Transnational Self-determination. Resetting Self-government in the Age of Interdependence

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Abstract:

The world of Westphalia, in which the subjects of self-government were well defined, is over. We are in a new constellation where we seem to be governed by others, especially in Europe. This other-determination is not a temporary situation but a democratic requirement when our decisions determine the future for other people. Is there any way to make that which appears to be inevitable just? Democratizing the side-effects of our decisions requires the institutionalization of reciprocity. Democracy is not more possible in a single country, today less so than ever.

A president of the German parliament, who liked to make his official visits in countries where there was something to hunt, had a disconcerting experience in the former German colony of Togo. While he was being driven from the airport to the city, the crowd was shouting something whose meaning intrigued him. His host explained that the word they were chanting, "uhuru," meant independence, which the guest did not understand since Togo already was independent. The Togolese president explained: "Yes, but that was a long time ago, and people have gotten used to it" (Blumenberg 1998, 41).

The world has gone through many changes in the last few years, but many people continue to insist on their own particular chant as if nothing had taken place. Even though our rituals seem not to acknowledge this, the Westphalian world has changed a lot in these nearly 400 years. A series

of transformations of political spaces are currently taking place according to which the relatively simple world of the states is being complemented by new spaces with different social and political relevancies. In this changing world, there are many things that have either stopped making sense or only make sense if the context, scope, and meaning are modified from what used to constitute fact. Concepts like sovereignty, constitutional frameworks, territorial integrity, or self-determination need to be reconsidered if we do not want to offer the same spectacle that astonished the German traveler. The nation state has become a semi-sovereign actor. A good deal of the politics carried out by nation states is designed to simulate activities that are limited to a defined territorial context and to conceal the implications and extraterritorial relationships in which they are trapped. The fiction of national unity and the reality of transnational dependence are in play. We are living at a time of profound changes in the history of humanity, with the unusual situation that certain ways of organizing life in common are becoming unusable faster than our ability to invent others. The aging of concepts is quicker than our ability for replacement. At these historic times, between the "no longer" and the "not yet," human beings offer diverse performances that could make the Togolese laugh, because there are those who demand what they already have, those who defend what is not in force, and those who promise what cannot be achieved.

When we make extensive historic comparisons, we tend to simplify to the point of stereotype that which used to exist but no longer does. For the sake of expository clarity, I suggest that we momentarily give in to the charm of simplification. My proposal consists of making a brief comment about what we could call the Westphalian world, drawing our attention to the ways in which it is currently breaking boundaries, and suggesting a principle that will allow us to think of the classic principle of democratic self-determination in present-day circumstances. I conclude by asserting that we must reconstruct the idea of self-determination under current social and political conditions,

within the environment of current complexities. The difficulty of the matter consists of safeguarding the normative nucleus of democracy—the self-government of the people—in a deterritorialized or transnational world.

1. GOODBYE TO WESTPHALIA

Traditional notions of sovereignty and self-government presupposed a homogeneous concept of the people and a closed idea of political space. I am referring to the world that consecrated certain states where internal sovereignty prevailed and exported chaos to the outside. The principle of territorial sovereignty translated into internal homogeneity and external rivalry between the states. Even Rawls, to whom we owe the most sophisticated formulation of democratic justice, imagined the participants in a hypothetical original position as "a complete and closed social system" (Rawls, 1993, 40). This Westphalian conception could be summarized through principles of a) homogenization; b) externalization; c) net distinction between what is ours and what is someone else's, and d) congruence between social spaces and decisional environments. Let us see how these assumptions were conceived and the extent to which they have been eroding.

a) The end of homogeneity

Modern states were not built with the rationality and fairness presupposed by the theory of "constitutional patriotism." These states are not only the logical result of equitable and pluralistic processes but have been constructed based on the preconception that unity is only possible if difference is suppressed. This way of conceiving social configuration has often been debunked and its incapacity to articulate plural societies is becoming increasingly obvious. There are many political phenomena that respond to the desire to understand and organize societies differently: the horizontalization of society, the questioning of representation and institutions, the increase

in anti-establishment movements, the demand for participation, the calls for recognition, federal claims, etc. Everything seems to indicate that societies have lost that innocent homogeneity in which they had cloaked themselves at other times, sometimes unfairly ignoring the differences they contained.

The current political environment presents a very complicated topography. The anthropologist Clifford Geertz (1996) summarized this situation with the idea that countries are not nations and cultures are not shared systems of life. There are nations that do not coincide with states and states that house various nations. There are very few countries today that coincide exactly with a homogeneous community: Japan, Norway, perhaps Uruguay, if we disregard the Italians who live there, perhaps New Zealand, if we set the Maoris aside (which is a lot to set aside, when we are discussing human beings). At the same time, cultures are crisscrossed by profound disagreements and confront a series of conflicts that are far from the idea of a united and harmonious civilization that would peacefully gather together around shared values.

The obsession with standardization has given way to a better articulated heterogeneity, the center loses its previous meaning, constitutions give up their traditional rigidity, new possibilities of self-organization are developed. We find ourselves in the novel position of conceiving of identities that do not exclude, flexible entities that do not need to assert themselves in contrast to the value of difference.

