The Federalist Debate

**Papers for Federalists
in Europe and the World**

*The problem of establishing a perfect civil Constitution
depends on the problem of law-governed external relations among nations
and cannot be solved unless the latter is*
Immanuel Kant

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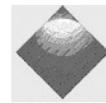
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Of Religion and Politics

Lucio Levi

In a world marked by international violence and social injustice states have always been obliged to seek political stability and public consent through the threat of the use of violence. This is the reason why they have sought to strengthen their legitimacy beyond the political sphere, and most often through the support of religion. Over the course of history the concept of the divine right of kings was one of the most commonly utilized principles legitimising political power. Only in the modern age, through the processes of industrialization, secularisation and rationalization of society, has politics progressively developed a tendency to emancipate itself from religion.

The guiding principle was the separation of religion from politics. The Gospel provides a basis for the separation of the two spheres when Jesus says: "Render to Caesar the things that are Caesar's and to God the things that are God's". This separation leads to the affirmation of the primacy of civil law within state borders and this implies that the state should not be conceived simply as an arbiter between different conflicting organized groups and values. Its primary task is to knock down the fences which divide societies, to refuse to favour one faith over another and to promote peaceful co-existence and social solidarity among different outlooks.

Pluralism is an essential characteristic of a free society. It can be fully achieved provided that common values such as freedom and equality are widely shared. In political life, the citizenship link should prevail over every other form of loyalty. On the other hand, the state is expected to protect the free exercise of religion and to abstain from interfering with religious activities provided that they do not breach public order.

* * *

Prior to the end of the Cold War, a general tendency seemed to prevail throughout the world: the declining influence of religion on politics. This secularisation of society was conceived, according to Max Weber's widely-supported viewpoint, as a constituent part of modernization. But now the political landscape has fundamentally changed. Religion is everywhere. President Bush asserted that the Iraqi war was inspired by God. "God is with us" he frequently says. The Islamic terrorists undertake their suicidal attacks driven by the faith that they will be rewarded in Paradise. A cartoon published in a Danish newspaper representing the Prophet with a bomb on his head in place of his turban was considered blasphemous in the Islamic world where it triggered a great number of demonstrations with many casualties.

What then is the reason for this growing influence of religion on world politics? I believe its origins are in politics itself rather than in religion. It is the result of a political use of religion rather than a consequence of spontaneous religious fervour.

The Cold War was not simply a clash between two superpowers and two blocs. It was also a clash between two universal ideologies: democracy and communism. Since the end of Cold War, brought about by the collapse of the communist bloc, nationalism has been widely utilized both in the East and the West to replace the more universal ideologies, primarily in the East, where people no longer believe in communism, but also in the West

where democracy, now deprived of its external enemy, shows its own shortcomings. Confined within national borders and unable to manage global issues, democracy has been reduced to a mere decision-making procedure.

In the Post-Cold War era two types of nationalism are emerging: ethnic nationalism and the nationalism promoted by the great powers. The former, which brought about the disintegration of the Soviet Union and Yugoslavia, is also active in the West, as shown by the Basque, Corsican and Irish terrorism, though constrained by the EU. Another example is Québequois separatism which is contained by Canadian federal institutions. The other form of nationalism is active in the US, Russia, China and India where it functions as a necessary ingredient for strengthening domestic cohesion of those states and their affirmation at world level.

It is in this context, characterized by the revival of nationalism, that religion has entered the scene as a force subservient to nationalism. This is the contemporary expression of an old tradition: the concept of religion as an instrument of government. Germany and the Vatican supported the secession of the Catholic states, Slovenia and Croatia, from Yugoslavia. Thus, the Catholic Church, behaving as a national force, abandoned its original inspiration – for "Catholic" means universal. Bosnia was dismembered into three communities: Serbian-Orthodox, Croatian-Catholic and Islamic. The wave of so-called ethnic cleansing revived Nazi methods in the former Yugoslavia. On the other hand, in order to fight more effectively against the secessionist claim of Chechnya, an Islamic province, Russia strengthened its own Orthodox identity.

Islamic fundamentalism is a movement that preaches the return to the founding principles of a religion threatened by contamination by modern culture and modern life-styles. Since the West is the vehicle of modernization, it is represented as a menace to the principles of Islamic religion. It is in the nature of the clash of civilizations to transform the Other into a stranger and an enemy. This was the ideological root of the attack to the Twin Towers. Such Islamic fundamentalism promoted corresponding versions of religious extremism in Judaism (Israel), Christianity (US), Hinduism (India), Confucianism (China).

What is troublesome is the reaction of the US: namely, the acceptance of this "clash of civilizations" game. Hence the promotion of a Christian fundamentalism, the re-emergence of obscurantist tendencies such as for example rejecting the results of scientific research like the theory of evolution. This same reaction led the neocons to identify the West specifically with Christianity – a position echoed in Europe during the debate on the European Constitution when the Pope, supported by conservative circles, claimed that the Christian roots of European civilization should be mentioned in its preamble.

* * *

But this is no way to promote dialogue, mutual understanding and peaceful co-existence among religions and cultures. Separation of religion and politics is a glory of European history. A European Federation would represent a substantial progress along the way traced by the founders of this political tradition. It would unify a group of countries once divided by national hatred, yet without erasing their individual character. The secular aspect of the European way of life emphasizes the equality of the citizens whatever their religion may be. Only this political model is fit to receive a great Islamic country such as Turkey into the EU.

The EU shares with India the role of a laboratory where the construction of multinational communities with many languages and many religions is planned. They show how federal institutions represent a bulwark against the dominance of a single nationality or a single religion. Unity in diversity is the principle the world needs to be able to promote a culture of dialogue and peace.

The Foundation of a Cooperative Global Financial System

A new Bretton Woods to confront the crisis of the international role of the US dollar

Alfonso Iozzo & Antonio Mosconi

The crisis of the international role of the US dollar is progressive and irreversible. In strictly financial terms it manifests itself in the unsustainable level of US foreign debt, heavier year after year because of the current account deficit, in turn growing and almost insensible to the devaluations of the dollar thus far decreed by the financial markets. In political terms, it manifests itself in the incapacity of the United States to supply those global public goods which constitute the counterpart of hegemony.

The globalisation of the world economy, made possible by scientific means of production and the end of the cold war, requires the provision on the same scale of the public goods (such as security, legality, equity and environmental sustainability) which can no longer be supplied by an hegemonic power and in whose absence the market is incapable of self government. The United States, after the end of the cold war, attempted to ensure unilaterally the governance of the world economy, basing it on Wall Street and the Pentagon, thus forgetting the historical experience of the unsustainability of empires due to the growing costs of defence not justifying the advantages of dominion.

This attempt has failed. If it had succeeded the political superstructure corresponding to the era of the scientific means of production would have been the imperial. But this is not the case. On the contrary, throughout the world, the requirement for a multilateral, shared and democratic management of the globalised economy is being developed. A requirement which must be urgently satisfied if we want to arrest the forces of disruption which threaten to take history backwards: to protectionism, macro and micro nationalisms and war.

The crisis was written into the genetic code of the international monetary system created by the Bretton Woods Conference: with the dollar (that is, the currency of one of the participants in the game and not a neutral currency) at its centre, the system would have brought about situations of dollar shortage in the case of a positive US balance of payments, and dollar inflation in the opposite case, according to the famous "Triffin dilemma". In the early post-war years there was a shortage of dollars and subsequently inflation. The world became multipolar with the emergence of the economic power first of Europe and Japan, then the emerging countries, China today and soon India. The centrality of the dollar disappeared with the creation of the euro and the decoupling of the *yuan* and other currencies, such as the Argentinean *peso*, from the American currency. If we want to avoid a ruinous fall in the dollar and ensure exchange rate stability as a foundation for globalisation and development, it is necessary to start again from Bretton Woods, correct its defects, put a world basket at the centre of the system and entrust its management to truly multilateral institutions.

Bretton Woods

At the beginning of 1942, when the fortunes of war were already leaning towards the Allies, Keynes made a desperate attempt to salvage a role for the United Kingdom, alongside with the United States, in the structure of the post-war international monetary system. He thus proposed the construction of an international

currency union based on a currency, the *bancor*, with a fixed, but not immutable, content in terms of gold and accepted by all the members for the payment of international debts, to stimulate the expansion of trade and world economic development. The proposal, which was intended to internationalise the creation of liquidity so as not to leave it completely in the hands of the United States, was made by the British government in 1943 and inspired the Bretton Woods Conference of 1944, in which however the plan designed by White, chief international economist at the US Treasury, prevailed. White's plan reflected the power relationships coming from the military and economic results of the war, imposing the recognition of the US as the new hegemonic power. The enormous British debt to the United States to support the war effort (*Lend Lease Act of 1941*) did not allow Keynes and his team to achieve anything but a saving of face. The Bretton Woods Agreements, ratified in Washington in 1945, impeded the internationalisation of the creation of liquidity. In substance, they identified the principal regulators of the new structure in fixed currency parities, modifiable only by common agreement in the face of fundamental disequilibria, and in multilateralisation of currency transfer. The freedom of individual States to sustain domestic demand through various instruments, such as the extension of the welfare state, was sheltered from the risk of "capital flight" through a complex and rigorous system of bureaucratic controls over "speculative" movements of capital (in practice all, except direct investments abroad). The creation of international liquidity was entrusted, in fact, to the United States, the only country to have substantial reserves of gold after the war, on the basis of a promise of convertibility of the dollar into gold at a fixed price of 35 dollars an ounce (gold exchange standard). Finally the International Monetary Fund and the International Bank for Reconstruction and Development (the World Bank) were established, but their functions did not reflect those proposed by Keynes: the UN Stabilization Fund and the Bank for Reconstruction and Development,

notwithstanding the terminological maquillage used to hide the rejection of the British design. The system, moreover, included only convertible currencies, issued by a few advanced Western countries. It did not include the countries of the Soviet bloc, nor the rest of the world. It was, however, for the last time, an international monetary system based, at least formally, on an international conference, or on a multilateral basis, and ensured the successful phase of post-war reconstruction and development. The present system results, instead, from successive unilateral decisions.

The crisis of Bretton Woods

The Bretton Woods structure, having guaranteed the golden years of post-war prosperity, at least for the countries which participated, fell progressively into crisis in the 1960s, when the excessive creation of dollars, consequent also upon the financial needs of the Vietnam war, made the promise of convertibility of the dollar into gold incredible. In 1968, while Europe moved to a customs union and began the process of a common agricultural policy, the double gold market was established, i.e. the United States limited the convertibility of the dollar at 35 dollars an ounce only to central banks holding their official reserves in dollars. In the same year Triffin showed how a country cannot create international liquidity except by accumulating foreign debt to sustain a deficit in its own balance of payments, aimed at the acquisition of goods, services and foreign investments as well as military support of its possessions and the maintenance of influence/complicity in the liberated/occupied countries. He denounced this system as the "international monetary scandal"[1]. In 1971 the United States declared the inconvertibility of the dollar, thus making official the move from gold exchange standard to dollar standard. Exchange rates were left to float according to free market forces, as envisaged by the monetarist school of Milton Friedman. The greatest economists, in fact largely American, abandoned the vulgate of fixed exchange rates for stability and development

and began to preach that changes in exchange rates would impede the creation of important and persistent disequilibria in the balance of payments. The new world order would be ensured by the market's "invisible hand". Soon, however, it had to be admitted that the market was not so free as they pronounced and the phrase "dirty floating" arrived. The deficit in the US balance of payments was then determined by movements of capital, that is United States investments in the rest of the World. Only from 1982 did the US deficit change nature: the current account balance turned negative and the deficit was financed by attracting savings from the rest of the World not to be reinvested abroad but to finance domestic demand. For almost a quarter of a century this has been the structural situation of the United States, with the result of a frightening growth in its foreign debt.

European Economic and Monetary Union
The beginning of the extreme phase of dollarisation of the world economy and the launch of the first attempt, in Europe, to avoid a similar fate, occurred at the same time. In 1969, in The Hague, the summit of the heads of state and government of the EEC (European Economic Community) decided to launch a European economic and monetary union, which was to be fully realised, after a long and difficult journey, with the introduction into circulation of the euro, on 1 January 2002[2].

To support the argument put thus far, it is relevant to remember how the creation of the euro had been preceded by a phase of coupling together the European currencies to a basket made of the same currencies, whereas previously each currency was coupled to the dollar, with the result that the exchange rate volatility of the European currencies (cross-rates) could be greater than the rates between them individually and the dollar. The Economic and Monetary Union, preceded and prepared by the European Monetary System, has preserved *l'acquis communautaire*, which would have been destroyed in a regime of currencies each freely

fluctuating against the dollar; it has put next to the Parliament a second federal institution, the ECB (European Central Bank), in the concrete constitution of Europe; it has modified the expectations of many non-EMU countries, which already constitute a vast area of the euro, and of other countries which look at it with hope; it has allowed a programme of diversification of the official reserves and means of payment by countries such as Russia, China, the Arab oil-producing countries; it has given the example for other regional integrations. The value of the issues of international bonds denominated in euro has already surpassed that of bonds in dollars. On the other hand, consistently with the fact that the European Union has still not realized a common foreign and security policy, the determination of the external value of the euro has in fact been abandoned to the financial markets, even though the Treaty of Maastricht envisaged that exchange rate policy should lie with the economic and finance Ministers (Ecofin, therefore, and not the ECB). Since the degree of openness of exchanges in the euro zone[3] does not exceed 15% and this percentage is reduced in the larger area of the countries which accept the euro, also for payment of supplies of petroleum, gas and raw materials, the problem could seem of little relevance. A problem arises, instead, because the process of globalisation, so far ungoverned, has increased the volume of the international financial transactions to a point where they represent more than sixty times those of world exports and the exchange rates between currencies are determined by the expectations of financial markets rather than the fundamentals of the various economies. These expectations are distorted by the United States to allow them to finance the enormous deficit in the balance of payments from the savings formed in other countries.

The unpegging of the yuan from the dollar
The decision of the Chinese Authorities to unpeg the *yuan* from the dollar, to which it was linked at a fixed exchange rate, and to go instead for a basket of currencies, is not limited, as some

reductive interpretations suggest, to allowing a modest revaluation of the *yuan*. On the announcement of this decision some American banks and some economists suggested that the weight of the dollar in the basket would have remained more than 50%. But the Chinese Authorities soon made known its composition (among the heavier currencies: dollar, euro, *yen* and Korean *won*; among the less important: sterling, Australian dollar, Canadian dollar, Singapore dollar, rouble, Malaysian *ringgit* and Thai *baht*). Although the weight of each currency in the basket has not been communicated, the governor of the People's Bank of China has explained that it depends on trading exchanges. JP Morgan analysts have drawn the conclusion that the weightings should be: 23% yen, 21% dollar, 15% euro, 8% *won*[4]; approximately a third divided among other currencies. This would have to be confirmed by a gradual reduction of the weight of the dollar in the composition of the Chinese currency reserves, by a revaluation of the *yuan* against the dollar and in future by *yuan* convertibility. The new exchange policy adopted by China, like the creation of the euro, reflects the crisis of the international role of the US dollar.

For a new Bretton Woods
The gradual acceptance of baskets, such as the *ecu*, the predecessor of the euro; the coupling to a basket of currencies fundamental for world stability, such as the *yuan*; the parallel failure of other attempts to couple only to a single currency of the hegemonic power; all these phenomena indicate the road already begun, that of multilateralisation, to bring the international monetary system up to date with an economy in course of globalisation, multipolar and interdependent.

The intellectual thread for a "new Bretton Woods" is something which unites the *bancor* of Keynes, the special drawing rights of Triffin/Ossola, the European monetary unification and the pressing criticism made by Stiglitz[5] of the catastrophes provoked by the rigid application

of the *Washington Consensus* in situations such as those in South-East Asia, Russia, Argentina (where the dollarisation of the *peso* finished with a serious default of the country and damage to savers throughout the world). However, it is necessary also to take account of the fact that we face, in many ways, a new situation, both because of the extraordinary weight of the problems caused by the unilateral management of the global economy, and because of the complexity and linkage of the challenges for a peaceful and sustainable future. A "new Bretton Woods" ought thus to propose a solution together for the two orders of problem: 1) to consolidate/get over/use the immense foreign debt of the United States and of other debtor countries and introduce a discipline to impede the repetition of fundamental permanent and cumulative disequilibria, like that of the US current account deficit, financed with the savings of the rest of the world; 2) to guarantee the financing of the supply of the necessary public goods for the functioning of a globalised economy, to bring back under control the "World risk society"[6]. For that, in using the ideas, concepts, architectures and instruments in which the thread of Keynes-Triffin-Stiglitz is rich, and referring to the European experience from 1969 to the creation of the euro and its stable and valuable functioning, we must have in mind a global vision, systemic and not only mechanical, ecological and not only economic, insurance and not only banking.

This time the problem cannot be resolved by passing the baton from one hegemonic power to another. We are talking about substituting an ordered system for a disordered order, a multilateral system (a system of systems) for a unilateral order, a cooperative system for a hegemonic order, a global system for a circumscribed order, and an equitable system for an unequal order.

A world monetary basket
It is now necessary to move to a world monetary standard: not a gold standard nor a gold-

exchange standard, not a dollar standard and not even a euro standard, but simply a world standard. The objective is the creation of a world currency, but one can start with a unit of account based on a basket of currencies, a *world currency unit (wcu)*[7]. The weight of the various currencies in the basket would have to be set out in the agreements according to a valuation of each based on economic fundamentals which also include elements which are not today counted as economic, such as human development, ecological sustainability, the concentration / diffusion of assets and incomes, the demographic composition of the population and their tendencies. Since the measurement of these values is today still rough and can lead to discussions, a procedure would have to be designed to revise the agreement to modify the weights. In future, when reliable and shared measurements are available, the revisions could become automatic. The wcu has no need for coupling. It expresses a productive potential socially and ecologically compatible and a promise of payment in terms of goods and services which constitute world wealth redefined as above.

All currencies should have the possibility of joining the system. Among the participating currencies, some already represent regional monetary systems and also wider areas (dollar, euro, *yen*, *yuan*, *rouble*) others ought to be encouraged to form regional groups, within which to regulate the major part of their transactions and questions. In any case the value of every currency, whether as the expression of a system or a simple national currency, would be defined in terms of wcu in the initial agreements.

The markets would thus have at their disposal a powerful indicator to define the exchange rates among the different currencies, with the probable result of a substantial reduction in their volatility. Furthermore, certain goods particularly important in the world market, such as for example the barrel of petroleum, could be

quoted in wcu with a stabilising effect on prices, to represent the relationship between supply and demand without the effect of expectations in currency markets, a result which would not be obtained by substituting the quotation in dollars with any other currency. The move from quotation in wcu to payment in wcu could be swift since it would correspond, in the most effective and equitable manner, to the unsatisfied need for diversification in portfolios. Finally, the association of the unit of world measure of value with the value of non-renewable energy would provide a universal educational function.

The functioning of multilateral clearing, the concession of overdrafts to cover temporary disequilibria (excluding long-term support for poor countries and other projects, entrusted to the World Bank), the sterilisation of speculative attacks on a currency, ought to be governed by the agreements and use well tested instruments such as clearing unions, special drawing rights, cooperation and monetary stabilization funds, adapted however to the new objectives of harmonic development and made consistent with the weights recognised in every economy / system.

Consolidation of the US foreign debt and right of world seigniorage
Every central bank in the system, holding official reserves denominated in currencies issued by other central banks, would have to be able to ask for the conversion, total or partial, in wcu. At the moment of distribution of wcu, a premium ought to be levied according to a share fixed in the agreements and could be modified with their revision. It would be a real and proper right of world seigniorage, as transparent in drawdown as in the destination of funds: to give the UN its own resources, to finance the functioning of the system, to capitalize the related institutions, such as the World Bank, which could then access the market, within fixed leverage-ratios, to multiply the financial resources needed for its assigned aims. It may be observed that, differently from the Tobin Tax, this premium

would be applied only to transactions between central banks, without "disturbing" the capital markets. It would in fact consist of an insurance premium, it would cost the world much less than the right of seigniorage which the United States today enjoys and would allow the financing of a system much more effective and efficient in supplying public goods and risk management at a global level.

