

Jesús Ballesteros  
Encarnación Fernández Ruiz-Gálvez  
Pedro Talavera  
Editors

# Globalization and Human Rights

Challenges and Answers from a European  
Perspective

 Springer

*Editors*

Jesús Ballesteros  
Philosophy of Law  
University of Valencia  
Campus Tarongers  
Edificio Departamental Central  
Avda. de Los Naranjos S/N  
Valencia, Spain

Encarnación Fernández Ruiz-Gálvez  
Philosophy of Law  
University of Valencia  
Valencia, Spain

Pedro Talavera  
Philosophy of Law  
University of Valencia  
Valencia, Spain

ISBN 978-94-007-4019-8

ISBN 978-94-007-4020-4 (eBook)

DOI 10.1007/978-94-007-4020-4

Springer Dordrecht Heidelberg New York London

Library of Congress Control Number: 2012935856

© Springer Science+Business Media B.V. 2012

This work is subject to copyright. All rights are reserved by the Publisher, whether the whole or part of the material is concerned, specifically the rights of translation, reprinting, reuse of illustrations, recitation, broadcasting, reproduction on microfilms or in any other physical way, and transmission or information storage and retrieval, electronic adaptation, computer software, or by similar or dissimilar methodology now known or hereafter developed. Exempted from this legal reservation are brief excerpts in connection with reviews or scholarly analysis or material supplied specifically for the purpose of being entered and executed on a computer system, for exclusive use by the purchaser of the work. Duplication of this publication or parts thereof is permitted only under the provisions of the Copyright Law of the Publisher's location, in its current version, and permission for use must always be obtained from Springer. Permissions for use may be obtained through RightsLink at the Copyright Clearance Center. Violations are liable to prosecution under the respective Copyright Law.

The use of general descriptive names, registered names, trademarks, service marks, etc. in this publication does not imply, even in the absence of a specific statement, that such names are exempt from the relevant protective laws and regulations and therefore free for general use.

While the advice and information in this book are believed to be true and accurate at the date of publication, neither the authors nor the editors nor the publisher can accept any legal responsibility for any errors or omissions that may be made. The publisher makes no warranty, express or implied, with respect to the material contained herein.

Printed on acid-free paper

Springer is part of Springer Science+Business Media ([www.springer.com](http://www.springer.com))

# Contents

## Part I Human Rights: Soft Threats

- 1 **Globalisation: From Chrematistic Rest to Humanist Wakefulness** ..... 3  
Jesús Ballesteros
- 2 **Basic Structure and Tax Havens** ..... 27  
Francesco Biondo
- 3 **Human Rights and the Inclusive Society** ..... 51  
Jorge Cardona Llorens

## Part II Human Rights: Hard Threats

- 4 **Afghanistan: Why Has Violence Replaced Political Power?** ..... 75  
Encarnación Fernández Ruiz-Gálvez
- 5 **Somalia: From the Errors of Colonialism to the Horrors of War** ..... 113  
Ana-Paz Garibo-Peyró
- 6 **Human Rights and Changes to the International Legal System. Philosophical Reflections on the (Difficult) Coexistence of International Humanitarian Law and International Human Rights Law** ..... 141  
Isabel Trujillo

## Part III European Union as a Referent for Peace and Development

- 7 **Europe's Path to Public Reason** ..... 159  
Francesco Viola

<b>8 The Social State Based on the Rule of Law in the Europe of Rights</b> .....	179
Ernesto J. Vidal Gil	
<b>9 Peace as a Priority</b> .....	205
Pedro Talavera	
<b>Author Bios</b> .....	241
<b>Index</b> .....	245

## Chapter 7

# Europe's Path to Public Reason

Francesco Viola

**Abstract** Chapter 7 highlights how addressing public issues publicly is a main target of European institutions, considering their commitment to the identification of shared values and the protection of rights. In consideration of this, it is reasonable to ask whether the “Public Reason” set forth by Rawls can be somehow applied to Europe’s current perspective, understanding it to be the ruling criterion governing public issues. A major obstacle is to be found in the anti-pluralistic attitude which is widespread across the European states. However, constitutionalism, which is nowadays widely rooted on a global scale, makes contemporary political communities to characterize by disagreement and by the need of a new order of liberties, which is essential for the existence of any political community. In such a context, Rawlsian “Public Reason” does not show up as a useful tool, while Habermas’ “Discourse Ethics” seems to be more promising, considering its openness to learning evolutionary processes. Nonetheless, this appeal to public reason needs to maintain its practical character, and should not lead to a philosophical or theoretical dispute, in order not to revive the anti-pluralistic and intolerant attitudes of the European cultural tradition. A European public consciousness should stick to two conditions: respecting the varieties of national cultures and distancing itself from the forms of the national state.

Europe is witnessing a critical moment in terms of its future. It is a moment when it is shifting from a merely economic and legal integration to a cultural and value integration. It was believed that politics was to render this in-depth transformation of the European Union possible. The constitution is a merely political action.

