

## Chapter One

# The Challenge of a Democracy Beyond the State in the European Union

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Building a democracy beyond the State is a difficult challenge, as the first European attempts in the history of the human being well show. It is an inevitable step for true democrats, because the traditional national democracies are increasingly unable to cope with the transnational and supranational challenges of our time: addressing financial unbalances, building an international order and facing new security threats, limiting climate change and environmental degradation, regulating migration flows, combating infectious diseases, fighting against transnational criminality, drug traffic and terrorism.<sup>1</sup> It would not be serious denying the open and increasing contradiction between the supranational nature of the most important challenges of our time and the national limits of the democratic State.

However, even defining “democracy beyond the State” is not an easy task. Theoretically, we are exploring a research field that is epistemologically off-limits for the mainstream U.S. neorealist school of International relations<sup>2</sup> because according to them democracy has nothing to do with the international realm. It is also out of reach for the French “republican” tradition, which still asserts that democracy can be implemented only at the national level.<sup>3</sup> For this innovating endeavor we need to take stock of critical approaches to International relations while combining them with comparative politics and European studies.

On the basis of the current academic debate, we could define *democracy beyond the State*:

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1. David Held, *Models of Democracy*, (Cambridge: Cambridge University Press, 1996); Jürgen Habermas, Toward a Cosmopolitan Europe, *Journal of Democracy*, Vol. 14, no. 4, 2003, pp.86–100.
  2. Kenneth Waltz, *Theory of International Politics*, (Reading Massachusset: Addison Wesley Publishing, 1979).
  3. Gauchet M. *L'avènement de la démocratie. I: La révolution moderne*, (Paris: Folio Essays, 2013).

(a) As an institutional settlement of *democracy among the States*—conceptually opposed to democracy within the State.<sup>4</sup> Of course, in the EC/EU understanding, transnational institutions and transnational citizenship do interact with domestic democracy and citizenship in multiple ways: on the one hand, every member of the EU supranational democratic polity in the making must be (“Copenhagen criteria,” 1993), and remain (Article 7, TEU) a democratic State, since transnational democracy is impossible with unreliable pre-constitutional States. Austria was the target of intergovernmental political sanctions in 2000 due to a national government considered as xenophobic by the other 14 EU members. The problem is that, compared with the decade of the “liberal peace” following 1989, façade democracies are increasing in number and arrogance<sup>5</sup> not only outside the EU, like Russia, but also within, like Hungary.

On the other hand, once established, intergovernmental and supranational institutions develop a complex interplay with national democracies<sup>6</sup>—defined as a multiple and multifaceted “Europeanization” process,<sup>7</sup> acting both bottom-up and top-down. The first theoretical question to cope with is the dynamic and changing relationship between democracy within the State and democracy beyond the State in the troubled context of the early 21<sup>st</sup> century.

(b) We need also a further conceptual distinction. While the *confederal* concept of democracy is focusing on the democratic nature of member States represented in the multilateral bodies like the Council of Ministers and the European Council, a democracy beyond the State in Europe looks as closer to—even if not coincident with—*federal* democracy. Contrary to a democratic polity constructed by sovereign but interdependent States (e.g., the United Nations assembly), the European supranational democracy building process has been compared with the democratic path constructed according to the Hamilton’s model of U.S. federalism.<sup>8</sup> Both share the need to cope with the theoretical chal-

4. Kalypso Nikolaidis and Paul Magnette, “The European Union’s Democratic Agenda,” in Mario Telo, ed., *EU and Global Governance*, (London & New York: Routledge, 2009), pp 43-63.

5. Larry Diamond, *In Search of Democracy*, (Abingdon: Routledge, 2015).

6. Philip C. Schmitter and al, *Governance in the European Union*, (London: SAGE 1995).

7. Claudio Radaelli and Susana Borrás, “The Transformation of EU Governance, the Open Method of Coordination and the Economic Crisis,” in Maria Joao Rodrigues and Eleni Xiarchogiannopoulou, eds., *The Eurozone Crisis and the Transformation of European Governance*, (Farnham: Ashgate, 2014), pp 41-57.

lenge firstly addressed by Montesquieu: how to combine democratic citizens' representation with the need to protect the *demos* from external threats? A small State is close to the citizens but weak within the international arena, whereas the big State is strong against external threats but far from domestic audience. The union of multiple States within a federal State is the best possible compromise according to Montesquieu and the American federalists.

The European federalist thought is one of the main sources of inspiration for transnational democracy indeed (from Spinelli to De Rouge-mont). However, if not disentangled from the federal State tradition<sup>9</sup> it would be associated with the teleological perspective of building in Europe a kind of second United States. Nobody speaks about *democracy beyond the State* in the U.S., while for Europe, given the deep historical roots of various nations and member States, the distinction between the federal State model and democracy beyond the State is of crucial relevance. What firstly matters is the conceptual independence of these two concepts from one other.

(c) A second source of inspiration for a democracy beyond the State is the tradition of *cosmopolitan democracy*. Differently from the tradition of federal democracy, the *cosmopolitan* concept of democracy is clearly far from a State model, as Immanuel Kant already stated more than two centuries ago.<sup>10</sup> Yet both concepts focus on cross-border relations among individuals and social groups, independently from—or parallel to—inter-State relations. Both traditions draw the attention on social ties, on mobility and relations at level of civil societies, on the plurality of social and institutional actors networking across national borders. The political philosophical background of both innovating approaches has to be found in the work of Immanuel Kant rather (as recently revived by Habermas and others) than in Montesquieu.

