



Political Participation in Europe: What Is Required?

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Introduction and Overview

This paper will address the role that participation ought to play in democratic politics and the obstacles to such participation with a specific focus on Europe. It goes without saying that political participation in a non-democracy – be it oligarchy, autocracy, theocracy or anarchy – has little meaning apart from in the cases of overturning these political forms. In this case, this can be defined as “revolution”. Revolution is in this sense political participation *par excellence*, yet it is rare and beyond rules and structures. By definition, it represents the very disruption of structures and institutions and will therefore not be dealt with here.

The paper begins with a discussion of the requirements for political participation *per se*. These also include some measure of economic wellbeing and equality. If the working class is too poor and exploited to revolt, there will be no revolution, as has been discussed by the classics when they tried to determine at what point revolutions would take place. Yet, economic deprivation is a serious obstacle to political participation even if it does not lead to revolt. Professor Stiglitz’s paper shows how economic inequality has increased over the last two generations – the lower end of the working class in the US today earns less than in 1970 in real terms. Also, in Europe, we see evidence of little or no income growth for the working class, whereas the middle class and the rich have benefitted from the EU’s internal markets and globalization. The unprecedented free market economy of today has benefitted many countries and in aggregate terms, yet impacts are uneven. The effects on political participation are strange: the working class votes for Trump rather than Sanders; and in Europe it is not Labour parties that have grown as one would expect, but right-wing populist parties. In short, the current “revolt of the masses” has so far led to support for populist parties rather than what seems natural: support for socialist ideology. European social-democratic parties are not responding to the challenge of working class marginalization.

In fact, the traditional party structure is severely shaken: in France the party structure was unable to muster presidential candidates beyond the first round; in the Netherlands, Denmark, and Sweden there are strong right-wing populist parties, contrary to what one expects from these solid liberal-democratic states.

The issue of economic inequality has already been addressed in various papers in this Plenary, and I will therefore not explore this any further here.

I will then examine the following factors as requirements for meaningful political participation:

Civic education about the common good and citizenship, *institutional structures* such as recall, checks-and-balances, and rule of law, as well as *subsidiarity*. Following this *general* discussion I will proceed to analyse current European politics from the vantage-point of these criteria. The conclusion offers some suggestions about “what is to be done”, as Lenin famously put it.

Why the Focus on Europe?

The emphasis on Europe is not only because Europe represents the largest cluster of democracies on the globe, but also because these advanced democracies are now undergoing profound change and experience much instability. The order based on steady EU integration is heavily upset by support for parties that are highly critical of supra-nationality and open globalized markets. Brexit is a fact, and migration is an external shock that created chaotic conditions in most of Europe in 2015 and may easily do so again. In addition, state security as a first order concern is back after a strategic “vacation” for almost 20 years. Russia is a revisionist power testing Europe with the use of military force, seeking to upend democratic stability and to weaken NATO and the EU. Terrorists attempt to achieve political chaos and disruption.

This political agenda leads to a *re-nationalisation* of politics and an emphasis on hard security issues such as border controls, security, and defence. The open market aim of the EU is not easily reconciled, if at all, with these challenges. Like in Hobbes’ *Leviathan*, citizens now seek the classical ends of policy – *physical security* within their states and between their states. Security concerns extend to more than police and military. However, due to migration, internal market mobility, and general globalization, citizens also seem to seek “*secure*” *national identities*. The working class family that may lose their jobs to international competition typically lives

in neighbourhoods where their children go to schools that are multicultural to such an extent that national language, national history, and the transmission of societal values is at risk. In Oslo, to take one example, families in Groruddalen, in the east, which has major immigration and where schools sometimes have more than 90% immigrant pupils, experience this problem first-hand. Their Norwegian children are such a small minority that they do not learn Norwegian properly and the school's traditional Christmas visit to church is contested by the majority. The families that can afford to move away do so, those who cannot must stay. When many move, this may lead to "parallel" societies where integration into the majority culture does not take place.

Anti-EU, anti-globalisation, and anti-immigrant preferences therefore overlap in voter preferences, but mainstream politicians are wary of dealing with this difficult agenda and are personally able to remain aloof from it. To mention a clear example, in Sweden the "cognitive dissonance" regarding these problems is very evident. The populist right party, "Sverigedemokraterna" (the Sweden Democrats) is therefore able to set the agenda on this issue to their advantage. Boycotted by the main parties, this party is also the largest party in Sweden in several polls. Similar situations exist in other European states.

The focus on Europe is also valuable because these states are very advanced in terms of all the requirements for political participation. The present revolts and upheavals in Europe may therefore give us important insight into the *obstacles* to participation, containing relevant "lessons" for other regions. Moreover, the requirements for political participation in the rest of the world (beyond Western democracy) also concern the basics of political institutions that are already "in place" in Europe. This makes it more difficult to isolate current problems from generic ones in the analysis if these regions are included.