Democratic procedures should be institutionally configured in such a way that they allow the determination of the subject of self-determination, placing it at the disposition of a plural and decentralized subject. For complex systems, it is a question of how to avoid blockades, interferences, or incompatibilities, without reducing the opportunities for asserting a plurality of interests.

b) Externalization as powerlessness and injustice

The modern world made the principle of territoriality the linchpin of political communities, without any previous solidarity or duties beyond it. The principle of sovereignty implied the configuration of the exterior as a space without obligations, ruled by a pure balance of power.

This approach collides with actual and normative limits. States *cannot* maintain this indifference and are obliged to cede some portion of their sovereignty to external bodies in order to guarantee the provision of certain common goods, they surrender it to Europe, on behalf of certain international institutions, or accepting the logic of transnational cooperation. The legitimacy of transnational institutions consists precisely in making the states able to act regarding areas and issues they would not address with instruments of sovereignty.

But the states *must not* consider that which is external to them as being outside of their areas of concern. Because of global interdependence, certain national decisions have extraterritorial effects that can be very burdensome for others. As Beitz (1979) has revealed, theories of justice that are based on the principle that the responsibilities of justice are only valid for those who live within a particular political community or who are subject to the same constitution are now less helpful than ever. The desire for self-determination is the same as the attempt to establish a congruence between the economy, society, and the state, which obviously cannot be realized at the heart of the nation state.

Heterodetermination today acquires forms that are quite different from those of colonial imperialism or state homogenization; it is carried out through the externalities that come from many political decisions with cross-border impacts. Extraterritorial state effects jeopardize all countries' ability to self-govern. Let us think about the case of the German and British governments that did not implement certain environmental protection measures during the 1970s, causing a high mortality rate in

Scandinavian fishing. Swedish fishermen could not participate in the shaping of political will in the U.K. or Germany. This is only one of many possible examples of externalizations that constitute true injustices. We could add that they involve a democratic deficit even if they are fully respectful of their *own* electorate.

The states have to move from a contractual responsibility regarding their citizens to a sovereignty that commits them toward the external world when certain common goods are in play. It would be a question of democratizing the impacts, indirect effects, unfair growth, and determinant desynchronizations that, rather than the direct oppression or lack of liberty of the past, are now the cause of our greatest democratic disturbances. It is the new way of thinking about old imperatives of autonomy, inclusion, and generalization.

Democracies—particularly in Europe—have stopped limiting themselves to interactions with their own electorates. They must open up to foreign interests, examining the costs they impose on others when they adopt certain decisions. "To the extent that borders and jurisdictions set the terms of democratic arrangements, they must be open to democratic deliberation" (Bohnam 2007, 17). Under conditions of interdependency, there is no national justice without some type of transnational justice, nor democracy without a certain inclusiveness of non-voters. The republican non-domination principle can only be respected if it also refers to those who, while not forming part of the national *demos*, are affected by our decisions.

c) Ontology of deterritorialization

From the point of view of political ontology, the principle of territoriality is at the origin of almost all the distinctions that have guided us: between internal and external affairs, between our issues and other people's, between the domestic and the international. The political order of modernity has followed a binary way of thinking, strict delimitations that unambiguously distinguished

friends from enemies, competence from piracy, the ruler from the ruled.

Therefore, the changes we are experiencing as a consequence of deterritorialization have generated a complexity that affects what Luhmann has called "primordial experiences of difference," dualities along the lines of close/far, mine/someone else's, familiar/strange, friend/enemy (1981, 195). These experiences that use to guide us now require redefinition, which particularly affects the distinction between us and them. Of course, there are still limits that allow us to establish the corresponding distinctions, but these limits are more imprecise and porous, less operative. In any case, they do not interrupt interdependence, do not function as *"Interdependenzunterbrecher"* (Mau 2006, 116) and force us to think about belonging, what we have in common, and self-government in another way. "The limit is nothing but the method and the realization of its operations that individualize the system" (Luhmann 1997, 76).

Globalization challenges constitutionalism and democracy, among other things because the "we" whose identity is defended and that is self-determined has lost its fixed reference to a stable framework of identification and management, such as the environment of the nation state or of a clearly delimited community. This community overflows and becomes individualized, at the same time as the subjects to which it can refer are expanded and fragmented. There are movements that force us to consider that there are more of us than those of us who are here (emigration, processes of integration in broader political spaces, globalization), while at times we find ourselves needing to focus on specifics and attend to a poorly noted plurality (processes of decentralization, attention to minorities, affirmative action). In both cases, the delimited political framework is challenged from the inside or overwhelmed by "unbundled communities" (Elkin 1995) that configure what we have in common by virtue of shared interests and risks, and not by stable membership within a state framework. To the extent to which interactions

beyond the established limits increase, the idea of self-government in a delimited space seems unsustainable or at least in need of profound revision.

