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EU Democratic Deficit and the Civil Society:
A Theoretical Perspective on European Democracy

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Abstract:

The European Union has long been trying to find a remedy for its so-called 'democratic deficit'. In the absence of other means for a direct relation with the citizens, as only the European Parliament is elected by all European citizens, the European Commission assumed its role of the 'guardian of the Treaties' and implemented a greater openness towards civil society in the early 2000s in compliance with the values of democracy in Europe.
In this context, I propose a closer look at the origins of EU's democratic deficit and, more broadly, at the current status of democracy in the European Union mostly based on a historical comparative analysis between the birth of the EU and the classical model of American federalism as the most appropriate state model for a broad representation of interests. Moreover, the very nature of the most influential political regime during the initial stages of the European integration process – France's Fifth Republic – contained elements that were bound to sooner or later lead to a crisis of democratic representation and legitimacy, and subsequently to a crisis of liberal thought. In the long term, Europe needs to address this issue through an authentic constitutional debate in order to reflect the Europeans' wish on how this project shall develop in the future, although nobody ever asked them about it before.

Key words: *European Union, democracy, democratic deficit, civil society*

Introduction

European democracy is currently perceived as a virtually irreversible fact, in spite of the challenges posed by the ongoing economic difficulties faced by European states. However, nothing should be taken for granted. For this reason, I propose a closer look at the origins of the EU democratic deficit and, more broadly, at the current status of democracy in the European Union. I approach this issue primarily through a historical comparative analysis between the birth of the EU and the classical model of American federalism as the most appropriate state model for a broad representation of interests. Moreover, the very nature of the most influential political regime during the initial talks on European integration process – France's Fifth Republic – contained elements that were bound to sooner or later lead to a crisis of democratic representation and legitimacy, and subsequently to a crisis of liberal thought. In the long term, Europe needs to address this issue through an authentic constitutional debate in order to reflect the Europeans' wish on how this project shall

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develop in the future, although nobody has posed this question from the very beginning of the European integration.

Theoretical Aspects of European Democracy

Over the past decades, the project of European integration has been constantly followed by an intensifying critique within the European public opinion on the lack of civic representation at the level of EU bureaucratic institutions. This phenomenon is growing with the extension of competencies and prerogatives, which Brussels claims from the national capitals in a constantly larger number of policy domains. Sooner or later, it appears that all public policies will be 'Europeanized'.

In this context, the 1990s have seen the beginning of a process of greater openness enacted by the EU towards various interest groups and their gradual involvement in the policy-making process as an attempt to compensate for and to cure Europe's democratic deficit. Thus, bearing in mind the importance given to the status of European democracy in our contemporary societies, it is necessary to carry out an analysis of how Europe developed since the end of Second World War and how the European integration accommodated its values. For this aim, Larry Siedentop's *Democracy in Europe* [Siedentrop 2002] serves as the main benchmark in the attempt to employ a comparative analysis with the classical US federal model of government, in analogy to Alexis de Tocqueville's *Democracy in America* [Tocqueville 2005].

To begin with, it is worthwhile to take a look at the 1787 Philadelphia Convention, which in the end adopted the US Constitution, although it was summoned during a deep political and social crisis within the American states recently liberated from the British Crown. At that point in time, the delegates represented a variety of opinions within the Confederacy. Some of them rejected the project of building a central, unified administration to govern all American citizens, which might have posed significant difficulties to the bargaining and negotiating politics of the Confederacy. Others were more suspicious of any form of centralized government, as it reminded of the British imperial rule in North America.

Nonetheless, the principle of public debate and consensual government through the agreement of all political actors involved ultimately prevailed at the Philadelphia Convention. This was not surprising, as the British rule granted extensive autonomy to the North American colonies for over a century before Independence.

The comparison with the political context in which the foundations of the European project were laid shows a worrying sign. The decades of Western European integration that grew into unprecedented measures of political and economic integration – from the Common Market and the Treaty of Maastricht, to the Lisbon Treaty's institutional reform – bear the signs of an increasing consolidation of federalism in Europe. We may thus suppose that such reforms, unprecedented in the history of European nations, should have led to a debate at least as profound and wide as the one in America of 1787. Such debate, however, has never taken place. This raises a number of questions regarding the passivity of the European *imaginarium* in key moments for its own future development.

According to Siedentop, democratic legitimacy in contemporary Europe is in great danger. Due to the fact that the process of European integration is nowadays mostly accomplished, it is of utmost importance to move the focus on the political dimension that the European Union will assume, beyond the already established common market and

currency. From this perspective, a profound constitutional debate should take place at the European level in order to establish the current and future limits of integration. Nevertheless, the newly established powers and institutions should bear a strictly delimited amount of responsibility towards European citizens.