However, the experience of the European Union shows the differences between cosmopolitan democracy and democracy beyond the State. While the first one is focusing on the universal dimension, which

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8. Larry Siedentop, *Democracy in Europe*, (London: Allen Lane, 2002); Sergio Fabbrini, *Which European Union? Europe After the Euro Crisis*, (Cambridge: Cambridge University Press, 2015).

9. See Olivier Beaud, *Théorie de la Fédération*, (Paris: PUF, 2007); Nicolas Levrat éd. in cooperation with Frédéric Esposito, *Europe: de l'intégration à la Fédération*, (Louvain-la-Neuve, Academic –Bruylant, 2010).

10. Immanuel Kant, *Treaty for Perpetual Peace*, 1795.

entails universal values, notably human rights protection (Held, Archibugi 2000), the second one is a political concept and a more consciously limited concept. *When we discuss a transnational democracy beyond the State in Europe we address the question of the construction of a democratic system limited to a certain territory, developed not at the global but the regional level, in the sense of a territorial region of the world, including borders and frontiers.* Even the most open concept of borders entails a distinction between insiders and outsiders, and also the intermediate status is legally fixed (status of “candidate country”). On the one hand, transnational and territorially based democracy could be conceived as a step towards the cosmopolitan utopia; on the other, it could also be developed as an independent and political project.

In this second version, it entails a complex relationship between democracy and a political decision making process based on a particular region, a distinct territory and grouping of States. Even if Europe is not a State and probably will never become one, it is already a regional polity, a political project as proved by the two political pillars of CFSP and JHA as well as by the Euro, which is a political project. The project of building up a democracy beyond the State means in Europe a limited transnational democratic polity, with borders. The EU is, however, a particular polity, compared with the universal dimension of the cosmopolitan vision.<sup>11</sup> The distinction between Europe and the World is much more evident in the 20th and 21st century than at the times of Kant.<sup>12</sup> Neglecting this crucial difference would with right provoke multiple and serious criticism by non-European scholars, even beyond the post-colonial school of thought.<sup>13</sup> Even within the European continent, some States (Turkey, Russia or other States) could decide, by free decision, to stay out (or exit from, like the UK) of the EU transnational democracy project and establish friendly neighborhood relations.

Cosmopolitan thought is challenged. The Habermas approach<sup>14</sup> is characterized by an internal tension: on the one hand, he and his school revived the cosmopolitan tradition in relation to Europe, focusing on

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11. Kalypso Nikolaidis and Robert Howse, eds., *The Federal Vision: Legitimacy and Levels of Governance in the United States the European Union*, (Oxford: Oxford University Press, 2001).

12. Anthony Pagden, ed. *The Idea of Europe: From Antiquity to the European Union*, (Cambridge: Cambridge University Press, 2002).

13. Amitav Acharya, *The End of American World Order*, (Cambridge: Polity Press, 2014).

14. Jürgen Habermas, “Toward a cosmopolitan Europe”. *Journal of Democracy*, vol. 14, no. 4, 2003, pp. 86–100.

transnational networks and bottom-up citizen's participation, the need of combining parliamentary democracy with a public sphere, all elements which are essential to transnational democracy. On the other hand, when talking not only about a European "public sphere" but also including elements of European "republicanism" ("constitutional patriotism" according to the Habermas language; see his recent ARENA paper on European democracy 2014, as well as Fossum and others) he emphasizes the political dimension of a European transnational democracy, its clear distinction from cosmopolitanism and from the global or continental (in its broadest understanding) dimension.

### **What are We Learning from the EU's experience?**

Europe is, by general assessment, the most sophisticated laboratory of transnational democracy beyond the State. According to the EU/EC Treaties, since Maastricht (1992), the citizen is twice sovereign, as member of his/her nation and as member of the European Union (Articles 9 and 10, TEU). A "common citizenship" is announced in the Lisbon Treaty Preamble: it entails the recognition of the rights, freedoms and principles listed in the "EU Charter for Fundamental Rights" and makes explicit reference, in Article 6 of the TEU, to both the European Convention for Human Rights and the member States constitutional traditions. The European citizenship includes several rights: free mobility not only as a worker, as it was since the early Rome treaty (now Articles 45-48, TEU), but as an ordinary citizen, which breaks with the traditional identification of national citizenship and residence. Furthermore, it includes the right to vote (at local and European level), petition, and diplomatic representation. The provisions related to the European space of freedom, security and justice further deepen several aspects of transnational democracy and citizenship.