The reform of the world economic institutions
We should have to configure a real and proper *World Monetary Systems' Organization* operating as a system of systems for the regional currencies and as a supplementary system for the currencies not yet participating in the regional systems.

The supervision of the new organization ought to be entrusted to the IMF, to be recognised as a real and proper Council of Economic Ministers of the UN (similar to Ecofin for the EU), as already proposed by Jacques Delors. The management of the new organization ought instead to be entrusted to the Bank for International Settlements (together with the collection of the conversion rate which the BIS will pass to the IMF for division among the final recipients).

Naturally, the IMF will have to be reformed to represent as democratically as possible the major regional monetary areas. It will have to be governed, cooperatively, by qualified majority voting based on the weight of the participants and present annual report to the UN General Assembly, in the context of a more general democratic strengthening of the UN itself[8].

The institutional architecture should be completed with the reform of another institution already in existence, the World Bank, and the creation of two new organisms: an Institute to manage risk and a Control Commission. The World Bank would be a specialised Agency of the IMF (and through it of the UN) for the financing of projects directed to promote security, human development and environmental and social sustainability of the globalised economy. The Bank would thus become the principal financial support for human development and could justify a change of name to *Human Development Bank*. The IMF ought also to institute a new agency (*World Risk Management Institute*) for the evaluation and management of global risks[9], such as economic, the financial crises and the physical and social global threats, which individual States uselessly attempt to confront with the logic of sovereignty. Finally, for the control of the markets and their controllers, a *World Financial Control Commission* should be established.

[1]Robert Triffin, *Our International Monetary System: Yesterday, Today and Tomorrow*, New York, Random House, 1968.
[2] For a history of the passage from the Werner Plan to the creation of the euro:
Tommaso Padoa-Schioppa, *La lunga via per l'euro*, Bologna, Il Mulino, 2004
Matt Marshall, *The Bank*, London, Random House, 1999.
[3]The degree of openness results from the ratio of the sum of import and exports of goods and services with external countries (in this case the 12 EMU countries) and their GDP.
[4]Riccardo Sorrentino, *Avanza la liberalizzazione dello yuan*, in *Il Sole-24 Ore*, 11 August 2005.
[5]Joseph E. Stiglitz, *Globalization and Its Discontents*, Torino, Einaudi, 2002.
[6]Ulrich Beck, *The terrorist threat. World risk society revisited* in *Theory, Culture and Society*, XIX, 2002, no. 4, pp. 39-55. According to Beck we are entering a world of uncontrollable risk (a contradiction in terms), composed of uncertainties and unnatural dangers, created by man. The prospect we adopt discounts the possibility (the duty) of a control of global risks.
[7]One could think of *Sdrs* evolving into Wcu as happened with the *ecu*.
[8]Among the many UN reform projects, we are referring to the federalist one proposed by Lucio Levi in *Crisi dello Stato e governo del mondo*, Torino, Giappichelli Editore, 2005, Cap. 9 – *L'unificazione del mondo come progetto e come processo*, pp. 295-335.
[9]For the description of possible innovative approaches to the management of these risks, entrusted to the financial markets with the support of nation states, see Robert J. Shiller, *The New Financial Order*, New Jersey, Princeton, 2003. The prospect we adopt is based instead on the conviction that an approach to global risks requires the establishment of an institution of corresponding level to direct the markets.

Conference on Developments on International Criminal Law Held in China

Francesca Varda

The first of a series of seminars on Contemporary International Criminal Law and the ICC scheduled for 2006 was held in Guiyang, China on March 18-19. Organized by the International Criminal Court Project Office of Beijing Normal University (ICCPO), Gui Zhou University and the Coalition for the International Criminal Court (CICC), the two-day conference brought together ICC Judge Sang-Hyun Song from the Republic of Korea; legal scholar Roger S. Clark, a specialist on the debate around the crime of aggression; John Currie from the Canadian Ministry of Foreign Affairs; Eileen Skinnider from the International Centre for Criminal Law Reform & Criminal Justice Policy (ICCLR); and Evelyn Balais Serrano from the Coalition for the International Criminal Court. An array of renowned Chinese criminal lawyers and academics, including Dr. Gao Ming-Xuan and Dr. Wang Xiu Mei also took part in the seminar.

During the conference the participants discussed Chinese concerns about accession to the ICC Treaty, especially the issue about how the principle of complementarity works. Complementarity is a lingering concern for the Chinese government which has repeatedly expressed its reservations about how the terms "unwillingness" and "inability" as defined by Article 17 of the Rome Statute are measured. Other topics of discussion included: the definition of the crime of aggression; the implementation of the Rome Statute into national law; the capacity of the UN Security Council to refer a situation to the ICC Prosecutor; and the United States' position on the ICC. A segment of the conference was also devoted to analyzing other international criminal tribunals as well as recent anti-terrorism legislation.

The Project Office of Beijing Normal University has been working strategically with key constituencies to promote awareness around the ICC. This work has included the hosting of seminars and workshops directed at legal scholars as well as judges and prosecutors. Through concerted efforts, the Project Office has also produced information resources that will assist the Chinese Government in their accession process and set up a website. As one example, they recently prepared a Chinese translation of key comparative ICC implementing legislation that has been adopted by States Parties to the Court around the world. Their next workshop, scheduled for November 2006 in Beijing, will target Chinese Government officials in an effort to dispel misconceptions around the ICC's mandate and continue national efforts toward accession.

China's position on the ICC to date has been cautious, with the Government moving from an initial fear about the Court infringing on national sovereignty to a position made public in June 2005 in which China stated that it "supports the establishment of an ICC characterized by its independence, impartiality, effectiveness, and universality, […] [but that] in view of some deficiencies in the Rome Statute of the ICC which may hinder the just and effective functioning of the Court, China has not yet acceded to the Statute"[1]. Despite this tentative approach towards an acceptance of international jurisprudence and legal reform, these statements do hint at an increasing willingness to consider Chinese accession to the ICC treaty.

[1]UN Reform position paper presented by China on June 7, 2005. The government follows this quote noting that China "still hopes that the Court will win the confidence of non-Contracting Parties and wide acceptance of the international community through its work. The Security Council should act with prudence as to whether to refer a certain situation to the International Criminal Court". To access the full statement see: http://www.reformtheun.org/index.php/countries/240?theme=alt1

How World Federalism will likely Come into Existence

James T. Ranney

Most world federalists over the years have repeatedly split into two warring camps[1]: (1) those who believe (with Emery Reves) that "there is no 'first step' to world federalism," that "world government is the first step[2]" and (2) those who believe that there are short-term goals and functionalist and neo-functionalist approaches (including UN reform) which are worth pursuing on the way to world federalism[3]. If one wanted to attach unfairly one-sided labels to the two groups, one could say that there are "World Federalist Fundamentalists" and "Thoughtful World Federalists." It should be obvious on which side the author's sentiments lie. I have in fact taken to describing myself, at times, as a "thoughtful world federalist". And I would indeed submit that if one engages in a bit of "thought" about precisely how world federalism might someday come about, one realizes that it will almost certainly not be some kind of millennial moment of instantaneous creation of a global government (*à la* the U.S. Constitution), but will instead come about, if at all, more gradually)[4].

If one takes a calm look at (a) the world as it is; and (b) how social change occurs, one almost inevitably reaches the above conclusion. The chances of world federalism occurring at one stroke seem to be pretty close to zero. For those of us who have long thrilled to the messages in the classic world federalist tracts, that is the bad news.

The good news is that if one takes a long view of where we are already heading, and merely projects that a decade or so (or even less time) into the future, one can envision a gradually accreting global constitution, piece by piece, brick by brick, international agreement by international agreement. What I am saying is this: Imagine, if you will, a future in which the United States returns to its "glory years," when we created the Marshall Plan (rebuilding our former enemies) and started the United Nations (as defective as it is), and, in short, began to act with some little semblance of maturity on the international stage. And what if, then, we finally adopted the ICC (International Criminal Court) Treaty, and the Law of the Sea Treaty, and all the other treaties[5] which only the United States and a few other renegade (if not rogue) nations have refused to sign? What if, finally, we agreed to create, as representatives of the United States and the Soviet Union at one time (1961) agreed to create[6], what could be called a new International Disarmament and Peacekeeping Agency[7]? Now it is true that in order to create any such agency we would need at a minimum to reform dramatically the United Nations (or bypass it altogether), such that the P-5 (Permanent Five nations) would no longer have their veto power in the Security Council[8]. And it is also no doubt true that eventually (or sooner) we would want to address not only needed institutional reforms (such as the "democracy deficit" in international institutions[9]) but also a whole host of global problems currently being neglected (including the usual list, global warming, poverty, etc.), via a variety of possible reforms to existing institutions or, again, via a completely new superstructure, or, more likely, via structures modeled after those created by the Law of the Sea[10].

This, I would submit, is how viable worthwhile

changes are likely to occur. And if I am right about this, then we might actually end up almost sliding unthinkingly into what could be considered a world federalist structure, or at least something roughly analogous to Great Britain's unwritten constitution (a trend toward "global constitutionalism" that some scholars already detect[11]), even though it would consist in part of numerous subsets of writings. But its entirety would consist of not only such written treaties, but also a host of global institutions, working practices, and norms.

As difficult as it is to predict the future (it is axiomatic that only fools try doing so), if one has to make a calm probabilistic assessment of how world federalism might come into existence, then I believe this is how it will happen.

But if I am wrong in this guesstimate, will I be upset and get my nose out of joint because the "World Federalist Fundamentalists" are right after all? Of course not. As stated by my favorite author on world federalism, Professor Christopher Hamer: "The direction we want to go is clear. Increased international cooperation, leading to an eventual world federation, will bring peace and prosperity for all. In time it will allow the abolition of nuclear weapons, and even the eradication of war itself. It will allow a joint attack on the problems of environmental degradation, over-population, disease and poverty. It will establish new standards of human rights and democracy worldwide, and it will open a great new era of progress and harmony in human affairs, as energies are released from the unprofitable business of preparing for war.

The principles of association are also fairly clear. Democracy, human rights and the rule of law would be taken for granted as founding principles. Important principles established by the European experiment include subsidiarity, to preserve national autonomy wherever possible, and solidarity, to promote economic and social cohesion within the community. The ideas of participation, flexibility and equity have also been discussed.

The route by which we shall achieve these goals is much less clear, but the important thing to recognize is that everyone is pulling in the same direction. World federalists, UN reformers, functionalists, neofunctionalists, regionalists or Atlantic Unionists, all are working towards increased international collaboration and integration as the answer to the world's problems. We can see the new Jerusalem shining on the hill, and though it may take decades or even centuries to arrive there, the struggle will be well worthwhile in the end[12]".

Moreover, even though there is inevitably a need for peace activists and world federalists to choose which goal or goals they will pursue, it may not be all that abrupt or severe a choice. We may find that what is an action priority will change over time, or that we may want to pursue short-term goals and long-term goals more or less simultaneously, and what we are best able to do depends upon what suits us individually. And collectively we may find, all of us – peaceniks and punk-rockers, military leaders and Mayors for Peace, Softballers for Social Responsibility (a group I "formed" instantaneously when asked for the name of an informal group wanting to reserve a baseball field) and scientists, Abolition-Now-ers and aborigines, and just all kinds of ordinary people – that each of us has a role to play in this great mystery we call life. Many years ago, I sat next to a ponytailed peacenik at a mid-winter peace conference held up in the mountains of Montana at a temporarily abandoned resort, and he said something that I have always remembered: he said his group believed in what they called "total tactics," by which they meant that you (both collectively and individually) push on this front and that front, changing tactics as circumstances change, and just keep plugging away until somehow or other we all come out right. Something very like this was said at the conclusion of another of my favorite books on the peace issue, by Professor Larry Wittner: "Working together, citizens' movements (on the grassroots level) and a strengthened United Nations (on the global level) could rein in war-making states until, like New Jersey and New York, these

semi-sovereign jurisdictions would never think of resolving their disputes through war, much less nuclear war.

Adopting a long-term strategy of taming the war-making nation-state through the creation of an international security system does not eliminate the need for pursuing a short-term strategy of fostering nuclear arms control and disarmament. Indeed, the two are complementary. Without a program that goes "deeper" than the weapons – one that addresses their underlying basis in the nation-state system – we seem likely to be left, at best, with the present kind of unsatisfactory, unstable compromises between arms races and disarmament. Conversely, without an arms control and disarmament strategy, we are likely to be obliterated in a nuclear holocaust long before our arrival in that new world of international peace and security. But by pursuing both strategies simultaneously, we have the possibility of turning back the threat of nuclear annihilation and, along the way, transcending the disgraceful international violence that has accompanied so much of the human experience.

We live at a potential turning point in human history, for the latest advances in the "art" of war – nuclear weapons – have forced upon us a momentous choice. If nations continue to follow the traditional "national security" paradigm, then – sooner or later – their leaders will resort to nuclear war, thus unleashing unspeakable horror upon the world. Conversely, this unprecedented danger could be overcome through arms control, disarmament, and transformation of the nation-state system. Are the people of the world capable of altering their traditional institutions of governance to meet this challenge? …If one looked solely at their long record of war, plunder, and other human folly, one might conclude that they are not. But an examination of the history of the nuclear disarmament movement inspires a greater respect for human potential. Indeed, defying the national barriers and the murderous traditions of the past, millions of people have joined hands to build a safer, saner world. Perhaps, after all, they will reach it[13]".

[1]See L. Wittner, *One World or None: A History of the World Nuclear Disarmament Movement Through 1953*, 1993, at p. 162: "Ironically, for a movement emphasizing unity, world federalism was actually rather divided [including along these lines]". Cf. id., p. 327. Cf. also L. Wittner, *Resisting the Bomb: A History of the World Nuclear Disarmament Movement, 1954 to 1970*, 1997, pp. 257-58.

[2]E. Reves, *The Anatomy of Peace*, 1945, p. 283.

[3]Cf. generally C. Hamer, *A Global Parliament: Principles of World Federation*, 1998, ch. 7 (listing several such approaches).

[4]I wonder if we world federalists have not been somewhat misled by 1787. I have spent a large part of my career as a law professor studying 1787 and the creation of the U.S. Constitution. My obsession with it is indicated by the fact that I have a slideshow called "1787" (part of a larger slideshow called "Heritage of Our Freedoms"). I even plan to host a conference (possibly called "Global Constitution Forum") with the "conceit" that "1787" and Philadelphia may have something to say about and serve as a model for what could eventually become a Constitution for Earth. Cf. www.globalconstitutionforum.org. But I have to say that as cute as that model may be, I believe we are unlikely to repeat that very lucky performance at the international level. For one thing, Catherine Drinker Bowen didn't title her book *Miracle at Philadelphia* (1966) for nothing. But cf., of course, W.H. Auden: *We who are about to die demand a miracle*.

[5]See C. Eisendrath and M. Goodman, *Bushleague Diplomacy: How the Neoconservatives are Putting the World at Risk*, 2004, pp. 147-66 and 173-74.

[6]In the famous "McCloy-Zorin Agreement," U.S.-USSR Report to the General Assembly, UN Doc. A/4879, reprinted in the Department of State Bulletin, Vol. 45, No. 1163, pp. 589-90 (Oct. 9, 1961). Cf. generally Ranney, "Beyond 'Minimal Deterrence' – an Approach to Nuclear Disarmament", in *Journal of World Peace*, XVIII, 1987, no.4, outlining 4-stage plan to reach total disarmament, including such an international agency, and Samson, "The McCloy-Zorin Agreement: The Reflections of Mr. John J. McCloy", an unpublished student seminar paper, 1986, featuring an amazing interview with John J. McCloy.

[7]Cf. generally Hamer, supra, pp. 186-89; H. Langille, *Bridging the Commitment-Capacity Gap: A Review of Existing Arrangements and Options for Enhancing UN Rapid Deployment*, 2002; Partnership for Effective Peace Operations, www.effectivepeacekeeping.org; Project on Peacekeeping and the UN, www.clw.org; and International Peace Operations Association, IPOA@IPOAonline.org.

[8]Cf. generally Peace Through UN Veto Reform, www.peacethroughunvetoreform.org (Benjamin Freeman); Center for War/Peace Studies, www.cwps.org (Richard Hudson); and J. Schwartzberg, *Revitalizing the United Nations: Reform Through Weighted Voting*, 2004. For information on a pending measure to create a new "United Nations Emergency Peace Service," cf. Global Action to Prevent War, www.globalactionpw.org (bill being drafted by Prof. Robert Johansen and others).

[9]Cf., e.g., Falk and Strauss, "On the Creation of a Global Peoples Assembly: Legitimacy and the Power of Popular Sovereignty", in *Stanford Law Review*, XXXVI, 2000, no. 191 and Franck, *The Emerging Right to Democratic Governance, in American Journal of International Law*, XLVI, 1992, no. 86.

[10]In 1978 Richard Hudson interviewed Ambassador Elliot L. Richardson, chief U.S. negotiator at the Law of the Sea Conference. Cf. "What Elliot Richardson Thinks," in *Global Report*, 1978, no. 4. On being asked "How do you see the Law of the Sea Conference in the perspective of the long-term pull toward global order?", Ambassador Richardson replied: "To me the Law of the Sea Conference offers the hope of a major contribution in the building of a global order. It may well be the single most important potential to build it. This more than anything else is what spurs my effort to forward the work of the conference." (p.1).

[11]See generally Helfer, "The Emerging Transnational Constitution," in *Loyala Law Review*, XXXVII, 2003, no. 2; Petersmann, "Constitutionalism and International Organizations," in *Northwestern Journal of Intl Law & Business*, XVII, 1997, no. 398; and K. Urata, *Reflections on Global Constitutionalism, Tokyo*, 2005.

[12]C. Hamer, *A Global Parliament: Principles of World Federation*, Australia, 1998, available for free by Googling "Global Parliament".

[13]L. Wittner, *Toward Nuclear Abolition: A History of the World Nuclear Disarmament Movement, 1971 to the Present*, 2003, p. 491.

Italy and Germany between Peace and Adhesion to the European Union
A comparison with Japan

Claudio Mandrino

The German Fundamental Law and the Italian Constitution establish some common principles as regards the value of peace and the relationship between these States and the international community. This can be explained if one considers these constitutions as a result of the tragedy of war caused by military fascism or dictatorships.

In particular, article 26 of the German Fundamental Law and article 11 of the Italian Constitution share three statements. The first one is the rejection of war as a practice offending other populations: war cannot be used to solve international disputes. The second one is the explicit will to build an international solidarity among sovereign States in order to safeguard peace. The third common provision is the adhesion to the international organizations created to reach these aims.

Among these organizations, apart from the United Nations, the most important one is the European Union/European Communities system. The two countries are among its founding members, but the Italian law system and the German one differ with regard to two fundamental factors.