The World Justice Project (WJP)[2] offers detailed empirical data on requirements for the rule of law/democratic participation across the globe. In their 2016 report they present nine variables that together make up rule of law: checks and balances on power, non-corruption, transparency of political process and civic participation in the latter, fundamental human rights, order and security, implementation of laws (regulatory enforcement), civil justice, criminal justice, and informal justice. These nine variables are each made up of several components and studied through representative surveys as well as expert interviews in each of the world's states. This comprehensive study provides a useful comparative basis for assessing the state of democracy/rule of law in the world since it includes both the institutional design of states and how this actually functions across broad participatory themes.

The rankings of states in this study is very consistent across the nine thematics: The Nordic countries are always on top, followed by other European states and the US and Canada. At the bottom of the ranking we consistently find states like Venezuela (almost the last one for all variables), Afghanistan, Cambodia, African states, Caucasian states, etc. In short, the well-functioning states of the world are the European democracies and the US. In the aggregate ranking, the four Nordics are on top, followed by the Netherlands, Germany and some smaller states. The UK is no. 10 and the US no. 18.

Corruption is a problem in very many countries of the world and one that hinders all aspects of true democratic development. There is no true rule of law in corrupt states and no possibility of a good society based on a social contract whereby the taxpayer pays with the reassurance that other citizens do so as well. Corruption is rampant in the developing world, in authoritarian states such as China and Russia, but also in the Middle East, and we find evidence of corruption in Eastern and Southern European states in particular. In the East this is a legacy of the Communist system where bribery was common. Much more serious corruption exists in the political class, and the euro crisis showed that many Spanish and Italian politicians were also corrupt.[3]

Money corruption is illegal, whereas what we call "network" corruption is harder to prove. Yet nepotism is also corruption, it hinders meritocracy and thus the best qualified in getting a job. Jobs given to relatives and friends is a serious example of corruption. This is not an unknown phenomenon in Southern Europe, and one that the sociologist Max Weber deemed the major difference between a modern, rational system of government and a primitive one. Unless there is meritocracy and rule of law, there is no real democracy, he argued.[4]

In Latin America democracies have developed quite well, after many decades of unrest, conflict, and civil war. However, in that region, economic inequality remains a major issue.[5] In Asia democracies are stable, but the region is characterized by much rivalry between states.

In Europe, present-day democracy facing a crisis in many places because of distrust between elites and people, something which came to the fore during the migration crisis in 2015 and Brexit in 2016 in particular. From a democratic vantage point populism is a problem, yet so is EU supra-nationality. If we look east, we find that the democracies of the former Communist bloc are often marred by much corruption; rule-of-law exists on paper, but not in reality. Winner-takes-all mentality prevails and ministers are mysteriously enriching themselves while in office. Research on the separation of powers in these states finds that real power lies in what is called

“the system”, a concept from Communist times, and not in independent courts.[6] In Africa states do not have nations, as borders were randomly drawn, and the US currently has a populist president.

General Requirements for Political Participation

Being a participant, an agent with influence, presupposes some kind of knowledge about politics, some degree of economic wellbeing, and a society where one is equal as citizens. These three factors – equality of personhood and citizenship status, basic economic equality, and informational or formative equality – have all been bitterly fought over throughout the history of democracy.

Participation and the common good

Ancient forms of self-rule (that are not democratic in the modern sense) such as the Nordic *Tings* or Greek city-states) did not come with equality in personhood – slaves still existed, women did not count – and in modern times the fight over who should have citizenship rights often centred on socio-economic status. The working class got the vote after uprisings around 1890-1920s and women even later. Throughout history, citizenship was a privilege for the few, from Athens to Rome until modern times. Education, or being enlightened enough to be trusted with the vote, was a debated topic in political philosophy in the heyday of liberalism – John Stuart Mill discussed whether those without education are rational enough to vote in his seminal work *On Liberty* from 1859.

