DEMOCRACY AND LEGITIMACY

Ideas for a complex Europe

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We are living at a time in which Europe needs to once again make sense to people, to be understandable and useful. Simply appealing to 'more Europe', as much as this goal may be dear to the hearts of us federalists, cannot hide the fact that there are different ways of approaching this greater integration, that this integration can be pursued at different rhythms, and that some things once considered a requirement with no alternative can allow for other kinds of implementation. We need to acknowledge that both the praxis of covert integration and the imperative tone of its associated narrative advocated meek acceptance of the alleged need for certain imperatives, an approach that depoliticised such decisions and proved an irritant to a public who is now no longer prepared to accept, as it once was, being treated as the passive object of technocratic decisions. We are facing a challenge: not so much that of winning a few elections as that of winning over the goodwill of the people, without which a project such as the European Union will simply collapse. We do need more Europe, of course, but without this meaning that such a Europe cannot and must not be different. In this regard, the flexibility with which Jean-Claude Juncker raised the future options for the Union when presenting the white paper last year can be regarded as an open-ended starting point that stands in contrast with the closed manner in which we used to be notified of the adoption of decisions, a call for deliberation and debate that is far

better suited to a democratic society than an invocation of the inevitability of things.

Deficit in intelligibility

My hypothesis is that the EU is at a theoretical tipping point. In other words, a moment when conceptual innovation will be crucial if we wish to escape from the logjam we find ourselves in, one that reflects, more than anything, a conceptual deficit. Amongst the many deficits the EU is accused of, one of the least complained-about but nevertheless important is the deficit in intelligibility. There are huge controversies about whether Europe is democratic and just, representative and effective, but what there is no doubt about is that it is currently unintelligible: nobody can understand it. Europe has lost is sovereigns and has not restored one at a European level, replacing it with a machine, consensual or asymmetric, depending on the case, which encourages a lack of accountability. Europe will not make sense until there is a narrative that can be understood and accepted by its citizens. Understanding the EU is not a merely descriptive exercise, but a deliberation that results in normative consequences: in other words, one that determines what reasonable expectations we can posit with regard to its mode of government, legitimacy and democratic quality. It really does make a difference whether we regard it as a form of intergovernmental negotiation or a transnational experiment. We will not suggest the same solutions if we see it as an aggregation of interests or a form of pooling called for by the political transformations of contemporary societies, their possibilities, and their specific risks. This being the case, I would argue that the EU ought to be viewed as a complex democracy, one not stemming from the models of democracy linked with the form of the nation-state and, for that very reason, one with great potential when it comes to thinking of how to politically organize denser, more open and more complex spaces.

I understand the suspicions of excessively theoretical focuses that tend to meander comfortably around in the realm of theory and ignore institutional design or the complexities of political gameplay. However, if political philosophy has any point, it is to suture this split between theory and practice, between the normative and the descriptive, a clear symptom of the demise of the theories concerning Europe. What we probably are most in need of is a theory of Europe that is neither a mere description of institutional mechanics nor a vague cosmopolitan blur.

Political philosophy is crucial in understanding a polity as unique as the EU and the way it represents something completely new compared with the model of the nation-state. It even possesses a comparative advantage in the sense that it is not a discipline whose past history is closely linked to the conceptual universe of statehood, as is the case of political science, international relations or constitutional law. At the same time, the EU represents an enormous challenge for political philosophy and the theory of democracy, in that it obliges them to take a fresh look at certain presuppositions and examine their conceptual and practical resilience in new contexts.

The European Union faces a democratic challenge, but this also entails a challenge for political philosophy. This being the case, the question we need to ask ourselves is a dual

one. What contribution should be made by political theory to help understand the European Union and what challenge is raised for political theory by a polity as new and different as the European Union? If the former question calls for organizing institutions and procedures in such a way that they match up to our requirements for democratic quality, the latter entails reviewing the criteria for this democratic quality to ensure that they are not incompatible with the complex reality of the EU. The former left to its own devices, leads to an extreme form of normativism far removed from the enabling conditions under which our real-world political life actually operates. For its part, if we only carry out the latter, we would be lowering our democratic ideals to the level of our current state of mediocre 'muddling along'. In my view, the only way of preventing moralism and cynicism is to appreciate the European Union's dual democratic challenge (at once theoretical and practical) and resolve it by means of a theory of complex democracy. Such a process would not be a zero-sum game between theory and practice, between democratic values and political realities, but would have enormous potential for both, such that, if we do it well, we would end up with a more sophisticated theory of democracy and more democratic European institutions.