It is only through such a process of deliberative politics that real feeling of belonging to common Europe can be built. And that shall happen regardless of whether the final choice will point towards an authentic federation, or the continuation of ever-deeper integration. Moreover, the EU may use this opportunity to counter the reputation of a political environment dominated by obscure economic elites that govern without real democratic checks and balances.

The lack of civic involvement in Europe may draw from a longstanding tradition of political thought that considered despotism as the only viable political regime to govern over wide territories. In the mid-18th century, Montesquieu regarded the bureaucratic state as a specific type of modern despotism. In contrast with the bureaucratic regime, the republics and self-governing communities were based on civic virtue, which was possible to attain only when all the citizens participated actively in the community. Thus, Montesquieu saw the self-governing republic as being possible only in a small territory, inhabited by a limited number of citizens fully involved in the political matters of the state [Montesquieu 1989].

However, according to the French philosopher, moderate government was possible in Europe due to the role played by aristocracy in the post-feudal European society, as well as the example given by Britain. The European aristocracy was holding a certain role in local governance, acting for the prevention of excessive centralization of power. Montesquieu's argument draws from the experience of French centralization of government under Louis XIV and Richelieu, who substituted local aristocracy with a body of civil servants responsible only to the central government in Paris. The French model was later adopted by other European absolutist monarchies, shaping the evolution of Prussia and the Habsburg Empire.

The main risk posed by the excessive bureaucratization of the State comes from the entire society gradually becoming the subject of the authority of a limited number of public *'fonctionnaires'* with no direct responsibility towards the public interests and opinions. The British example thus serves to illustrate the citizenry opposing the centralizing power of the State, defending the virtue of political liberty and rule of law.

The United Kingdom represented for Montesquieu, as well as for contemporary Europe, a genuine example of government where the power was held in the name of the people, while both the Commons and the House of Lords idealistically reflected the aristocratic structure of European society. Both the antipathy to the French way of government and the resistance posed by the British aristocracy made the United Kingdom unique in maintaining a decentralized political power. Since the Enlightenment, avoiding despotism in Europe and maintaining the rule of law depended on the perpetuity of aristocratic order and the differences of social status, as the social elites kept the vocation of supporting local autonomy. Siedentop thus regards the British model of government as being based on a generic 'aristocratic liberty'. In addition, aristocratic society allowed strong local associations, in which individuals gathered in their two main social roles – governing leaders and governed citizens.

Moreover, it is worthwhile to notice the failure of multinational states in Europe over the centuries. This is sometimes explained by the very lack of an intermediary social class to mediate between the governing elite and the governed citizens, such as the autonomous aristocracy. Consequently, the Enlightenment brought the 'government by others',

when the bureaucratic administrators did not even belong to the same ethnic group as the people who were subject to their rule. This was the preferred regime in the Ottoman and Chinese Empires, as modern despotism kept on functioning.

The real danger to the political liberties and the rule of law in Europe, as much as it was achieved at the end of the 18th century, was the resentment towards the plurality of social privileges. The nation-states are thus built upon the radical change in the old social order and the social hatred instigated by some national political leaders. Social hatred serves as a common denominator for the new political power since the French Revolution, undermining the former local associations and solidarity, as it tears down the local elites and makes room for centralized government.

In this light, the European modernity removed aristocracy from its role of central mediator of state powers, as Montesquieu theorized it. The new politically distinct social class that took over its role was the newly established middle class, due to a more uniform distribution of wealth, increasingly available education, and an increased social mobility. However, the following question still needs to be posed – *does modern European society have the capacity to prevent total concentration of state power in the absence of an aristocratic social class?*

One possible example is the 19th century France under Napoleon I. During his reign, the first successful European project of dismantling of local and regional traditions was successfully carried out, through the centralized administration imposed by state functionaries, most often with different ethnic origins from the local populations they governed. In consequence, a serious preoccupation with American federalism emerged among the French liberal thinkers. Somewhat ironically, the American federal experience was regarded as the perfect antidote to the "failed continental empire" which was the Napoleonic France. In this context, Alexis de Tocqueville was to undertake his famous trip to America, which gave rise to his famous work *On Democracy in America.*

However, the United States have never had a truly privileged social class on top of its political hierarchy, despite its quasi-continental structure. In 1830, when Tocqueville made his transatlantic journey, Americans had already over half a century long experience with decentralized government. American federalism was thus the proof needed to demonstrate that central government could coexist with a system of local autonomy in democratic society.