Ideally a democracy is a quest for the *summum bonum*, a place where the human being realizes its potential as a social being. As the ancient Greeks saw it, the highest form of human life after philosophical life is indeed politics, understood as the quest for the common good. Participation in itself is therefore important for a society's quality as well as for the development of the person.[7] In German there are two words for community – *Gesellschaft* and *Gemeinschaft*. [8] The former is the “thin” version of society, based on interest and instrumentality; the latter is the “thick” version where there is real commitment to the common weal, the *summum bonum*. The highest aim of participation must be the “thick” community where self-interest is at least to some degree replaced by concern for the common good. Such communities do exist and we recognize them in terms of the virtue of its citizens, such as when they contribute to society without personal interest in mind. In my hometown Mandal, on the coast of Norway, there was such a quality to society when I grew up: citizens would do a lot for the common good of the town without any consideration of reward. They did not have much in material terms compared to the present, but they contributed much. Today people do not freely give their time and energy to community projects, although the community “quality” there is arguably higher than in the capital Oslo. This is perhaps a function of size – small towns with close personal ties allow for greater community – but it is also a function of the professionalization of almost all services. Other everyday “evidence” of the search for community is the willingness of city dwellers to move to Nova Scotia to work and live there because they longed for community.[9]

Learning about what politics entails is what we term civic education. To be a citizen is a right, which entails duties. A democracy belongs to its citizens; all power is given to the people with the exception of fundamental human rights that are non-political. Today there is very little emphasis on *Bürgerpflicht*, on the duties of a citizen. *Bürgerrechte* – citizenship rights – are much more familiar, and often confused with what is claimed to be human rights. Yet citizenship rights and duties are stipulated in the social contract of the state, mostly in its constitution. But if the common good is to be realized, each citizen must be taught to take responsibility for advancing politics beyond narrow self-interest. The Platonic dialogues dissect the notion of common good, which is about the quality of politics as well as about the limits of the political. Politics is what concerns the life of the polis, the community beyond and above family and other associations. Good politics is more than compromise of self-interests – the self-interested politician is perverted, according to Aristotle.

The major point about the norm of participation, however, is not only the argument that people should participate in decisions that affect themselves, but that participation *as such* is important. Being an active citizen, part of the polis, is important for the full development of the human person. As both the Greeks and Romans put it, we are social beings by nature. The Greek *zoon politikon* is the *animalum rationale* of the Romans, a theme later to be developed to the fullest by St Thomas in the *Summa* and other works. This is an absolutely vital issue in Catholic social teaching and in Western political philosophy: *the human person becomes himself only in the company of others*, as part of a human community; first the family, then civil society, then the polis. This is an ontological statement: we are born as social beings. Therefore the family is a natural institution, and so is the polis, according to Aristotle and Plato. There is such a thing as a common good, something which is not only a common interest, but a *qualitative* aspect of society.

The normative imperative – to make a society a good one – is very different from the instrumental concept of a common interest which appears much later in political philosophy, e.g. as the rationale for the state in Hobbes' *Leviathan* and as the central concept in British liberalism.

Thus, participation as a norm in traditional political philosophy is not premised on rights or interests, but on human nature and the natural need for community. By participating we become full human beings, realizing our natural potential. After philosophy, politics is the highest type of human activity.

Yet there was relatively little democratic participation throughout human history. There were few citizens, it was a privilege for the rich and important to be named a citizen, granted by the king. In the Greek city-states both slaves and women were excluded from citizenship, and democracy was regarded as one of the worst forms of government. Democracy was the opposite of aristocracy and aristocracy, the rule by the best, the *aristoi*, was the preferred form of government because the quality of the participants was ensured – they were wise, educated, the most knowledgeable.

Democratic participation is tied to the state, which first is the territorial state and later the nation-state. The latter becomes the basis for the development of democracy, which is late in appearing. The consolidation of the territorial state starts with the treaties of Münster and Osnabrück in 1648, following the Thirty Years' war. The all-important principle of territorial sovereignty is enshrined here, with total power over the realm vested in its ruler. The *cujus regio, ejus religio* principle testifies to the totalitarian nature of this: the one that has military control of the territory is its king: *rex imperator in regno suo*. There is no social contract or democratic participation. This is the age of absolutism.

Gradually social contract theory is developed in the aftermath of the revolutions that bring the middle class to the fore. The political community is being constituted by the concept of the nation. The nation plays a vital role as the scope condition for this community – it is no longer Christendom and/or empire, but nation. Napoleon is the creator of the French nation *par excellence*. This is a created community that builds on existing smaller local communities inside the territory, but which is forged into one community through one common French language (all other languages and dialects are forbidden) with a common central administration in Paris and common laws (*code civil*). Conscription is the new obligation of the citizen, *le levee en masse*, all of society must defend and, if needed, die for the nation. For example, the ancient Military Order of Malta experienced this change as the shock of desertion of the French “tongue” (the French-speaking knights) in Malta in 1798. Napoleon simply sails into Valetta harbour and calls the French, who follow him. Christendom, which had hitherto united the knights, is replaced by nations that disunite them. The soldier who is conscripted must be ready to die for the nation, and under Napoleon, a great many indeed do. Horace's old dictum *dulce et decorum est pro patria mori* reappears as a duty to the political community of the nation-state, and mercenaries, who had so far been the norm in the territorial state, are replaced by the citizen-soldier.

