European Democracy as a Tool for Social Justice

If we were constrained to choose between justice and democracy – surely we would opt for justice every time. If this is our ultimate objective, there are several reasons why, despite its imperfections, democracy would appear to be the most effective path to achieve it. But for this, a series of preconditions must be met – first and foremost a robust demos among whom there is free and flowing communication.

Democracy, sovereignty, legitimacy, and federalism and not valuable in themselves. They are merely part of an unavoidably messy, imperfect, provisional, endless bricolage that needs to be tirelessly guided by an obstinate quest for justice, in our societies and in the world. Institutions need to be created and scrapped, shaped and reshaped, powers need to be moved up and down and their use constrained, in such a way that decisions made by whoever is in charge – whether a government or an assembly, a central banker or an entire people consulted by referendum – are justifiable to all those affected as free and equal persons. From this perspective, democratizing the European Union does matter, but only because of and to the extent that it contributes to justifying it, to making it more just.[1]

The connection between democracy and justice should not be taken for granted, if only because even the best democracy is still only a form of dictatorship of the present generation. But let us leave this (important) reservation aside, and ask: why one can expect it to be good, for the sake of justice, that those who exercise power be elected, directly or indirectly, by those over whom this authority is being exercised? There are three reasons.

Firstly, democracy, like the market, comprises an inbuilt propensity to gather and process relevant information: actors whose fate depends on electoral success will be highly motivated to pay attention to the concerns of the set of people entitled to vote for them, which will often tend to overlap largely with the set of people affected by their decisions. This educational force of vote fetching gives democracies a structural advantage over autocratic, technocratic or bureaucratic regimes.

Democracy’s second virtue is the disciplining force of self-infliction. Once political power has lost its supernatural aura, electoral democracy offers, under appropriate circumstances, the best way of securing voluntary compliance with public rules and decisions one may dislike. You obey your rulers more easily because you chose them and because you believe you can kick them out at the next round.

For the sake of justice, the third virtue of democracy is even more important: the civilising force of hypocrisy. Electoral campaigns and parliamentary debates create a public space in which proposals are put forward and arguments exchanged, potentially seen and heard by all citizens. Discourses are thereby systematically driven into appealing to the general interest, or to fairness among all, or to the fate of the worst off. If all actors play their role sufficiently well – not only those in power, but also the opposition, the press, civil society, academia
– it is not just words, but also actions that will be civilised in this sense. Never mind the most intimate motives: what matters is the words uttered in public and their grip on public policies and institutional reforms.

**Why far more than a confederation? Why far less than a federal state?**

If this is what democracy is for, how should it be designed in the European Union? This general question immediately bifurcates into two main sub-questions. What should be the distribution of powers between the Union and the member states? And how should decision-making be organised at the level of the Union?

In order to frame the first sub-question, it is useful to think of political entities with at least two levels of government – the centre and the components – as being all located on a continuum that ranges from a loose confederation to a unitary state. In between, there are many degrees, depending on the relative importance of the powers allocated to each level and on how entrenched this allocation is. It is apt to speak of a confederation when all significant powers are entrenched at the level of the components, of a federation when some of them are entrenched at the centre, of a federal state when those entrenched at the centre include the ultimate authority over physical coercion, compulsory education and compulsory redistribution, and of a unitary state when all significant powers are entrenched at the centre. If these definitions are adopted, it should be clear that the European Union falls far short of qualifying as a federal state, but also that it is far more than a confederation.

Must the European federation move back to being a confederation or move on to becoming a federal state? Neither. There is no need for it to become a fully fledged federal state. Indeed, its entrenched linguistic diversity gives special force to the subsidiarity principle, understood as a presumption in favour of keeping competences at a lower level of centralisation unless a strong case can be made for lifting them to a higher one. Each of the three virtues of democracy sketched above works better with a population that shares a language. Hence, any transfer of powers to the linguistically more heterogeneous European level must be considered with special caution. On the other hand, there is no case for the European Union to shrink back to being a confederation. On the contrary: while not needing to concentrate such powers that would make it a federal state, it needs to urgently acquire enough further capacity for common action to be able to tame the single market, to handle the ever deeper interdependencies it creates. Why?

Combined with the progress of globalisation, the path followed by European integration has created a situation in which the pursuit of social justice is under threat: instead of a market domesticated by a democracy that subjects it to a concern for distributive justice, we have democracies immersed in a market that subjects them to the obsession of competitiveness. The insecurity thereby created is arguably a central factor in the anti-European populism from both the right and the left. For those who see justice as the overarching aim, the proper response is not to recreate internal borders or make them thicker again. It is rather for the European Union to stop the dismantling of protective barriers and the disempowering of its member states as a result of fiscal and social competition induced by globalisation and exacerbated by the single market. It is to enable the Union to protect its citizens and to be seen to care for them. This should involve turning the Union into a ‘transfer union’, i.e. endowing it with the formal power to develop a transnational interpersonal redistribution system. If implemented intelligently, ideally in the form of an unconditional eurodividend, such a move would not undermine but rescue the member states’ real sovereignty and chosen diversity in matters of social policy. If our welfare states are not to suffocate and homogenise downward under competitive pressure, they urgently need a European floor on which they can stand.