---

F. Viola (✉)  
Philosophy of Law, University of Palermo, Palermo, Italy  
e-mail: Francesco.Viola@unipa.it

But the difficulties which the European constitution is encountering lead us to question whether we truly need to solve the political matter beforehand to reach the integration of values. Isn't the contrary true?

Most likely, all the available channels should be simultaneously activated since Europe is a collective enterprise of individuals, peoples and governments; it is a historical scenario being formed in all of its crucial aspects. That's why (also for ignoble personal interest) I do not agree with Habermas when he claims that the future of Europe depends more on the specialised debates of economists, sociologists and political commentators than on the juridical debates of legal philosophers.<sup>1</sup> It's a matter which leans on all energies and cultural resources, to the exclusion of none. After all, if we look at the preamble of the institutive Treaty of the European Community (also covered and expanded in the preamble of the Treaty of the European Union), we can easily state that the founding fathers did not have an exclusively economicist notion and substantially aimed towards much more.<sup>2</sup>

In Europe, that is committed to defining shared values and guaranteeing rights, publicly addressing issues is even more necessary to ensure that common decisions are reached. Due to this, it is reasonable to ask whether the "Public Reason" set forth by Rawls can be somehow applied to Europe's current perspective<sup>3</sup> given the fact that it is the ruling criteria governing public issues.

It should be remembered that the assumption behind Rawls' Public Reason is the pluralism of "comprehensive doctrines"<sup>4</sup> and it has as an objective the common notion of political justice in a pluralistic regime.

It may seem easy to reach a solution on European Public Reason, since undoubtedly this idea has its roots in the origins of modern thought and dates back at least to the breakdown of the Western religious unity and religious wars, that is, during the first significant form of pluralism of comprehensive doctrines which appeared in the Western world and chiefly in Western Europe. However, the link between the anti-pluralism of the Hobbesian state and the Westphalian principle of the mere coexistence of states, has prevented European political culture from facing the pluralism argument in a pluralistic fashion.

---

<sup>1</sup> Cf. J. Habermas, "Why Europe Needs a Constitution", *New Left Review* 11 (Sep–Oct 2001): 5–26.

<sup>2</sup> Cf., for example the views by J. H. H. Weiler, "The Autonomy of the Community Legal Order – Through the Looking Glass", *Harvard International Law Journal* 37 (1996): 435–436.

<sup>3</sup> J. Rawls, "The Idea of Public Reason Revisited", *University of Chicago Law Review* 64 (1997): 765–807.

<sup>4</sup> A doctrine "is comprehensive if it contains notions on human values, on the ideal personality, on the ideal family relations and associations and on many other things which should lead our conduct and actually our entire life; it is entirely comprehensive, in fact, if it covers all the recognized values and virtues under one system rather precisely structured; it is only partially comprehensive when it comprises various non political values and virtues, but not all, and is structured in a less solid way" (J. Rawls, *Political Liberalism* (New York: Columbia University Press, 1993)). We can hence deduce that a comprehensive doctrine tends to let the justice of institutions depend on values which are not strictly political and even on more global world visions.

## 7.1 The Anti-pluralism of European States

Europe is witnessing a critical moment in terms of its future. It is a moment when it is shifting from a merely economic and legal integration to a cultural and value integration. It was believed that politics was to render this in-depth transformation of the European Union possible. The constitution is a merely political action. But the difficulties which the European constitution are encountering lead us to question whether we truly need to solve the political matter beforehand to reach the integration of values. Isn't the contrary true?

Most likely, all the available channels should be simultaneously activated since Europe is a collective enterprise of individuals, peoples and governments; it is a historical scenario being formed in all of its crucial aspects. That's why (also for ignoble personal interest) I do not agree with Habermas when he claims that the future of Europe depends more on the specialised debates of economists, sociologists and political commentators than on the juridical debates of law philosophers. It's a matter which leans on all energies and cultural resources, to the exclusion of none. After all, if we look at the preamble of the institutive Treatise of the European Community (also covered and expanded in the preamble of the Treatise of the European Union), we can easily state that the founding fathers did not have an exclusively economicist notion and substantially aimed towards much more.

In Europe, that is committed to defining shared values and guaranteeing rights, publicly addressing issues is even more necessary to ensure that common decisions are reached. Due to this, it is reasonable to ask whether the "Public Reason" set forth by Rawls can be somehow applied to Europe's current perspective given the fact that it is the ruling criteria governing public issues.

It should be remembered that the assumption behind Rawls' Public Reason is the pluralism of "comprehensive doctrines" and it has as an objective the common notion of political justice in a pluralistic regime.

It may seem easy to reach a solution on European Public Reason, since undoubtedly this idea has its roots in the origins of modern thought and dates back at least to the breakdown of the Western religious unity and religious wars, that is, during the first significant form of pluralism of comprehensive doctrines which appeared in the Western world and chiefly in Western Europe. However, the link between the anti-pluralism of the Hobbesian state and the Westphalian principle of the mere coexistence of states, has prevented European political culture from facing the pluralism argument in a pluralistic fashion.