In addition, despite its vast territory, the American federation was a totally new model of government, based on political liberty and power-sharing in the absence of a hereditary social class such as the European aristocracy. It also succeeded in avoiding the past "traps" in which other confederations had fallen. Both the Holy Roman Empire and Switzerland ended up being dominated by the most powerful member [Lukes 1974]. In contrast, the United States did not depend on the member states in order to apply governmental policies, as the central government retained some executive powers. Montesquieu, however, did not mean to implement the federal model in 19th century France, but rather to take over some of its features, such as the central role played by the independent judiciary, which was essential in keeping the American state away from excessive bureaucratization through more responsibility among the elected officials [Manin, Przeworski, Strokes 1999].

As the American model first played the incentive to reform 19th century France and generated a possible model for a united Europe, it is important to bear in mind the "extra-constitutional" features of American federalism, as they are pointed out by Larry Siedentop. Intuitively, the United States were built on a set of cultural and informal pre-conditions,

whose replication in today's Europe is debatable, such as *the tradition of local self-govern-ment, a common language, an open political class dominated by lawyers, and a set of common moral values*. [Pitkin 1967]

However, compared to the birth of American federalism, European nations only apparently left the impression of renouncing a part of national sovereignty when NATO and the European Coal and Steel Community took shape. In reality, no European nation lost a significant part of its sovereignty, not least through the establishment of a supra-national jurisdiction with the *acquis communautaire* and the Court of Justice of the European Communities. It was not until the Treaty of Maastricht and the project of monetary union that the issue of national sovereignty really came into attention with a significant impact on the EU Member States fiscal policy.

The concept of "national sovereignty" can generate a wide range of nationalist reactions in Europe, which could destabilize the entire Union. In addition, the strong feeling of national belonging is closely correlated with the other factors identified by Tocqueville as the basis of federal government in America.

So-called "local liberty" is the first one amongst them, with the first colonists of New England being used to govern their own communities through civic association and trust in their own political power. Moreover, it is beyond any doubt that the existence of common language strongly supported the tradition of self-government, which is the second pre-condition mentioned by Tocqueville. Somewhat surprisingly, this unique feature was not threatened by the influx of European imigrants throughout the 19th century, as the United States proved capable of successfully assimilating not only the German, Dutch and Scandinavian immigrants, but also the East Europeans and Italians that arrived at the beginning of the 20th century. The key factor that enabled their successful assimilation into American culture was the fact that the principles and values of self-government and representative institutions are easy to internalize once the migrants arrive to America. As Larry Siedentop points out, the American experience proves that the common language is the main element of a functional federal system through the integration of a coherent citizenship. In comparison to the US, the multilingual federal experiences of Canada and Belgium show once again the high importance of a single official language for a functional state.

To the above-mentioned features so specific to the American federal model, Tocqueville adds the liberal view of Christianity as a space of "equality in freedom", which builds upon individual wisdom and voluntary involvement of each citizen in the process of improving American society, without a strongly imposed authority and subsequent obedience. In addition, this judicial model is based on the belief that law is to be amended when it does not represent anymore a solution to the citizens' needs, as the American self-government is not simply an illusion but a true way of leading a political life within the community. The opposite can be easily found across the Atlantic, in the Old World, where many European societies seem to be engulfed by the feeling that democracy becomes a cynical experience, seeing law primarily as a tool of the elites interested in their own prosperity.

It is easy to notice that the uncertainty about the future of European integration must be closely linked to the political model that is mostly desired by Europeans. The current European crisis may thus be regarded as a crisis of liberal thought, as Larry Siedentop puts it. One can only ask himself about the lack of a similarly profound debate in Europe as the one that led to the birth of the United States' Federal Constitution. The answer is apparently pointing towards an issue of fundamental moral condition in contemporary

Europe. The political language substantially differs from the one of 1780s in America due to the absence of a deep need of change in Europe nowadays, despite the current economic crisis.

Somehow surprising is the radical change in the French political discourse with the German reunification. The concept of "Europe of nations", long used until the end of the Cold War, showing a strong French support for the nation-state's central role in the European integration, has been thus changed to the "European federation" through the Treaties of Maastricht, Amsterdam and Lisbon.

The change of discourse was explained mostly through the following arguments in support of political integration: (1) Europe's unification is needed in order to prevent another world war experience; (2) The EU maintains the functionality of the Common Market and the Common Currency, offering the necessary conditions for prosperity in Europe; (3) The process of European unification is necessary for the control over German influence through the involvement of other European nations in Germany's governance; (4) A united Europe can play a global role as an alternative to the US and China.