**Demos-cracy with demo-cratic features**

If the concern is justice, it is not sufficient to transfer powers, or a capacity for action, to the central level. It is also important to ensure, as much as one can, that decisions taken at that level will go in the right direction.
This takes us to our second sub-question: how should decision-making be structured at the level of the Union? Here again, it is useful to think of a continuum. At one extreme, there is a purely *demos-crat*ic regime, which assumes an undifferentiated demos at the central level and gives no special role to its components: the central executive simply needs to have the support of a majority, with all components lumped together as a single entity. At the other extreme, there is a purely *demoi-crat*ic regime, which operates with as many ‘demoi’ as there are components, with decisions at the centre reached through bargaining between the representatives of each component.[2]

Along this continuum, where can the European Union be situated? It does have a directly elected Parliament and, with the European Commission, some sort of sui generis executive whose members solemnly promise to serve exclusively the common European interest. This should suffice to disqualify it as a purely ‘demoi-crat’ polity. Nonetheless, there are countless features of decision-making at the level of the Union that reflect the segmented nature of its demos. Most saliently, they include the inter-governmental functioning of the European Council and the Council of Ministers. They also include the fact that the European Commission is required to count one commissioner from each member state, the fact that member state representation in the European Parliament is degressively proportional and that the conditions of admissibility and success for European Citizen Initiatives require initiators from and a minimum number of signatures in seven member states.

In which direction do we need to move? If the democratic deficit is to be reduced, some argue that it is not just national governments but also national parliaments that must get directly involved in European politics. Allowing national parliaments, if in sufficient number, to block European decisions they consider to be in breach of the subsidiarity principle can be seen as a modest step in this direction. Would it be a good thing, as regards the pursuit of justice, to further ‘domesticate’ European politics in this way? I cannot see how it could be. For what matters for the sake of justice is that the three virtues that make up the value of democracy, in particular the civilising force of hypocrisy, should operate at the right scale, in this case the European population as a whole. To facilitate this operation, members of national parliaments are less well positioned than members and especially leaders of national governments, and shifting power from the latter to the former on ‘democratic’ grounds would therefore be counterproductive. Why?

Unlike ministers, national parliamentarians are not socialised by regular contact into internalising the concerns of their European colleagues and, in the best cases, into showing solidarity with the challenges they face in their respective national contexts. Moreover, unlike heads of governments, and especially of those whose decisions matter most to other member states at a particular juncture, national parliamentarians are not regularly called upon to publicly justify EU-level decisions beyond their own electorates. The force that stems from this cross-border audience remains weak, because what the audience national leaders care most about is still their national electorate. But at least it exists. By contrast, a greater salience of EU-wide issues in national parliaments would just stir national party competition in defence of the nation’s self-interest without any structural countervailing force to induce a fair consideration of the interests of the rest of the European population. This holds even more for separate national referendums. Maximal national democracy is a very naïve understanding of the optimal democracy we badly need.

What should be done instead? Certainly we should not try to go all the way to a pure demos-cracy, to a European democracy organised on the pattern of a nation-state, or even of a mono-national federal state. All stable democracies with a segmented demos, such as Switzerland or Belgium, have designed their political institutions at the centre in a way that takes this segmentation into account. In this sense, European democracy needs to remain demoi-crat. However, the European demos needs to be strengthened. A modest step in this direction was taken, under pressure from the bigger European federations of political parties, through the nomination of so-called *Spitzenkandidaten* and the reluctant choice by the European Council of the *Spitzenkandidat* whose party federation came top at the European election. The chief purpose should not be to increase the turnout at European elections by making European politics more personalised, more salient, or more exciting. It should rather be to locate the civilising force of hypocrisy at the appropriate level: those who wish to govern the EU need to be systematically induced to make promises that make sense to all European citizens, not only to their co-nationals, and to be held accountable for these promises. From this standpoint, a
further important step would be taken if some of the seats in the European Parliament were allocated on an EU-wide constituency. This would enable and indeed force the Spitzenkandidaten – and not only them – to campaign actively beyond the country in which they could be elected.