1. The first one is directly related to the text of the two Constitutions. The partial assignment of member States' sovereignty to Community institutions has an effect on national Constitutions. In particular, the process of integration leads to substantial modifications of those Constitutional articles regulating the functions of national organs, specifying the competences of central and regional powers and listing the fundamental rights of the citizens. For this reason, many EC members and among them Germany, have introduced in their Constitutions norms on the accession to the integration process and to found the partial assignment of sovereignty to supranational institutions. Italy was not among these countries. In fact, the Italian Constitution, approved on 1st January 1948, did not contain any reference to the European integration process. At this point, there were two alternatives: either modify the Constitution introducing rules on the relations between the two systems, or find in the Constitution in force a rule giving constitutional legitimacy to Italy's involvement in the integration process; the latter solution was chosen and the grounds for Italy's adoption of the European Community/Union system were traced by the Constitutional Court in the above mentioned article 11 of the Italian Constitution. The situation has not changed much after the modifications to some parts of the Constitution in 2001. In fact, if article 117 envisions the obligation for the national and the local legislator to respect "*the limitations arising from the Community laws system*", introducing for the first time a reference to the European Union/Community, it is also true that this reform does not contain any disposition on the procedures for adapting the national law to Community law. In other words, while in Germany article 23 of the Fundamental Law contains detailed rules on the participation of this State to the supranational organization, the integration of Italy in the European Union/Community is not regulated by any norm or procedure.

2. The second peculiarity of the Italian law system derives from the attitude of the

Constitutional Court towards the principle of supremacy of the EU/EC rules above the national ones. In line with Italy's dualistic approach towards international law, relations between national law and EC law follow the principle of the separation of the two systems. This means that the national system must be kept separate from the international system. As a consequence, in the Italian law system international rules acquire the same value of the set of rules adopting them: in other words, if an international rule enters the Italian system at constitutional level, it will have the strength of the Constitutional sources; if it enters by ordinary law, it will have the strength of an Italian law and so on.

A problem arises from the fact that the ratification and enforcement act is by means of ordinary law. Consequently, in Italy the rules of the Community Treaties acquire status of ordinary law and not of constitutional article. Many difficulties arise from this approach. For example, in the case of contrast between a national law and a law of the Community, the principle of temporal sequence of laws (*lex posterior derogat priori*) would apply. This would mean that if the national law in contrast had been approved after the Community law, it would override it. This situation would put at risk the permanence of Italy in the Community. The obligation to conform to Community decisions would be uncertain: Community laws could become unenforceable whenever a new law is approved in Italy.

In the case Costa vs. ENEL[1], the Italian Constitutional Court ruled that the ordinary law which – pursuant to article 11 of the Italian Constitution – grants validity to a Treaty does not automatically acquire the status of a constitutional law and the principle of temporal sequence of laws applies in the case of further laws in contrast. Therefore, if on the one hand the State is responsible internationally for Community law violations, on the other hand the law causing such violation remains valid.

This approach was in overt contrast with the monist approach of the Court of Justice of the European Communities, for which Community laws are integrated in the law system of each Member State, establishing therefore the principle of the supremacy of Community law: internal rules of member States cannot override supranational rules. In the case Costa vs. ENEL[2], the Court of Justice ruled that "*the EEC Treaty has created its own legal system which became an integral part of the legal systems of the Member States … The executive force of Community law cannot vary from one State to another in deference to subsequent domestic laws without jeopardizing the attainment of the objectives of the Treaty... It follows from these observations that the law stemming from the Treaty could not, because of its special and original nature, be overridden by domestic legal provisions, however framed, without …the legal basis of the Community itself being called into question.*" This means that for the Court of Justice the overriding power of Community law must be direct and immediate.

After such a clear position, the Italian Constitutional Court progressively modified its approach trying to be in line with the indications of the Community judge. In the Case *Granital vs. Amministrazione delle Finanze* (which is the Italian *Inland Revenue Service*)[3], the Court ruled that "*the two legal orders are autonomous and separate, albeit coordinated". "Coordination*" means that the Italian legal system opens up to the Community law giving space to the introduction of European rules. The consequence is that there is no conflict between the two provisions, because the domestic law steps back to let the Community law in the system. The judge must set aside the domestic law in contrast with Community law: the Italian rule is still valid, it is not abolished, but it has no relevance. In practical terms, it is not applied by the judge, but, theoretically, it survives until it's abolished by the Parliament.

The premises are different, the Constitutional

Court maintains its dualistic view, but Community laws may not be abolished by national laws. In practical terms, the principle of the supremacy of Community law was accepted. Anyway, this approach is not completely accepted by the Court of Justice, because a contrasting domestic law somehow survives, while for the Luxemburg Court any contrasting domestic law should be automatically repealed, at once.

Now, both the value of peace and the principle of supremacy here analysed have been included in the Treaty establishing a Constitution for Europe, signed in Rome on 29th October 2004. As far as peace is concerned, it is true that in the first articles the values and the objectives are defined, with reference to personal dignity, freedom, democracy and human rights, but no mention to peace, nor to the rejection of war was made. It has to be said though, that in article 1-3 we can read that "*The Union's aim is to promote peace, its values and the well-being of its peoples*" and Peace is the first of the five objectives set by the Treaty in article 3-1.

In relation to the overruling power of the European Union law, for the first time an explicit reference to this principle, which has been so far developed only by the Court of Justice, has been introduced in the Treaty. In fact, article 6 of the Treaty expressly states: "*The Constitution and law adopted by the institutions of the Union in exercising competences conferred on it shall have primacy over the law of the Member States*".

It is worth underlining that while the European Constitution was written, in Japan the debate over amending article 9 of the Constitution, which entered into force on 3rd May 1947, was intensifying. This article is known as the "*No-War clause*" and is made of two paragraphs. The first establishes that Japan "*forever renounces war as a sovereign right of the nation and the threat or use of force as a means of settling international disputes*", while the second prohibits the maintenance of "*land, sea and air forces, as well*

as other war potential". Finally, the same article states that "*the right of belligerency of the state will not be recognized*".

These provisions are deeply linked to the Preamble of the Constitution, which emphasizes Japan's commitment to "*laws of political morality*", as well as its desires to grant "*peace for all time… trusting in the justice and faith of the peace-loving peoples of the world*" and to occupy "*an honored place in an international society striving for the preservation of peace*".

The above-mentioned statements have been qualified as the most radical constitutional model of refusal of war in international relations. It has to be said though, that since 1990 Japan has ranked third, behind the Soviet Union/Russia and the United States, in total defense expenditures, and some States, especially the United States of America, have urged Japan to assume a larger share of the burden of defense of the Western Pacific in order to prevent attacks by North Korea. Given these circumstances, some have viewed Article 9 as more and more anachronistic and irrelevant.

These remarks explain why on 7th October 2005 the Japanese government, led by the Liberal Democratic Party (LDP) and the Prime Minister Koizumi, officially proposed to amend article 9. The draft text for the amendment has to be approved by the two Houses of Parliament. Finally, Japanese people will be consulted through a referendum. Probably, the process of constitutional revision should last not less than two years.

The draft text does not remove the prohibition to declare war. Nevertheless, it allows Japan to maintain an army, an Air Force and a navy on its own territory. With regard to this issue, the new article 9 contains a Japanese word, *gun*, which clearly conveys the military nature of these units. Finally, it specifies that the Japanese armies will cooperate with other countries and international organizations in order to grant

peace and political stability at international level. This means that the Japanese army will be able to participate abroad within international coalitions.

Consequently, the constitutional reform will provide a juridical basis to the Japanese troops which exist *de facto* since several decades[4].

As a conclusion, one can not only notice that the values established by the so-called *European Constitution* arise from similar principles included in the Constitutions of several European States, but also draw a comparison between these common values and the ones expressed in Article 9 of the Japanese Constitution[5].

Then, while Japan decided to modify the

"*No-War Clauses*" as set in its Constitution, at the same time in another area of the world a supranational text which imposes itself over the laws of 25 member States envisages Peace as one of the fundamental values linking them together.

These remarks seem to confirm that, even if from a legal point of view the nature of the Treaty does not differ from the previous treaties, so that it has to be ratified by each Member State, the term "*Constitution*" conveys a change in the nature of the European Union from a Union of independent States to something similar to a Union of ever closer States, joined by the same Fundamental Law and by the same principles and values.

[1]Case no. 14 of 1964.
[2]Case no. 15 of 1964.
[3]Case no. 170 of 1984.
[4]Article 9 has been interpreted to mean that it does not proscribe self-defense, so that it allows Japan to keep purely defensive military forces, with no offensive capability. So, the country maintains about 240.000 men under arms within the so-called Self Defense Forces (SDF), whose only duty is to prevent attacks or invasions by other States. As a consequence of the approval on 29 October 2001 of the anti-terrorism law, the government authorized the engagement of this army in Afghanistan and Iraq. The activity of the SDF is limited to humanitarian operations necessary to restore safety and stability in those countries, such as medical services, distribution of daily necessities to the civilian population, reconstruction of the infrastructures, repairment of the damages resulted form the conflict.
[5]Anyway, it must be kept in mind that, even if the three mentioned Constitutions were introduced immediately after the end of World War II by defeated States, they were written in different political contexts. The Japanese Constitution was drafted by the Government Section of the Supreme Command for the Allied Powers, which oversaw the postwar Occupation of Japan. On the other hand, in West Germany the Constitutional Conference and in Italy the Constituent Assembly conducted autonomous deliberations and independently drafted the Bonn Basic Law and the Constitution respectively. Secondly, the Italian and the German constitutions allow the maintenance of armed forces, which distinguishes them from the Japanese fundamental law.

At the Crossroads of Article 9:
The Japanese Constitution, the EU Constitution, and a Global Constitution

Kenji Urata

It is not an easy task to compare the values established by the so-called European Constitution, and the values expressed in Article 9 of the Japanese Constitution. For a comparison we need to have at least a particular viewpoint and a proper measure to, which I do not have at this time. In addition to this, making a comparison useful also requires a shared purpose, which I have not found so far. This situation keeps me from making any comment on Mr. Claudio Mandrino's remark: "While Japan decided to modify the 'No-War Clauses' as set in its Constitution, at the same time in another region of the world, a supranational text which imposes itself over the laws of 25 member States envisages Peace as one of the fundamental values linking them together[1]".

But as far as I understand, the word peace is not mentioned in Article I-2 (The Union's Values), but it is included in Article I-3 (The Union's Objectives): "The Union's aim is to promote peace, its values and the well-being of its peoples". In this text we see that peace is defined as one of "objectives," and that it is differentiated from "its values and the well-being of its peoples[2]". And this leads me to focus on the real context of revision for Article 9 of the Constitution of Japan.

Article 9 comprises two paragraphs. The first establishes that Japan "forever renounce war as a sovereign right of the nation and the threat or use of force as a means of settling international disputes", while the second prohibits the maintenance of "land, sea and air forces, as well as other war potential", and states that "the right of belligerency of the state will not be recognized". Also, the second paragraph of the

Preamble includes the sentence: "We recognize that all peoples of the world have the right to live in peace, free from fear and want".

Japan's ruling party (Liberal Democratic Party) released a draft of the proposed amended constitution in November 2005, and the proposed changes include:

- New wording for the Preamble, deleting the right to live in peace clause,

- While the first paragraph of Article 9 is retained, the second paragraph is replaced by an Article 9-2 which permits a "defense force", under control of the Prime Minister, which defends the nation and may participate in international activities. This new section uses the japanese term *gun* ("army" or "military"), which has been avoided in the current constitution. "In addition to activities needed for self-defense… the defense forces can take part in efforts to maintain international peace and security under international cooperation, as well as to keep fundamental public order in our country", the draft says.

This constitutional draft explicitly authorises Japanese participation in foreign peacekeeping efforts, and broadens the government's ability to send forces overseas.

This revision also opens the door to a broader interpretation of the constitution, permitting what some call "the use of the right of collective self-defense", or coming to the military aid of other countries. The most likely beneficiary is Japan's closest ally, the United States, which has urged Japan to adopt such measures. And it is worth recognising that the official New China News Agency described Japan's revision as a document "designed to provide legal support

for its ambition of playing a greater political role on the global stage and of boosting the defense force's status[3]".

So, we should understand the serious implications of the following text in the context of Japan's constitutional revision. The Security Consultative Committee Document, issued May 1, 2006, starts by saying: "The U.S.-Japan Alliance, with the U.S.-Japan security arrangements at its core, is the indispensable foundation of Japan's security and of peace and stability in the Asia-Pacific region. A close, cooperative relationship based on the alliance also plays an important role in effectively dealing with global challenges, and must evolve to reflect the changing security environment[4]". In particular it wants the Japanese Government to legalize "the use of the right of collective self-defense" both regionally and globally.

As Rust Deming says, the Japanese government's third National Defense Program Outline (NDPO) of late 2004 and its recommendations will affect the ongoing constitutional debate. The focus is on the need to legitimize the existing Self-Defense Forces fully and the right of self-defense; on the issue of collective self-defense; and on the future direction of defense policy[5]. Assuming that it is so, we the Japanese people are in the midst of dismantling Article 9. Still, there remain significant obstacles making it hard to confidently predict change[6].

However, Rust Deming's state policy-oriented opinion on Article 9 and on Japan's defense policy is a subject of controversy. I would argue against his opinion that both the new NDPO and the later emergence of a revised constitution would provide the framework for strengthening the Japan-US alliance, and that bilateral cooperation is likely to increase with respect to the ballistic missile defense, support for contingencies on the Korean Peninsula and in the Taiwan Strait, and to sea lane protection[7]. One passage will be cited here to orient my approach for exploring Deming's opinion. Richard Tanter's remark on the subject seems to be based on the essence of the matter,

saying that "the acceleration of the process of Heisei militarization by the Bush Doctrine has diminished rather than increased Japanese security. Japan has become technologically implicated in any American conflict with China through missile defense – the Taiwan Straits and Korea leap to mind[8]".

As Tanter says, the missile defense decision poses serious long-term strategic consequences. It includes the almost open-ended budget demands implicit in the decisions, the legality of exporting missile defense technology beyond the US, and the question of control over launching. However the most important consequences derive from the political implications of the technologies involved[9].

To me it is more important to consider a political and moral viewpoint than one which is state-policy-oriented. Such a constitutional revision as the Americans, including Richard Armitage, and Japan's Prime Minister Junichiro Koizumi have been talking about would create "a political and moral disaster[10]". The LDP's draft seems to neglect an important role played by paragraph 2 of Article 9, especially because the article bans military operations abroad, which contributes to Japan's pacifist image in the international community. It appears questionable whether the LDP government has tried to exhaust every means conducive to the Constitution's pacifist principle in its past attempts to address international problems. The principle should be maintained as a universal ideal toward which the nation must strive.

According to Masaru Tamamoto, "The Japanese, inspired by the European Union's example, have an opportunity to build on that restraint and extend its principles to other Asian nations. Europe – like Japan, under an American strategic umbrella – has begun moving toward a defense force shared by nations that, not so long ago, fought terrible wars against each other. Japan might lead Asia in doing the same[11]". He also says that it would be important to see that Japanese Constitutional pacifism was part of a broader 20th-century project to create "a

universal approach to peace[12]", in the sense that it stands in the tradition of the League of Nations, the pacifist Kellogg-Briand Pact of 1928, and the United Nations. I would say here that, while it is safe to say so as to paragraph 1 of Article 9, some important controversies on this topic remain concerning the original thoughts on the outlawing of war, and that paragraph 2 of Article 9 recognized them.

Paragraph 2 of Article 9 is also a thoughtful product of attempts to outlaw the war system in the age of nuclear weapons. And the world of the nuclear space age would be a better place if Japan were to make a firm commitment to spreading its constitutional pacifism. It is exactly in this context that we have the great significance of both keeping paragraph 2 of Article 9 and the right to live in peace, as well as resisting the dismantling of Article 9 and the Preamble.

The new draft constitution is sparking debate, including opposition from non-governmental organizations of other countries. Grassroots Japanese organizations, the Article 9 Association, Save Article 9, and others were formed in 2004 and 2005 to oppose changes to Article 9.

Finally allow me this quote: "If one takes a long view of where we are already heading, and merely projects that a decade or so (or even less time) into the future, one can envision a gradually accreting global constitution, piece by piece, brick by brick, international agreement by international agreement[13]".

This reminds me of a global constitution draft which has only a clause establishing the Global Police to fight against the growing threat to the security of all peoples, and to fight against global crimes, while it has no clause permitting the Global Government to hold an army[14]. In addition to these two articles, there is a comment on forming global symbiotical relationships: "The WTO is about a trade partnership between nations. Of course it is a bad idea to be a member of the World Trade Organization (WTO). There are no advantages! It just does not work for anyone except when you have an army to knock down any member who does not do your five wishes and plus. A membership in the WTO is not needed and nations should instead seek relationships with fewer other nations only if needed[15]". Even though presupposing that each country will keep its own army for defensive security, the point is that this draft constitution denies the function of existing armies in the context of trade partnerships between nations.

I wonder if the majority of world federalists in Japan would support the present formulation of paragraph 2 of Article 9, which would be one of the core articles of a global constitution.

[1]Cf. Claudio Mandrino, "Italy and Germany between Peace and Adhesion to the European Union. A comparison with Japan", in this issue of *The Federalist Debate*.
[2]Treaty establishing a Constitution for Europe, in *Official Journal of the European Union*, C 310, Volume 47, 16.12.2004, http://www.unizar.es/euroconstitucion/Treaties/Treaty_Const.htm.
[3]See, Anthony Faiola, "Japan's Draft Charter Redefines Military", Washington Post Foreign Service, Wednesday, November 23, 2005, A16.
[4]U.S.-Japan Alliance: Transformation and Realignment for the Future, May 1, 2006, by Secretary of State Rice, Secretary of Defense Rumsfeld, Minister of Foreign Affairs Aso, and Minister of State for Defense Nukaga, http://www.mofa.go.jp/region/n-america/us/security/scc/joint0605.html.
[5]Rust Deming, "Japan's Constitution and Defense Policy: Entering a New Era?" in *Strategic Forum*, No. 213, November 2004, Institute for National Strategic Studies. National Defense University, http://www.ndu.edu/inss.
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[10]Masaru Tamamoto, "Tokyo's Peace and the American Agenda" in *New York Times*, July 1, 2001, reported in http://taiwansecurity.org/NYT/2001/NYT-070101.htm.
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[14]The Global Constitution, http://www.telusplanet.net/GlobalConstitution/ratification.htm.
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Some Arguments in Support of a Pan-European Referendum

Francesco Ferrero

The MFE, the Italian branch of the UEF, has recently launched a new political campaign under the slogan "A pan-European referendum for the European Constitution". Its aim is that the European Constitution, eventually amended, should be put to a popular ballot involving all the citizens of the EU and held on the same day in all member states, possibly in conjunction with the 2009 European Parliament elections. Possible amendments to the present text might involve, for instance, the exclusion of Part Three, to which the largest number of objections were expressed in France, and/or the attachment of a "social protocol", as proposed by the German Chancellor Angela Merkel in response to the citizens' fears. If approved by a majority of citizens in a majority of member states, the Constitution would then enter into force in those states where the Yes vote prevailed. The other states could always ratify it in a second round, and thus join the new constitutional Union later.

By a happy coincidence, two great intellectuals, Jürgen Habermas and Ulrich Beck, proposed this same idea in the columns of the international press a few days after this campaign was launched. Furthermore, the proposal is also supported by several EU politicians including the Austrian President Heinz Fischer and the Italian PM Romano Prodi.

Of course, as happens with any innovative political proposal, such as the campaigns for European Parliamentary elections, the European single currency, and for the European Constitution (not yet concluded, but ideally continued with this new campaign), many objections will be raised both inside and outside federalist circles. This is why, in order to refine our analysis, I shall try with this article to summarise those objections, and to explain why I don't find them convincing.

First objection: a pan-European referendum on the Constitution is risky because the citizens have turned their back against the EU, as was shown by the negative votes in France and The Netherlands.

This argument, repeatedly invoked by the anti-Europeans after last spring's negative ballots, is *de facto* without any rational foundation. We need only add together the sum total of votes cast in the four referenda on the Constitution (in Spain, France, The Netherlands, and Luxemburg), to see that 26,662,958 electors voted Yes as against 22,667,763 who voted No – a clear majority in favour! And what about the 13 countries where the Constitution has been ratified by their respective Parliaments[1]? Or the fact that in other countries, such as Finland, the ratification process is still going on? I believe that the French and Dutch citizens' negative vote was largely influenced by national rather than purely European issues, and that it was founded on the illusory hope that a No vote would pave the way for a better text to be negotiated without having to pay any political price.