Moreover, the gradually enhanced power of the EP, from 1979 to the Lisbon treaty, was the flag of several generations of European democrats because it was expected to compensate the citizens for the diminished national parliament sovereignty provoked by the centralization of the EU decision making process, with the national sovereignties sharing and pooling process (within the Council and the European Council), strengthening supranational regulations and empowering the Council of Minister (and the national governments) against the respective national parliaments. Well, what we have learned since the early nineties

(notably after the Maastricht Treaty ratification referenda, “no” in Denmark and short “yes” in France in 1993) is a kind of paradox: *despite tremendous progresses of the European parliament as its co-decision power with the Council is concerned, the Eurosceptical feeling of a European democratic deficit is stronger then ever.*

Further strengthening the EP powers as strongly called upon by federalist movement (F. Herman, G. Verhofstadt, Cohn Bendit, and others, according to the Altiero Spinelli tradition) on the one hand, was necessary given the evidence of the declining EC/EU’s early “substantive legitimacy”<sup>15</sup> provided by the high economic efficiency during the thirty Golden years; but, on the other end, it looks as insufficient to cope with the social consequences of the hardest economist crisis since the 1930s provoking the explosion of populist movements.

Already ten years ago, before the financial crisis imported from the U.S., the Constitutional Treaty rejection in 2005 and the Lisbon Treaty difficult ratifications in 2007-8, were totally unexpected. The new evidence is that, combining relevant steps towards “federal” centralization at supranational level (treaties of Amsterdam 1997, Nice 2000, Rome 2004, and Lisbon Treaty, 2007) with enhanced parliamentary power is absolutely not enough to cope with the largely diffused popular feeling of a too far decision making process combining technocratic governance and intergovernmental hidden negotiations. The strengthening of the EP continued until the top reached with the full co-decision power with the Council, provided by the Lisbon Treaty. However, never the Euroscepticism was so strong and diffused as in the last decade. This paradox was already addressed by the scholars in the 90s<sup>16</sup> when the emergence of the limits of the idea of importing from USA the Hamiltonian tradition paved the way to a more complex and mature understanding of democracy beyond the State. Actually, European referenda are becoming nightmares for Europhiles and no government (with the single and paradoxical exception of the UK) asks for new Treaty revision because of the fear of serious complications during the national ratification process.

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15. Joseph H. Weiler, *The Constitution of Europe: ‘Do the New Clothes have an Emperor?’ and Other Essays on European Integration*, (Cambridge: Cambridge University Press, 1999).

16. Mario Telò, ed., *Démocratie et Construction Européenne*, (Bruxelles: Editions de l’Université de Bruxelles, 1995) Eric Remacle and Paul Magnette, eds., *Le Nouveau Modèle Européen*, (Bruxelles: Editions de l’ Université de Bruxelles, 2000).

Which remedy? It is well known that, in order to understand and address this theoretical challenge, F. W. Scharpf proposed to distinguish between *output legitimacy* (based on the efficiency of EU policies and real benefits for citizens) from input legitimacy (based on proactive citizens' participation). On that basis, a various political stream supported by academics suggest to make of the EU democracy something more similar to national democracies, and of the European Parliament something more similar to national Parliaments, notably the Westminster Parliament, ignoring that the EP was—and still is—a “strange” Parliament.<sup>17</sup>

Should and could the increasing democratic deficit of the EU democratic system be addressed by a process of *political polarization* of the European electorate according to the left-right cleavage and could the European Parliament consequently change according to the Westminster model? In other world, should transnational democracy beyond the State become more politicized, similarly to the cleavages of domestic politics of larger States?

The comparative political science school led by Simon Hix<sup>18</sup> focusing on elections, parliaments and parties, is supporting this perspective, by underlining the actual and potential similarities with national politics. Consequently this school is fostering the transformation of the EP into a true political Parliament electing the Commission *on a political basis (according to the left-right cleavage)*. This change is expected also to counteract the declining turnout and mobilize the citizens' participation. Well, the provision of the Lisbon Treaty related to the election of the Commission President by the Parliament (TEU, art 17.7) looked to many as paving the way to this perspective. Actually, this politicization process made some progress in 2014, with the *Spitzenkandidaten* indicated by the 5 main EU parties and the eventual election of the winner, the leader of the winning party—the EPP- notably Jean-Claude Juncker, as the new President of the European Commission. However, there is some relevant *caveat*: the campaign in many countries was not at all inspired by this political innovation (the *Spitzenkandidaten* were not even invited to put their foot on the UK soil for example).

Secondly, the more political and “politicized” new Commission, chaired by Jean- Claude Juncker, is not a politically homogeneous gov-

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17. Pascal Delwit, Jean-Michel De Waele, Paul Magnette, eds., *A Quoi Sert le Parlement Européen?*, (Bruxelles: Complexe, 1999)

18. Simon Hix, *The Political System of the European Union*, (Basingstocke: Palgrave, 1999).

ernment of the EU: it is a matter of facts, that both the Commission internal political composition and the large supporting parliamentary majority correspond to a “consensual”<sup>19</sup> democratic model, including a multiplicity of actors and interconnected levels of governance and, politically, both center-left and center-right parties, rather than to a Westminster democratic majority democratic model. The EU transnational democracy beyond the State is definitely much more comparable with consensual democratic national systems, like Austria, Belgium, and Switzerland than to the UK; and some of its forms are consistent with the particular ways of deliberative democracy by addressing internal conflicts/disagreements and justifying binding decisions.<sup>20</sup>