The European modern state is not born pluralistic, but sees in pluralism a type of particularism which most menaces its unity and sovereignty, swallowing it up into medieval fragmentation. The focus of political power is not pluralistic by definition, nor is the process of differentiating temporal from spiritual power, whereby political power has become independent from ecclesiastic power.<sup>5</sup>

---

<sup>5</sup>However, the entire roots of this differentiation process are medieval. Cfr. H. J. Berman, *Law and Revolution. The Formation of the Western Legal Tradition* (Cambridge, MA: Harvard University

The void left by the expulsion of ecclesiastic power has been filled by the consolidation of common values shaped under the watchful eyes of political power, but not always have they come directly as a product of its own will. Thus, slowly, the European states have become nation-states where the pre-existing obligations of a pre-political nature, rooted in civil society, have been reinforced, modified and absorbed by legal procedures and political decisions.<sup>6</sup> The nation-states are far from being pluralist, something which can easily be established from observing the difficult life ethnic, cultural and ideological minorities have witnessed within them. However, the hardships of these minority groups have been widely compensated by the value legitimation supplied by the nation where the political community found its identity and its own common good, meaning its "completeness".<sup>7</sup> Hence the state was able to supply the justifications to its preconditions without recurring to external ideological powers and without necessarily becoming the direct supplier of values.<sup>8</sup>

If the nation-state is tied to a form of life determined and animated by shared values, the European Community in turn was not conceived as a political community, but as a juridical space common to nation-states which relinquished a small part of their sovereignty<sup>9</sup> in order to cooperate within specific economic sectors. This means that the European Community has not lived its own life, but has survived with the support of the other Member States and their government and jurisdictional bodies. Even though the community laws prevail over national laws, even though the decisions by the Court of Justice are followed by national judges, from a political point of view, the European Community has been parasitical to the Member States. Hence, under these conditions it would be out of question to conceive a European Public Reason.

Finally, while Rawlsian social issues related to Public Reason, tied as it is to pluralism, cannot be applied to those other Member States understood as nation-states, these are even further out of place for the European community due to its lack of political dimension. It can only be stated that in the European juridical arena, consolidated public life profiles of the Member States are projected in a muddled manner and that, moreover, they exert their various degrees of influence depending on their extremely different economic and political weight.

---

Press, 1983) and E.-W. Böckenförde, *Die Entstehung des Staates als Vorgang der Säkularisation*, in Id., *Recht, Staat, Freiheit* (Frankfurt a.M.: Suhrkamp, 1991).

<sup>6</sup>The usual distinction between two concepts of the nation holds no importance in this instance: one more voluntaristic and artificial (*ius soli*) and the other more ethnic and community oriented (*ius sanguinis*). In any case, the nation represents a common destiny, voluntary or involuntary as may be.

<sup>7</sup>On the nature of completeness of the political community cf. my article "La crisi della politica come comunità di vita", *Dialoghi* 1, no. 1 (2001): 40-49.

<sup>8</sup>We are well aware of what occurred when the nation-state exercised its political powers under ideological form. The totalitarian states of the twentieth-century represent the extreme and violent exacerbation of the anti-pluralism already found in the nation-state.

<sup>9</sup>The community represents, as sustained by the Court of Justice in the Van Gend & Loos case, "a new legal order of international law for the benefit of which the states have limited their sovereign rights, *albeit within limited fields* . . .". The italics are mine.



These observations explain the widespread trend, especially by philosophers of law and politics, to look at European cultural problems through the lenses of the internal cultural situation, both when describing them and when proposing a way to tackle them. The lack of political consistency in the Community favours the instrumental use of the usual argument which invokes the conformity of European parameters to criticize what occurs in one's own country. But this topic is purely ideological, since there are no European cultural parameters which differ from the mere summation of the lifestyles typical of the single states. In fact, Europe itself is, as it has wished to be, representative of the pluralism of national paths which, for better or worse, have developed on their own and which still tend to evolve based on their own internal resources. By this, we do not wish to undermine that cultural tie represented by the common European philosophical tradition, but this becomes increasingly less significant the more the member states increase with their diversity and, in any case, – as mentioned before – it is inappropriate to generate an authentic Public Reason and related issues with the aforesaid conditions.

## 7.2 The Evolution of Contemporary Constitutionalism

Is the situation destined to change with the onset of European citizenship? Actually Public Reason is a reason related to citizens and people rather than to states. However, European citizenship – as we know – implies the national one. This means that Europe's journey towards Public Reason shall have, necessarily, to go by way of the states and cannot be separated from them. It needs to be ascertained whether these states are open for an internal transformation which does not repudiate their past, but which knows how to implement the new ideas on law and politics. I believe that the future of Europe still depends on the evolution of a modern state and on its capacity to survive. Economy has done enough, but now it is up to the political, legal and social awareness.

We will now attempt to provide some evidence which – in our opinion – can help the European Union towards a shift of direction and if properly exploited, can configure a uniquely *European* route towards Public Reason.

The first, due to its importance, concerns the evolution of contemporary constitutionalism. To this purpose I must be quite sketchy especially considering the complexity of the subject.