Finally, we are convinced that we will never be able to achieve the political unity of Europe against the will of the citizens, because no government would ever renounce its power unless forced to do so by strong popular demand. From the time of the Congress of the European People, this has always been the federalists' real task: namely, to show governments that their citizens are ready to make the European choice

provided someone manages to convince them of the benefits they would gain.

Second objection: Since we cannot exclude any State from the EU, the Constitution must be approved by the unanimity of the member States.

First of all I must clarify that those who propose a pan-European referendum on the Constitution – as I do – have no wish to exclude any state from the Union. Those states whose citizens reject the Constitution should always have the possibility of negotiating a special status of association with the EU. This should include all the rights deriving from the present Treaties. Furthermore, they should always be able to rejoin the new Constitutional Union by holding a new vote after their citizens have had time to re-evaluate the situation.

The principle of unanimity, sometimes described as the main symbol of democracy, is in fact its extreme negation. Today 20 million French and Dutch No votes are deciding the destiny of 450 million EU citizens, a large majority of whom have already expressed themselves in support of the Constitution.

Already in the EU15 the unanimity principle showed its limitations, pushing the governments to convene the European Convention. Now, with the EU's enlargement to 25 member states, it has become totally unacceptable, and might in the end paralyse the Union's entire functioning. This danger was recently in evidence during the difficult negotiations over the 2007-2013 financial perspectives.

Not by chance in fact did article 82 of the Draft Treaty Establishing a European Union (better known as the "Spinelli Project", approved by the European Parliament on February 14, 1984, with 238 votes in favour, 31 against and 43 abstained) already state, that «This Treaty shall be open for ratification by all the Member States of the European Communities. Once this Treaty has been ratified by a majority of the Member States of the Communities whose population represents two-thirds of the total population of the Communities, the Governments of the

Member States which have ratified shall meet at once to decide by common accord on the procedures by and the date on which this Treaty shall enter into force and on relations with the Member States which have not yet ratified». Moreover, even in the field of international law, where the degree of integration is much weaker than in the EU, international treaties can normally enter into force after a minimum number of ratifications. Everybody knows, in fact, that probably no treaty would ever enter into force if a unanimous ratification were necessary.

Third objection: European integration cannot proceed without France.

This argument originates from a nostalgic conception of Europe, one tied to the myth of the Founding Countries. We must realise that too much has changed since then. The enlargement to 25 member states brought a profound shift in the political equilibrium of the EU, and modified the rules of the game forever. Furthermore, France is today facing a big crisis, deprived of any real influence over world politics, and unable to reform its own economic and social system. First the riots in the *banlieues*, and then the students' revolt against the CPE (First Employment Contract), revealed to the world the alarming fragility of this country. To leave the final word on our common destiny in the hands of France, or of any other state, would be to commit political suicide. On the other hand, France's hopes of overcoming this crisis of identity depend entirely on the re-launch of the European integration project, and France's main interest lies in following that re-launch. We should never forget, by the way, that many believed it was impossible to create the euro without the UK. Everybody knows how that story ended.

There are also a certain number of "juridical objections". A pan-European referendum would be illegal, either because in some countries referenda are forbidden by the Constitution, or because,

according to the present Treaties, the Constitution must be unanimously approved before entering into force.

First we should clarify that our proposal is for a consultative, non-binding referendum. Each country would still be free to ratify or not by means of the procedure dictated by its Constitution. Furthermore, it should be clear that we are talking of a brand-new procedure which, by definition, cannot entirely comply with the existing laws. The history of European integration is full of episodes where the existing laws were "bent" in the face of a precise political will to move forward. At the December 1975 European Council meeting in Rome, for example, President Aldo Moro obtained a decision in favour of the direct election of the European Parliament, despite the fierce opposition of Great Britain and Denmark. To avoid being politically sidelined these two countries had to accept the deal. Should this example not be enough, the EP elections still take place in a manner that conflicts with the Treaties, which prescribe a uniform electoral procedure for the entire EU. The same happened in 1990 when the IGC on European Monetary Union was convened despite Mrs Thatcher's opposition. In presence of a strong political will, it would therefore be perfectly possible for at least a first group of countries to hold a pan-European referendum. Some countries might not be able to take part in it, but that would not diminish the significance of the initiative.

Finally, both among European and Italian federalists there are some who think we should defer such an important instrument until we have a better draft Constitution, one that could give life to an authentic European Federation.

On the contrary, we think that unless the present Constitution is finally adopted there will be no chance for a very long time of elaborating a better text. If it were not adopted, those Governments who oppose the federal project most fiercely would immediately claim that the citizens do not want a European Constitution at all, and would try to close the debate for many years to come. The sole challenge before us now is, therefore, to obtain the ratification of *this* Constitution, eventually with the amendments we described.

We must reassert that, despite this text's limitations, it could still pave the way for important developments. Furthermore, the very fact that its ratification has encountered so many difficulties should allow us to re-open the discussion on amendments immediately afterwards. In fact, if the Constitution were to be ratified by means of a referendum – which by definition excludes unanimity – any proposed amendments would also need to be ratified by majority. And one further point: the most hostile states will probably have rejected the basic text and therefore will have excluded themselves from these future negotiations.

In conclusion, if there were to be a pan-European referendum on the basis of the present text, in a few years we might be able to obtain a much better one. If not, we might never again get a chance to vote for a better Constitution. It would be a real pity to waste an historical opportunity in the name of an ideological pretext.

[1]Fifteen member states have ratified the treaty so far, including eight of the newcomers. They are old members Austria, Belgium, Germany, Greece, Italy, Luxembourg and Spain, and new adherents Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Slovakia and Slovenia. The treaty has instead been rejected by the citizens of France and The Netherlands in two referenda last year.

How can Europe Meet its Responsibilities in the World?

Åsa Gunven

That transnational problems need transnational solutions, with a transnational legitimacy, remains a thesis for the calculating theorist – or even the idealist! After many hopes, the idea of global justice is becoming an empty notion. As a result of this, an increasing number of people are loosing faith in the world structure, respect for their political leaders, and their sense of personal security. The question we must ask ourselves in Europe today is therefore – what role can and must Europe play in building a sustainable world order for the 21st century?

What are the problems that need to be tackled?

Despite an increased global awareness we seem to be lacking the means to deal with the problems we are faced with in the world today. This is despite the remarkable advances in international law and international institutions that have been made during the last decades. National sovereignty and narrowly-calculated state interest have remained the predominant norms governing international law and international institutions, leaving little room for international problem-solving and law enforcement.

Take as an example the question of environmental problems. Despite the increasingly acute situation and an overwhelming awareness, progress has been hampered by short-term industrial-benefit calculations, as could be seen by the US rejection of the Kyoto agreement, for example. Without the world's largest carbon-dioxide emissioner as a party to the agreement, its goal to tackle the threats of global warming

becomes severely weakened and so do the motivations of other states to participate, feeling they will have a disadvantage relative to the non-parties to the agreement.

Due to the preference given to national sovereignty rather than to personal sovereignty, also the international community's ability to tackle international and domestic conflicts remains weak, with severe humanitarian suffering as a consequence. One might only look at Rwanda for one horrific example. Intervention remains subject to the will of the parties in the conflict or the interest of the permanent Security Council members. At the same time, intervention outside of the framework of international law has become more common, escalating the use of force and again weakening the faith in the global structure. The question of poverty, the other main factor behind worldwide humanitarian suffering, remains unsolved, with diverging results in the international institutions' actions, developed countries' trade, development policies and globalization. Also, and often as a result of these examples of international failures, terrorism has increased in scale and impact. At the same time, State responses to this threat sometimes highlight the disregard of an international standard of human rights to be followed by state actors. This safeguard of human rights and personal sovereignty as opposed to national sovereignty is also highlighted by the continuous abuse of human rights by states such as Iraq, China or Russia.

Europe as a contributor

Europe's biggest contribution to tackling the

above problems and to participating in the building of a sustainable world order for the 21st century is something it has been doing for the last half of the century without any particular idealistic ambition: it consists in slowly constructing an unprecedented example of supranational integration, where states give up certain aspects of their sovereignty in order to gain the benefits of supranational action in issues ranging from environment to trade policy. It also provides an example of a successful supranational institution-building, that despite its black holes has come close to a supranational democratic system, where states at large trust the institutional setup, to the extent that they have at large given up their veto powers.

Having supported such a liberal institutionalism within its own territory, it would be nothing but contradictory for Europe to reject supranational solutions at the world level, wherever needed. Rather, building on its own experience, Europe must make a loud voice for the advancement of international law, the establishment of successful international institutions and norms and the promoting of peaceful means of international co-existence. As a consequence, Europe must also promote the idea of multilateralism.

To take such a leading role in this development is not only necessary as a logical deduction from Europe's own structure, it is a moral responsibility towards the actors around the world looking at Europe for leadership. Few world actors can provide a counterweight to US unilateralism, making change possible, and few can by their action give such a large political legitimacy to international development. Not only does a concern for the rest of the world make an active involvement necessary, but so also does a concern for Europe itself. What is the security impact in Europe by the US unilateral military actions, that as a result increase the magnitude of rearmament and terrorism around the world? How is Europe affected by global warming caused both within its own borders and by its trading partners, not to mention the ozone

layer? What are the effects in Europe of conflicts leading to humanitarian suffering, economic degradation, immigration etc? How does the hindrance to development in the developing world affect Europe through world instability, market failures, immigration etc.?

Europe and international law

International law has developed immensely over the past decade, not only in scope, but more importantly in legitimacy among states and citizens across the world. But expectations around the world have often been transformed into disappointment, as international law has failed and the UN has been unable to act. Or as nations bypass the UN in the international arena and choose to act on a unilateral basis, disregarding the progress made over the last decades in constructing a sustainable international regime.

Europe has often been a promoter of multilateralism, international law and UN legitimacy. But Europe must make these demands stronger. In a time where the US has again and again shown its disrespect of international law, bypassed the UN, and acted on a unilateral basis, often with military means, the world is looking to Europe for clear leadership. In cases like the Iraqi war, Europe must make its citizens' voice heard throughout the world and condemn any unilateral action outside the UN. When pressure is being put on countries, for example, by the US to neglect the International Criminal Court, Europe must provide a counter pressure and moral support and participation.

But the UN and the international law system does not only need support, it also needs change. The Security Council, once constructed to picture the balance of power of that time, has become outdated, but as so often, a conservative institutional setup is preventing progress. Europe clearly needs to take its responsibility by promoting a far-reaching UN reform programme. Through a transformation

of the Security Council setup, including the abandoning of veto among the permanent members, and the introduction of a democratic chamber within the UN, progress can indeed be made in international law, and also the UN as an institution can win back its legitimacy. The EU can start such a change by letting itself be represented by a single seat, but actions by, for example, Germany demanding a seat, or France and the UK holding on to theirs, do not exactly encourage such a development.. Europe could also set an example by establishing its own army – an army that stands under an international control rather than under national command. This army should be left at the disposal of the UN as a permanent armed force to be used under a UN mandate, again increasing the UN ability to act and its legitimacy.

Remove double standards

Europe has become the world's largest aid donor, again setting a good example for the world actors by its own actions. But aid is only one part of a development policy. During the last decades we have seen that the international community often used the developing countries to pursue its own economic or ideological goals. Europe must make a clear statement that the developing countries' ability to develop themselves is not to be compromised about.

When it comes to trade, Europe has clearly shown by its unprecedented example of free trade within the EU that free trade between states is of benefit to all. With this background, it should be unacceptable for Europe to set double standards, keeping Europe's external borders closed. Europe, that today forms the world's biggest market, must live up to its own example and allow developing countries to access its markets, enabling them to pursue a sustainable development. In the Doha round, Europe's message must be clear: no double standards between the developed and the developing countries! The Common Agricultural Policy is another issue that has to be forcefully tackled,

for Europe to meet its responsibilities in the world. Here, again, it becomes clear that reform is not only a question of helping others, but that removing the borders is necessary for Europe to become more efficient and meet the competition challenges of this century.

The question of trade exemplifies the danger that Europe, built on the principle of supranational co-existence, may turn back to the outdated principle of a narrowly-calculated national egoism – but focused on the EU as a whole rather than on the individual member states. The EU as a supranational regime has developed internally after a vision based on certain values and strict efficiency calculation. If this calculation the EU is based on is true, then Europe can not legitimately give another equation as the solution to international questions involving other parts of the world. If Europe believes in non-militaristic conflict solution methods, it must not, for protecting European trade interests, lift an arms embargo against China. If Europe believes in the fundamental human rights and democratic society, European leaders should not, for whatever State/European energy interest, stand posing smiling on photos, arms round Putin. Rather, Europe should make a precedent, putting national – or European – self-interest aside and make a clear stance for global justice. Few are in a position to make a claim with such a strength. Few with such a strength to make this claim are willing to do it.

Changes within the EU needed to play such a role

As the world's biggest market, and as a power with a large political legitimacy throughout the world, Europe is in a unique position to shape the world order, and world ethics, for this century. We have already seen the trust and hopes given to Europe by world actors searching for an alternative to US dominance. We have also seen that the EU – when speaking with one voice- has been able to push through steps in the right direction already.

But in order to play this role Europe must develop further, and member states must be brave enough to move forward. For the sake of national interest, for the sake of European interest, but also for the sake of meeting its responsibilities in the world.

A precondition for achieving the above is to create an institutional framework that allows Europe to speak with one voice at the world stage. To carry on this foreign policy must be a competence at the European level, where decisions are taken without the right of veto. To play an active role in world politics, Europe must be able to speak with one voice with a foreign minister. Speaking with one voice, Europe will have an impact, something none of its member states at present has in its own right. Europe can make a difference for the world of tomorrow if it chooses to. Europe is ready. Are the national governments?

Happy surfing!

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Finland and Estonia Push Ratification of European Constitution

Piia Pappinen

The ratification of the Constitutional Treaty by Finnish Parliament looms in the near future. All the big parties agree on the need for entry into force, as well as the Grand Committee of the parliament. Estonian government on its behalf, has stolen the place of Finland, previously dubbed as the "EU pet child" because of its loyal attitude in enforcing EU directives. After having ratified the treaty in parliament on last Europe Day, the 9th of May, Estonia is step ahead to the future holder of the EU presidency.

The committee responsible of EU-issues in the Finnish parliament voted for the ratification of the treaty with 20 votes for and 4 against in last April. The committee demanded that Finnish parliament should express to the government its willingness to proceed with the ratification. A minority of the committee claimed that a consultative referendum be arranged on the treaty. Finnish Parliament (*Eduskunta*) is going to give its opinion on the need of ratification of the Constitutional Treaty soon this year. There are doubts in the air whether the parliament will arrive in time in announcing its stand on the need of ratification before Finland assumes the presidency. The stand of Finnish parliamentarians with regard to the treaty is overall very pragmatic – they are of the opinion that the Constitution brings welcomed simplification and clears up the responsibilities between different EU-institutions. Many think that the word "Constitution" in the treaty scares people because they automatically associate it with "a tendency towards a centralised Brussels-regime", and hope that the name be changed closer to something similar to "a basic treaty". The majority of the members of the "EU-committee" hopes that the government will soon proceed with the bill recommending to ratify the Constitution. According to the official stand, Finland holds that the treaty is "an enhancement to the former base of treaties", and mentions that the opinion taken by parliament "could contribute to the creation of a positive climate for the negotiations in the European Council".

Officially, Finland is preparing the presidency taking into account the possibility that the Constitutional Treaty might come into force, in order to show support and belief in the re-initialization of the process. Finnish political spheres are split over the ratification issue in optimists, pessimists and realists, some being of the opinion that the ratification is useless, since it is improbable to get all of the member states behind the treaty if it is not changed. Others believe it is a decisive sign, needed for keeping the ratification process alive, and getting the critical mass behind the project to be kicked-off again.

In the close neighbouring country across the Gulf of Finland, Estonia, the parliament began the process of ratifying the EU constitutional treaty in February this year with a first reading. In the Estonian Constitution referenda on international treaties are expressly excluded. The constitutional committee of the Estonian parliament decided to put the EU constitutional treaty to a final vote in the parliament on May 9, the Europe Day. As a result, the Constitution was ratified with 73 votes for and one against. The Estonian political elite is unified behind the constitution, though at odds with the people, who are in the bottom quarter in what comes to being at ease about the EU, some polls say. By expressing such a strong support to the constitution in its current form, Estonia wants to be in the front guard of progressive the EU-member states.

In Defence of the Erasmus Scheme

Richard Laming

In the wake of last December's rather unsatisfactory deal on the EU budget, it is not surprising that the Erasmus student programme is being eyed up for cuts. This temptation should be resisted.

Latest figures announced on the 16 March reveal that the scheme is now more popular than ever. Student participation rose by 6 per cent last year and that of teachers by 13 per cent. This is a practical example of European cooperation that is an astounding success.

I have a soft spot for the Erasmus scheme, as it was the subject of one of the first pro-European campaigns I was involved in. The university I was studying at had declined to take part, and so the student union protested.

There already were bilateral links with universities in other European countries, we were told, so that this new scheme was not necessary. But the whole point of Erasmus was to expand opportunities. It would open the way for student exchanges that had not existed before, and importantly it would increase the number of students that could take part. The old system was fine for the privileged few for whom it had been designed: the new system would benefit many more.

And isn't that the point of the EU as a whole? The advantages it offers should be open to everyone, rather than the traditional elite. I have lost count of the number of Eurosceptics rejecting the description "anti-European" because they personally spend every summer in a delightful villa in Tuscany.

There is a decent criticism of the EU that it is not doing enough to spread the benefits of European integration throughout the whole of society. I share it. But the way to deal with it is to reform the EU, not reject it.

The Erasmus student exchange programme is a perfect example of this. Not only does it benefit the hundreds of thousands of students, living and studying in another country for a year, but also it benefits the universities and towns that host them. The vice-chancellor of one English university said to me that the atmosphere on campus had changed and improved immeasurably as a result of the influx of students from abroad. Education is supposed to broaden the mind: even those who don't choose to go abroad find Europe coming to their own and lecture theatre instead.

Back at my old university, the rules have finally changed and it is part of the Erasmus scheme, too. The number of students from elsewhere in Europe has soared to the benefit of all.

Helping the next generation discover the character and diversity of their continent and fulfil their own potential within it is exactly the kind of long-term investment in its own future that the EU should be making. Let's hope that Erasmus scheme can survive to the cuts.

A Federal Right of Self-Determination

Paola Delrio

At the end of the decolonisation process international jurists were describing the world's surface as being divided into sovereign, well-defined state entities which they saw as a stable situation that, apart from a few eventual corrections, had reached its final configuration. The dissolution of the Soviet Union and of Yugoslavia have demonstrated the opposite. History shows that the world has never arrived at any definitive arrangement. We can even envisage, when considering the present international changes, the nation-state itself sooner or later disappearing, leaving regional organizations in its place or even a world government. We can speculate that sooner or later we shall simply be citizens of the world and that diversity will no longer be a cause of conflict, but will rather represent the normal day-to-day tensions with which we have to live. The history of law too shows the tendency towards change. Historical and social changes force the existing legal system to provide rules and answers to the new challenges posed by human beings and the communities in which they live.

The history of states is linked to their peoples. Contrary to what many international jurists say, the state is not the key subject of international law. The state is nothing but a derived subject: that is, derived from the people. States are born and evolve from the will of their peoples, a will not always listened to and respected, and sometimes not even solicited. The history of states is linked to the peoples' right of self-determination. In a sense, that right originates from the claim by individuals and peoples to assert their will as to the very existence of a

state (external self-determination) and how that state should be organized and governed (internal self-determination).