All in all, notwithstanding the innovations, the European transnational democracy experiment beyond the State confirms its distinctive features and cannot be confused with classical national majority system democracy. Politicization according to the classical right-left cleavage, only to a limited extent fosters citizens mobilization and is not the panacea: the turnout remains relatively low (less than 50%) and 17% was won by Eurosceptical parties, which made it necessary to build a “great coalition” (3 parties, EPP, Social Democrats and Liberals) electing and supporting the Junker Commission. All in all, in Europe, transnational democracy beyond the State will hardly follow the national democratic model, notably the model of great powers like UK or France or US. The special circumstances of the existence of many European *demos* instead of a single European *demos*,<sup>21</sup> the internal discrepancies and divergences increased with the Eastern enlargement, the extremely sensitive issue of the fair balance between smaller and larger member States,<sup>22</sup> the relevant unbalances of the constituencies electing EP parliament members in various countries, all make it impossible to apply the Westminster model of majority democracy. Not only but the consensual and centripetal EU experience has inspired similar consensual and/or “technical” governments in several Member States.

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19. Arendt Leijpart, *Patterns of Democracy: Government Forms and Performance in Thirty-Six Countries*, (New Haven: Yale University Press, 1999).

20. Amy Guttmann and Dennis Thomson, *Why Deliberative Democracy?* (Princeton: Princeton University Press, 2004).

21. Jürgen Habermas, Toward a Cosmopolitan Europe. *Journal of Democracy*, vol. 14, no. 4, 2003, pp. 86–100.

22. Kalypso Nikolaidis and Paul Magnette, “The European Union’s Democratic Agenda,” in Mario Telo, ed., *EU and Global Governance*, (London and New York: Routledge, 2009), pp 43–63.



For similar reason (obstacles to trivial transplantation into the EU system of national models), the multiple proposals of recovering the legitimacy deficit by the direct election of the President of the EU, combining the two functions of Commission president and European Council president, is typical of intellectuals who are underestimating the consequences of the complexity of the EU system and the impossibility of over simplification following the example of strong national democracies. In conclusion, it is very doubtful that a political European transnational democracy beyond the State should replicate the domestic politics of the larger States like France, UK or the USA.

The EU laboratory shows that transnational democracy beyond the State is not only a multilevel but also a mixed and multiform polity. While following—as experts—the works of the European Convention (2002/2003), we tried to conceptualize the four forms of EU transnational democracy included in the new draft-Treaty and transferred four years later in the text of the Lisbon treaty (TEU, art 9-12):

1. A central body of representative democracy as the legislative power is concerned (EU Parliament, or EP) completing the second legislative body (the Council of Ministers) and balancing the executive power shared by Council and Commission and the juridical power (the Court of Justice); the relevant status acquired by the EP fosters an increasing role of European political parties.<sup>23</sup>
2. An incipient multilevel parliamentary system, including not only the EP but also the participation of national Parliaments (TEU, Article 12, and Protocol n.1, attached to the Lisbon Treaty with the “early warning” procedure);
3. A structured social transnational democracy, strengthening the socio-economic side of democratic participation, by underpinning the role of *social partners dialogue*, both between them and with the Commission and the rotating Presidency (Spring social forum), which includes the social dimension of democracy within the European decision making process (TFEU, Article 154, 155). The Socio/Economic Committee is also a form of representative social democracy (TFEU, Part 6, Title 1, chapter 3, 1 consultation bodies), combined with the territorial representation of sub-national entities, like the European Regions (TFEU, Part 6, Title 1, Chap-

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23. Robert Ladrech, *Europeanization and Political Parties: Towards a Framework for Analysis*, Keele University paper, 2001

ter 3,2). Decisions regarding employment and social policies are taken after interplay with social partners and consultative bodies.<sup>24</sup>

4. A fledging European *public sphere*, legally framed by treaty provisions for enhanced transparency, consultations, and also the first steps towards a *participatory democracy* (according to Article 11.4, one million citizens could “invite the Commission to make a proposal” to Council and Parliament (however, a disappointing record of implementation has to be mentioned). Public sphere is also matter of civil society participation, multilingual media like Euronews, dialogue between the EU institutions and churches, local powers, experts, transnational networks and lobbies, etc.

This institutional complexity of the democracy beyond the State has an obvious implication. Each provision for a European transnational democracy entails distinct legitimacy procedures: direct (EP) or indirect (European Council and Council of Ministers) election; technocratic and substantive efficiency; openness and dialogue with civil society.

A large debate is open regarding the link between democratization and *constitutionalization*. On the one hand, the need for a coherent framework and for a general consistency of the transnational democratic system would call, according to relevant scholars, for a written constitution, a constitution not only beyond the national State but also without a federal supranational State; and without a single *demos*.<sup>25</sup> On the other hand, according to an alternative approach,<sup>26</sup> a *constitutional process*, without a written Constitution, better fits with the specific and complex nature of the European polity. The history of European construction and notably three failed attempts to approve a constitutional treaty suggest the second option as the most appropriate.<sup>27</sup>

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24. M. Joo Rodrigues and Eleni Xiarchogiannopoulou, eds., *The Eurozone Crisis and the Transformation of European Governance*, (Farnham: Ashgate, 2014).

25. Jürgen Habermas, ‘Toward a Cosmopolitan Europe.’ *Journal of Democracy*, vol. 14, no. 4, 2003, pp.86–100

26. Joseph H. Weiler, *The Constitution of Europe: ‘Do the New Clothes have an Emperor?’ and Other Essays on European Integration*, (Cambridge: Cambridge University Press, 1999).