In the space of globalization, with porous and multiple identities, in the midst of complex interactions, where contagion and interdependency reign, when everything is contaminated and there is no protective space, the category of "us" is characterized by great indeterminacy. The nation state, as a political form of the us, is overrun by global poverty, the obligation to protect others, the overriding need for common goods, the complexity of global agreements regarding climatic or financial matters. In a space of common goods or common evils, any delimitation between us and others that is too rigid is inappropriate. Of course, the voters should be delimited, but that does not imply that they should be closed in the name of popular sovereignty. We should think of ourselves in an open and even potentially universal fashion. At the same time, we must construct new systems of responsibility that are operative and reflect the complexity of an interdependent world.

d) Politics of deterritorialization

Delimited territories secured state jurisdictions that, because of this delimitation, were constituted as decision-making arenas, security spaces, instruments of control and the undisputed basis for civil obedience. The current set-up is characterized by the fact that we are filled with ways of thinking and flows that contradict the principle of territoriality. We are attending an expansion of levels of territoriality, rather than the old logic of mere juxtaposition, which does not mean that one plane suppresses the other, but that they are superimposed and it is not easy to establish which arena should take precedence, who has to decide, or who we consider responsible. One of the more notable consequences of that is that the relationship

between right and territoriality is becoming ever more contingent.

This new arrangement also conditions the assumptions of our decision-making systems. The ancient congruence between those who make decisions and those who are affected by them, authors and target groups, nation and democracy, territory and sovereignty have disappeared. Those who are affected by public decisions should have something to say in the decision-making process (Held 2004, 98). The principle of self-determination is harmed because the range of validity of legitimate political decisions and the social contexts in which those decisions are inscribed and upon which they act do not coincide. "The absence so far of a fully developed transnational political community is incongruous with the existence of transnational social spaces" (Zürn 2004, 260). At the same time, national democracies cannot satisfy our desire to participate in the political decisions that affect us. They neither control nor perhaps have ever fully controlled the impact of other political decisions on their citizens.

Democracies barely have instruments to assure that "outside" identities and interests are taken into account in their decision-making processes. The legitimacy of transnational institutions stems from the attempt to mitigate these deficiencies, which constitutes a correction to the nation state, to overcome their shortsightedness and include the recognition of other people in their own political structures (Joerges / Neyer 1997). Self-determination today, under current conditions, means accepting the effects that the decisions of other nation states have on us to the extent that we have had the opportunity to make our interests heard in "their" decision-making processes and, inversely, to be ready to make other citizens the subject of our decisions. "We have to work for a system of collective multi-level governance, in which national democracies open themselves to the concerns of foreigners. Otherwise, the external effects of the internal practices of our democracy will impose illegitimate costs on foreigners, or, if foreign democracies do so, on us. Under conditions of

interdependence, therefore, it is clear that transnational justice and national democracy mutually support and necessitate each other" (Neyer 2010, 918). Without entering into a discussion now about what these might entail, we can see that governance of the Union or the supremacy of European law is a call to identify rules and principles that assure the coexistence of different electorates and their compatibility with the common objectives that they share.

If we want to put the principle of democratic self-government into effect, we have no choice but to move toward a new post-territorial congruence between the authors of decisions and the parties who will be affected. When we are facing new processes and ways of thinking, we must determine whether they are impositions that should be resisted or opportunities we can use. Current debates about the future of the European Union should be considered in light of these circumstances. They may help us discover the extent to which the EU is called upon to carry out an essential role in the management of risks implied by the interactions between diverse territories, allowing a degree of collective control over externalities. The popular authoriality of laws or political self-determination in a European context must be more indirect than what we are accustomed to in the state framework, which does not necessarily mean that they are less democratic. The Union's true democratic deficit would consist of not being able to surpass the ideas of the national democracies.

In the end, the problem is not whether or not global environments admit democracies similar to those configured in nation states, but how to overcome the incongruence between social spaces and political spaces. It is essential that there be legitimate government or governance; it is less important to determine whether or not democratic requirements can be extended globally, since these requirements only work, strictly speaking, for delimited spaces. In this way, international institutions (as well as the European Union, which is not truly an

international organization but something broader) make it possible for politics to regain the ability to act in the face of denationalized economic processes.

2. GOVERNED BY OTHERS

We live with the sensation of being governed by others. There are powerful external pressures (from the uncertain authority of the markets to the growing intrusiveness of what is called the international community, passing through the current instabilities of the European Union which have established German hegemony, or the simple fact of influences, contagion, and the mutual exposure that are part of our global condition), and all these pressures seem to convert the ideal of democratic self-government into a promise that current conditions do not allow us to fulfill.

Numerous decision-making materials are being disconnected from the realm of state and democratic responsibility, which presents difficulties of legitimacy and acceptance. There are increasing numbers of intrusive policies that public opinion has a hard time understanding and accepting (from military interventions stemming from the "responsibility to protect" the people to the control of the economies of other countries with which we share a common destiny). How can we democratically justify speculative market pressures, prohibitions against certain countries developing particular weapons, or European demands for budget austerity? Who has the right to tell Greece, Syria, or Iran what they must do?

a) Inevitable heterodetermination

It was probably illusory to think that the world was made up of "container states" (Ulrich Beck); the norm has probably always been mutual conditioning, pressure, and even open interference in the affairs of others. What

globalization has done is give a new shape and greater intensity to the type of conditioning taking place between societies that are ever more open and less protected. Our perplexity in the face of this new interconnectedness makes us incapable of differentiating its liberating aspects from its illegitimate uses, distinguishing those times when it represents a demand for transnational cooperation from moments when it is simply a new mask for old hegemonies.