The self-determination of peoples, both in its origin as a political principle and in its later juridical form, is in opposition to the notion of state sovereignty and to the state-oriented approach in international relations. Historically, the self-determination principle first appeared in the American and the French revolutions. In both, self-determination as a principle was limited to protecting a people's liberty from domestic or foreign oppression, though in practice it became a feature of the nationality principle. Only with the final peace treaties following the first World War did this principle become a norm of international law in negotiations. It was proclaimed for the first time in 1916 in Lenin's theses on "The Socialist Revolution and the Rights of Nations to Self-Determination" for Austria, the Balkans and Russia, and for all colonial peoples. The principle was also cited in the famous "Petrograd Appeal" of May 15, 1917 and in one of Lenin's "Letters from Afar" of March 25, 1917: The "liberation of all colonies; liberation of all dependent, oppressed and unequal nations" became one of the necessary conditions for peace. The same principle was also asserted by the American President Wilson, though from a different perspective. In his famous address to Congress on January 8, 1918, Wilson linked the self-determination principle to respect for the interests of the colonial powers. Between the two wars, the principle was applied to the new states born out of the break-up of the Austro-Hungarian Empire, though "liberated" colonies

outside Europe had to be contented with the status of "mandated territories", a system instituted by the League of Nations.

The Atlantic Charter of 1941 enunciated the self-determination principle, although with some ambiguity, for Churchill soon declared that it applied only to restoring the sovereignty of peoples oppressed by the Nazi yoke, and not to those subject to the colonial powers. Only with the United Nations Charter was the principle of self-determination of peoples really established as a juridical norm. Since then it has gained crucial importance in the life of the international community and is now universally recognized as *jus cogens*. The texts sanctioning this right belong for the most part in the sphere of the United Nations, though Art 1.2 of the UN Charter still provides only limited protection of that right. However, the self-determination of peoples is cited as one of the goals to be attained in the perspective of cooperation between states, and for non-autonomous territories self-government is mentioned more often than self-determination.

The first, more precise definition and regulation of the self-determination right can be found in Art. 1 of the two Pacts of 1966. This Article applies to peoples living in an independent state, to peoples living under military occupation regime, and also to peoples living in a non-independent territory. In it the twofold definition of internal and external self-determination is made clear: namely, that *external self-determination* refers to a people's accession to political independence, with the ensuing establishment of an autonomous state, while *internal self-determination* refers simply to the right to choose one's government, one's economic and political regime in an independent and free fashion, without any kind of oppression or pressure, hence by the free expression of the people's will.

At the end of the 1950s and early 1960s, the application of the self-determination principle started to be demanded in particular by the socialist states and by developing countries. We can say that a process of recognition of that right was begun, above all, in respect to its application to colonial peoples. This led to the recognition today of the existence of customary norms regarding the right of external self-determination. UN Resolution 2625 of 1970 is particularly important: namely, the so-called Declaration on friendly relations among states, which – among the seven principles of international law concerning the cooperation between states – cites the principle of self-determination and of equality as to the rights of peoples, always respecting the state's territorial integrity. Thus the conflict between the right of self-determination and the principle of state sovereignty is acknowledged, particularly with regard to territorial sovereignty. Whereas in the colonial period the history of the self-determination right appears to be closely connected with the idea of a peoples' independence and their aspiration to have their own independent state, the post-colonial situation is definitely more complex.

But what, we must ask ourselves, is the future of the right of self-determination? To speak of external self-determination – that is, of the right to independence, thereby once more upholding the nation-state concept – is no longer sufficient. Instead, a peoples' internal self-determination leads us to consider the true nature of democracy. A comprehensive examination of the two approaches to the right of self-determination, taking the international aspect into account, must lead us to understand that it does not necessarily require secession or fragmentation into still more nation-states. In other words, secession and the creation of a new state is not the only possible course.

As the Declaration on friendly relations points out: "The establishment of a sovereign and independent state, free association or integration with an independent state, or the emergence of any other political status freely

determined by a people all constitute modes of implementing the right of self determination by that people".

A state must represent its entire population without distinction, whatever their race, gender, or religion. If the state does not respect them, people can rebel and by means of their right of self-determination may find a new form of government that assures their basic rights. If it is true, on the one hand, that the right of secession must be recognized, on the other it is also true that this is only one of the possible solutions. The Balkanisation, for example, of Africa would be terrible. Other political structures can be created which respond adequately the peoples' demands and those of minorities'. In a sense one can call this a "federal right of self-determination".

It would be difficult to regard this as a universal right offering a universal solution to all the problems connected with self-determination, but it can certainly be defined as a guiding principle. A federal solution can offer an alternative to secession, pointing the way towards integration rather than national separation. This could be the political solution in that it guarantees the rights of the people and of minorities over a territory. Of course, the application of the right of self-determination must always be relative, depending on which peoples are involved and in which contexts, but a federal approach can be applied in different ways. For this reason it could be a useful step in the evolution of the right of self-determination which – as we have seen – has always existed in principle.

Self-determination contains elements of both nationalism and democracy. In the 19th and 20th centuries, ethnic fundamentalisms revealed their most evil face. In the French Revolution assertions of the people's sovereign right to resist absolute power were stronger than nationalism. Lenin himself defined self-determination as the maximum of democracy and the minimum of nationalism. Moreover,

in the light of recent studies and analyses, identifying the right of self-determination with the simple aspiration to become a state seems to be diminishing.

Social changes are putting pressure on legal systems too. In the present international situation it would be an anachronism to revive nationalist ideals, faced as we are with the task of building a new world order based on peace and human rights. The right of self-determination must be reconsidered in the light of today's reality. It is incorrect to state that the right of self-determination necessarily means secession and fragmentation. In fact this right upholds the principle of the civil society's participation in defining the forms of government and development of our society. Self-determination realised through forms of autonomy within a federal structure is the functional basis for the management of cultural, linguistic, ethnic and religious pluralism in our societies. By demanding representative, pluralist, open, democratic institutions, respectful of peoples and individuals, this right of self-determination subjects institutions to a constant legitimacy check. In this sense, far from dividing citizens, it unites them.

A doctoral thesis in America underlines five levels of self-determination:
1. the individual level, human rights
2. the sub-national level, minority rights
3. the national level, national independence
4. the regional level, regional integration
5. the global level, world government.

Clearly, the federal solution contributes to the sub-national, national, and regional levels, and also to the world government perspective. Federalism therefore offers one possible way forward, above all in the contemporary era. It may, in the future, become the next phase in the development of the right of self-determination.

Transients, Included/Excluded or European Citizens? The Italians in Germany

Edith Pichler

Introduction

Already at the beginning of the 1950s, on Italy's initiative, negotiations were started with Germany over the recruitment of Italian labourers. They ended in 1955 with a bilateral agreement between the two countries. In 1957 the Treaties of Rome followed, which can be considered as the starting point of the building of the European Union.

Fifty years have passed since then, and in the meantime a second or third generation of Italians now live in Germany and can increasingly take advantage of the EU integration processes and the new mobility across Europe. What do those processes and developments mean for the Italian community in Germany and for their inclusion or exclusion in that host society and for their participation in the various citizenship rights? What does such a presence mean for the building of a European identity and a European citizenship? Can that community, like those in other EU countries, act as a vehicle for building such an identity? Are there policies devised and applied in the host country, such as would foster the growth of new European citizens; or, on the contrary, do national policies dominate the norms and directives that could and should in fact contribute to the formation of a new European citizenship?

Immigration in Germany

Until the mid 1970s, immigration to Germany was characterized by the so-called recruitment policy. The labour force for German industry was recruited through bilateral agreements with the Southern European countries, and usually for jobs in the lowest production sectors: generic and heavy tasks needing no qualifications and which were eventually the first to be eliminated during the industrial re-structuring processes which started in the mid-1970s.

A feature of the recruitment policy, or rather of the German government's immigration policy, was the so-called *Rotationsprinzip*: the principle of rotation. Germany did not consider itself an immigration country and therefore relied on short-term immigrants who were expected to return to their own country after a few years.

In 1957 these recruitment agreements were followed by the signing of the Treaties of Rome by the six founding countries of the European Economic Community. Both the Federal Republic of Germany and Italy were signatories. Those agreements, which entered into force in January 1958, enacted the principle of the free circulation within the Community of member States' workers. In practice this was introduced in stages up to 1969.

The number of Italian immigrant workers increased constantly, with the exception of a brief period of recession in 1966-1967 when many workers were repatriated. A peak of 450.115 employed was reached in 1973. Until the 1970s the percentage of the Italian immigrant population employed within the Federal Republic was high in comparison with most of other foreigners. In 1961 it was 90,3% (against 47,5% of Germans), but in 1970 it had already decreased to 72,2% (against 42,7% of Germans).

In 1973, with the increase of the unemployment rate and the reduction of mass production due to the oil crisis, the German government decided to call a halt to their recruitment

policies (*Anwerbestop*). This decision, plus a policy subsidizing repatriation in the beginning of the 1980s, brought a drop in the number of immigrant workers, although the foreign population itself increased from 686.000 people in 1960 to 3.966.000 people in 1973, to 7.335.000 people later. This was mainly due to family reunions.

Also the number of Italians employed in Germany started to decrease constantly. While in 1966 the Italians represented 30,4% of all immigrants employed in the Federal Republic, by 1978 their percentage had dropped to 15,4% (with 288.643 employed) and by the end of 1983 to 13,9% (with 238.850 employed). On December 31, 2003, 601.258 Italian citizens were living in Germany (356.354 (59%) males and 244.904 (40,6%) females). Before passing to an analysis of the forms of inclusion of the Italian community, I will briefly illustrate some theories on the subject that may give an indication on where - according to these theoretical models - the Italian community in Germany is placed today: that is, its inclusion or exclusion level in relation to the various citizenship rights. Through this analysis, it is also possible to identify and examine Germany's political practice with regard to the "new European citizens".

Assimilation, inclusion/exclusion, citizenship rights: Contrasting theories

In the 1980s, the German sociologist Esser (1980) devised a hierarchical scale of the processes and practices of immigrant assimilation which lead gradually to full integration. They are:

- *cognitive assimilation*: cultural and social competences (language, rules, behaviour);

- *structural assimilation*: equal opportunities through social and spatial mobility;

- *social assimilation*: de-segmentation, non-segregation, participation;

- *identity assimilation*: relinquishment of orientation towards one's own country of origin and one's own ethnic group, in favour of an orientation towards the majority in the host country.

This model has been criticized by many scholars as being too mechanical a theory of evolution, too systematic and assuming forms of automatism. In recent years other theories have been formulated and applied in evaluating the level of inclusion or not of immigrants, as, for example, the theories of inclusion and exclusion (see Luhmann and Stichweh).

Inclusion is defined as the participation by individuals in the systems of central functions (education, economy, politics).

Exclusion, on the other hand, is the lack of any chance to participate in the various systems of functions. In practice this means school failures, low standards of living and low political influence.

These theories make clearer the different forms of participation by foreign citizens in citizenship rights, as in our case the Italians in Germany.

Excluded or included in the citizenship rights?

In analysing the different socio-structural processes experienced by the Italian community in Germany, one can observe that inclusion in one sector is not always followed by inclusion in another, nor that inclusion in any one sector presupposes inclusion in a previous one. Moreover, it must be noted that Italians in Germany are not yet able in practice to enjoy the full range of citizenship rights.

Social rights

While, thanks to the recruitment policies and the type of jobs they had, first-generation immigrants had access to the rights that Marshall calls "rights of social citizenship" and to inclusion in the welfare system, the situation for second- and third-generation immigrants and newcomers is quite different.

The crisis in the mass-production industry, the relocation of production abroad, and the de-industrialization and tertiarization processes of the 1980s have significantly reduced employment opportunities in industry.

These de-industrialization processes, and the loss of many jobs, have not spared the Italian community which is increasingly confronted with a fragmented labour market dominated by the services sector. For many immigrants these changes have often meant their downgrading to unqualified sectors featuring lack of stability and "shady" contracts.

Unlike German youngsters, the Italians-- especially those of the second or third generation - often lack professional degrees and therefore as unqualified workers must, because of structural changes in the economy, mostly find employment in high risk jobs. In fact, at the end of October 2004 the number of jobless Italians was 43.683 (29.916 males and 13.767 females), with an unemployment rate of 19,2% (it was 17,3% in 2002), while among foreigners in general it was 22,2%. In the Berlin-Brandenburg region the highest unemployment rate of 32,8% was reached. However, among the EU citizens the Italians represented 41% of the unemployed (Source: *Bundesagentur für Arbeit*).

A further worsening factor of the condition of Italians, in particular of the second generation, is ascribed to the school situation. According to Marshall, the possibility of being included in the school/educational system is an integral part of the rights of social citizenship. The selective German system often penalizes the children of foreigners, especially in the secondary high school. But it is Italian pupils who have the highest rate of presence in the *Sonderschulen* (special schools) - 8,7% in the 2003/4 school year -, and in the *Hauptschulen* (27%), that is to say in the "residual" branch of compulsory schooling attended by pupils who, owing to their poor academic achievement, have no access to the two higher branches, the *Gymnasium* and the *Realschule* (professional school). When we consider that 28,2% of the 600.000 Italians living in Germany were born in that country, it is odd that only 6,2% of them have places in a *Gymnasium*.

Usually the pupils attending a *Sonderschule* complete their curriculum with a *Hauptschulabschluss* qualification. In many *Länder* this type of school has a negative image because it often contains pupils with learning and behavioural problems, many coming from marginalized families. With such a diploma it is difficult, first, to find a place for an apprenticeship, and then a job in an innovative sector of the economy, i.e. a job assuring some social mobility.

Rights of civil citizenship

One consequence of this situation is that an appreciable number of Italians in Germany have to live on social subsidies. Moreover, in the face of such social exclusion many young foreigners, including Italians, show forms of social deviance, for example slipping into drug taking, or even drug dealing.

According to the law on foreigners (*Ausländergesetz*), a non-German can be expelled from Germany if he commits a crime (and drugs-related crimes bring immediate expulsion), or if he is incapable of supporting himself and is forced to live on social subsidies. In such cases, the residence permit is not renewed and the foreigner is invited to leave the country; or, in some cases, the authorities proceed to his expulsion.

Such regulations should not be applied to citizens of a member-State residing in another EU country. Nevertheless, some *Länder* such as Bavaria or Baden-Württemberg do apply the law on expulsion to EU citizens and with astonishing frequency, not only expelling young EU citizens, often of the second and third generation, who are involved in drug dealing and consumption, but also people who, because of the labour market situation, are living off social subsidies. This is serious discrimination which, in the opinion of trade unions and aid associations, has up to the year 2000 affected more than 500 Italians, defined in legal terms as "European foreigners".

Socio-structural data on the work, schooling and educational situation of Italians in Germany highlight that an appreciable number of them suffer forms of exclusion that in practice limit

their inclusion in the rights of social citizenship, and that the expulsion procedures applied against them reduce their real participation in the rights of civil citizenship.

Rights of political citizenship

If, after a 50 year presence in Germany and despite the European integration processes, the chances for the Italian community to participate in the rights of social and civil citizenship is marked by several deficiencies, what is the situation with regard to political citizenship rights?

In the bilateral agreements of 1955, the recruited immigrants' citizenship rights were limited to the economic sphere and to the field of the labour market. These first-generation immigrants, the so-called "*Gastarbeiter*", had an indirect participation in the rights of political citizenship, especially through trade unions. The trade unions and their organizations, which had mostly a function of social inclusion, were increasingly taking on political functions: namely, functions of representation of the political-citizenship claims expressed by the immigrants. An initial and "palliative" solution for fostering the inclusion of immigrants in the rights of political citizenship was the creation, at the municipal level, of the so-called "Foreigners Councils" (*Ausländerbeiräte*), which still exist and have a consultative function only. Through them, a strong demand for formal participation in the rights of political citizenship found expression. With the Maastricht Treaty's provision for European Union citizens to have the active and passive right to vote in municipal and European elections, the German government was "forced" to introduce this measure for EU citizens within its own borders. Nevertheless, the influence of these new voters on everyday life remains minimal as many important political decisions directly affecting them, such as education, training and labour market policies, are taken at the regional level, i.e. by the *Länder*, political bodies in which EU citizens cannot take part.

Concluding remarks

In the 1960s and 1970s, Germany was noted for its welfare state, and through it a partial inclusion could be attained. It was possible for foreigners to participate in the rights of social citizenship which, thanks to the commitment of the trade unions, were acquiring also a political implication.

This paradox results from the central government's 'foreigners' policy which, from the start, has primarily been intended as a policy for recruiting a labour force. Within this policy, participation and integration were meant to apply to the labour market only. With the economic and social processes of more recent years having reduced the number of available jobs in industry, the possibility of inclusion through the welfare system has in practice been eliminated. As that indirect form of socio-political inclusion has disappeared and as immigrants are still excluded from a broader general participation in the rights of citizenship, they are thus experiencing a double discrimination.

The second generation in particular, which has to cope with acute forms of social distress against which it cannot fight (being deprived of the right to vote), should have the possibility of becoming a political actor, and thus take on the role of a political lobby. It is precisely through such political influence, as Marshall has indicated, that wider participation in the rights of social citizenship can be realized.

Despite the pleas for a new awareness of European citizenship, despite all the statements made in support of this concept, and despite the fact that Italy and Germany both belong to the European Union, the Italian community in Germany still suffers forms of exclusion that reduce its access to various citizenship rights. More measures and commitments are therefore necessary in the political, social and civil spheres to ensure that European citizens, including those of Italian origin living in Germany, may have the genuine possibility to enjoy all the rights of social, civil and political citizenship to which they are entitled in today's borderless Europe.

Storm Warning: Somalia

René Wadlow

One of the aims of Peace Journalism is the early warning of conflicts where current peace-making structures and institutions are inadequate and thus require increased attention and action by peace-makers.

Although Somalia is in a crucial geo-strategic position on the Horn of Africa facing the Arabian peninsula, the country has largely slipped from world attention except for specialists. The government had disappeared in 1991, proving that people can live without a State. What order existed was the result of very local "warlords" and clanic chiefs. For many in the United States, Somalia was recalled as the location for the film "Black Hawk Down" and the images of a dead US soldier dragged through the streets of Mogadishu. These were scenes best forgotten, and for many US decision-makers an object lesson as to why one should not get involved in African disputes.

Now, renewed fighting – the sharpest in 15 years – between some of the warlords and a revitalized Islamic movement "the Union of Sharia Courts" projects the picture of a Taliban-type victory which could open a door to Islamic terrorists. The Union is led by Sheik Sharif Ahmed and seems to be gaining the military advantage.

In 1960, the Somali Republic was created by the Union of the British colony and the Italian trusteeship area. Italy had had part of Somalia as a colony until the end of the Second World War. From 1945 to 1950, Somalia was governed by UN administrators. In 1950, it was returned to Italy under a Trusteeship Council mandate. The Somalis speak the same language and practice the same forms of Islam. The divisions among the Somalis are not "tribal" but clanic, with clans, followed by subclans, lineages and extended families. Lineage is the most important identity, thus one has frequent intra-clan tensions as well as inter-clan disputes. It has been said that Somalis lived in societies with rules but without rulers. (See I.M. Lewis' classic study: A Pastoral Democracy (Oxford, Oxford University Press, 1969). There are Somalis also living in Ethiopia and Kenya – a fact which led to Pan-Somali aspirations and a 1977-1978 war with Ethiopia in an effort to annex the Ogaden area where most of Ethiopia's Somalis live. These Pan-Somali efforts have always failed.