It would involve, firstly, pursuing the goals of the European Union with regard to those of its Member States, but without subordinating the latter to the former. The current model has come at a great cost in terms of disaffection and victimization. The key would be to find an innovative concept of power at a European level that would take fully into account the interests of Member States without imposing its will upon them. For such a thing to be conceivable and understandable, there is a need for great innovations not only in European politics but also in political thought. It is not a question of trying to find new institutions to adapt familiar ideas into line with new contexts, but of understanding that the changes in the configuration of our social realities, both here in Europe and around the world, call for a reconstruction of the theory of democracy that rids it of everything that has been linked with it as if it were an essential part thereof (sovereignty, territoriality, homogeneity, and statehood, for example) rather than a contingent add-on that it can and should do without.

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Until now, we have attempted to resolve this matter either by trying to extend the basic concepts of democracy (such as *demos*, representation and popular control) to the European level or by the trick of considering that we were dealing with a *sui generis* reality and that, accordingly, the basic categories of democracy could remain unchanged whilst accepting, in this particular case, one harmless exception. However, the problem is still there, lying in wait for us in all its seriousness. How can we think of and build a democratic reality divorced from its territorial basis and from the reality of a sovereign state? Solving this problem entails not only institutional innovation but also, and above all, taking a fresh look at our concept of democracy. To put it the other way round: we will only be able to

tackle the institutional innovation we need to undertake if we rethink our concept of democracy and the categories associated with it.

Complex democracy

The concept of a complex democracy can help us in two ways: to overhaul a concept of democracy whose principal categories were forged at times of great simplicity and to rethink our standards of democratic quality without violating the nature of a political entity as complex as today's European Union. We should not give up due to the difficulty of the matter, both theoretical and practical, and take it for granted that the European Union has crossed over a threshold of complexity beyond which the very idea of democracy no longer makes any sense.

One of the greatest oversimplifications has been to think of democracy, including that of the European Union, on the basis of the model of the nation-state. A great deal of the semantics of the democratic deficit stems from the idea of deficient statehood, or even of a failed state when what we should actually be thinking of is a non-state-based institutional reality in which other actors, another logic and another legitimacy come into play. If Tocqueville affirmed that he had dispensed with the old models to understand democracy in America, what should we dispense with to shape democracy in Europe?

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Well, we probably ought to begin by abandoning the prejudice of thinking that complexity and democracy are incompatible. Might it not rather be the case that, as societies become more complex, they tend to become more democratic or, put another way, more plausible that they govern themselves democratically? One could then talk of complexity's advantages for democracy and those of democracy for complex realities: the former, because the increase in actors, interests, and instances of government gives balance to the exercise of power and hinders unilateral imposition, and the latter because democracy permits articulation of this plurality better than any other system of government. Democracy is not at loggerheads with complexity. Quite the contrary: it is the system of government that best manages it thanks to its internal dynamism and its capacity for self-transformation.

As opposed to Carl Schmitt's unacceptable conclusion that democracy is only possible under conditions of exclusion or annihilation of heterogeneities, we can confirm that many national systems of government successfully operate under conditions of tremendous heterogeneity. We should not rule out from the start the possibility of adapting democratic institutions into line with contexts that, initially, do not make things easy. It is true that the

technical complexity of many of our decisions, the institutional density and the difficulty of delimiting the problems of the effects of the decisions are properties that contrast with the categories by means of which we usually issue a certificate of democratic quality and that have an air of simplicity, immediacy, and graspability. If the useful fictions of democracy were categories that permitted the conferring of a political format upon societies in need of democratization, today, in more complex societies, their unthinking application may fatally depoliticize them. As Kelsen warned, the idea of general interest and organic solidarity that transcends group, class or national interests is, in the final instance, an anti-political illusion. The forging of the general will cannot, today, involve anything other than a compromise between different (actors, institutional levels, pluralities of values, political cultures, etc.).