The Westphalian world (self-sufficient states, the sovereignty of the electorate, the principle of territoriality) has been useful for the construction of a democratic legitimacy that clearly distinguished between what is internal and external, between our own free decisions and illegitimate external interferences, but in an interdependent world—particularly in integrated Europe—these basic political categories can only be maintained if they are profoundly transformed. Perhaps the idea that most urgently needs to be reconsidered is the self-referential conception of political authority that we have considered an unquestionable principle up until this point. We must rethink our conception of democratic decision-making if we do not want to end up confronting unsolvable paradoxes.

This mutual dependency reaches such levels in Europe that some people have even considered the following mental experiment. Even if a state left the Union, many European norms and regulations would continue to affect it, as they affect many other countries that have signed commercial and legislative treaties coming from Europe. This is what is called the "Brussels effect" (Bradford 2012/13, 3). Some people use this argument, a bit cynically, to advise against the U.K. leaving the Union: it is preferable to be inside and have influence than to be outside and still continue to be under its influence (Chalmers 2013).

This new organization obeys processes of global scope and the very dynamic of European integration, which are both phenomena that respond to the growing interdependence between societies and the necessity of

governing these realities in some way. On the global level, there is the formation of a more vigilant worldwide public opinion and a more intrusive international community, with errors of over-involvement (such as the invasion of Iraq in 2003) and under-involvement (such as the doubts about Syria in 2013). Regarding the European Union, we need only examine the dominant lexicon in order to understand that the customary style of self-determination is a thing of the past: we do nothing but talk about supervision, coordination, reconciliations, shared risks, intervention, demands, vigilance, binding agreements, credits, regulation, rescue, discipline, sanctions, etc.

How can we define this new situation? In the first place, we should avoid generalizing and considering all interference as negative and democratically unacceptable. It is an ambivalent phenomenon, positive in some cases and negative in others, like almost everything human. The way austerity is imposed in Europe is an example of the erosion of our democratic community, while the current democratic vigilance over Hungary constitutes a duty to safeguard the values of the European Union and liberal democracy (Müller 2013). Now that the European Union is gambling with a shared destiny and the United Nations has introduced an obligation to protect civilian populations that are suffering certain aggressions, we need a new principle of sovereignty to replace the classical idea of sovereignty as non-interference.

Let us being with the positive. The idea that there are responsibilities between nations is a fact and, at the same time, a value from which a good number of institutions, common rules, and binding laws are derived. The reality of our common destinies has given us new responsibilities. To the extent that interdependence is intensified, the responsibilities of justice are no longer circumscribed to the single framework of the nation state. In addition to a contractual responsibility to their citizens, states (and their citizens) are now also responsible for considering external

consequences regarding goods such as the environment, peace, or development.

This emergence of new responsibilities is particularly intense in the European Union, whose members have less and less "internal affairs." We are not a federal state, but the constraints that weigh on countries are greater than in many federal states. Member states should open their democracies to the citizens and interests of other member states. If it is true that thanks to the process of integration, states have recovered an ability to intervene in transnational processes that would escape their control, they have also imposed on themselves a series of party lines, the majority of which focus on the obligation to recognize and use justice criteria to deliberate the impact that one's own decisions can have on others (Maduro 2012, 77). The logic of integration consists of its members benefiting from being able to manage within a European context certain affairs that were beyond their abilities as sovereign actors and, at the same time, recognizing that certain domestic errors are better corrected when there are particular external constraints.

It is an error to think that the strengthening of the European Union and international institutions necessarily means a threat to democracy. It is a question of understanding the balance between national, European, and international arenas as a challenge to extend democracy to new processes. Economic and social interdependence (most particularly in Europe) makes the decisions of some groups have effects on others in such a way that the sharing of risks and even the intervention of other groups should be understood in the context of our own democratic responsibility. Sovereignty, which used to be a means for shaping democratic societies, now only functions to find decision-making areas that combine democratic effectiveness and legitimacy when it is transformed and shared. In an interdependent world, we must move from sovereignty as control to sovereignty as responsibility (Deng / Rothchild / Zartman 1996). From this perspective, it makes sense to legitimize intervention in

spaces that sovereignty prefers to see as exclusive spaces. With all the necessary guarantees, the same argument that has been developed to legitimize the protection of peoples in the face of violence should also be advanced when it is a question of economic risks that can immerse people in catastrophic consequences.