In such a clanic, largely pastoral society, one does not need state institutions to function. Clans are not all equal; some are severely disadvantaged due to their social status and thus their access to water and grazing land. There were, however, people who lived outside the clanic system. There was a small minority on the frontier with Kenya who were agriculturalists and non-Somali. There were also urbanized Somalis, especially those living in the coastal cities who no longer followed clanic authority as well as a small but growing educated bourgeoisie.

The army was the only institution of the state which was not originally structured along clanic lines. After some eight years during which government posts, seats in Parliament and government favours were distributed

along clanic lines, in 1969, General Mohamed Siad Barre took control of the government. His ideology was an anti-clanic "scientific socialism", and he received support from the USSR thus bringing Somalia into the Cold War. The Cold War helped to partition Africa into ideological spheres of influence. In order to counter Soviet influence in Somalia, the USA increased its support for conservative Emperor Haile Selassie of Ethiopia.

Siad Barre with the help of Soviet advisors increased the size of the Army and the paramilitary forces. By 1982 there were some 120,000 men in the army with political commissars to develop ideological purity. Unlike the colonial period and the first years of independence during which the rural areas were left alone, Siad Barre extended government control to the rural areas, weakening clanic chiefs. Siad Barre also largely destroyed the independent bourgeoisie; some were jailed, more left the country to work elsewhere.

Then, at the time of the 1977-1978 Ogaden war with Ethiopia, there was a classic Cold War switch of alliances. A Marxist, Mengistu Haile Mariam overthrew the Emperor of Ethiopia and looked to the Soviet Union for help. In 1978, Siad Barre abrogated the USSR/Somali Treaty of Friendship and turned to the USA for help with weapons and training of the military. As Barre was uninterested in US liberal-democratic ideology, he returned to governing on a clanic basis with members of the liniages of himself, his mother and his principal son-in-law. His style of government under US influence from 1978 until the end of 1991 ranged from the autocratic to the tyrannical.

With the end of the Cold War, neither the US nor the USSR had much interest in supporting difficult and unpredictable allies. Thus by 1991 both Siad Barre and Mengistu had been forced from power by rebel movements. While Ethiopia was able to re-establish a State structure having a long history of a weak but centralized government, Somalia returned to a pre-colonial structure but with few of the conflict-resolution techniques of pre-colonial times. Thus, in addition to traditional clanic conflicts over water and livestock, there was a clash between traditional clanic leaders and army officers who had gotten a taste of power under Siad Barre and who now wanted to set up little militarized kingdoms over which to rule.

As the 1960 merger of the Italian and British colonies had been more based on a desire of the Europeans to withdraw than any Somali urge to merge, the former British area reorganized itself after 1992 and took back the name Somaliland. The Somaliland area is relatively stable, and in 1993 Somaliland reintroduced the structures of government – tax, customs and banking. Somaliland has trade to Arabia and beyond through the busy port of Berbera and is helped by the remittances from in Somaliland diaspora in Saudi Arabia and the Gulf States, in East Africa and some in Europe. However, there is a deep fear among many African governments that if one African state breaks up, many could follow the same pattern. Thus no African government wants to recognize the independent existence of Somaliland and Europeans and others will not go against the African consensus to recognize Somaliland.

Thus, it is in the former Italian area and its capital Mogadishu where there is no established government. The area is divided into many small, separate fiefs under the control of a warlord with fighting over the control of areas between two fiefs. The result is economic and political chaos with most people living a day-to-day existence. Many of the youth have been taken into the forces of the warlords but receive no education and even little military training. There are also independent bandit bands interested in looting.

Since governments do not like anarchy, there have been numerous efforts on the part of neighboring countries to help the Somalis create a government. After many failed efforts, there now exists a "Transitional Federal Government" in the provincial town of Baidoa made up of clan leaders, some warlords and some chosen from urban "civil society". However, while people do not have much enthusiasm for a continuation of the armed conflicts, there is not much enthusiasm for the return of government either. Attitudes of animosity, suspicion and hostility are dominant, and it is unlikely that the Transitional Government will become a reality.

Into this void, Islamic groups which have always been around are now trying to take the high ground. The al-Ittihad al Islaami (Islamic Unity, often called just al-Ittihad) is a loosely structured group which has taken in floating Islamic fighters, many of whom had been in Afghanistan or Pakistan. They see the similarities between the time after the departure of the Soviets from Afghanistan when the resistance forces were fighting for control among themselves and the chaos in Somalia. They hope that with a Taliban-like ideology of "order" and "Islam will solve all your problems", the people will help them come to power in order to put an end to the divisions among warlords.

Others, in particular the USA, which has troops in neighboring Djibouti, also see the similarities and fear the rise of a Taliban-type government which might also open the door to Islamists from other countries, the creation of training camps for terrorism, and increased dangers to oil-producing countries.

There is the old saying that "Nature does not like a void", and we may see countries trying to influence events, much as Pakistan's military intelligence services largely contributed to the original victory of the Taliban in Afghanistan. The situation merits close attention, and peacemakers must see what can be done so that Somali voices with a wider vision are heard.

Failed Continent or Flourishing Continent?
Two Scenarios on the Future of Africa

Keith Suter

Africa has again loomed large on the international agenda. It is the subject of pop concerts, international conference and extensive media attention. What is the possible future of the continent?

Here are two scenarios on the future of Africa. I call them "Failed Continent" and "Flourishing Continent". Economic development is a key factor in both.

The "Failed Continent"

The "Failed Continent" scenario comes from the concern over "failed states". Some African governments cannot handle their legal and political responsibilities as national actors in the international system. Africa's situation is so grim that it could become the first "failed continent". In 1990 in Sub-Saharan Africa there were 227 million people living on less than US$1 per day; 313 million in 2001; and an expected 340 million in 2015. Africa is the world's only continent that is going backwards.

There is also the continuing impact of European colonialism. This led to the division of traditional tribal areas into colonies and then their post-colonial mergers into nation-states. But the new countries do not necessarily match traditional ethnic lines. Africans are often "tribal" (and pre-modern), rather than "national" (and modern). Additionally, there is much corruption by African leaders, who see ruling the country as an opportunity to make money rather than as a noble duty.

African countries have gone from colonialism to "neo-colonialism", which means that many major business decisions are not made by national politicians but by transnational financial interests. Meanwhile African products are shut out of European and American markets by protectionist tariffs.

Finally, there is concern that health and environment problems will continue to get worse. Africa is in a particularly disease-prone part of the world. Western medical research caters for the elite, wealthy Western sick - the "worried well"– who can pay for their healthcare costs. Disease such as HIV/AIDS and malaria are damaging Africa. Climate change may be taking place in parts of Africa, where people are being forced off their traditional lands and onto the lands of adjoining peoples ("environmental refugees"). That is a bleak scenario – and pretty much the standard view of Africa.

The "Flourishing Continent"

But it is also possible to devise a scenario of a "Flourishing Continent". Trends are not destiny. Don't try to pick winners – or losers. For example, if we had to speculate in 1945 on which of two countries – Japan and the Philippines – would be an economic super power in 40 years, most people would have picked the Philippines. It was pro-US, it had plenty of natural resources and its people spoke English. Meanwhile Japan had just lost a war against the US, most of the population did not speak English, and it had few natural resources. But it was Japan that made it as a super power.

Africa has plenty of resources. It is becoming increasingly important in the global search for

oil and minerals (the US imports as much oil from Africa as it does from the Middle East). There is sufficient water for agriculture.

There are also advantages of starting late in technology. Countries can leapfrog over earlier stages of development (for example, skipping over the era of copper telephone cables and going straight to mobiles). The 2005 Club of Rome Conference received a report on a basic US$ 100 personal computer that will be made widely available across Africa. New information technology will enable people to learn more easily and cheaply.

Europe did not begin its economic development in unison. The development started in a few countries (with Britain in 1750) and then gradually spread out (and it is still spreading in Eastern Europe). Therefore, economic growth in Africa could begin in a few countries and then gradually spread out.

Another historical lesson comes from "Christianity and the rise of capitalism": Protestantism provided the cultural basis for capitalism. The Christian church is growing rapidly in Africa (strictly speaking the next Archbishop of Canterbury ought – on sheer numbers – to come from Africa). Christianity could again provide the cultural basis for capitalism.

Eventually Africa may become a major manufacturer. No country can remain as the world's low-cost producer forever (not even China). Eventually that status will go to Africa. Meanwhile, Africa is already part of the international free trade system.

Finally, "outsiders" have not given up hope with Africa. Among those assisting Africa are some non-governmental organizations (such as World Vision and Oxfam), and the "Live 8" concerts. There are also the professional organizations, such as the London-based Commonwealth Partnership for Technology Management (CPTM).

In short, we are so accustomed to bad news coming out of Africa that we can easily overlook signs of progress.

African Union's Challenges

Oscar Kimanuka

Sudan recently hosted the Sixth Ordinary Session of the General Assembly of the African Union. While the AU is seeking to claim its place in the international arena, a lot still needs to be done. But as the Chinese have always said, a journey of a thousand miles begins with a single step.

The European Union was initially a coal-and-steel trading bloc; but today, it is a strong common market with 455 million consumers now footing the bills of the African Union in the peacekeeping operations in Darfur and elsewhere on our continent.

What Africa needs is a sense of focus and belonging. The African Union Act, if well used, could provide for intervention in the affairs of member states on critical issues such as democratic elections. Articles 4(H), 4(J) and 23(2) of the Constitutive Act of the Union are the cornerstones of the credibility of the body, and indeed of the vision of a more stable and prosperous continent.

Some of the provisions in the Act provide for potentially unprecedented powers of intervention. It is time African leaders showed their political will to use these powers for the protection of their people - and not for the protection of one another. It is probably this issue that will determine if the body turns out to be any different from the OAU.

Our friends from the West are always reminding us of our beleaguered situation. They say, and this is true, that Africa is a continent of breathtaking beauty and diversity with extraordinary, energetic and resilient people. And yet, Africa is not prosperous and is the world's poorest continent. The good news though is that technology - especially its cheaper variety - will become more widely available; 2006 is said to have in store for us the $100 laptop, a $20 mobile phone and a range of affordable treatments for a host of diseases, with the promise of more to come from well funded research.

The violence in Darfur, condemned world-wide, continues to be a big challenge for Africa. There is already reduction in funding for humanitarian operations by some organisations. The AU must get its act together to protect the vulnerable civilians in the region before the situation worsens.

African Union: A Transition to the United States of Africa

African Union (AU), established in 2002 by the nations of the former Organization of African Unity (OAU). The AU is the successor organization to the OAU, with greater powers to promote African economic, social, and political integration, and a stronger commitment to democratic principles. The 53 nations of Africa are all members; the AU's headquarters are at Addis Ababa, Ethiopia. Designed somewhat along the lines of the European Union, the AU, when fully realized, will have a General Assembly, Executive Council, Pan-African Parliament, African Central Bank and common currency, African Monetary Fund, and other organs. The Constitutive Act of the AU was adopted at Lomé, Togo, in 2000, the act was ratified in 2001, and in July the OAU held its last summit as the AU came into existence. Parliament was inaugurated in 2004. In 2007 at Banjul (Gambia), will be made the road map of the United States of Africa.

Eurasian Institutional Arrangements: Emergence of New Alliances

Sergey A. Belyaev

The current academic studies of multilateral organisations in Europe and the world have been characterized by an attention towards the West-European and North-Atlantic institutions. Nevertheless, some new organizations emerged over recent years in other spheres of the globe such as the North American Free Trade Agreement (NAFTA), the African Union or the Commonwealth of Independent States. Among others, the attention may be drawn by the Eurasian Economic Community and some other organisation of post-Soviet States, the Black Sea Economic Organisation and the Shanghai Economic Organisation, that have not yet appealed an academic and practical interest on the part of the European academic community.

A number of international organizations and cooperating blocs have sprung up in the post-Soviet and North-Asian region since the dissolution of the Soviet Union. Excepting Baltic States (Estonia, Latvia, and Lithuania) and Turkmenistan, Russia, Ukraine, Belarus, Armenia, Georgia, Azerbajdjan, Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan participate in a number of organizations. Such organizations are the Commonwealth of Independent States, Eurasian Economic Community, Collective Security Treaty Organization, Central Asian Cooperation Organization and the Union of Russia and Belarus. These organizations are mainly (or completely) composed of post-Soviet states.

The Commonwealth of Independent States (CIS) consists of 11 of the 15 former Soviet Republics – the 4 exceptions are the Baltics and Turkmenistan. Turkmenistan and Georgia are the only former Soviet states that were members of CIS but withdrew. The purposes and institutions of this regional association are well known, but it is noticeable that they are typically inefficient, if not fictive[1].

Six CIS member states, namely Russia, Belarus, Kazakhstan, Kyrgyzstan, Tajikistan and Armenia, have enhanced their military cooperation, establishing the Collective Security Treaty Organization (CSTO), this being an expansion of the previous Collective Security Treaty (CST). Uzbekistan (alongside Georgia and Azerbaijan) withdrew from the CST in 1999, joined GUAM bloc (Georgia, Ukraine, Uzbekistan, Azerbaijan and Moldova). Then in 2005 it withdrew from GUAM and currently it is again seeking closer ties with Russia (and so may consider joining CSTO again during 2006).

The Central Asian Cooperation Organization (CACO) was first initiated by all five Central Asian nations in 1991 as the Central Asian Commonwealth. Later Turkmenistan followed a policy of neutrality and non-alignment, withdrawing from participation in all regional forums. Tajikistan joined in 1998 while Russia joined the (now renamed) CACO in 2004.

The Union of Russia and Belarus was originally formed on April 2, 1996 under the name "Community of Russia and Belarus", before being tightened further on April 3, 1997. On paper, the Union of Russia and Belarus intends further integration, beyond the scope of mere cooperation, including the introduction of the ruble as a common currency. At present, the constitutional act of the Union is under preparation.

Eurasian Economic Community

After this short review of post-Soviet alliances,

let us look more attentively to the Eurasian Economic Community. The Community includes as Members Russia (2001), Belarus (2001), Kazakhstan (2001), Kyrgyzstan (2001), Tajikistan (2001), Uzbekistan (2006). Observers' status is granted to Moldova (2002), Ukraine (2002), Armenia (2003). Currently, in terms of its territory, this organization is the vastest among other regional organizations of such type with the total number of inhabitants of more than 200 Mio.

The Eurasian Economic Community (EAEC) has its prehistory in 1995, when Russia and Belarus created a customs union, which Kazakhstan and Kyrgyzstan later joined. In 1996, the four states signed a treaty, with the goal of "deepening integration in the economy, science, education, culture, the social and other spheres with respect for the sovereignty of the sides", as well as coordination of foreign policies and joint protection of their borders.

On 26 February 1999, Belarus, Kazakhstan, Kyrgyzstan, Russia, Tajikistan signed a new treaty for a "Customs Union and the Common Economic Space". On 10 October 2000, the same five states signed the treaty creating the Eurasian Economic Community. On 30 May 2001 the Treaty came into force after having been ratified by the five member states.

The five granted observer status to Moldova. Because having common borders with the rest of the community is a prerequisite for full membership, Moldova is thus barred from seeking it. Uzbekistan applied for membership in October 2005, when the process of merging CACO and the Eurasian Economic Community began; it joined on 25 January 2006. It is not clear what will happen to the status of current CACO observers, that are not observers to EAEC (Georgia and Turkey).

The statutory aims of EAEC include full-scale customs union and common market, harmonization of customs tariffs, development of common guidelines on border security, establishment of the general rules of trade in goods and in services and of their access to the domestic markets, the introduction of the standardized currency exchange regulation and of currency control, development and the implementation of the joint programmes of social and economic development, creation of equal conditions for production and entrepreneurial activity, the formation of the common market for transport services and united transport system, the formation of general energy market, guarantee of equal rights for citizens of participating states to obtain medical aid, as well as of equal rights for citizens of participating states to enter into higher education, rapprochement and the harmonization of national legislation. Other objectives include: collaboration in their efforts to gain admission to the World Trade Organization, harmonization of customs tariffs, development of common guidelines on border security.

The institutional framework includes a number of bodies such as the Council of Heads of States and of Governments, the Councils of Ministers, Parliamentary Assembly, the Court, Integration Committee and Permanent Secretariat.

The EAEC seems to be the most perspective and viable organization among other post-Soviet state's organizations of this region. The treaty-making process is influenced by the unsuccessful experience of such associations as the Commonwealth of Independent States, where the political ambitions were detached from pragmatic interests.

Black Sea Economic Cooperation Organisation

Another organisation under examination is the Black Sea Economic Cooperation Organization (BSEC). It was established in 1992 on the initiative of Turkey. On 25 June 1992, the Heads of State and Government of eleven countries: Albania, Armenia, Azerbaijan, Bulgaria, Georgia, Greece, Moldova, Romania, Russia, Turkey and Ukraine signed in Istanbul the Summit Declaration and the Bosporus Statement giving birth to the Black Sea Economic Cooperation.

With the entry into force of its Charter on 1 May 1999, BSEC acquired international legal identity and was transformed into a full-fledged regional

economic organization. With the accession of Serbia and Montenegro in April 2004, the Organization's Member states increased to twelve.

The Black Sea Economic Cooperation Organization covers 20 million square kilometres with a total population of 350 million, and accounts for 5 percent of the world trade. This region is located on important energy and transport corridors between East and West. The activities of the BSEC Organization encompass Turkey, Albania, Bulgaria, Romania, Moldova, Greece, Azerbaijan, Georgia, Armenia, Russia and Ukraine.

The BSEC has attained some goals by increasing cooperation between its members in economics, banking, communications, environment, agriculture, energy, science, technology, education, statistics, health, transport and in the struggle against organized crime.

The BSEC institutional structures comprise the Summits, the Councils of ministers, the Secretariat; the Trade and Development Bank; the Parliamentary Assembly, the Permanent International Secretariat of the Organization (established in March 1994 in Istanbul), the Business Council bringing together the representatives of the respective parliaments and private sectors; and a number of affiliate bodies.

The Organisation came into existence as a model of multilateral political and economic initiative aimed at fostering interaction and cooperation among the Member states, as well as at ensuring peace, stability and prosperity encouraging friendly relations in the Black Sea region.

Shanghai Cooperation Organization

The Shanghai Cooperation Organization (SCO) seems to be the most impressive and important organisation among those under analysis. The Shanghai Cooperation Organization is an intergovernmental international organization founded in Shanghai on 15 June 2001 by six countries, China, Russia, Kazakhstan,

Kyrgyzstan, Tajikistan and Uzbekistan.

Its Member states' territory covers an area of over 30 million square kilometres, or about three fifths of Eurasia, with a population of 1.455 billion, about a quarter of the world's total. Its working languages are Chinese and Russian.

According to the *SCO Charter* and the *Declaration on the Establishment of the SCO*, the main official purposes of SCO are: "strengthening mutual trust and good-neighbourship and friendship among Member States; developing their effective cooperation in political affairs, the economy and trade, science and technology, culture, education, energy, transportation, environmental protection and other fields; working together to maintain regional peace, security and stability; and promoting the creation of a new international political and economic order, featuring democracy, justice and rationality".

According to the official point of view, the SCO stands for and acts on "a new security concept anchored on mutual trust, disarmament and cooperative security; a new state-to-state relationship with partnership instead of alignment at its core, and a new model of regional cooperation featuring concerted efforts of countries of all sizes and mutually beneficial cooperation".

The SCO institutions consist of two parts: the meeting mechanism and the permanent organs: Council of Heads of States, Council of Heads of Government, Council of Ministers of Foreign Affairs, Conference of Heads of Government's Agencies, Council of National Coordinators. The Secretariat is the SCO's standing executive organ (based in Beijing). The Executive Secretary is appointed by the Council of Heads of State.

On 15 June 2001, the day when the SCO was founded, the Shanghai Convention against Terrorism, Separatism and Extremism was signed, clearly defining terrorism, separatism and extremism for the first time as common dangers to be fought.