Within the framework of the national state, the constitution has represented the program of a community life, a political formula where the fundamental directive values have been outlined together with the institutions which should implement them in social practice.<sup>10</sup> Consequently, constitutionalism has received

---

<sup>10</sup>For an overview of the evolution of constitutionalism cfr. M. Fioravanti, "Costituzione e politica: bilancio di fine secolo", in *La nuova età delle costituzioni. Da una concezione nazionale della democrazia a una prospettiva europea e internazionale*, ed. L. Ornaghi, pp. 49–67 (Bologna: Il Mulino, 2000).

a state-centred interpretation and has been dominated by the image of institutions which are at the centre of political, social and economic life and which grant univocity and stability to the interpretation and application of the essential constitutional values. The current concepts of the people, popular sovereignty, citizenship, equality, recognition and democracy tend to imply that the nation-state complies with the unitary, legal, political and centralised system.

This type of constitutionalism was unsuited to face the challenges of pluralism coming from inside and out. It is not only a problem of keeping in mind the increasingly growing number of immigrants, exiled and refugees, but also the growing disagreement between citizens on the way of interpreting and putting into practice the constitutional values. The constitutional state should now move away from the nation to face three types of conflict: interests related to control and distribution of resources, cultural identity and values.<sup>11</sup>

When the state no longer identifies with the nation, the way the constitution is considered starts to change: no longer is it a program of social life which inspires the state institutions, but it becomes the language of disagreement.<sup>12</sup> Disagreement becomes legitimised, the opposite positions are corroborated, yet at the same time the public debate is administered based on practical reasoning and not on mere imperious acts. The constitution (now even in countries with well-rooted state traditions) acquires a supremacy towards the state itself purely and simply reduced to an institutional and procedural device which grants legal forms to the constitutional discourse. Constitutional law governs over and above the exercise of government powers. "Constitutional law and discourse is no mere reflection of a prior political order or process, but is recursively implicated in the elaboration of that order."<sup>13</sup>

The effects of this univocal transformation and exclusiveness of the legal system are important. Externally, while the nation-state posed itself as a separate and incommunicable entity, the supremacy of constitution over the state now allows for commonality and dialogue between the current constitutional values in some way also present in other constitutions (especially those related to human rights) and hence leaning towards universality. Seen from within, the constitutional matter should shape the intra-state claims and the sub-state movements regarding relations between the different groups (national, ethnic, territorial, religious, of gender, language or other differences) so that these are not segregated, separating them from the common matter, but aiming to include and legitimise the majority of visions and interpretations of the same constitution through a mutual recognition and competing

---

<sup>11</sup>C. Offe, "'Homogeneity' and Constitutional Democracy: Coping with Identity Conflicts through Group Rights", *Journal of Political Philosophy* 6 (1998): 119–124.

<sup>12</sup>Cf. J. Waldron, *Law and Disagreement* (Oxford: Oxford University Press, 1999).

<sup>13</sup>N. Walker, *The Idea of Constitutional Pluralism* (Fiesole: European University Institute, 2002), p. 33.

process of negotiation.<sup>14</sup> This means that we have to abandon the assumption that cultures worthy of recognition must already have a “national” dimension or be accomplished and autonomous forms of life, and also that we have to challenge the idea, accredited by an ideological use of the principle of self-determination of peoples, that nations must for this very reason be recognized as states.<sup>15</sup>

In a pluralistic order, the legal system is no longer presented as a uniform process of law by a sole centre of authority, but as the result of an unstable interrelation between multiple types of authority or claims of authority set in different areas or in different processes inside or outside the state itself.<sup>16</sup>

In other words, constitutionalism is not limited to fostering the law-state on the value level, but forces it to be open to multiple solutions or settlements which govern any disagreement, transferring it from rules to legal practice. Law should administer and curtail disagreement which has, equally, been legitimised by the law itself.

### 7.3 The Order of Liberties

In terms of the nation-state, contemporary constitutionalism introduces – as already mentioned – an appeal for universality which counterposes the national idea intended to specify and identify a human group in distinctive and separate lifestyles from the rest of humanity. “We” are separate from “They”, and sometimes “We” are opposed to “They”. However, the objective of the European Community does not aim to cancel the distinction between “us” and “them”, but to avoid it degenerating into a conflict. Is a community made up of “us” who are, at the same time, different one from the other and yet in dialogue and working together, possible? The introduction of the universalist approach seems to weaken the possibility of the distinction itself and to break up the concept of “us”. That’s why it short circuits the national dimension and halts European unity. This is a crucial point and the future of Europe depends on it, but also that of the national community policies.

Constitution, with the achievement of the personalist principle, becomes the foundation for the claim of special identities, where people find their own identification and self-esteem. However these people request such an identification from

---

<sup>14</sup>The diagonal set-up of identities and affiliations should also be added to the aforesaid. This is well evidenced by A. Sen, *Identity and Violence. The Illusion of Destiny* (New York: W.W. Norton & Company, 2006). Consequently the Rawls concept of “a totally comprehensive doctrine” becomes outdated since each individual must respond to appeals deriving from different allegiances.