It is definitely worrying that none of the above-mentioned arguments in support of a united Europe speaks about the correct distribution of political authority and power within the future European federation. Thus, the problem of democracy in Europe still needs our attention, as any project of European reform will have to address it.

The French solution to the German reunification has been the creation of a centralized decision-making authority based upon the French state model that would hold the main role in the European Community in the long term. The European Commission, under the presidency of Jacques Delors, was unsurprisingly quiet on the right constitutional features of the EU through the Treaties of Maastricht and Amsterdam [Schmidt 2012].

Apart from that, the EU seems to be based to a large extent on a quasi-Marxist perspective such as the belief that the advance in democracy and institutional performance would later on follow as a consequence of European-wide economic progress. Such a development was regarded as inevitable and somehow natural until the late 2000s. It is ironic that throughout the history several representatives of the European political Right, with Margaret Thatcher at the forefront, shared this optimistic Marxist vision.

This political discourse might also be traced back to the times of the 19th century French aristocrat Henri de Saint-Simon who predicted the future of government as "the administration of society taken over by bankers, industry-owners and scientists". From a saint-simonian perspective, such a development was desired in comparison to the rhetoric of self-interested politicians. Rationality was to replace ignorance in European politics.

On the other hand, the predominance of "economism" in the European project is easy to understand, given the historical context in which the European integration has been launched. The European Coal and Steel Community was above all a project of international cooperation for the reconstruction of Europe after the Second World War, leaving aside the preoccupation for solid political institutions and a true democratic accountability in favour of a saint-simonian model of European modernization.

Constructing a "New Europe"

Nowadays it becomes clear that European integration can no longer be based solely on economic agenda. The European liberal constitutional thought has to be brought back into the forefront of any debate on the future of European integration, since this could be the

most suitable approach to capture the necessary cultural features that have to be accommodated for strong institutions.

However, we must bear in mind that the political culture cannot be easily changed in a short period of time and different types of cultures lead to different models of states [Almond, Verba 1963]. The EU is no different from this point of view, as Larry Siedentop underlines the features of three main institutional models present in the Union at the institutional level.

Probably the most influential one is the French model, deeply bureaucratized despite the trend of decentralization within the French state in recent decades. At the European level, the French executive power has no rivals in terms of governmental efficiency, as the legislative held only a secondary role after 1958, virtually in a constant manner under the Fifth Republic. It is probably precisely this simplicity of governing that makes the French model so easy to export [Dahl 2000].

Somehow contrary to the French model is the German one, inspired by the American federalism after Second World War. Among its priorities lies the creation of multiple levels of authority, restraining the role of the federal government through an independent constitutional court. From a German point of view, the European integration makes sense only when the rule of law is widely assumed and the central power is strictly controlled.

The British informal type of politics might be considered as the third European model, in a completely special social context, which allows for the British common sense and common law to counter the excessive centralization of power through the principle of "subsidiarity", also seen in the devolution of power in the United Kingdom over the last decades.

The central role granted to the European Commission through the successive EU Treaties in the integration project is undoubtedly born from the overwhelming French influence at the time of constitutive political negotiations. However, the French state model is far from perfect, as it recurrently proves its limits in a number of fundamental features. One of the main reasons for its critique is the cyclical social crisis, expressed through the riots at the periphery of French cities that ultimately act as a reason for State intervention for the re-establishment of an apparent social peace.

In addition, as the French elite becomes strongly bureaucratized, it recruits its "members" among the graduates of ENA (*École National d'Administration*). They are the French leaders that advanced the idea of Common European Market after the war and kept the German power at bay, creating the preconditions for *de facto* French hegemony.

Nonetheless, it is no coincidence that the European integration project has been launched simultaneously with the French revival under the Fifth Republic. Thus, in most of the European policy domains, Brussels has been long regarded as an annex of Paris, as France not only succeeds in creating the Common Agricultural Policy, but also in preventing the reform of this set of policies during the recent years.

However, the recent economic slowdown in Europe and the strong recessions and "troika" bailouts at the Union's periphery point to the fact that something is malfunctioning at the very core of the European integration project. It apparently seems obvious to any European citizen that the principle of "solidarity" is ever harder to apply at the continental scale under the current economic and political conditions. It could be probably high time to launch a real and profound debate about the future of our common endeavour, with respect to the variety of societal actors. Nevertheless, it is certain that with a lack of trust among Europeans, the Union will never be able to play the role it aspires to on the global stage.

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