A noticeable SCO' agency is the Regional Anti-Terrorism Structure (RATS). This is a SCO permanent organ based in Tashkent, capital

of Uzbekistan. Its main official function is to coordinate SCO member activities against terrorism, separatism and extremism. The Director of the Centre's Executive Committee is appointed by the Council of Heads of State.

Thus, the SCO security cooperation focuses mostly on the fight against terrorism, separatism and extremism. These activities differentiate the Shanghai Economic Organization from other ones under scrutiny. Following the opinion of the Secretary-general of the Eurasian Economic Community, the main task of the Shanghai organization is the regional security[2].

The purposes, potentials and institutional development of the SCO have attracted the attention of the world community. An increasing number of countries and international organizations have proposed to establish contacts and cooperation with the SCO in some forms.

The SCO Council of Ministers of Foreign Affairs in November 2002 adopted the Interim Scheme of Relations between the Shanghai Cooperation Organization and Other International Organizations and States, formally initiating SCO external relations. The Scheme provides that other countries and international organizations may be invited to attend as guests the meetings of the SCO Council of Ministers of Foreign Affairs and diplomatic consultations, and the SCO, likewise, may send representatives to attend activities of other international organizations.

Conclusions

The present review is aimed at a brief analysis of regional forms of cooperation in the Eurasian area, which embraces *grosso modo* the space of the former Silk Road: Turkey, Russia, Ukraine, Balkan countries, Central Asian countries and China. Since ancient times the Central Eurasian area has been the cradle of different civilizations, the renowned crossroads between nations at the extremes of Asia and Europe, where people of different ethnic origins, cultures and religions intermingled. In no way was that process an easy one; periods of peace and tranquillity were followed by protracted conflicts and wars. Nevertheless, a valuable experience of relationship between the peoples of two continents as well as of the cohabitation and mutual enrichment of different cultures has been accumulated.

As far as the legal and institutional set up of the organisations mentioned above, the legal nature of their founding acts, their competencies and real activities and the official purposes are concerned, it seems that they use the experience of other regional organisation of economic, political and military types with respect to their evolution.

The further practical analysis of these new regional organisational trends is of special importance. It is critical to uncover the particular interests that the Member states have to establish new arrangements and to determine which institutional regime best reflects peoples' organic interests.

Methodologically, it should be a complex, interdisciplinary research with the purpose to make not only academic exercise, but also come to some conclusions concerning the role of this cooperation for prospective relations of the Member states of such organisations with the Western-European and North-American States and their alliances, in particular, NATO and the European Union.

The same purposes are foreseen for carryng out an analysis of the international legal arrangements among international structures, in which various institutions may have overlapping or shared institutional authority, first of all, with the UN agencies and regional institutions.

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[1]The author has already published a research paper on this topic: "Regional forms of cooperation in post-Soviet space: Fictions and Realities", published in *East European and Russian Constitutional Law Journal*, 1998, no. 1.
[2]See *Evraszia*, April 2006, p. 18.

The EU's Role in the Promotion of a Multilateral Security System

Alessia Biava

Since the end of the Cold War, the geo-strategic context has radically changed. The collapse of the Soviet Union has led to the end of the bipolar world. Nevertheless, analysts still do not agree about the nature of the new international system which has replaced the bipolar equilibrium.

In the current security context, the United States remains the only superpower. However, since the 90s the role of security organisations such as the United Nations has increased. Should we describe this as a unilateral or a multilateral security system? The question remains open.

How can the European Union, which has been emerging as a security actor since the end of the Cold War, actively contribute to the promotion of peace and security in the framework of a real multilateral system?

The security and defence dimension of the European Union

The European Union was initially conceived as a way of preventing new conflicts and of building a lasting peace among its members. The security dimension was essential at the beginning of the European integration process. After the failure of the European Defence Community, integration efforts have been concentrated mostly in the economic field.

Since the end of the Cold War, the foreign policy, security and defence dimension has again become central to the European Union agenda. The EU has decided to take up its responsibilities on the international scene and to overcome the paradox of being "an economic giant and a political Lilliputian".

The Treaty of Maastricht launched a Common Foreign and Security Policy (CFSP) to help the EU to act coherently at international level. This new policy, governed by unanimity, showed its limits during the war in former Yugoslavia and in Kosovo. Its intervention was limited in scope and means. It is evident that a coherent high profile initiative cannot be taken if unanimity is required. Besides this, if it wants to be taken seriously by the international community, the European Union's security action on the international scene needs to be backed up by credible military means.

In order to become more effective in the international context and to overcome a mere "verbal diplomacy", the European Union launched, under the French and British initiative of St. Malo in December 1998, the European Security and Defence Policy (ESDP). This policy should allow the EU to play an active role in promoting peace and security outside its borders.

European Union engagement as an actor in the field of security aims to fulfil the Petersberg tasks described in Article 17 of the European Union Treaty as: "Humanitarian and rescue tasks, peacekeeping tasks and tasks of combat forces in crisis management, including peacemaking". To that end the member states have set themselves some military and civilian capability targets, known as Headline Goal 2003[1], Headline Goal 2010[2] and Civilian Headline Goal 2008[3].

The ESDP is running faster than the CFSP

2003 will not be remembered as a successful year for the Common Foreign and Security Policy. Member states found themselves divided over

the Iraqi issue and unable to express a common position vis-à-vis US intervention in Iraq.

Nevertheless, 2003 marks the beginning of the EU's operational engagement within the framework of the European Security and Defence Policy. To date, 14 ESDP civilian and/or military operations have been launched in different parts of the world, either to manage a crisis, resolve a conflict or establish a post-conflict stable environment in order to build a lasting peace.

The European Union is massively engaged in the Balkans. In Bosnia Herzegovina, on the 1st of January 2003, it launched the first civilian crisis management mission, namely the European Union Police Mission (EUPM) whose mandate has been extended till the end of 2007. On the 2nd of December 2004 the EU military operation EUFOR ALTHEA took over the NATO SFOR mission in Bosnia Herzegovina. European Union military and civilian means have also been deployed in the Former Yugoslavian Republic of Macedonia (FYROM), under the umbrella of the military operation CONCORDIA which ended in December 2003. CONCORDIA was then followed by the Police Mission PROXIMA. This operation, launched in December 2003 for an initial mandate of one year, ended on the 14th of December 2005. EU engagement in the FYROM continues with a Police Advisory Team (EUPAT), which started work on the 15th of December 2005 for a six-month period and aims to promote the development of an efficient police system based on the European standard of policing.

The European Union has also been actively present in Africa since 2003. The military mission ARTEMIS was launched in June 2003 in the Democratic Republic of Congo. It ended officially in September 2003 and was followed by a Police Mission in Kinshasa, EUPOL KINSHASA, and by a EU mission to provide advice and assistance for security sector reform in the Democratic Republic of Congo, EUSEC/DRC. Both are still operational. The EU also supports the military and the police component of AMIS II, the mission headed by the African Union in Darfur.

In July 2004, the European Union launched a Rule of Law Mission in Georgia, EUJUST THEMIS, for one year. In 2005 four other civilian operations also began and are still operational: the EU Integrated Rule of Law Mission for Iraq (EUJUST LEX), the EU Monitoring Mission in Aceh (AMM), the EU Police Mission in the Palestinian Territories (EUPOL COPPS), the EU Border Assistance Mission at Rafah Crossing Point in the Palestinian Territories (EU BAM Rafah).

The potential of European Union engagement on the international scene

EU action as a security actor on the international scene shows great potential. The list of EU-led operations is evidence of a global approach. The EU is able of deploying both civilian and military means in different parts of the world. It is capable of reacting to a crisis as was the case with ARTEMIS, or working to build a stable post-conflict environment, as in Bosnia Herzegovina, for example, and in the FYROM. The EU also promotes multilateral engagement under the umbrella of international law. The success of the EU operations has shown that the civilian dimension of the ESDP gives it a comparative advantage when working to establish a stable post-conflict environment. The EU remains substantially a civilian power which has developed its military dimension in order to be a more credible security actor.

Headline Goal 2010 underlined the need to develop rapidly deployable and inter-operable forces within the ESDP framework in order to react promptly to a crisis and to manage it. For this reason member states have committed themselves to the creation of several battle-groups. They are either national, bi-national or multinational force packages of about

1500 troops, which can be rapidly deployed commensurately with the type of crisis with which they must cope. This formula will allow the EU to dispose of a wide range of specialised and flexible troops able to act in different scenarios.

The global, flexible, multilateral and civilian approach of the European Union, backed up by its diplomatic expertise and its new military dimension, should be complementary to the United States' approach to security and must also be in line with international law. This is the only way for the EU to promote the development of a genuinely multilateral security system. The experience of the Iraqi war has shown that, in the post-Cold War international and security environment, the unilateral and military approach of the United States is not sufficient to ensure peace. It is in this framework that the European Union approach could play an active role for the establishment of a real multilateral partnership.

Nevertheless, in order to be a credible provider of security in a multilateral system, the European Union must not only continue to develop her military and civilian facilities. It must also provide the right institutional framework and define its terms of engagement in accordance with European principles, clearly specifying when, how, where and under what circumstances the EU will be willing to intervene as a security actor on the international scene.

[1]The Headline Goal 2003 was endorsed by the European Council in December 1999
[2]The Headline Goal 2010 was endorsed by the European Council in June 2004
[3]The Civilian Headline Goal 2008 was endorsed by the European Council in December 2004

Two Books on the EU Constitution

John Parry

Peter Norman
The Accidental Constitution
Brussels, EuroComment, 2005

Andrew Duff
The Struggle for Europe's Constitution
London, Federal Trust, 2005

From the start, the goal of the European project was political. To quote from the preamble of the 1951 Treaty Establishing the European Coal & Steel Community, the participating states "resolved to substitute for age-old rivalries the merging of their essential interests; to create, by establishing an economic community, the basis for a broader and deeper community among peoples long divided by bloody conflicts; and to lay the foundations for institutions which will give direction to a destiny henceforward shared". Not an alliance therefore, nor simply a customs union, but a new, innovative political structure.

Since that early agreement the institutions have grown in sophistication. Further treaties have extended the policy areas covered, radically increased the number of member states, abolished internal borders, introduced a European citizenship with a more or less common passport and established an elected parliament with genuine though limited powers; yet every stage has also been characterised by uneasy compromises over the working relationship between the Community/Union, its member states, and the citizenry. Such tensions could be dismissed as merely the growing pains of our new multi-state political entity, but the decline

in popular enthusiasm for the European project, the low turn-out at European elections, and the difficulty in reaching common decisions in such key areas as foreign policy and the environment all indicate that the original sense of purpose is fading and action must be taken to revive it.

The crunch came in December 2000 at the abrasive European Council meeting in Nice, one of whose tasks was to prepare the EU for its pending enlargement. It followed the established route of preparatory meetings between national civil servants leading up to the final lengthy, often bad-tempered negotiations between the heads of member states' governments. The talks dragged on until, emerging at dawn after the last, overnight session, British prime minister Blair was heard to say that this was no way to go about Europe's business. In that at least he was right, and everyone knew it.

A year later in Laeken [Brussels] the European Council issued a Declaration establishing a Convention to clarify the division of powers between the EU and its member states, to examine its working procedures, and to simplify the wording of the existing treaties to help citizens understand them more easily.

The project was in one sense revolutionary. Every step in the development of the European Union to date, from the Coal & Steel Community to the Treaty of Nice, had been achieved by means of intergovernmental negotiations held in secret where governments could hammer out their compromises away from the public gaze and the nagging of opposition politicians. But this time, and in line with the Laeken Declaration, the Convention's meetings were to be held in public and its proceedings published. This openness enabled interested journalists such as Peter Norman to follow the work day by day.

In his book *The Accidental Constitution*, written before the French and Dutch referenda, he recounts in fascinating detail not only the debates on each section of the ensuing treaty,

including such vexed issues as the pressure from various religious groups to include some mention of God in the final text; he also gives highly informed thumbnail sketches of the main personalities involved.

Most of the Convention's members were parliamentarians: 30 from the fifteen member states' national parliaments, 16 from the European Parliament, plus one member representing each member state's government. They were supported by a corresponding number of "alternate" members and applicant countries were represented proportionately. In addition, the Commission sent two representatives and there were observers from the Committee of the Regions and the Economic and Social Committee.

For federalists the nature of the work was clear. Europe needed a constitution, though at that moment in time few among the member states' heads of government would have used that word. Nevertheless, the Convention's chairman, Valéry Giscard d'Estaing, embraced the concept, openly comparing the task ahead to the proceedings of the Philadelphia Convention in 1787 which drew up the American constitution, although the differences were enormous. No 18th century state had as complex an administrative or political structure as those of 20th century Europe. Moreover, the previous European Treaties had put in place a patchwork of legislative and administrative systems which somehow had to be included, though they were not always compatible with the simplification and standardisation of procedures which an ideal constitution would require.

Nevertheless, after an initial "listening phase" the Convention's Praesidium published a preliminary "draft Constitutional Treaty" – in effect only a skeleton outline of the work still to be undertaken – thereby firmly embedding this concept in the public mind. It established a preliminary working framework which was remarkably similar to the final agreed document

though, as Peter Norman describes, reactions among Convention members were mixed. His account of what followed, both in terms of the political debates and the personalities involved, is invaluable for anyone interested in what was after all a major experiment in Europe-wide democracy. He takes the reader through the maze of working groups, the mass of reports and other documents, and the methods used to arrive at a consensus which most members willingly accepted.

Yet he is not uncritical. Among his final comments he writes that "institutional issues were never thoroughly aired" and for this he blames "interventions of the larger member states". On this question his chapter on "Institutional Imbroglio" is particularly interesting in the light it throws on the pressures to which the Convention was subject.

While Peter Norman writes from an observer's viewpoint, Andrew Duff, MEP, one of the most active members of the Convention, takes a more partisan position in his account of what he calls *The Struggle for Europe's Constitution*. In one of his thumbnail sketches Peter Norman describes him as "a rare combination of UK citizen and convinced federalist… not afraid to provide the grit for the Convention's oyster… so enthusiastically federalist that a UK diplomat was once heard proposing that he should be tried for treason![1]"

Duff offers a succinct account of the events leading up to the Convention, discusses the problems involved in constitution writing and then proceeds to guide the reader through the main details of the final text, in many cases outlining the debates which led to the present wording. As he points out, the result was not always unambiguous. For instance, Article I.1(2) states that "The Union shall be open to all European States which respect its values and are committed to promoting them" – but dodges the issue of how Europe can be defined, a question which in particular affects Turkey's application

for membership. Geographically? If so, where is the eastern border situated? Historically? But Cyprus, for example, was part of the Ottoman Empire for 300 years. Culturally, then? That could include Australia and New Zealand. As Duff writes[2], "Europe as an intellectual concept has global reach".

But it is the chapter entitled "Shifting the institutional balance" which holds the key to the entire constitutional debate, for it demonstrates how far the original ideal of laying "the foundations for institutions which will give direction to a destiny henceforward shared" has given way to a scramble for power between the member states' governments. In describing the ebb and flow of negotiations over the proposed appointment of a semi-permanent "super-president" of the Council, Duff demonstrates how in some respects, especially in external affairs, the draft constitution strengthens the intergovernmental nature of the EU. Any thought that an EU President might be democratically elected was absent from the proceedings.

These chapters on the actual draft text will for many readers be the most valuable part of Duff's book, for it rehearses arguments which, should the ratification process be revived, are likely to re-surface. It was while he was still writing it that the draft constitution was driven on to the rocks by the adverse winds of public opinion in France and the Netherlands, leaving the EU faced with a dilemma. The failure of the Nice Treaty to make adequate provision for the existing enlargement to 25 states led directly to the Laeken Declaration and the Convention. Now, with yet more adhesions on the horizon, the need for further reforms such as those proposed in the draft constitution [now shelved] is even more urgent.

In his final chapters Duff sets out number of options. The suggestion that the referenda in France and the Netherlands might be re-run after a cooling off period he rules out as unrealistic, and so too is the idea that the

European Council might agree to scrap the rule requiring unanimity for the ratification of treaty amendments. His favoured option – re-negotiation of certain parts of the draft Constitution, possibly by another Convention – he discusses at greater length. Some will think he is baying for the moon; others might feel that, messy as it seems, this could be the best way out of the morass. One way or another the challenge will have to be faced by European Council at the Vienna Summit this June, 2006.

[1]Norman, op.cit., p. 53
[2]Duff, op.cit., p. 36

The United States of Europe

Florina-Laura Neculai

In fifty years of integration the European Union succeeded in reaching its initial goals of peace, stability and prosperity. The initial enthusiasm now gives way to concern. The Europeans are worried about opening up European enterprises to new Member States, about competition from South-East Asian economies, and particularly from Chinese textiles. Above all they are worried about the degree of organised crime which could increase in an enlarged Europe (p. 12).

It is in this context that Guy Verhofstadt publishes his *manifesto* whose main aim is to contribute to the debate on the future of the European Union by presenting his vision of a United States of Europe.
Reviewing the historical context and past

attempts to achieve a political European Union, Verhofstadt argues that a future "dynamic European politics is impossible without efficient, transparent and democratic institutions" (p. 63).

Today, the European Union functions at times according to the intergovernmental model and, at others, to the community method. Verhofstadt stresses that "The future of Europe lies in building a political Europe founded on a community or federal ground" (p. 32). He proposes that in future the EU should focus only on few missions. First, it should develop a socio-economic strategy to face both the challenges of globalisation and of Europe's ageing population. Second, in order to meet the challenge of organised crime the EU should develop the area of justice and security. Third, the European Union must speak with one voice on common foreign and security policy, and be equipped with a common army.

Research and development (R&D) he considers to be a major priority for the future of Europe, as well as the implementation of a trans-European network. "Shortly, the expenses that go to the R&D must be periodically increased in order to take the second place in the budget after the agriculture spending" (p. 53).
The simplification of EU jargon, so-called *Eurospeak*, is also a matter of priority if we are to diminish the gap between the European dream and European reality as the citizens experience it.
So far, economic integration seems to have been successful. A European Constitution would have brought a major and necessary step forward towards political integration but was rejected "not because it was too ambitious, but because of its lack of ambition" (p. 65). Starting from the observation that the EU Member States are not a homogenous group and that some states favour an intergovernmental model for Europe and others prefer the federalist model, or perhaps a mix of the two, Verhofstadt envisages a

federal-core Europe. "To wait until everybody is willing, would be absurd. It would be like waiting for a train that will never arrive" (p. 66). Thus he foresees a European Union made up of two concentric circles: a federal circle which would become the United States of Europe; and a second confederal circle, possibly called the Organisation of European States.
This *manifesto* presents arguments in favour of a vision. A politician and Prime Minister of a federal Member State of the European Union, he sets out his arguments in favour of a federal European Union in all their complexity but written in a very accessible style. *To be or not to be* a federal European Union? The future holds the answer.

They did not Know Where They were Going

Joseph Montchamp

Dick Howard
Aux origines de la pensée politique américaine
Paris, Buchet Chastel, 2004

This is a vivid and comprehensive study and a work of great historical and philosophical density. It is a new, revised and slightly augmented version of a previous book written in French by the author, originally published by Ramsay editions in 1987[1]. Dick Howard is professor at Stony Brook University (State of New York). This new volume includes an excellent chronology but it has not the historiographic notes of the former one.

The reader will find here a complex and modern study of the origins and ideological roots of what we call the "American Revolution". The book brings and encourages detailed information

on the period 1750-1800; at the same time it provides an enlightened reflection on the contemporary writing of history.

The American ideology[2] was born and has taken shape from political, religious and legal currents that the author does not always wish to disentangle: there are elements coming from the Puritans of New England, an essential influence of the Quakers of Pennsylvania and the well-informed culture of the Virginians. We are reminded of the fact that practically all the fathers of the Constitution were lawyers, with the exceptions of Franklin and Washington!