<sup>15</sup>*Contra* cf. Ch. Taylor, *Why Do Nations Have to Become States?*, in *Reconciling the Solitudes: Essays on Canadian Federalism and Nationalism*, ed. G. Laforest (Montreal/Kingston: McGill-Queen’s University Press, 1994). More generally cfr. J. Tully, *Strange Multiplicity. Constitutionalism in an Age of Diversity* (Cambridge: Cambridge University Press, 1995), p. 9 ss., where other enlightening critical observations on state-centred constitutionalism and on the need for transformation can be found.

<sup>16</sup>N. Walker, *The Idea of Constitutional Pluralism*, p. 30.

the public *ethos* which is the heritage of the nation. What is different, in order that it should be recognised as such, should already be a part of what is common. The recognition of particularity is only possible on the basis of an overall sense of significance.<sup>17</sup> The public *ethos*, in turn, is not a universal horizon, since the political community where identification is required, is an expression of a collective identity which is also particular. Actually, from a certain point of view, public *ethos* appears to be much more particular than the same identity requests which, coming from the consciousness of people as such, adds up to more or less universal tension.

For instance, all homosexual couples ask to acquire the same rights as heterosexual couples in all instances. Here, we are talking about a universal public recognition of sexual identity with a constitutional foundation. However, this recognition is requested by a political community where the public *ethos* (itself constitutionalised) is traditionally based on the heterosexual family.<sup>18</sup> The more intense the strength of public *ethos*, the more identities feel threatened by standardization. However, if the political community is less cohesive, the source of recognition weakens and the identities do not receive the confirmation they sorely need. Consequently, identity requests, whether they be particularistic or universalistic, grow out of proportion, becoming increasingly more uncertain and conflictual between themselves. Identities wish for a political community which is both weak and strong, weak in terms of reference values and strong in terms of recognition capacity. In fact, the progressive crumbling of common ethics has not only weakened the political community, but has also rendered recognition barely significant.<sup>19</sup> Quite literally, if the main social network ceases to exist, its extension to different relations between couples loses significance.

This is only one example of the conflict between universalistic identity claims applicable within consolidated community frameworks which are simultaneously asked to survive and deny themselves. Reference to the family, however, is especially indicative of the more general support value which is fundamental for a political community deserving of the name. The function of this value is to put order within various individual freedoms which, if left to themselves; would swarm into a multitude of uncontrolled demands, certainly exciting for the anti-prohibitionists, but substantially destructive for the social-political community. Freedom which is not tidily ordered does not allow for social life to be understood and becomes just a mere *modus vivendi*.

---

<sup>17</sup>Once their identity has been recognized, the subjects learn something more about their own special identity and should abandon the stage of ethicality already attained, to reach recognition of a more important pattern of their identity. Cfr. A. Honneth, *Kampf um Anerkennung. Zur moralischen Grammatik sozialer Konflikte*, (Frankfurt a.M: Suhrkamp, 1992).

<sup>18</sup>Cfr., for instance, J. Coughlan, "La reazione delle Chiese alle proposte legislative di riconoscimento delle unioni omosessuali in alcuni Stati dell'Unione Europea", *Daimon*, no. 4 (2004): 279–307.

<sup>19</sup>After all recognition of the broadest identities threatens the same existence of a common public *ethos*. This, in fact is the Honneth theory: Hegel did not reach the objective of determining an abstract horizon of values open to various life intentions without losing the solidarity strength behind the formation of a collective identity.

It is significant to note that Rawls explicitly refuses to consider liberty the core of his political ideas. The overriding political value is not liberty as such, but from the start, specific forms of liberty (*basic liberties*).<sup>20</sup> For Rawls, liberties are already qualified from their outset and belong to a system or to a family which has to count on its internal order. The further problem of the equality of clusters of liberties attributed to each individual should be added to this.

If we observe how Rawls faces this problem of determining this list of fundamental liberties, especially after the criticism he received from Hart,<sup>21</sup> we should note that the parties in their original position do not decide – as we might expect – first on the contents of this list and then on the principles of justice which govern distribution, but simultaneously on one and the other.<sup>22</sup> This is a confirmation that political values come to light already modelled by law, meaning by rules which outline the extent of their application and their balance, at least in principle.

Actually, when one sustains that a value is “political” this means something else compared to its pure and simple ethical dimension. It means that it concerns the combined life of people which, could precisely be guided by different ideas of what’s right. Politics is not simply the place where these personal visions should come together in some way, but a place where an agreement on shared values which structure common life should be reached. That’s why Rawls very appropriately believes that the essential political value is justice, meaning what directly governs how law should be implemented. The political theory is the result of the interrelation between ethics and law, which after all represents its main role, that is to say, determining what is right, what must be attributed or granted to those who not only participate in daily life but also to the measure they are take part in it.<sup>23</sup>

Contemporary constitutionalism, then, often generates the question of Public Reason in dramatic terms, since, on the one side, it corroborates individual and collective identity needs intended as in themselves good and not simply as unpredictable preferences and, on the other, thus questions the order of the freedoms so that it is not sufficient that these are considered as good *in themselves*, but it is necessary that they become part of the subject of the common good, meaning goods *for all*. In the public arena, any request for recognition which leads to legislative interventions should be based on the good of all, because only this way can the restriction of liberty which any law entails be justified. Within the logic of *identity*,

---

<sup>20</sup>J. Rawls, *Political Liberalism*, pp. 289–290. Cfr., also, R. Alexy, “John Rawls’ Theorie der Grundfreiheiten”, in *Zur Idee des politischen Liberalismus. John Rawls in der Diskussion*, ed. Philosophische Gesellschaft Bad Homburg and W. Hirsch, pp. 263–303 (Frankfurt/M: Suhrkamp, 1997).