The revolutions in Europe in 1848 are called “burgher revolutions”, or citizens' revolutions. The middle class demands political influence and gets it. Only later does the then burgeoning working class rise and call for the same, from about the 1890s. And so it goes, women get the vote latest of all, after the turn of the century. It is no longer participation of the intellectually fittest or the privileged; it is participation based on *rights*. The middle class demands this right since the aristocrats have it, followed by the working class, and later women. The arguments concern equality and the right to be a free citizen. Are the employed free enough to be citizens? Do they have enough economic independence to be free agents? Similarly, are they knowledgeable enough to vote? Can they make rational choices? John Stuart Mill discusses both issues in *On Liberty*. A gentleman is a man of education, leisure and of independent means, thus able to be a citizen. Mill surprisingly argues that women can be rational too, and therefore should be allowed to vote.

A nation is characterized by a common language and history, common currency, common flag and common culture. Duties under the social contract include potentially dying for one's nation, in the institution of *conscription* which still exists in several European states – Sweden reintroduced it this year. The duty to pay taxes to support the nation and the state is as certain as death, to paraphrase Keynes. The taxman still cometh.

These duties are balanced by rights: the state is obliged to ensure citizens' safety, provide a modicum of social benefits, and keep order on the territory. The state, governed by an elected government, must first of all defend its citizens; then secure order and later, welfare, for the former.

Participation and rule of law

In the Norwegian constitution of 1814, Europe's oldest still in force, we already find many individual rights. Democracy was still very limited – few could vote – but the key principle of safeguarding against tyranny was in place in the form of checks-and-balances: rule of law was ensured through the separation of powers. Montesquieu's principles had been known and implemented long before democracy. Norms that guard against abuse of power and arbitrary rule – rule of law and the separation of powers – are of fundamental importance to any democracy.

Participation presupposes a political community where one has rights and duties (a social contract) and where the rules do not allow for majority tyranny or the arbitrary exercise of power. Decisions must be based on law, and there must be an independent legal branch that can keep both the plebiscite and the executive within legal boundaries.

Rule of law is older than democracy. When we look at the earliest Nordic proto-parliaments, or *Ting*, we find rule of law as the key to civilized decision-making. Where there is law, there are arbitrators in the form of judges, and people submit to their judgment. In Norway we find legal regions as early as around 900, in Iceland likewise. The names of these legal regions are the same today in both countries: *Eidsivating*, *Borgarting*, *Gulating*, etc. where the word '*ting*' means the meeting place for decision-making, being the name for the Nordic parliaments as well. The Norwegian national assembly is the *Storting* (the great *ting*), the Danish is the *Folketing* (the people's *ting*), and in Iceland we have *Althingi* (everyone's *ting*). At the *tings* disputes were settled by *lovsigamen*, literally those who could read and therefore proclaim the laws, i.e. the judges. At that time there was no democracy, only equal rights for all free men (the few who were independent militarily and economically). But there were elements of democratic participation in the *tings* where those men voted on new laws. The practice of the *ting* meeting only for a few weeks each year was common until recent times, as representatives had professional lives in addition to the duty of political participation. Turning politics into a "profession", and a full-time one at that, would have met resistance from the ancient Greeks and from traditional democracy advocates – the point of *democratic* politics is exactly the opposite of professionalism – the politician is an amateur, a common man or woman who can be elected to high office.

Respecting the law as opposed to ruling by power is significant indeed and it seems that the law was respected. Someone banned from Norway or Iceland could be killed if they returned, as they violated the law by so doing. Manslaughter was punished by law and seems to have been the most common crime, according to Snorre's sagas.[10]

There can be no democracy, regardless of level of participation, outside a political community, and the latter has to have "checks and balances" as well as accountability. Effective accountability means recall or re-election through periodic elections, and this presupposes a public sphere where citizens are aware of what goes on. Without accountability, participation has little value beyond agenda setting and the shaping of public debate. Democracy basically means that power is delegated to elected representatives, and all political power rests with the people. If they cannot recall the power delegated, there is no democracy.

Summing up the argument so far, we have pointed out that participation alone makes little sense as a democratic norm. It makes eminent sense when there is a political community with a common public sphere where transparency reigns and where there are checks and balances on power (ab)use, however. Rule of law is essential to checking power abuse and is a pre-democratic norm.

Participation and Subsidiary

What is the right *size* of a political community in order for meaningful democratic participation? Direct participation in the city-state or perhaps a federal structure based on the principle of subsidiarity where one participates in decisions that affect oneself? Or is it only in the nation-state that democracy can realistically flourish today? The ancient Greeks had their city-states with direct democracy. Some states have retained direct democracy, e.g. Switzerland, but this is the exception.

