to the formation of a single system of fundamental values, without which – among other things – there cannot be any pluralism, which is a factor of cultural enrichment only if it is placed within the framework of a single communication community.

3. *Progress and Responsibility.*

According to Jonas⁴³ the idea of progress is incompatible with that of responsibility, as the latter presupposes that the future is uncertain and depends on the free decisions of men. It is a contradiction which is particularly evident in the world of today, which is concretely threatened with extinction unless mankind behaves responsibly towards the problems of overpopulation, exhaustion of non-renewable resources and pollution.

In my opinion, Jonas's conclusions are groundless. What is radically incompatible with responsibility is rather a casual concept of history, which presupposes that the freedom of choice and action of the individual is completely annulled by the blind forces of violence and chaos. In this case the dimension of the future, which is that of responsibility, of foreseeing the consequences of one's own actions, would be lacking.

Moreover, as previously underlined, the idea of progress does not belong to the sphere of theoretical reason, in other words is not drawn from the observation of facts, but is *a postulate of practical reason*, which must be accepted if one admits, in the sphere of politics, the possibility of free, and therefore responsible, action. It must be added that, in the particular situation of today, whoever is not sustained by the belief that the forms of men's social life are destined to improve would lack any stimulation to struggle for stopping the planet's process towards its own destruction. For these stimulations to remain and be reinforced, one must believe in reason. But reason is what unites men. To believe in reason therefore means to think that – through the institutions – it spreads and asserts itself. It means in other words to believe in the reason *of the others*, who together with us make history, avoiding the senseless sin of presumptuousness which consists in believing that responsibility, and therefore reason, concerns us alone while history – in other words the others – remains at the mercy of the blind impulses of chance. Which does not involve – it must be remembered – the negation of the presence of radical evil, without which man would be angel or animal, but the conviction that the fight between good and evil in the individual soul is destined to take place within the framework of increasingly advanced conditions of social life.

This is equivalent to saying that, while for the individual conscience necessity and liberty appear – and always will appear – as the terms of a contradiction, the march of mankind is guided by the *necessity of liberty*.

⁴³ Hans Jonas, *Das Prinzip Verantwortung*, 1979, consulted in the Suhrkamp edition, Frankfurt a.M., 1984, pp. 245 and ff..

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