<sup>21</sup>Hart had observed, amongst other things, that the reasons why the parties in their original position adopt precisely those fundamental liberties and not others and set the priorities for these had not been adequately explained. Cf. H. L. A. Hart, “Rawls on Liberty and Its Priority”, in Id., *Essays in Jurisprudence and Philosophy*, pp. 223–247 (Oxford: Clarendon Press, 1983).

<sup>22</sup>This fact has been especially stressed by R. Alexy.

<sup>23</sup>Generally speaking, cf. my article *Rawls e il Rule of Law*, in “Quaderni della Rivista internazionale di filosofia del diritto”, n. 4, ed. A. Punzi, Milano, Giuffrè, 2004, pp. 179–210.

legislation is often invoked for its symbolic role, both for emancipation purposes or with an aim to compensate for atavic and unjust social exclusions; but the fact still remains that what is liberating for some often implies sacrifices for others, and not only from an economic perspective, but also – more importantly – based on the concept of the good life and common welfare. That's why identity requests should be justified in terms of common good, meaning everything that associated members should accept given unbiased social cooperation as a foundation for common life. This is the role of Public Reason.

## 7.4 Public Reason and Public Use of Reason

The situation proper to contemporary constitutionalism generally emerges differently depending on the various historical-political frameworks. The high degree of unrest in Europe is mainly due to the consolidation of national lifestyles tied to a long historical process where the religious and civil aspects are woven inextricably. The threat for these, represented by the demands for liberty uncaring of the common good, overturns the Rawlsian views on Public Reason. In fact, while Rawls draws inspiration from pluralism and asks how individuals or groups tied to different concepts of life can build a joint political society, the question in Europe, on the contrary, is posed as to how pre-existing political societies can implement pluralism without being overturned by a progressive and inevitable fragmentation of the public sphere. Consequently, Public Reason should take a different path.

While Rawlsian Public Reason proceeds by way of restrictions,<sup>24</sup> the European one shall have to develop by progressive expansion and inclusion. While Rawlsian Public Reason uses the method of *avoidance* to by-pass the true matters of comprehensive doctrines competing amongst themselves,<sup>25</sup> European Public Reason implies that reasoning is part of rationality and hence cannot totally evade the problem of the truth behind beliefs and demands set forth in the public sphere. It is for this reason that Habermas prefers to cite Kant when speaking of “public use of reason” rather than of “Public Reason”. The public use of reason belongs to all rational beings without any restrictions dictated by some form of authority or by other procedures. It represents the use of reason in its entirety. Consequently, the concept of the public sphere is broader than the Rawlsian one, but its dynamic nature is more conflictual than competitive. However, it should be noted that, while for Rawls the concept of pluralism is neutralised from the start, the aspiration of the public use of reason is to overcome pluralism as the final outcome. In fact, the deployment of rational enlightenment ethics wished for by Habermas, notwithstanding religion and metaphysics, is certainly not an environment which is favourable for pluralism and is rightly considered by Rawls as a comprehensive doctrine like the others.

<sup>24</sup>For a list of these restrictions please read my entry *Ragione pubblica*, in *Enciclopedia filosofica* (Milano: Bompiani, 2006), 10: 9364–9366.

<sup>25</sup>Even the other path taken by Rawls, i. e. the *overlapping consensus*, is clearly non dialogic.

We have seen that the public use of reason in Europe takes its starting-point from the nation states and consolidated lifestyles, themselves now deeply questioned by the legitimization which constitutional rights supply to pluralist interpretations, which, in turn, can only with difficulty be integrated into the traditional dispensations of community life. Hence, any political community should question and decide up to which point it is willing to modify its way of understanding constitutional values and their regulations. The public debate which arises should be able to transform emotional conflicts into reasonable forms. Due to the aforesaid reasons, the ethics of public debate are much more important for European societies than they are for implementing the Rawls Public Reason. And it is also more important that it be respected both in the “background culture” part of the civil society and in the “nonpublic political culture” which is part of the communication media and especially in the “broadly speaking public political culture”, which is precisely that of citizens exercising their own political rights.<sup>26</sup>

## 7.5 The Ethics of Public Discourse

The ethics behind public debate do not only concern the respect for the rules of discourse, like for example those which govern the order of the debate, but firstly imply a welcoming, open attitude towards the other party and his diversity.<sup>27</sup> In fact, before establishing *how* to discuss, we must be aware of the common interests shared with our interlocutors as human beings and fellow citizens. In the other person we must respect the fellow citizen even when we believe his thoughts are *wrong* and the respective way of living *unsuitable*.<sup>28</sup>