Carole Pateman created much debate about the centrality of the norm of participation with her seminal book from 1970, *Participation and democratic theory*. [11] She defined participation as the partaking in decisions that affect oneself. This makes logical sense and is also the basis of theories of federalism where there is a postulate that there are natural "layers" of political issues – the local level should deal with local issues, the regional with regional issues, the national with national issues, and a fourth level, the supra-national or federal level, should deal with its set of issues.

Federalism – the theory on which the European Union (EU) is built – has no theory of democracy as such, but most nation-states have local, regional, and national governance structures where the national level is the most important. In federal states the national level is called the federal level – e.g. in the US, Spain, and Germany. The EU has a confederal structure rather than a federal one, since the national level matters so much. There are two forms of democratic accountability in the EU, a European Parliament (EP) and the European Council, which remains intergovernmental.

Federalism is a theory of political de-centralisation, but today there is little consideration of this vital aspect of the EU legacy although subsidiarity is enshrined in the treaty as the principle to be applied for determining the correct level of decision-making for a given policy area. The long-standing German demand for a *Kompetenzkatalog* has never been accepted since federalism is highly contested as a model for the EU by

many member states, but it is a logical idea. Subsidiarity requires that there is a reasoning behind the ascription of policy areas to levels of government based on criteria of closeness to those affected by policy and nature of the policy itself. Defence policy can only be made meaningful at the national level, perhaps in some cases at the supra-national level. City regulations are best made by the cities that are affected by them.

The norm of participation goes well with a federal system, but not with a large supra-national polity. In a truly federal system careful attention to the size of the political unit will be paid, and the guiding idea is not only that policy naturally “belongs” to a certain level of decision-making, but that participation is optimal if the citizens are knowledgeable of their representatives, the issue areas, and can partake in public debate. The implication is this: the closer decision-making is to the citizen, the better in terms of democracy, and probably the better in terms of the quality of decisions. A counter-argument is that experts make better decisions than informed citizens, and that experts typically are found at the national and supra-national level. The EU Commission is e.g. an expert body.

Thus, the smaller the unit, the better the quality of the democracy? The smaller the unit, the more meaningful the participation? We would then opt for something akin to the city-state. However, the framework for modern democracy is historically and legally given in the form of political organization we call the nation-state. In terms of size, this unit is probably the largest we can expect to be democratic. The citizens normally have local and regional political rule in addition to the most important level, the nation-state.

There are only two instances of supra-national governance in the world – the EU’s commission and court and the so-called “community procedure”, whereby majorities can outvote minorities, and here I should also mention the permanently supranational monetary policy of the EU which is not subject to any political governance, only expert rule. In addition we could count the decisions by the UNSC (Security Council) as supra-national because they are politically binding on all member states.

In all other international organisations (IOs) the decision-rule is unanimous or “consensus minus one”.^[12] This means that democratic accountability is to be taken care of at national level – the foreign minister has a mandate from the parliament. IOs may have so-called parliamentary assemblies, consisting of parliamentarians from member states. They typically have advisory power only. The parliamentary assemblies of NATO, the OSCE, the Nordic Council are examples of this, and the EP was such a consultative assembly until 1974.

There are no supra-national democracies. The nation-state with its local and regional government remains the key model. In federal systems the regions or Länder/states have much competence; in more unitary state systems like France or the Nordic states the main rule is that the national level decides on most matters. It overrides other levels, taxes and manages the welfare state, runs foreign and defence policy, conscripts citizens, and sends embassies to other nation-states. It also levies taxes, along with the local level. Conscription belongs to the national level alone.

These states mark the political boundaries of democracies although they are mostly not optimal polities. Some states are micro-states; others are empires in term of size. They all share the same status as *de jure* equal as a result of being members of the UN. There are several “quasi”-states on the map – Kosovo is not recognized by Russia and China; and the West does not recognize South-Ossetia and Abkhazia, to mention some. The PA is another “half-state”, sharing the status of associate member at the UN with the Holy See. The word *status*, notably, is the same as state, referring to formal place in relation to other entities.

The main problem with the state system, however, is not that it is highly diverse, but that so many states are not cohesive in terms of political community. Political scientists usually divide states into three groups: postmodern states, modern or Westphalian states, and failed states. *Postmodern* states in Europe are highly integrated in the EU and have dismantled borders to a great extent, do not pursue national interests with military force and embrace an ideology based on international human rights and the internationalization of the rule of law. The *modern* state is the prototype of the nation-state where the nation and national interests matter and where patriotism is a positive and important concept. Russia and the US are examples of this type; in Europe perhaps France and Britain should be counted in this category. The *failed* or ungoverned state should rather be termed the pre-modern state, as there is usually no state in place that can fail. These are states without any political governance system beyond clans, tribes, and family structures. They are often marred by violent conflict and have mostly never been democracies.