The idea of community or common goods cannot be exclusively carried out through the self-determination of its member states, but as an "inclusion of the other" (Habermas 1999). Belonging to the EU relativizes the us/them dichotomy. The political contribution of the EU consists of making something improbable institutionally possible: for citizens of member states to allow themselves to be governed by "others" and to see it as something normal, because in the constitutionalization of the us/them relationship, they recognize an expansion of their political existence (Preuss 2010, 338).

b) The European construction of reciprocity

The other side of the coin of this new interference is that we have not yet placed it in a context of just reciprocity. That is why there is a great deal of asymmetry, pressure, discretion without rules, or simple threats. The first problem that this presents is the lack of equity in decisions that require shared efforts, the lack of a framework of governance designed with a criteria of justice meant for redistribution without hegemonies and beyond the national realm. The second problem consists of how to overcome the minimal consideration that member states afford to the question of the impact their decisions can have on others. In order to respect the democracy of some people (the German electorate, for instance), they irresponsibly ignore what we could call "collateral damages of democracy itself."

Being responsible only to one's own electorate can be a form of irresponsibility when it harms the interests of other people who, in some way, are part of our own interests. Was Angela Merkel acting in accordance with democratic

principles when she attempted to assure reelection at the expense of serious social damages to the countries with which she shares a project of integration and a long trajectory of cooperation? In the same way that certain businesses outsource part of their work to other parts of the world with minimal salaries and limited rights, it is unfair for Germany to secure their welfare state by imposing burdens that erode the social contract of other European democracies.

Interference, direct or indirect, ordinary or exceptional, is nothing new in the history of the EU, from the multilateral supervision of the Stability and Growth Pact, with the hard sanctions foreseen in the Amsterdam Treaty, to the "open method of coordination" that presumed the absence of any power differential between actors and replaced them with the mutual training period and mutual revision without sanctions, guidance, time-lines, objectives, and references, which were no more than "peer pressure" (Regent 2003). However, the measures adopted in relation to the euro crisis have taken this interference to limits that required express legitimation. The final result, in fact, has been an asymmetrical configuration between a governing center and a governed periphery.

Therefore, mutual conditioning, the "government of others," is a reality that presents both opportunities for democratization and threats to justice. What are the conditions to make that which is inevitable also just? Fundamentally, it is a question of introducing criteria of reciprocity into relationships that are currently ruled by asymmetry and unilateralism. The new language of interdependence, especially in the heart of the European Union, should be articulated by concepts such as deliberation, balance, sharing, solidarity, self-limitations, confidence, compromise, responsibility, etc. We need to find the truth in the common claim that a compound democracy is a system of "anti-unilateralist decision-making" (Fabbrini 2007).

In the framework of this desirable reciprocity, it makes perfect sense that lending countries are less and less prepared to approve financial transactions if they do not have the ability to co-determine the economic policies of debt countries, but it also makes perfect sense that the countries on Europe's outer circle insist that the austerity requirements directed at them should be balanced by Germany's stimulation of their domestic demand and that responsibility should go hand in hand with solidarity. What makes no sense is that if a member state needs assistance because it has been attacked regarding an arrangement for which it is not the only responsible party, the bailout should be compensated by some drastic structural reforms in that member state alone (Menéndez 2013, 133). There are already some interesting proposals to correct this imbalance regarding the bailouts. For example, conferring on the European Parliament the power of scrutiny coordinated with other Eurozone parliaments. This would be similar to the conference of budget specialists suggested in Article 13 of the *Fiscal Compact,* who were given the authority to review every packet of conditions that the EU establishes when giving this type of assistance and checking to see whether the conditions are compatible with the right to democratic self-determination of the corresponding state (Crum 2013).

The demanded reciprocity is not going to be an easy construction because of the fact of benefiting from the advantages of the common currency and having to take on responsibilities derived from sharing a space that is also common. Donor countries should explain to their voters why financial assistance between states are necessary when they coincide with internal spending cuts and receiving countries should be capable of understanding that renouncing the competitive devaluation of one's own currency does not allow the surreptitious introduction of devaluations in the form of social spending cuts (which are nothing but the functional equivalent of "internal devaluations," which in neoliberal jargon are called "structural reforms").

The EU is the best laboratory to carry out these forms of shared government, to institutionalize procedures of transnational self-determination to the extent to which mutual supervision is allowed and justifications are demanded when certain national decisions have a particularly negative impact on other groups. Madison already noted that in order to guarantee reciprocal control between institutions, the principle of separation could not be applied without giving those institutions at least an ability to act within the sphere of action of the others (Grofman / Wittman 1989). The type of reciprocal obligations that are, according to Weiler, at the heart of this "constitutional tolerance" configure the constitutional organization of the European Union. "'It is a remarkable instance of civic tolerance to accept to be bound by precepts articulated, not by 'my people,' but by a community composed of distinct political communities: a people, if you wish, of 'others'" (Weiler 2002, 568).

Operationally, this type of shared sovereignty turns into a reflexivity about their mutual dependence, their common vulnerability, and the obligation to keep in mind the effects upon their neighbors when solving their own problems (Scharpf 1999, 181). The right to business, for example, with their non-discrimination provisions, encourages legislators to be conscious of the interests of the citizens of other member countries; the right to free competition limits domestic subsidies to prohibit an unjust distortion of competition; the European authority that regulates monetary policy attempts to counterbalance the dominant position of the *Bundesbank.* In these and other areas, European law acts as a means to convert foreign interests into internal interests, with some inclusive procedures that point toward reestablishing European congruence between authorship and affectation.