The main point is – and Howard, of course, is not the first to point out – that the emergence and growth of the American political thought was a piecemeal and pragmatic process born and developed on the battlefields of the war of Independence, and during the struggles, debates and controversies through a process of trial and error.

The Declaration of Independence of July 4th, 1776, is a short and carefully drafted document, but between 1780 and 1787 the several states worked feverishly to give birth to constitutions that were more detailed and more complicated the ones than the others (Pennsylvania's being the exception), which will lead to an unending process of revision. It will take the Federal Constitution of 1787 – short but flexible – to put an end (almost) to the proliferation of constitutional documents[3].

The actors of the "Revolution", as most pioneers, moved forward into an unchartered territory, but with prudence. The historian Vernon Parrington summed up the gist of the Constitution in a few lines: "It is surprising how little abstract speculation accompanied its making and adoption[4]", and: "It was the work of able lawyers and men of affairs confronting a definite situation rather than political philosophers", and further "The constitution was a venture in republicanism on a scale and under conditions

without historical precedent".

More recently, in 2003, a historian, John Ferling – professor of history of the State University of Georgia – published a book, which, once again, underlines the pragmatic side of the Founding Fathers, under the title *A Leap in the Dark* (Oxford University Press, 2003).

"A Divorce in the British Empire and a New Union", Dick Howard's book is a lively guide to lead us among various written testimonies, publications and documents reminding us of the history lived and made by the "first Americans", in the years preceding, during and after the divorce was pronounced by Thomas Jefferson on July 4, 1776.

It is the progressive realization of a common history and collective destiny; from the Albany Plan in 1754 to the writing of the Philadelphia document in 1787. The States had finally understood that they had to unite and keep united to resist the attempts made by the mother-country to re-impose its authority on them. The war of 1812 is, so to speak, the last chapter of this process[5].

The new marriage contract, this time between the States, was the result of a conciliation and pragmatic arbitration (see p. 321). The state-by-state ratification aroused or awakened many old passions and local conflicts. But finally, the separation of powers preserved a balance between the democratic Republic and the republican Democracy – both expressions were, then, pejorative, or at least ambiguous.

The last part of the book presents interesting commentaries on *The Federalist* that we should re-read in Dick Howard's company.

[1]The English edition is entitled: *The Birth of American Political Thought*, London, Macmillan and Minneapolis, University of Minnesota Press, 1989.
[2]See Elise Marienstras, *Les Mythes fondateurs de la nation américaine*, Paris, François Maspero, 1976.
[3]Proposals of constitutional amendments may be made by the legislatures in all states today.
[4]Vernon Parrington. *The Colonial Mind 1620-1800*, New York, Harvest Books, 1954, pp. 283 and 297.
[5]For example, Britain supported the independence of Texas (1836-1846) and claimed the Territory of Oregon until 1846 when the line 49° of latitude was agreed on under President Polk.

Africa:
Unite or Perish

René Wadlow

"Africa today is faced with a stark choice, either unite or perish" writes David Francis of the University of Bradford in this useful overview of the conflicts in Africa and of regional peacemaking. "But this choice is not a simple matter because it involves complex decisions about the future of the continent and the pooling of sovereignties by states. Contemporary Africa is portrayed as synonymous with perennial wars and armed conflicts, political instability, criminal violence; in a state of 'permanent humanitarian emergency' due to forced migrations, massive refugee flows and internally displaced persons; at the mercy of natural catastrophes such as famine, drought, and floods, and ravaged by the HIV/AIDS pandemic, with over 40 percent of the population living below the poverty line and on less than US$1 a day".

In the face of these problems the sixth ordinary annual summit of the heads of state of the African Union (AU) was held in Khartoum, Sudan, on 23-24 January 2006, despite NGO suggestions that a summit in a state with massive destruction going on in Darfur was not the best symbol of the aims of the AU. However, Sudan had already put a good deal of effort into holding the summit. The government had built forty new houses close to the Blue Nile for visiting dignitaries. 1244 new cars – 237 of which are presidential – were used to shuttle the guests around. To reduce traffic congestion, the inhabitants of the city were given two days off.

The summit was dominated by two issues. The dominant one was the question of whether Sudan should assume the chairmanship of the AU for 2006 – the habit being that the chairmanship goes to the host country. In the end, Sudan is to be chairman in 2007 in the hope that Darfur will have faded from public consciousness. The 2006 chairmanship is held by the Congo (Brazzaville) whose president came to power by a coup after a long civil conflict.

The other issue was the fate of the former Chadian leader Hissène Habré now living in a comfortable exile in Senegal – having taken as much money as he could carry from Chad. The question was raised of whether he should be extradited to a court in Belgium to be tried for human rights violations when he was Chad's president. It was not really much of an issue since no African president wants to see trials for human rights violations. The way to be able to say "no" diplomatically to Belgium was given to a committee to find an answer by July.

Although Francis says "The formation of the AU in the face of mounting difficulties is a manifestation of the capacity of Africa to revive itself and take control of its own destiny", there is little AU progress at uniting Africa. Thus, the bulk of Francis' book is a good analysis of conflicts in Africa. He passes in review many of the theories on the weaknesses of the African state, of the legacy of colonialism, and the division of Africa. He deals with the inability of governments to deal with ecological dangers which threaten human security such as desertification, deforestation and overgrazing. As he notes, "Africa is emerging as the world's 'soft-underbelly' for global terrorism... The conflict zones, state failure and collapse, weak law and state governing institutions, porous borders, the corruption and 'privatisation' of

the security and banking institutions, and the radicalisation of disaffected populations, have made Africa a safe haven and recruiting ground for terrorist organisations".

Unification from "the top" is of little use if there is not adequate public administration at the national and local level. Beyond the question of corruption – the misappropriation of public funds for private use – there lies the broader area of administrative structures which are not adapted to development needs. How to create administrations so that development is both the goal and the day-to-day policy orientation is a crucial question. There is a need for new development-oriented administrators who are able to plan in conditions of uncertainty, who are able to meet regional needs within a country, and who are able to cooperate with the administrators of neighboring states, as, increasingly, issues are transnational.

There is a radical difference between good administration of existing structures and the creation of new structures which development requires. Development-oriented administration needs a different type of outlook and different skills of consensus building, networking, conflict resolution and mobilization of a wide range of actors in both government and the private sector. New techniques of personal growth and motivation can be used so that administrators are able to withstand the pressures – political, social, family – that administrators of development-oriented reforms face.

In addition to good development-oriented administration at the national level, there is a need for good local government and administration. Such local government is largely lacking in Africa. Traditional African village chiefs had a variety of tasks. There is no one pattern of traditional leadership, but, in general, tasks of local dispute settlement, some organization of work for common tasks, and some cooperation with other local leaders were common features.

By and large, there has not been a transition from traditional to modern local leadership in the way that local notables have often continued to play a role in local government in Europe. Good local government means that peoples' needs are, in part, met regardless of the failures of government and administration at the national level.

For a stable and cooperative Africa, local government and leadership need to grow. Otherwise, we will continue to see costly summits followed by little action.

A New United Nations Human Rights Council Has been Established

On March 15th, the United Nations voted to set up a new Human Rights Council to replace the discredited and much criticized Human Rights Commission. Of the 191 member States of the General Assembly, 170 approved the creation of the new Council; 4 voted against: the United States, Israel, Palau and the Marshall Islands; 3 abstained: Iran, Belarus and Venezuela.The United States opposed the Council even though it had led the drive to abolish the Human Rights Commission, which had become a stronghold of countries such as Zimbabwe, Sudan and Cuba trying to protect themselves from international criticism.

Despite the "no" vote, the United States Ambassador, Mr. John Bolton, promised that Washington would work cooperatively to make the new council "as strong and effective as it can be". The new Council Members have been elected on 9 May 2006 and the first meeting shall be convened on 19 June 2006. It consists of 47 Member States, instead of the 53 of the Commission, which are individually elected by an absolute majority of 96 votes of the General Assembly's members.

They will serve for a period of three years and shall not be eligible for re-election after two consecutive terms. The new Council will meet at least three times a year for a minimum of ten weeks and will be able to hold special sessions to address human rights crises if approved by one third of its Members.

Among the several elements that could make the Council a modest improvement over the Commission, we highlight its increased number of meetings throughout the year, equitable geographical representation, the voting rights associated with membership and the absolute majority requested for its members to be elected.In spite of these improvements, even though Iran and Venezuela have not been elected, China, Cuba, Pakistan and Saudi Arabia

have entered the Council. The Council should promote universal respect for the protection of all human rights and fundamental freedoms for all. "The true test of the Council's credibility will be the use that Member States make of it", noted Secretary-General Kofi Annan,"if they act on the commitments they have given in this resolution, I am confident that the Council will breathe new life into all our work for human rights and thereby help to improve the lives of millions of people throughout the world"(*a.s.*).

The Merger of Several UN Organizations Proposed

On 23 February 2006, the 13 Developed Countries (G13) presented a letter to the Prime Minister of Norway (Co-Chair of the Panel on UN system) that concerned 8 key issues for strengthening the UN operational system. Developed Countries advocated in fact a radical reform and structural and operational changes including the merger of several UN organisations: the creation of only three large UN agencies concerning development, humanitarian and environment affairs, and the creation of few specialised agencies.

The main issues were raised on the core normative and operational roles of the UN system; how can the UN system be better organized; the governance and the funding of UN operational system and of its activities; how to improve the aid effectiveness and how to maximise its contributions to achieve the international development goals, including the MDGs. The Panel had its first meeting in April and it has to complete its report in August, so that it can be discussed at the General Assembly in September (*a.z.*).

African Unique Passport by End 2006

Leader to propose an African passport. He asked for freedom of travel for all Africans. Then,

African Union officials had agreed to consider a proposal by the Libyan leader to create an African passport to allow freer movement on the continent, the AU said. Al-Qadhafi said that creating a single African passport and an African identity card would remove obstacles on travel for citizens of African countries.

His proposal came at the opening of a meeting of interior ministers from 53 African Union countries in the Libyan capital, Tripoli. "Let the African citizen exercise his freedom and remove all obstacles in front of him", al-Qadhafi said. "Our era imposes this on us. If we don't do it, we will be isolated, they will re-establish slavery (in Africa) and colonise us all over again", the Libyan leader said.

According to a statement after the end of the ministerial meeting, the Union said it accepted the idea of creating an African passport and would begin consultations. The ministers' recommendations were submitted to African Union heads of state during a summit in Sirte, east of Tripoli, on 4-5 July, then became a reality during the Khartoum summit on 23-24 Jan 2006, in which the Commission president A. Konare promised to issue such passport by the end of 2006. The interior ministers gathered in Tripoli in advance of a July African summit "to gradually facilitate bilateral and continental freedom of movement while taking account of social, economic, security and human rights dimensions", the statement said. Ministers also discussed illegal immigration, the process of issuing visas and how to simplify procedures for allocating visas in the African Union countries (*j.-p.p.*).

The Creation of a Panafrican Television

From the 21st to 23rd of Nov. 2005, the Commission of the African Union organized in Cairo a meeting of experts to discuss the setting up of a Panafrican Radio and Television network. Experts from all member states of the Union, African Diaspora's specialists, economy experts, some International Organizations and a large audience took part in the meeting, besides several representatives of the written and audio-visual press.

In the meeting the practical ways were discussed as to how to open up a bouquet of Panafrican Radio and Television channels. The meeting's outcome was a document entitled: "The Panafrican Radio Television: Stakes and opportunities".

Egypt was chosen as the site of the upcoming Panafrican Television because it has the facilities to broadcast simultaneously to different satellites and in different languages in order to reach all Africans, not only in Africa but also and especially in the Diaspora.

The Cairo's meeting was the consequence of the Sirte Summit (July 2005) in which the Council gave the president of the Commission the task of studying the Egyptian proposal about the creation of a Panafrican Radio and Television. The report was then presented to the Council in the 23rd - 24th Jan. 2006 session.

"Africa has to silence the Afro-pessimism professionals, who specialize in sadism about the continent's misfortune, by making its voice heard and by giving hope". At last the world can listen to Africa's voice. French- and English-speaking people can tune in to the experiment from the Hotbird and Astra satellites, using the following parameters: Service ID 8982, Hotbird position 13.0° E, Frequency 12540,0 MHz, Symbol rate 27500, Polarity horizontal, FEC 3/4, Audio PID 112 (*j.-p.p.*).

Path Cleared for German Federalism Reform

After years of debate, Germany's federal and state governments have agreed on plans to reform their individual responsibilities, thus paving the way for a more transparent and efficient means of government.

The agreement between state premiers,

government ministers and the leaders of the two coalition partners is seen as something of a coup for Angela Merkel, who has given the federalism reform top priority on her grand coalition agenda.

At the heart of the reforms, the biggest constitutional change since 1949, is a redistribution of power aimed at preventing paralysis in the process of passing new legislation. As it stands, two thirds of all legislative bills have to be approved by both houses of parliament, and while that is not a problem for the grand coalition, it often led to law-making difficulties for the previous government of former Chancellor Gerhard Schröder.

The upper house of parliament, the Bundesrat, frequently adopted an obstructive role, which it had the power to do. Under the new reforms, more than 60 percent of new legislation will be eligible to be passed without endorsement from the upper house, greatly speeding up Germany's law-making procedures.

The reform will see the 16 federal states give up some of their voting rights in the Bundesrat. In return, they will be granted greater responsibility in other fields, such as environmental issues, educational policies and salaries for civil servants. But some politicians have already expressed a resistance to having big policy areas, such as education, taken out of federal hands.

The Assembly of the World Council of Churches

The 9th Assembly of the World Council of Churches (WCC), held in Porto Alegre, Brazil, adopted a statement on the *Responsibility to Protect*, which proposes criteria for limited use of force in protection of the vulnerable, as a last resort. The Responsibility to Protect is a concept focusing on the needs and rights of the civilian population and on the responsibilities of sovereignty, not only on the rights of sovereignty.

The statement says, "The responsibility to protect the vulnerable… is an ecumenical responsibility, conceiving the world as one household of God, who is the creator of all". It says it means "above all prevention – prevention of the kinds of catastrophic assaults on individuals and communities that the world has witnessed in Burundi, Cambodia, Rwanda, Sudan, Uganda, the Democratic Republic of Congo, and other instances and locations of human-made crises".

The statement distinguishes between prevention and intervention and says, "The fellowship of churches is not prepared to say that it is never appropriate or never necessary to resort to the use of force for the protection of the vulnerable". It says, "States can no longer hide behind the pretext of sovereignty to perpetrate human rights violations against their citizens and live in total impunity".

The Assembly calls upon the international community and the individual national governments to strengthen their capability in preventive strategies, and violence-reducing intervention skills together with institutions of the civil society. Such a move will contribute to and develop further international law, based on human rights, and support the development of policing strategies that can address gross human rights violations.

The statement says when there is failure to carry out the responsibility to protect, whether by neglect, lack of capacity, or direct assaults on the population, "the international community has the duty to assist peoples and states, and in extreme situations, to intervene in the internal affairs of the state in the interests and safety of the people".

The Assembly says it joins with other Christians around the world in repenting for collective failure to live justly and to promote justice. "Critical solidarity with the victims of violence and advocacy against all the oppressive forces must also inform our theological endeavours towards being a more faithful church" (*l.w.*).

Daniele Archibugi
Political Scientist

Interview by Paola Delrio & Giovanni Finizio

In September, a meeting of the Heads of State and Government was held in New York, and once again they talked of the reform of the UN. In particular, they discussed the question of the reform of the Security Council, and once again an agreement could not be reached, and it ended in a stalemate. In your opinion, why is it impossible to proceed in this matter?

First of all, it must be said that the reform of the Security Council is just one of the problems of the UN, but it is not the only one. The main problem is the democratization of the overall architecture of the UN, Security Council included. If we have to ask ourselves: Who is opposing a democratizing reform? If China, i.e. a totalitarian country, would oppose it, it would be understandable. But this is not the case. The major opposition comes form a very democratic country, the United States. This is a key contradiction: on the one hand, the US government claims that there is no democracy and that it is necessary to make war for exporting democracy; on the other, when somebody proposes to create new institutions in line with democratic principles, such as an International Criminal Court, it is the same US government that opposes to it. The same has happened for the treaty to ban antipersonnel mines (which, as is well-known, kill innocent civilians only, including many children). The UN is making apparent today that Western democracies, first of all the United States, do show a dangerous schizophrenia between what they preach and are inside, and how resolutely they oppose any attempt at introducing seeds of more robust democracy in international organizations.

The United Nations were born as an organization of States, which should have had to deal with situations of conflict between States, and which recognized as their only, or at least main, members the States. Today, in the era of globalization that erodes the States' sovereignty and that brings with it a proliferation of new transnational actors, like terrorist cells, NGOs and so on, is it still appropriate to think of the United Nations as based on that principle?

Of course, the United Nations would be much stronger if it succeeded to get a greater legitimacy, based on a larger number of players. The Secretariat has tried in many ways to open itself to civil society, to non-governmental organizations, to those who are often in the first line in conflicts, i.e. organizations like *Médecins sans Frontières*, Emergency and Amnesty International. In June 2005, for example, a very important initiative took place at the UN Headquarters: The Secretary General invited the non-governmental organizations to "Informal Interactive Hearings" just in the General Assembly Hall. It was an important event. In such occasions, obviously, the NGOs do not have any effective power, but I believe that the more this house-of-everybody, the UN Building, will open itself also to trade unions, enterprises, citizens of the world, the stronger it will become. People in Italy gathering around the Peace Table have launched more radical proposals. For example, we wanted to "have a dream" and thought of a World Parliament, on the model of the European Parliament.

You were one of the founders, together with scholars like David Held and Mary Kaldor, of the cosmopolitan democracy approach. It insists on the necessity to create a World Parliament. Would you explain in what this necessity consists and which should the features be of such World Parliament?

The idea is very old and has noble origins: it was proposed at the end of the 1600s by an English Quaker, William Penn, the founder of Pennsylvania, and later by many others. If one really believes in democracy, it is difficult to understand why it should only exist within States and not also in international organizations. In the UN General Assembly and even more so in the Security Council odd representation criteria are in force: in the General Assembly, Malta has one vote as China, India or the United States; in the Security Council the veto of any of the five permanent members is sufficient to block any decision. It is not realistic to think to be able to radically change that institution; however, one can think of more legitimized institutions. In fact, the more the legitimacy of the decision process is increased, the less necessary, probably, the use of force becomes. The idea is then to create a World Parliament that should be quite similar to the European Parliament, elected by universal suffrage only by the countries where free elections are allowed. We could find ourselves, then, in the paradoxical situation that countries whose government is not democratically elected will allow, in order to be admitted, the election of their members to the World Parliament. It could be, first of all, a consultative forum that has the possibility to express opinions and to take a position on the most important issues of our age, for example on the war, on the aid to development, on the activity of the international economic institutions. Many people have indulged in imagining how this World Parliament should be, how many members it should be composed of. For example, some argue that it should be an assembly of about 600 people, that could be convened concurrently and before the UN General Assembly. We could also imagine this body as a way of institutionalizing what exists already, for example that informal hearing organized by the Secretary General in June 2005.

Do you believe that a consultative power is sufficient? What will change in the United Nations?

We are for the strategy of small steps. Powers are acquired when the institutions are able to provide real answers. Should one think to grant immediately too many functions to that Parliament, the oligarchy of the States would block everything. Remember the Frankfurt Diet, that initially did not have much power, but later took it for itself and became the propelling force of German unification. I believe that the strategy of small steps requires that we start with an assembly with consultative powers; as soon as the world citizens will feel the legitimacy of that assembly and a political obligation towards it, it will become more difficult for the most powerful States to act in an indiscriminate fashion.

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