**Beyond electoral democracy**

In order to strengthen this ‘democracy’, institutional reforms of the sort just discussed matter greatly. Having a representative assembly entitled to access crucial information, to ask questions to the executive and to get public answers is an instrument of crucial importance for the civilising force of hypocrisy. But casting a vote every five years along with hundreds of millions of others is not the only role a citizen can play at European level. A citizenry is not just an intermittent set of voters. It is also a more permanent set of observers, bloggers, Twitter users and protesters whose activity is not confined to the electoral periods. Besides the power of the ballot box, citizens possess a number of distinct powers that have been greatly amplified by the internet. As a powerful instrument of transparency, exposure and mobilisation, the internet makes it easier for many to access information, spread their interpretation of it, and organise actions without needing anything like a permanent organisation.

More than ever before, citizens can express effectively their support for or – more often – their opposition to what was decided or is being concocted. Of course, the impulse will often be the self-interested defence of one’s interests – from corporatist strikes by air traffic controllers or train drivers to NIMBY protests – but both action groups and decision-makers will be forced by the publicity of their demands or responses to offer justifications that should be acceptable by all. The actions most difficult to dismiss by those in power will be those whose demands are not only carefully documented but also manifestly justified by a concern for the general interest or for a fair treatment of the interests of all.

A general precondition for the effectiveness of this mechanism is transparency – understood not just as visibility but also as intelligibility. Hence the importance of protecting and stimulating whistle-blowers, wikileaks, luxleakers, swissleakers and dirtleakers of all sorts. It is only by making things visible to all that one can force those who are responsible for them to make them justifiable to all. Hence also the importance of collecting reliable data and of making them comparable and understandable thanks to well-chosen indicators. The OECD’s PISA indicators of educational performance, the set of indicators developed by the European Commission within the framework of the Open Method of Coordination, estimates of the proportion of a country’s energy that comes from renewable sources, are all valuable tools of transparency if the data are reliable and the indicators suitably chosen to encourage decisions that serve greater justice and the general interest.

Exposing and shaming what needs shaming, praising what deserves to be praised, expressing one’s support or one’s opposition by petitioning or boycotting, by striking or taking to the streets; the combination of all this can be, under favourable circumstances, far more effective than the electoral process at making those in power pretend to do what the pursuit of justice requires them to do and, if all goes well, act consistently with this pretention.

**Talking to each other**

Continued allegiance to the European Union does demand results. But not in the form of a promise of half a per cent of growth in exchange for further submission to the world market through the TTIP and other deals. Nor in the form of a promise of half a per cent less unemployment in exchange for a stingier and more repressive workfare state. Nor in the form of a promise of a stable currency in exchange for subjecting the population of one of its member states to lifelong debt bondage and the seizure of its national assets. Rather in the form of an effective social protection that can be viewed as fair by all Europeans without impairing the sources of a lasting prosperity.
To take irreversible steps in this direction, we need institutional reforms that will strengthen an EU-wide and especially euro zone-wide demos. But Treaty changes take a long time, and we cannot wait. In the meanwhile, we must therefore count on those who currently wield power, starting with the heads of government. We must count on their ability to identify intelligent compromises, to defend them before and possibly against their own parliaments and public opinions, and to help others defend them before theirs.

This will not always work, and never perfectly. And when the will of the powerful, however democratic, crushes the legitimate claims of the vulnerable, when fairness loses too badly to self-interest, we must be prepared to put pressure, to shout, to protest, to march in the streets, to ignite the squares, as we did within our respective nation-states. Greater social justice within our nation-states did not land ready-made from the drawer of some bureaucrat, let alone from the bookshelf of some philosopher. It had to be fought for. But at the European level, we face a huge hurdle. We don’t all speak the same language. And this has serious implications.

It is not just that it makes it more difficult for national leaders, and their ministers, and their aides, to establish the relationship of mutual understanding, of empathy, of connivance, that makes it less arduous to reach an agreement with their peers. It also means that national public opinions are sharply separated and therefore not systematically exposed to opinions and arguments that are dominant elsewhere, nor as self-restrained as they would otherwise be at airing ethnic generalisations hostile to other countries. Moreover, language diversity makes it more difficult to mobilise across borders, to build solidarity and seal the alliances that are required by an effective fight for greater social justice at the level at which it needs to be fought today.

Strangely, therefore, the most hopeful sustained trend in Europe today is something that may at first seem quite trivial: the rapid spread of English as the lingua franca of its younger generations. A shared language is no guarantee against conflict, not even against violent conflict. But one cannot hope for effective cross-border mobilisation, for less watertight public opinions, for more fluid contact between leaders, without a language they share. Whether as a weapon in our struggles, as a tool in our negotiations or as a medium in our deliberations, the ability to talk to each other is more important than ever in today’s Europe. The fact that more and more can do so, not just the powerful and the wealthy, must give us trust and hope that our European Union is not bound to drift into ever greater injustice; that it can be justified.


[2] ‘Demoi-crat’’, so understood, is not to be confused with ‘confederal’: it is not about how extensive and entrenched the powers of the components are but about the role the components play in the exercise of the powers entrenched at the centre.

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