In sum, the state remains the “upper limit” for democratic participation if accountability is possible. Ideally, a smaller unit such as the city-state may be the best for participation and its benefits for the common good, but it should be pointed out that the larger unit of the nation-state has functioned well as a cohesive community in Europe and the US, much thanks to the nation-building that has taken place over a long historical period.

Subsidiarity is not really well developed in the nation-state, but at least it has three levels of government – the local, regional, and national. Moreover, democratic participation is not possible at the supra-national level.

The distance to the centre of power is too great – can one meaningfully, with knowledge and transparency, participate in decisions in Brussels when one lives in Sweden or Portugal? Where is the common public sphere? There is not even a common language of deliberation available.

The main rule of democratic accountability for policy-making beyond the nation-state is therefore the mandate to the minister representing the state at the IO. Thus, democracy works through indirect representation through parliament to government. This enables national-level public debate.

In sum, I have argued that the nation-state and political levels below (local and regional) constitute the realistic framework for democratic participation. The national level remains the most powerful because sovereignty belongs to the state, not to the local or regional levels. I have also pointed out that local democracy may stand the best chance of realizing the common good in a close-knit community, but that the national level nonetheless is the more important because most political issues are international and because the state's duty is to protect the security and well-being of its citizens. One's citizenship is national. One cannot take up local citizenship without national citizenship and it is the privilege of a state to determine who should become its citizens.

Given this, each and every person must deal with its own state and has duties and rights vis-à-vis the latter. It is the formidable task of each citizen to build the national and local political community, and one could argue that it is admissible to leave one's state, as a refugee, only if one's life is in danger. However, people have always migrated in search of better lives, and today a vast number do so. Yet if they are citizens eager to build a better political community, they ought to stay. Unless the national population of a state builds the political community, no one else can. There is very little success in imposing democracy from the outside. The international community can design and help make the democratic infrastructure, but it cannot substitute for its citizens and their participation. A democracy is as good as its citizens – or the opposite. Once one has achieved democratic rights, there is a commensurate responsibility, especially in states that are poorly developed democracies to begin with.

Participation and European Politics

The Common Good?

From the point of view of the *quality* of political participation in Europe, several arguments can be made.

Firstly, the common good is not served by populist politics, which is opportunistic and superficial. The weakening of the traditional party structures based on ideologies along the left-right spectrum in Europe therefore represents a major problem. If parties are not based on ideology, voters have no guarantee of representation of their choice of political principles. The very notion of representation is jeopardized, and elected politicians are unaccountable. Anything goes, including abuse of power. Populist politics represent an extreme weakening of the link between voter and elected. The political candidate says whatever voters go for, and is unable to deliver – vide Trump.

Further, populism allows for very pernicious agenda setting and framing of issues in Manichean terms. This makes reasoned political debate impossible, and the Internet allows for confining one's public debate to sites where one finds the like-minded. There is thus no common public debate, but "alternative worlds" with "alternative facts". Populism seeks confrontation and division through agenda setting that is not aimed at the common good, at what unites, but the contrary.

Populist parties in Europe primarily mobilise support on the anti-immigration agenda, but as mentioned, this is tied to anti-EU and anti-globalisation, and the call for national identity that is clear and recognizable. Populist politicians have perhaps "hijacked" the political agenda of migration, economic inequality, and supra-nationality, but mainstream parties have avoided engagement on the same issues, thereby creating a unique opportunity for these parties. Mass migration is a problem that has to be addressed, as are the inequality wrought by globalization and the undemocratic aspects of EU supra-nationality.

There are also non-populist politicians that ascend to power outside the party structure. Representative democracy is based on the predictability and promise of ideologies. What does Macron represent – how do we know – when he is outside the party structure? The problem here is two-fold: how can voters choose when there is no ideological platform? How can voters hold politicians accountable when there is no "guide" for doing so? Participation becomes the granting of power to the *representative who does not represent*.

Secondly, the case for civic education must be made. The purpose of politics, the common good, must be taught. Politics is something specific and it is not the pursuit of private interests and power. Here the teaching of philosophy, political history and Western civilization are the essential building blocks, but such a curriculum is no longer common in Europe's schools and universities.