27. Sonia Lucarelli, Furio Cerutti and Viven A. Schmidt, *Debating Political Identity and Legitimacy in the European Union*, (Abingdon: Routledge 2010).

## **Democracy beyond the State as a Work in Progress: New Challenges for Research**

Multiple relevant research agendas are emerging in the current times of uncertainty, and deepening the distinctive political perspective of European transnational democracy we presented in this chapter, notably: A) theoretically, a third way between the federal and the cosmopolitan concepts of democracy beyond the State; B) empirically, exploring a complex political way to transnational democracy in Europe which cannot be identified to trivial and oversimplified copies of national democracy and is confronted with a globalized and disordered world. We limit our review to some ongoing research projects:

### ***The Impact of the Eurozone Crisis on the Transnational Democratic Process and the Risks of Degradation of the EU Internal Multilateralism***

The Nobel Prize winner Amartya Sen did recently draw the attention on the increasingly dramatic link between the current socio-economic crisis and the possible dissipation of previous achievements in democracy, internal multilateralism and social ethics.<sup>28</sup> At a recent conference Sen addressed the question of the negative interplay between the quality of the European democracy and the contents of the economic policy. In his words, a policy of austerity would undermine the social basis of democracy, while an alternative “Social-democratic economic policy” would not. In principle, this argument is not easy to accept: how a particular economic policy and a distinctive ideology should be more coherent with democracy, whereas others—like the Liberal or Christian or Green—would not? However, there is no doubt that the current social crisis and the long lasting austerity policy—adopted by every national government—was affecting the European transnational democracy in many ways.

We are witnessing a paradox: the EU is expanding democracy beyond the limits of nation State, while the EU integration risks empowering executives and lobbies which are more able to quickly adjust to the supranational dimension. Secondly, the Commission and ECB popular perception as bodies “governing by numbers” within the

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28. Amartya Sen, in *Actes Du Colloque La Démocratie, Enrayée?* F.De Smet, ed., (Bruxelles: Académie, 2014).

context of a “multilayered regional governance,” is *de facto* increasing populism while limiting the national government’s policy agenda.<sup>29</sup>

Moreover, even accomplished progresses in crisis management and in anti-crisis policy efficiency often result in enhanced democratic deficit both at the national and EU level. For example, there is a little doubt that the key moment of the Euro-crisis solution was the famous sentence of July 2012 by Mario Draghi, the President of the ECB, saying that “the ECB was ready to do whatever in its power to save the Euro.” Did the ECB, by these very effective declarations, become the political government of the EU? This was the perception by a large swath of public opinion. Trivial and populist oppositions of national democracy to supranational technocracy were addressed. Even if the ECB President Mario Draghi acted only after the 21 June 2012 European Council green light, there is no doubt that the perception of the President of the ECB as “the EU’s most powerful political leader” was and is problematic from the democratic theory point of view.

Efficiency by crisis management, if framed by austerity policy, looks to many as contradictory with the democratic legitimacy of the EU’s decision making. Research is critically analyzing stereotypes as the Greek criticism to “EU and German diktats” are concerned. It is a matter of facts that both Southern crisis-States (like Greece) and Northern creditor States are democracies. Not only Tsipras is a legitimate winner of democratic election but all EU member States leaders; for instance, A. Merkel has to look for the internal legitimation by the German *Bundestag*, *Bundesrat* and *Bundesverfassungsgericht* (supreme court). Secondly, the bodies of the European democracy beyond the State were not truly marginalized: democratic procedures matter more than the usual oversimplification by Eurosceptic criticism. For example, the European Parliament role, notably its “negative” role, its critical function is resilient, as a consequence of the Lisbon Treaty reform and the procedures of co-decision. Thirdly, the concept of “best practices” draws the attention on the relevant role of some national democracies, notably Scandinavian parliaments and parliamentary committees, by developing democratic accountability of the EU council of Ministers and the need of diffusing these examples within the EU member States.

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29. Philip C. Schmitter and Zoe Lefkofridi, “A Good Crisis or a Bad Crisis for the EU?” in Maria Joao Rodrigues and Eleni Xiarchogiannopoulou, eds., *The Eurozone Crisis and the Transformation of European Governance*, (Farnham: Ashgate, 2014), pp 11-28.

What is more pertinent in the Sen critique? The EU's transnational democracy is framed by a dynamic multilateral polity represented by the Council of Ministers, the Euro-group (18 members of euro), and the European Council. Contrary to domestic democracy, this intergovernmental multilateral framework is crucial and only an idealistic picture of Europe may ignore that this is a pillar of the EU "beyond the State democratic polity" since the EU's legitimacy cannot be built against the States but in cooperation with them. Well, as a consequence of the hard intergovernmental negotiations, the EU's internal multilateralism looks to critical observers as gradually transformed into a increasingly hierarchical decision making process: the intergovernmental cooperation is increasingly influenced either by power relations, or affected by populist domestic pressures, which is inevitably undermining to some extent the mutual trust, and making the room for transnational democracy narrower. We know from experience and scientific literature that multilateralism is normatively based on two principles: the first is the "generalized principle of conduct" which is opposed – by definition—to hegemonic or imperial relations, which entail a hierarchical dimension;<sup>30</sup> and the second is "diffuse reciprocity."