If democracy in Europe is incomplete, it is not because there is excessive opacity, distance, or a lack of participation, although all of this can and should be corrected. There will be no democracy in Europe

until we understand the communal, collective dimension of a European political community, which implies working on a concept and a praxis of self-determination that makes sense and on a deeper theory of sovereignty (Haltern 2007, 51).

The delimited spaces of sovereignty are no more: we must begin getting used to other people telling us what we have to do, which is only bearable if we can also intervene in their decisions. In an interdependent world, especially in an integrated Europe, it makes sense that we make increasing demands upon each other, regarding human rights, protection of the environment, economic governance, or global equity. In the particular case of Europe, requirements for budgetary balance and austerity have increased, and this increase has created problems not so much because "others" demand them (this hetero-determination is inevitable and, under certain conditions, just), but because they are not decisions taken with strict reciprocity. They imply another type of commitment in the opposite direction and they should respond to decisions adopted without unilaterality. However, it is one thing to say that these interventions must be justified and balanced by a logic of reciprocity and another thing entirely for us to be able to return to a relationship of sovereign subjects.

Why do we have to pay the consequences of the extravagances of our neighbors? What right do other people have to tell us what we need to do? Two questions that synthetize our current confusion because the distinction between us and them has stopped being obvious and operative when we continuously benefit and harm one another. It would be a profound error to waste these possibilities for interaction or not to establish mechanisms to avoid letting these influences become vulnerabilities. We must take advantage of this organization to give a democratic and just shape to these interdependencies. This could be formulated as a new right to transnational self-determination in which the "we" that governs itself also finds a way to include others. This demand for reciprocity is another way to insist on the need to institutionalize

interdependence, which is nothing but the will to institutionalize the plexus of responsibilities that mutually connect us and the stabilization of procedures to decide together in a balanced manner.

Our democratic ideal would be completely unreal if we thought about it as a permanent plebiscite of the "us," without any intervention of the "them." If democracy could be nothing but popular, sovereign, and of proximity, if it were unthinkable beyond the spaces and the matters for which self-determination has been effective until this point, then we could bid farewell to any adventures beyond the nation state and return—if this were possible—to simpler societies in delimited spaces. Paradoxically this retreat would not help global problems be resolved with better democratic criteria; instead they would simply be abandoned to their fate, which is the least democratic option.

3. THE TRANSNATIONAL CONSTRUCTION OF DEMOCRACY

A society is not sufficiently self-determined when it is only nationally self-determined. This deficiency makes some sense if we keep in mind the political conditions in which today's societies find themselves. The more determined that life is for citizens because of interdependence, the less their demands for self-determination are limited to the arena of the nation state. The rights and responsibilities of self-determination require us to abandon the "parochial focus" of political representation (Gutmann / Thompson 1996, 146). The open character of democracies would be betrayed if the deliberative community were always coextensive with the *demos* of formal procedures of decision-making, with national citizens or the electorate itself.

This is true to the extent that we can speak without exaggeration of a deficit of democratic legitimacy when a

society cannot intervene in the decisions of others who condition it, but also when it prevents those others from intervening in its own decisions that condition them. In an increasingly interdependent world, the idea of "democracy in a single country" makes no sense, which does not mean that a deterministic logic makes democratic contagion inexorable, or that the exportation of democracy is always just and effective. Formulating it instead in a negative fashion, we can see that when a democracy in one country is achieved *at the cost of* no democracy in another country with which it maintains an interdependent relationship, harming its right to its own determination, that conditioning undermines the opening and inclusion that should characterize all democracies. Unlike the modern world of democratic states that do not need democratic environments—and those that could even benefit from a terrible external world or an antidemocratic enemy to maintain their own cohesion—in the current world, a democracy that does not promote—and we must strip this of any colonial echo—democracy beyond its own borders is unthinkable. It is a systemic, structural question, not a civilizing mission.

In any case, this principle of transnational self-determination cannot be effective without great institutional innovation, which would continue to provoke resistance and even the declaration of impossibility by those who maintain the national framework as the only normative reference, whether through self-interest or through simple conceptual conservatism.

a) The Self of Self-Determination

The principle of self-government is undisputed in political philosophy; there are a variety of opinions about the method and, particularly, what is problematic about identifying the "self" of self-determination (Schmalz-Bruns 2011; Innerarity 2014). The identification of the subject of self-determination is especially difficult in fluid, transnational spaces, which are neither isolated nor set

apart with incontrovertible limits by community enclaves or state frameworks. There are always others who can discuss the negative effects of our common good (requirement for external justification) and there is an increasing amount of internal plurality, which makes it more difficult to reach a consensus in complex, plural, and compound societies (internal differentiation).