As stated, the main form of democratic political organisation today is the nation-state. Citizenship is national. Yet today this is a contested concept – by “group theory” or “identity politics”, whereby citizens are thought to be unlike in all respects – they are minorities who demand representation as group representation. This is a major danger to the very concept of democracy where the equality presumption means that the citizens may be unlike in all respects but that of citizenship. This does not invalidate the argument that citizenship presumes a certain degree of economic and other equality, for this must be achieved *in order to* become equal. Modern “group theory” however argues the very opposite – we are never equal but remain members of minority groups that claim rights. The nation as a concept negates such differences – we are Frenchmen or Americans as citizens, whatever we are in the private sphere. There is unity in diversity – as citizens all are equal in terms of having the vote, regardless of ethnicity, sex, or other factors. Citizenship in the modern age is based on the notion of *demos*, not on *ethnos*.

In light of this it is indeed paradoxical that “identity politics”, the politics of underlining differences between groups, has become so salient in Western democracy. But multiculturalism cannot be a recipe for political participation, quite the contrary: citizenship underlines what is *common* among those who should seek to realise the *common* good. If little is in common, there can be no community.

The question is whether the notion of national identity is strong enough to be the basis for citizenship in our time. There are multiple identities in a person, and this is nothing new: the national is the European is the global, human beings are above all human beings, etc. Yet one pays taxes in one’s state and only has the right to vote there. The national welfare state redistributes to its citizens. Legally and politically one’s nation-state remains extremely important.

Subsidiarity?

In European politics, supra-nationality has become a key issue on the agenda. Presidential candidate Macron in France states that “unless the EU reforms, *Frexit* will be next” (May 1st, speech). Britain opted for *Brexit* in a referendum where supra-nationality was one of the arguments for leaving, and the *Visegrad* states demand an EU that is intergovernmental.

Participation is not optimal if the political unit is too large, hence the problem of lack of accountability and a common public sphere when we move beyond the nation-state. Supra-national decision-making, such as that of the EU Commission and Parliament, therefore constitute problems. This has to do with subsidiarity or rather, the lack thereof. The EU must either become a federal polity – something which no member states opts for, as it entails a major weakening of the national level – or an intergovernmental one, where democratic legitimacy is obtained at the national level through a mandate.

In the present confederal system the EP is an anomaly and, I would argue, an undemocratic one at that. The members of the EP are elected with a very low level of participation – around 40% as a consistent pattern – and as they do not really represent parties, voters also lack a basis for holding them accountable. Moreover, their mission is in fact not to be accountable, as they are to act in a diffuse European interest. The EP was originally a parliamentary assembly without decision-making powers and as such, not very important. Today the EP has 50% of the decision-making power of all EU directives, i.e. its law-making. This makes its democratic accountability extremely important. The EP should be abolished if the EU is to become more democratic unless a full-fledged federal structure replaces the confederal structure of today.

Rule of Law?

A similar argument could be made about the EU Commission and the European Court of Justice (ECJ), but these institutions are very different in not being political bodies. They are therefore not meant to be democratic. The Commission is explicitly meritocratic, although led by politicians that are from member states (but forbidden to act in their interests), and the court is per definition apolitical. What is similar in argumentation here is related to the power over states wielded by these two bodies. There is much empirical evidence of the integrative activity of both bodies,[13] and they are treaty-bound to seek “ever closer union”. This is no secret, on the contrary it is the explicit mandate given in the treaties, and driving integration towards political and economic union is something explicitly political that is not found in any other IO.

There is also the *political* aspect of supranational legal power: The ECJ, whose competence now includes the former Justice and Home Affairs “pillar” of the Maastricht Treaty, passes judgements in an ever expanding area of law. Its scope widens steadily. Its power over national legal hierarchies is by now very well established. The court has established itself as a supranational court through judgments never challenged. In the rulings in two cases the ECJ established rights to litigation directly from citizens in EU member states and the supreme position of the court vis-à-vis national court systems (Van Gend en Loos, 1963, Costa vs Enel, 1964). Legal

integration in Europe is now very solid. The court is accepted as supranational not only in EU member states and also *de facto* (but not *de jure*) in non-member states like Norway.

Law is “politics with a time lag”. Supranational courts, of which there are two in Europe, the other being the European Court of Human Rights (ECHR), are actors with major political impact despite being formally non-political.

The ECHR uses a legal method called “dynamic”, which explicitly takes political development in Europe into account when it interprets human rights. This makes its judgments inherently political. The ECJ determines detailed national politics in interpreting EU directives in an ever-increasing policy field; while the ECHR delivers judgments on human rights based on political trends. Neither court is balanced by other institutions in the checks-and-balance system that exists at national level.