The first principle is no longer respected when uneven application of the common rules and procedures occurs. This is relevant for the EU case, since derogations to the "Stability Pact" rules have been welcomed for Germany and France in 2003, while not for Portugal at the end of the decade. On the other hand, this is relevant also by analyzing opposite cases: for example, the same austerity rules risked of not being of application for Greece after the 2015 elections, while Spain, Ireland, Portugal and other countries had to implement them in a strict way in 2012-15. Also rejecting the general principle of conduct by exploiting its own national weakness as more than an argument, a weapon, is inconsistent with transnational democracy beyond the State while consistent with a populist downgrading of national democracy.

A promising research field is precisely the dynamic interplay between transnational democracy and the changing EU's internal multilateral set, on the one hand, and the troubles of national democracies, on the other.

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30. James A. Caporaso, International Relations Theory and Multilateralism: The Search for Foundations, in *Multilateralism Matters: The Theory and Praxis of an Institutional Form*, edited by John Gerard Ruggie, (New York: Columbia University Press, 1993), pp. 51-89.

*The Social Dimensions of Transnational Democracy beyond the State: Deepening Diffuse Reciprocity and Bridging with Neighbors*

The second principle of multilateral cooperation affected by the crisis—“diffuse reciprocity” has been opposed to “specific reciprocity” by Robert Keohane in 2003<sup>31</sup> and by myself in 2013. This principle means that the exchange among States may evolve from mere cost-benefit calculations (*do ut des*, as in specific reciprocity), towards two deeper dimensions: firstly, expanding the time dimension of the exchange between partners, which implies an enhanced trust between them. Giving and receiving back do not need to be simultaneous exchanges as in specific reciprocity. Secondly, a diffuse reciprocity means making issue-linkage possible: the fields of the multilateral exchange may be quite diverse and interplaying with one another, from trade to economic cooperation, from political dialogue to financial cooperation, from commitment to human rights protection to fight against the climate change. *Diffuse reciprocity* is the way for transnational democracy expansion in the experience of the EU democracy beyond the State and between the States.

On the basis of a large literature on social exchange, political scientists (for example Anna Caffarena 2008)<sup>32</sup> analyze the role of mutual trust as a “social capital” composed of diffused reciprocity, networks of social relations and social norms, and its current decline in bilateral/multilateral interstate relations as a major problem.<sup>33</sup> According to this point of view, what is needed is reviving and further institutionalizing the social capital of mutual trust by fostering rich relationships of dialogue, communication, shared long-term aims and cooperation, which should be underpinned by transnational democratic networks. The simple fact that even the Westphalian Treaty of 1648 revived the principle of “friendship” as a necessary context for a successful peace treaty (The Christianity during the Middle Ages underesti-

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31. Robert O. Keohane, Reciprocity in International Relations. *International Organization*, vol. 40, no. 1, pp. 1–27. 1986

32. Anna Caffarena, “Couples and Trust Building in International Society. A Social Capital Perspective,” paper presented at ISA Annual convention, San Francisco 2008

33. Russel Hardin, *Trust*, (Cambridge: Cambridge University Press, 2006) (quoted by Anna Caffarena, ivi) James S. Coleman, Social Capital and the Creation of Human Capital. *The American Journal of Sociology*, n. 94, 1989, pp. 95–120 (quoted by Anna Cafferana, Ivi); Robert D. Putnam, *Democracy in Flux: The Evolution of Social Capital in Contemporary Society*, (Oxford: Oxford University Press, 2002).

mated the concept of friendship), we do understand that this social capital is really essential for the EU democracy to survive the crisis.

However, let's imagine that the internal trust and friendship is truly revived, strengthening the internal solidarity within the Euro-group of 18 countries. Would a successful process of "bonding" of peoples of similar sort discourage "bridging" and openness to neighbors? In other words, it is possible that developing diffuse reciprocity, friendship and solidarity within a limited regional polity (as a domestic democracy, or even the Euro-group) make more difficult openness to other external actors, people of a different sort, to candidate States, or to the universal dimension? Which balance is wise between bonding and bridging in the current world characterized by connectivity and conflicts? Under which conditions are trade-offs possible?

Along a similar research strategy, the social scientist Maurizio Ferrera underlines in a forthcoming book chapter the internal "fault lines" aggravated by the economic and social crisis notably between South and North as shown by the conflict between Greece and Germany.<sup>34</sup> Well, in the current critical juncture, transnational democracy needs, on the one hand, a long-term idea of solidarity where what looks as a cost in the short term may be seen as a gain for every country including the creditor ones in the long term. On the other hand, the crisis-States should never forget two things: firstly, that a multilevel transnational democracy needs to *fairly* respect also the national democracies of creditor countries; and secondly, that the post-1945 process of reconciliation between aggressors and victims of WW2 is a "common good," a precious achievement without which transnational democracy would be impossible. German leaders have been universally and many times recognized as sincere in apologizing for Nazi war crimes. Ignoring how hard this *catharsis* has been, and undermining it for instrumental purposes would be irresponsible. Jacques Delors quoted in 2012 Hannah Arendt and her plea in favor of the couple "pardon and promise," as a precondition to create a Weberian-style *Vergemeinschaftung*, or "*neighborhood communities*" based on spatial proximity. This double principle is a founding value, a regional "common good," for the peaceful and democratic relations between Germany and all the victims of the Nazi

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34. Ferrera, M. "Governing the European Union after the 'Phase Change:' New Ideas, New Values," in Van Middlelaer L /Van Parijs Ph., eds., *What is the Future of Democracy in Europe and Can the Union be Part of it?*, (Brussels: Lanoo, 2015).

regime within the common European home.<sup>35</sup> A democracy beyond the State needs this historical and social background.