Democracy exists only when those governed obey laws of which, with all the institutional mediations inherent in a complex society, they themselves are authors. Is it possible to insist on such authorship in complex political systems that do not possess the already-experienced form of the representative democracy on a nation-state scale? This is the main challenge that post-national groupings such as the EU or global governance processes are currently raising for political thought, where the aim is to preserve this complexity and manage it, not to suppress it.

Rather than a democratic deficit, it may be that Europe has a democratic dilemma. To talk of a deficit is to trivialize somewhat the complexity of the issue and to raise expectations that would be satisfied if the criteria governing nation-state democracies were applied to the EU. The fact that, instead, have a democratic dilemma means that we are dealing with something that cannot in itself be resolved and whose only option is to be rebalanced. There are two different vectors of democratization (that of the Member States and that of transnational challenges), neither of which can be completely subsumed by the other, and this compound nature of the Union needs to be respected in any democratic compromise that is to be achieved. The Union’s first main complexity arises from the fact that three logics are involved—the states’, intergovernmental and transnational—and it would be ridiculous to expect the solution to our problems comes from suppressing or completely subordinating any one of them. Europe’s agenda should definitively rid itself of the semantics of harmonization and unity to move towards the balanced management of complex constellations. And it should do so at this historic point, at which the need to conceive of democracy as shared power is more pressing than ever: power shared with subnational governments and supranational institutions, with a variety of public and private organizations, with NGOs and international agencies.

Europe’s narrative as a complex democracy appears doomed to failure when what we seek is for people to understand it. Europe runs the risk of becoming a victim of complexity at a time when politics is turning towards populism and simple messages. So, is it preferable that said narrative be understandable when what is understood has little to do with what needs to be explained? What’s more, complexity is not the same as a complication. Complexity has not so much to do with explaining all the recursiveness involved in the institutional life of the European Union (compared with our ideas of causality and attribution, placidly settled within the categorical framework of sovereign states) but more

with the ability to explain that we are playing a less intuitive game, in which we have to understand the logic —odd to the national mentality yet not particularly abstruse— of interdependencies, shared sovereignties, shared risks and opportunities and binding interests.

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It is true that people have great difficulty in seeing that Europe has a democratic structure, when self-determination seems to give way to complex systems of negotiation and barely justified constrictions of all kinds, which uphold the principle of what is technically possible over what seems, at first glance at least, politically desirable. Based on this difficulty, the debate faces those who believe that there is a need to reinvent democracy beyond the confines of the nation-state against those who hold that it is enough to extend our traditional notion of democracy to encompass a larger playing field, between those who appear not to be especially discomfited at the idea of a post-parliamentary democracy and those who see the possibility of releasing democracy from the shackles of its old national format.

Underlying the debates about the EU is always the old dispute about the nature of democracy. However, we should not forget that we need to understand the nature of the EU to be able to respond to the issue of its democratic quality. This does not just mean understanding its de facto institutional workings and settling for that so often mediocre game, but rather appreciating the logic and the purposes for which it is supposed said institutional level exists, as well as the global context within which it has to operate. If the EU were susceptible to conventional democratization, there would perhaps be no need to create it; to fulfill the conventional need for democracy, we already had the nation-states. There must have been some deficit at the nation-state level to give rise to the idea of and the need to invent another level of governance.

The necessary integration (which calls for something more than mere aggregation) of policies in Europe will, in that it entails a degree of renouncing of a certain class of national prerogatives, only be economically successful and democratically acceptable if its citizens understand that this renouncement is offset by new capacities for configuration. European integration will only be of value when it represents progress in the provision of certain public assets that states are no longer in a position to guarantee and when people understand this. Of course, this democracy will not have the exact form in which we currently understand it, but will entail a transformation of the concept. Some may object that this seems akin to the old trick of calling what we have democracy and renouncing any normative aspirations. To counter such criticism, the EU's complex democracy must be able to show that it is the best form of organizing complex societies to resolve the difficulties of adopting its decisions, within the new contexts, in accordance with the classic political

criteria of legitimacy and justice.

Neither should we forget that the configuration of Europe is being carried out at a time when we also need to consider the constitutional structure of the global system. The EU can stand at the vanguard of the battle to configure democratic spaces beyond the nation-state and can help reduce the gap between global interdependencies and the political tools we have available to us.



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