Theresa May has stated that only British judges will judge British citizens. This is the same argument that the US government makes against the International Criminal Court (ICC). It is an interesting argument from a democratic point of view because it underlines the connection between the various institutional elements that *together* make up the rule of law. If courts become too powerful, political bodies will correct this and *vice versa*, if parliaments act unconstitutionally, supreme courts or constitutional courts will act to modify this development. This system of checks and balances is arguably the guarantee against the politicisation of courts and the legalization of political issues. This corrective institutional mechanism is not available at international level. IOs, be they courts or commissions, tend to pursue their own vested institutional interests. They only change under pressure, and are rarely abolished, only marginalized if states protest too much by not implementing their decisions.

The issue of supranational courts is a complex one that I cannot deal with in this paper with any degree of justification, but I mention the general problems related to this because the general theme of EU supra-nationality is on the political agenda in Europe. The usual way of looking at this has been pragmatic: as long as the EU “delivers” effective output in terms of directives that work well in terms of the internal market and the court ensures common rules of interpretation, one does not raise the issue of democratic participation and accountability.

Conclusion

The democratic “bottom line” remains that all political power comes from the people and can be recalled by the people, i.e. accountability. Populist reactions are about many things, but one element is reaction against supra-nationality. The EU ought to look critically at reform and take the protest seriously. After all, the EU and its bodies are only as sustainable as member states allow them to remain.

In sum, European political participation is in many ways in crisis. Populism is a reaction to supra-nationality, globalization, and immigration, but also a way of conducting politics that destroys the ideologically-based party structure that is vital for representative government. Yet the reactions to supra-nationality and globalization are also arguably sound democratic reactions, since the working class especially suffers economically in terms of relative income and job loss. The so-called “elites” gain economically and are not adversely affected by immigration since they can afford to live in affluent areas.

The current political situation is one where fundamental questions are raised about political power: who should govern, where should decisions be made, why should supra-national political institutions and courts be accepted? Debating the major issues of democracy is, of course, political participation *par excellence*, but populist politics are the ones that set the agenda on these complex issues, so far in a simplistic and polarizing manner. It is vitally important to have a proper and profound debate about the political architecture of Europe while avoiding the superficiality of populist politics. To this end, the contribution of the social teaching provides central concepts such as the common good, subsidiarity, and solidarity.

[1] Department of Political Science, University of Oslo.

[2] World Justice Project, Ref Washington, D.C. 2017.

[3] Transparency International's list for 2015 contains 167 states and has the Nordic states on top as the least corrupt, but in Europe there are cases far down on the list as well – Spain is no. 36, Hungary no. 50, Greece no 58, and Italy no. 61. Towards the bottom we find mostly African states – Somalia as no. 167 – as well as some of the ‘stans’.

[4] Weber, Max «Politik als Beruf» (1919) and «Wissenschaft als Beruf» (1917), lectures delivered to the student union in Bavaria.

[5] Venezuela remains very high on the corruption index, and is in general very far from being a democracy. See Transparency International's index of corruption for 2015.

[6] Åse Berit Grødeland. 'Informal Practice in the Judiciary: A Comparison of East Central Europe, South East Europe and the West Balkans', in William B. Simons (ed.) *East European Faces of Law and Society Values and Practices* (Leiden/Boston: Brill, 2014), 81-104, and *ibid.*, 'Informal Relations in Public Procurement. The Case of East Central and South East Europe', in Jan Kubik and Amy T. Linch (eds.) *Justice, Hegemony and Social Movements: Views from East/Central Europe and Eurasia* (New York: New York University Press/SSRC, 2013), 346-384.

[7] See R. McKeon, *The Basic Works of Aristotle* (Random House, 1941), *Politica, Book I*: «Every state is a community of some kind, and every community is established with a view to some good... the state or political community, which is the highest of all and which embraces all the rest, aims at good in a greater degree than any other, and at the highest good», 1252a and “a social instinct is implanted in all men by nature” – “Justice is the bond of men in states” (1252b).

[8] First used by Ferdinand Tönnies in sociology, these concepts were made famous by max Weber's use of them in his works, e.g. *Economy and Society*, ed. Guenter Roth and Claus Wittich. University of California Press (1921/1968/1978).

[9] NYT, Oct 24th, 2016 (title).

[10] Snorri Sturlason, *Heimskringla*, ca. 900, translated into the Norwegian from Icelandic by Gustav Storm, *Snorres Kongesagaer*, Stenersens Forlag, Oslo, 1900.

[11] Cambridge University Press, 1970.

[12] This means that some opposition does not hinder consensus, but is usually formalised as a reservation by the dissenting state(s).

[13] Joseph Weiler *The European Court of Justice*, Oxford Univ Press, 2001 as well as several other publications, Hjalte Rasmussen, *On Law and Policy in the European Court of Justice: A Comparative Study in Judicial Policy-Making*, Brill, 1986, Matlary, J.H. *Energy Policy in the European Union*, Macmillan, London, 1997.