*The Internal/External Dimension of Democracy.*

We are approaching a third big issue for democracy beyond the State within the EU limits. The question how to combine two classical challenges for constitutional States: internal democracy and external policy. In comparative terms, the Swiss case is an interesting laboratory. On the one hand, if an even exemplary national democracy only focuses on the first, it risks several traps (for example, isolation, or referenda raising international problems, with the consequence of forcing the government to look for compromises with neighbors (as is happening after the referendum of 2014, about the free cross-border movement of people). On the other, one has to keep in mind how the need of avoiding the risk of weakening the citizens' representation side and provoking massive internal contest. It is increasingly impossible to consolidate domestic participatory democracy without developing transnational democracy beyond the State and is impossible to develop transnational democracy without an enhanced shared collective security framework.

This issue is relevant also for other EU Member States who may develop the practice of participatory democracy and national referenda to address relevant dilemmas, including both enlargement of the EU and exit from the EU. How to combine national traditions of participatory democracy and free public opinion with openness and notably the recognized need of an enhanced cooperation between the hard core of the Eurozone and the surrounding circles, including the neighbors and in particular candidate countries? The current de facto evolution towards a "multi-speed Europe," by concentric circles architecture, may be the best available solution. The strengthening of the Eurozone economic governance (and internal legitimacy) may be compatible with a larger transnational European polity and democratic framework, respecting national cultural diversities and including all the multiple trans-democratic dimensions, from social solidarity to the convergence on a humanitarian and mainly civilian common foreign policy.

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35. Ibid.



***The Internal/External Dimension of Democratic Legitimacy Facing the Increasing Relevance of External Opportunities and Threats. The European Transnational Democracy and the Global Level***

Europe is not an island and European states are not the only ones who are facing what Norberto Bobbio defined in 1989 as “the external limits to democracy” (power of external actors, States, multinational companies, violent networks and other international threats).<sup>36</sup> International autonomy is the precondition for the quality of democracy: how does European transnational democracy interact with the surrounding disordered world? This research field is at the crossroad between comparative regionalism, EU studies and international relations/globalization studies: are international relations and globalization limiting the efficiency of a democratic polity by protecting citizens’ sovereignty? How to cope with these external limits in Europe and at macro regional and global level? Is the enhanced a diffused call for global governance (regarding the financial imbalances, poverty reduction, coping with challenges such as climate change, terrorism, criminality, infectious diseases, etc.) contradictory with democracy at the national, global and regional levels?

a) At the regional level. Proximity and neighborhood matter and transnational democracy may affect domestic democracies. For example, the EU may play a more proactive role by expanding democracy to both candidate countries and partners of the EU’s Neighborhood Policy. The development of transnational democracy (parties, various kind of networks, inter-parliamentary dialogue, and so on) may be more relevant on the one hand to prevent steps back in the democratization process of weak regimes that have met minimum standards of democracy, and on the other hand, to press authoritarian regimes to democratic pluralism, both in Eastern Europe and in the Mediterranean sub-region. Often, democratic transitions need social, economic and cultural linkages to established Western national and transnational democracies. After the end of the optimism of the 1990s about a global third wave of democratization (Huntington 1991), regionalism and geographic proximity are more concrete and efficient resources for democratization than the global agenda. The EU as a favorable neighbor may press for democratic consolidation in a way that is an alternative to the “U.S. way”:<sup>37</sup>

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36. Norberto Bobbio, *I limiti della democrazia*, (Torino: Einaudi, 1989).

37. See U.S. New Security Strategy 2002.

provided a correct trade-off between *bonding and bridging*, EU and candidate or neighboring countries may develop transnational linkages at level of civil society in a broader understanding. Against the enhanced assertiveness of alternative authoritarian regimes and their growing attractiveness in the name of economic efficiency in the current globalized economy, strengthening linkages become more important than in the 1990s. For example, open immigration and asylum policies, networks at the level of municipalities, companies, universities, advocacy groups, parallel to trade negotiations, may not only spotlight violations of democratic rules, but also enhance the resources of local democratic forces.<sup>38</sup>

b) We focused this chapter on the process of building a democracy beyond the State at regional level, notably in Europe, including members and surrounding countries. However, even at the global level, transnational democracy may be developed, in the context of a multi-level model of cosmopolitan democracy (which is quite far from the classic Kelsen model). Robert Keohane, the leader of neo-institutionalist International relations studies, addressed what he defined as this growing “governance dilemma”: the more we need supranational governance to cope with the limits of national democracy, the more we need democratic governance at a transnational level. Every level of governance, whether national, regional or global, is to some extent increasingly challenged by a democratic deficit that is enhancing the efficacy deficit as well. Secondly, this kind of governance dilemma should be addressed by “less contingent forms of democratic legitimacy” compared with the golden times of the Bretton Woods multilateral system.<sup>39</sup> His former pupil, A. Moravcsik, pretends that democratic deficit is not relevant for the EU, composed by democratic States and democratic governments, which meet in the Council and European Council.<sup>40</sup> What is more and more evident is that we need to be exploring a third way between the realistic approach of Moravcsik and the utopian view of Held. What Andrew Moravcsik argues is true but insufficient given the increasing relevance of transnational governance for the citizens’

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38. Stephan Haggard, Democratization during the Third Wave. *Annual Review of Political Science*, in press.