An ethical debate starts when paying attention to the other person. It would be impossible to list what this means in detail and also probably useless since in the end respect for the other person and his opinions is not something you can teach. It is important, for instance, not to dismiss arguments (or ideas) classifying them

---

<sup>26</sup>For Rawls, instead, the proper place for Public Reason in a strict sense is represented by official, judicial and legislative courts, to the point that he claims that “in a constitutional regime with judicial review, Public Reason is the reason of the Supreme Court”. J. Rawls, *Political Liberalism*, p. 231. Hence the background of the public sphere considered differs from that pertaining precisely to the European Public Reason. But it should also be considered that in Anglo-Saxon law jurisdiction is more directly tied to society. In continental Europe the public court is that of intellectuals opposed to the state reason. These are writers, philosophers, journalists or teachers and not the judicial power which is a state body. Cfr. C. Audard, “The Idea of ‘Free Public Reason’”, *Ratio Juris* 8, no. 1 (1995): 30–39.

<sup>27</sup>Here obviously as “ethics of discourse” I intend the whole attitude of the interlocutors facing one another and the virtues proper to the conversational acts. So we are not speaking of what Habermas intends by the same expression. Cfr. J. Habermas, *Moralbewusstsein und kommunikatives Handeln* (Frankfurt a.M.: Suhrkamp, 1983).

<sup>28</sup>Cf. J. Habermas, *Zwischen Naturalismus und Religion. Philosophische Aufsätze* (Frankfurt a.M.: Suhrkamp, 2005).

hurriedly either as obscurantist or as immoral and especially not to exclude the other from any discussion simply due to the fact that he supports a comprehensive doctrine which (either rightly or wrongly) we do not like or due to the annoyance caused by some of the ways he expresses himself or by certain distinctive clothing or behavioural signs. All of the above would add up to intolerance. It is true that the problem whether we have to tolerate intolerants might arise, however, it would still be us who stigmatise others as intolerant, whereas it would be preferable to allow everyone to speak publicly (except for those who support violence which are excluded *per se*) when they are willing to be subject to the analysis of reasoning.<sup>29</sup>

I should also add that the preconditions for respecting others depends on the attitude we have to ourselves, our opinions and our conceptions. An individual or institution can legitimately believe to know the entire truth, but when requested to enter public debate to construct the city of men, they must be ready to discuss their beliefs and also – as recently claimed by Habermas – be ready to learn from others. If the contrary were to be the case, there would be no real public debate, but only arm-wrestling, where the winner would be he who has more influence or capacity to mobilise the majority. In a deliberative democracy, the majority cannot believe it is not obligated to give good reasons for its decisions. The democratic constitutional state based on resolutions is a very form of government sensitive to the truth.

There are not only those who believe they know the truth, but also those who believe they are infallible judges of the right use of reason. And here one must remember that Public Reason is part of the realm of practical reason where the appreciation of values and the context of applying reasoning is of utmost importance. Therefore, it would be restrictive and after all dogmatic to request the use of a sole model of rationality and it is important to be open-minded to consider multiple reasons or sources of reasonableness. The only condition is that they can in some way become universal, meaning also understood and appreciated by those who do not share the same idea of the good life.

The rationalist or empiricist reductionism can be a surreptitious way to eliminate unwanted interlocutors. Even the ethical foundationalism should be left behind in public discourse which differs from philosophical debate. Practical reasoning never operates in a vacuum or in the absence of preconditions, but takes cues from pre-existing lifestyles and consolidated social practices, testing to what extent they can evolve, acknowledging needs without radically denying themselves.<sup>30</sup> Usually, societies develop in an uninterrupted flow and through unending internal adjustments and reinterpretations of the essential values. This obviously does not exclude the possibility that they could, for some aspects, tend to depart from their

---

<sup>29</sup>After all, a liberal state should also respect the rights of those who do not respect the rights and humanely treat those who have not behaved humanely. Cf. M. Ignatieff, *The Lesser Evil. Political Ethics in an Age of Terrorism* (Edinburgh: Edinburgh University Press, 2005).

<sup>30</sup>The mistake of modern rationalism has been to believe that our moral comprehension cannot be revisionist if it is not uncommitted. If reason were uncommitted, practical reasoning would be impossible. Cf. Ch. Taylor, "Le juste et le bien", *Revue de métaphysique et de morale* 93 (1988), p. 50.



original matrixes. The important thing is that the legitimate request for recognition is kept in mind jointly with its integration into a common vision of public life, meaning a common good.

The public debate, even when directed at recognizing practical truth as a foundation for common life, does not have a purely theoretical purpose, is not directed at establishing the superiority of a doctrine compared to another, but intends to solve the problem of communal life between people who have different beliefs, identities and convictions and, despite this, intend to live together respecting human dignity. Firstly, there are values which must be acknowledged by all, but this is not enough since the crucial question of the public debate is to re-integrate those values in history and specific contexts of a concrete political community. It is for this reason that mediation is important and it should not be confused with a negotiation of values.<sup>31</sup> Fundamental values are not negotiable, meaning they cannot be the subject of bargaining or compromise, but should be integrated within a life plan and this requires that there is communication between them. If just a dominant value were to exist, the public debate would become entirely unnecessary or impossible.<sup>32</sup> This value should prevail as the winning card. However, the essential values for safeguarding human dignity are many. The different comprehensive doctrines distinguish themselves one from the other by their varying appreciation of the importance of some values compared to others. However, if they accept being part of public debate, they implicitly accept the premise of considering the different system of values sustained by others. Participating in public debate, especially in the stage closest to the decision-making process means relinquishing irrefutable diktats. Obviously, especially in terms of a basic social culture, it is important that the different doctrines are recognized and display their true and valuable propensities. But true public debate is an arena for mutual learning and mediation.