The subject of self-determination adopts a decentralized, polycentric, and transversal form; it extends across various levels and in different directions, both vertical and horizontal. The "self" of the determination is not of an unquestionable size, but is always contextualized and elastic, like the limits of those we consider our own, depending on interactions that have been established. "The logic of political representation, which cannot include without excluding, implies that, at all levels of the legal order, a polity is continuously confronted with the question about unity. This is not a question that a polity can choose to leave unanswered. To the contrary, every polity must time and again take up a position regarding the legal content of this unity, precisely because it is confronted with a plurality of representations of unity" (Lindhal 2003, 105). We are "us" because there is something that constitutes us as such when it affects us, for which we are responsible, because we protect each other, we share the same fear, because we are equally threatened, etc. A focus of this type, would allow us to overcome the paradigm of consensus and contract in order to think about us as a result of what is in play.

The "mutual opening up of democracies" (Nicolaïdis / Shaffer 2005) begins with the consideration that the subject that self-determines must be sufficiently indeterminate so as to include others in every case. Democratic indeterminacy must be open in order to allow some involvement in our decision-making processes by those who we understand to be concerned by our decisions, to the extent to which a relationship of interdependency is in fact established. It is a question of opening the door to

the hybrid figure of "my aliens," in other words, those who are both "alien" and "mine" (Shaw 2003).

From the perspective of a global theory of justice, Nancy Frasser has noted the fact that the reference to the Keynesian territorial state allowed us to answer the question about the "what" of justice, while avoiding questions about the "who," in other words, who belonged to the community to which something was owed. This framework is irreversibly destroyed at the moment in which we are not dealing exclusively with the relationship between citizens of one state, but with transnational actors who begin addressing the international community without specific territorial outlines. The rules of the question of justice are modified from the moment in which we no longer need to ask what we owe each other as members of a fixed community, but which is the relevant community in every case and who should be considered a member of that community. This explains the new demands for representation and justification that become present in the global public space. "Above and beyond their other demands, these movements are also claiming a say in a post-Westphalian process of frame-setting. Rejecting the standard view, which deems frame-setting the prerogative of states and transnational elites, they are effectively aiming to democratize the process by which the frameworks of justice are drawn and revised. Asserting their right to participate in constituting the 'who' of justice, they are simultaneously transforming the 'how' – by which I mean the accepted procedures for determining the 'who'" (Frasser 2005, 84).

b) A republican horizon

The normative nucleus of representative democracy centers on the fact that representatives are required to report to those they represent—and only to them—because it was presumed there were no effects worth considering toward the "outside," that could not be sheltered by reasons of state or undervalued as a neutral externality. As

the interaction between states and their mutual responsibilities increases, there is an increase in the number of parties before whom political decisions must be justified to the extent to which they are significantly affected, since they can no longer be disqualified as mere externalities. The integration of a national political process in multilateral contexts expands the political audience before whom political decisions must be justified (Neyer 2012, 69). That which is public—the realm of justification and decision—is not equivalent to that which is delimited by the state, but includes "everyone affected by a problem" (Dewey 1988). The idea of transnational self-determination presents precisely a conceptual framework to think how we should make decisions when they reach beyond the state framework; it references this additional level of governance that is necessary to give a structural pathway for those who are affected by the decisions of others or, inversely, to internalize the external effects of their own decisions.

Democracy implies a certain identity between those who decide and those who are affected by those decisions. Respecting this criteria means that the effects of the decisions of other nations are unacceptable if we have not had the opportunity to assert our affairs into "their" decision-making process and if we have not been prepared, reciprocally, to take other citizens into consideration in our decisions. We are all obligated to redefine our own interests by including the interests of our neighbors in them in some way, especially when we are connected with them not only by physical proximity or general interdependence, but by the institutional community, as is the case with the European Union. The promise of national democracy to promote self-government can only survive Europeanization if at this level of interdependency there is a demand for a justifying discourse that credits the systematic respect for the external effects of their decisions as something relevant for domestic decisions (Joerges / Neyer 1997). The Union's failure to solve the current economic crisis is due precisely to the gap between political instruments and the nature of the problems, to the fact that the states have been

incapable of internalizing the consequences of interdependence and continue imposing externalities on each other and are incapable of regulating the transnational forms of power that slip from their control (Maduro 2012).

The principles of reciprocity, justification, participation, and interiorization of externalities point toward a republican horizon as the way to understand the configuration of polities, their decision-making systems, and their legitimizing processes. The idea of transnational self-determination has been inspired in the republicanism of Pettit (1997), which others have developed along the lines of thinking something like "transnational non-domination" (Bohman 2008; Nicolaïdis 2012).

The republican hypothesis does not believe, as liberalism does, that individuals and societies have rights regardless of their status as members of a polity. Liberals are obsessed with validity, while republicans are obsessed with realization. Of course, liberals are correct in saying that rights are valid even if they are not framed within a political community and are even better guaranteed if there is no community interference, but the republican question for the community where they are realized has the advantage of allowing us to modulate our rights and responsibilities depending on the community formed by those who are affected by the decisions that are in play, thus referring to a community that could be larger or smaller than the strict national community. At a time when policies are not circumscribed to closed frameworks, we should not understand this community that is fulfilling rights as identity membership but as affectation and responsibility. Republican deliberation, given the indeterminate character of the interlocutors—who are not only compatriots or even contemporaries—can overcome the exclusive and self-contained notion of the democratic society (Cheneval 2011, 59). Habermas seems to point along these lines when he sustains that deliberation has no subject, because the deliberative community is bigger than the political community (1992, 365). Obviously this indetermination is problematic if it does not imply a formal

concretizing of participants and procedures, but its open character is more in agreement with the also open processes of transnational affairs.