39. Robert O. Keohane, *After Hegemony. Cooperation and Discord in the World Political Economy*, (Princeton: Princeton University Press, 2004). Garnet Paper, 2004.

40. Andrew Moravcsik, In Defence of the “Democratic Deficit:” Reassessing Legitimacy in the European Union. *Journal of Common Market Studies*, vol. 40, no. 4, 2002, pp. 603-624.

life: a distinctive and specific development of democracy beyond the State is needed. Moreover, contrary to the cosmopolitan view, the European concept of democracy beyond the State is a political project at the regional level (similarly with the process occurring, by alternative ways, in ASEAN, MERCOSUR and other regional entities), including a territorial political dimension and multiple circles of membership. Which are the main components of a less contingent legitimacy of transnational democracy? On the following points the EU experiment of a democracy beyond the State may be seen as a forerunner of a multifaceted global tendency:

- *Output legitimacy* means that democratic governance beyond the State should provide true benefits for the ordinary citizens. Transnational democracy cannot be legitimate in a context of economic failure and missed security provisions. A positive trade-off between efficiency of transnational governance and democracy is essential.
- *Knowledge and democracy*: epistemic community legitimacy, education are the soul of democratic life at transnational level, balancing the shift towards technocracy and contingent legitimacy.
- *Accountability*: the fight against corruption of non-national institutions should be more reliable (at every level of transnational organization including staff and budget), and mainly organized at the national level.<sup>41</sup>
- *Representation*: no transnational democracy at the global level without a profound reform of the shares within the organizations.<sup>42</sup> The Western States' inevitable withdraw from dominating positions in the legacy of WW2 and Bretton Woods could be balanced by a enhanced joint action of regional entities, among them the cohesion of the hard cores, notably in the EU.
- *The role of shared values*. Non-contingent democratic legitimacy should increasingly be also based on shared *values*. But against Eurocentric approaches, balancing universalism and relativism will be crucial: every region shares distinctive "cognitive priors,"<sup>43</sup> among them various understandings of universal values, different

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41. Charlotte Ku and Harold Jakobson H.(eds) *Democratic Accountability and the Use of Force in International Law*, (New York: Cambridge university Press, 2003)

42. Amandina Orsini, ed., *EU in International Organizations*, (Farnham: Ashgate, 2014).

43. Amitav Acharya, *The End of American World Order*, (Cambridge: Polity, 2014).

combinations between procedural and substantial democracy, individual and social rights. A third level of norm setting between the national and the global is emerging in many continents. The agenda of normative transnational democracy will be increasingly affected by macroregional features.

- *Input legitimacy at regional level should be more able to address external governance, and if possible global governance:* multiple forms of distinctive democratic participation (even if they cannot trivially replicate national democracy features: regional parliaments, regional social dialogue, regional citizens' direct participation, involvement of national parliaments, involvement of sub-national bodies, from sub-national regions to municipalities...).

Europe remains a unique laboratory for combining multilevel democracy and diffuse reciprocity among States. Contrary to the idea of a "post-modern Europe as an island within a modern world," the need of a transnational democracy beyond the State is rising up within other regional contexts: for example, the ASEAN Charter (2007), the Parlasur within Mercosur, the African Union parliament... Comparative research between regional entities is strongly fostered addressing the question of the various regional forms of transnational democracy beyond the State. And transnational democracy is also relevant as the multiple *interregional partnerships* between regional democratic bodies are concerned, like TTIP, ACP, the Mediterranean dialogue, Rio Process: the role of NGOs, transparency, balance between democracy and institutionalized dispute-settling mechanisms. The emergent inter-regional ties are not only structural features of multilevel global governance (in the context of the decline of global multilateralism) but also potential components of global democratization<sup>44</sup> inter-parliamentary dialogue, transnational advocacy and knowledge networks among national/regional institutions, political parties, universities, cities, unions, interest groups...

It is an innovative, fresh, bottom-up approach to the democratic agenda beyond the State avoiding one of the most negative scenarios: a process of internal *bonding that makes bridging impossible*. That would mean avoiding the risk of "a Swiss paradox" at a large scale (deepening

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44. Olivier Costa and Clarissa Dri, "How Does the European Parliament Contribute to the Construction of the EU's Interregional Dialogue?" in F. Baert, T. Scaramagli and F. Söderbaum, eds., *Intersecting Interregionalism: Regions, Global Governance, and the EU*, (Heidelberg: Springer Dordrecht, 2014), pp. 129–50.

regional social and diffuse transnational democracy at the expenses of openness and bridging with surrounding countries) and place the EU experiment of a republican democracy beyond the state as a driving force of a larger multilevel process of democratization.