The principle of taking everyone affected into account (Bohmann 1996; Dryzek 2001; Gutmann / Thompson 2004) can be a rigorous obligation or an unrealizable lack of moderation, it can range from the mere requirement to inform to the strict obligation for co-deciding. In any case, what is important about this principle is that, defining the reach of the deliberative community by those affected and not by its formal members makes the space for political decision-making less formal and breaks its closure into constituted state frameworks. The principle of affectation challenges the institutional closing of communities that are thus decentralized, open, and revisable in each case. It is clear that this then presents a problem of indeterminacy, but it prevents the closure of the community that privileges its members, the aristocracy of the belonging that tends to crystalize in an electorate that is incapable of thinking about others responsibly.

Democracy is weakened when many of those affected by a decision have no say in decision-making, which happens in the space and time when decisions made within one country have a large impact in another or when they significantly affect future generations, whose interests should be anticipated in some way. The justification owed by representatives is not merely resolved in the heart of the electoral base, it cannot halt with their own immediate interests. Instead, it points toward a general obligation of justification that includes those affected by the decisions and their consequences. Although it is not always easy to demarcate this range, the obligation is potentially universal to the point that what must be justified is the reason why we stop at a particular "us." We have here a reference that can help us understand the frequently referenced democratic deficit in Europe in another way.

c) The complexity of self-determination

How do we incorporate procedures that will allow a complex, fragmented, polycentric, and interdependent people to continue being sovereign? Is it possible to maintain the normative content of democratic self-determination while in the process of denationalizing politics?

If there is transnational democracy, there should be a right to transnational self-determination. The rise of a post-national level of politics and democracy can refer the self-government of citizens to more mediated normative and institutional frameworks without this necessarily meaning a loss of democracy, in the same way that the movement from Athens to Westminster cannot be automatically interpreted as a loss of democracy (Ferrara 2011, 78). The existence of a supranational level does not mean fleeing from power toward an abstract no-man's land; instead, it multiplies the places of negotiation and the need for cooperation, which affords states and sub-state entities participatory possibilities (Bohman 1996). This mutual opening has a democratic potential that the closed or hegemonic state cannot achieve. The apparent loss of national self-determination is compensated by greater transnational participation, which ends up increasing, even though it is indirectly, national self-determination (Bogdandy 2004, 885). Transnational self-determination understood in this manner presumes an initial self-limitation and an increase in the area that we consider the object of our responsibility, which finally become an increase in our own possibilities (in terms of security, well-being, protection, etc.). To perceive this improvement, we should become accustomed to thinking about democratic conditions as something more complex and less direct than what, in the best case scenario, is realized in nation states.

The self-government of complex societies does not have to follow the domestic model, but can be inspired in polycentric and indirect democratic criteria. If a self-governing community becomes part of various communities—national, state, supranational, global—, then the place of democracy is most similar to a puzzle (Held

1995, 225). Local, national, regional, and supranational areas should be articulated in such a way that no level is imposed or closed off to another without sufficient reason.

In the same way that individual self-determination has to be achieved through a compromise with fellow citizens, collective self-determination (on the sub- or supra-state level) has a lot of limitations that stem from its complexity, both because of the network of relationships that should be redefined according to criteria of justice, as well as because of the difficulty of implementation when many factors, levels, and elements intervene. In the concrete case of transnational self-determination, we would basically be moving in normative areas or regulative principles. These principles suggest political actors should interiorize the externalities and begin considering—in the face of what has been a routine inscribed in the logic of the nation state—that a self-interest pursued at someone else's expense is illegitimate and, when there is a dense relationship of interdependency, it is ineffective or unachievable in the long run. Like all counterintuitive ideas (my self-determination seems to imply inconsiderateness toward others), it requires a vision that goes beyond the short term or immediate self-interest. But it is not merely an appeal to morals because its construction finally implies an expanded horizon of action in which a good number of benefits can be obtained.

To the extent that interdependencies are increased, self-determination becomes something more complex, both in space and time. We must move toward a transnational self-determination of space in the same way we should point toward intergenerational self-determination as the normative horizon of time (Innerarity 2012). Self-determination is a principle that is not simply articulated by a spatial or temporal delimitation. Making self-government more democratic today means making it more complex so it can include the interests of distant places and times with which we maintain conditioning relationships and, therefore, certain responsibilities of justice. Self-determination continues to be a basic principle and without

it, democracy would be inconceivable; the problem is that in a world where there is overlap and conditioning, it requires thinking with greater subtlety than when the subjects of those rights (peoples, generations, cultures) were more or less delimited units and could exercise their sovereignty in an isolated manner.

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