Public debate, hence, is not directly aimed at affirming values, but at realising these in common life. Each value in itself is an irrepressible and despotic demand, but its "urbanisation" requires that it becomes a reasonable trend. Contemporary constitutionalism clearly shows the line to be followed, which, besides, amounts to the same as practical reasoning in general and as moral resolution. The values as axiological demands are constitutionalised in the form of practical principles bound to guide social action. In turn, the principles generate rules which concretise these, indicating the given action to be taken or not. Mediation is the work of principles which receive their moral capacity from the values and confer practical justification

---

<sup>31</sup>Cfr. M. Ivaldo, "'Valori non negoziabili' e mediazione", *Il Regno* 52, no. 4 (2007): 75–78.

<sup>32</sup>As for the case of Weber's ethical polytheism where the dominant values are many and incomparable.

to the rules. This is why the true subject of public debate concerns the identification and interpretation of constitutional principles.<sup>33</sup>

With what has been said, I would like to state that even if we follow the European way of Public Reason which does not avoid – contrary to what Rawls proposes – the question of practical truth, this does not mean that we have to look at the public debate as a philosophical one aimed at establishing the prevalence of a given conception of ethics. Fundamental meta-ethical questions as, for instance, the debate between absolutism and ethical relativism, should be left out of public debate, even though they still remain in the background of the different practical stances. Public debate is not a suitable arena for metaphysical debates and neither for confirming the validity of a meta-ethical doctrine. If it were to be used for this purpose, social-political unrest would grow without any appreciable result, even less on the theoretical level. In the public arena, the metaphysical debates tend to be reduced to an unending exchange of offences and invectives.

## 7.6 Civil Society and Political Society in Europe

Let's now analyse more closely a crucial matter for the present and future of the European Public Reason, meaning the public role of religion.<sup>34</sup> The importance of this topic is determined, amongst other things, by the fact that the European national states have historically witnessed a Christian religious presence which, through a secularisation process, has modelled the cultural foundations of society with the acceptance of non-believers as well.<sup>35</sup> Consequently, when the traditional settlements of public *ethos* are debated again, that will be the time to re-legitimate them, meaning to find the reasons behind their justification. So it appears that secularisation has not managed to cut all ties with its religious origins, that it does not stand on its own two legs and that – as famously noted Böckenförde – *the liberal State, secularised, lives on preconditions which it cannot by itself guarantee*. This largely explains the coexistence of two apparently contradictory social phenomena:

---

<sup>33</sup>“The congruential link between values-principles-rules is constitutive for the validity of law, it is an axiom which actually precedes the constitutional law laid down; it is something which comes even before the power itself to create a constitution”. G. Zagrebelsky, “Diritto per: valori, principi o regole (a proposito della dottrina dei principi di Ronald Dworkin)”, *Quaderni Fiorentini* 31 (2002), t. II, p. 877. Respecting this link is fundamental for public debate. It can be disregarded both when the value pretends to be asserted without being transformed into a principle and when a principle pretends to direct even when it goes against a value, or when a rule pretends to have value even when it goes against a principle. See these topics also in my article “Conflitti d’identità e conflitti di valori”, *Ars interpretandi* 10 (2005): 61–96.

<sup>34</sup>For the topic in general cfr. my article *Il ruolo pubblico della religione nella società multiculturale*, in *Multiculturalismo e identità*, ed. C. Vigna and S. Zamagni, Milano, Vita e Pensiero, 2002, pp. 107–138.

<sup>35</sup>For the distinction between religious identity and cultural identity cf., finally, my paper “Identità culturali e religiose”, *Cosmopolis* 1, no. 2 (2006): 67–74.

on the one hand, the privatisation of religion which tends to become mere devoutness without strong affiliations and, on the other, the growth of the public role of Churches and the Catholic one in particular, more tied to needs for solidarity.<sup>36</sup>

This explanation is more sound and solid than one uniquely preoccupied by the return of the ecclesiastic power in the political framework, a fact anyhow sometimes justified by interventions which are not always well balanced. But what especially counts is the presence of a real problem which it would be purely ideological to try and hide by resorting to the theory of conspiracy or to the philosophy of suspicion. Secularisation has proven that it is not self-sufficient and, moreover, that it has been impoverished, compared to the vitality of its religious origins.<sup>37</sup> This fact – well known – is one aspect of the crisis of modern times.

If, without any ideological prejudice, we come to believe that religion can last in a progressively secularising environment, then – as Habermas claims – this social phenomenon should be grasped by philosophy as a “cognitive challenge”, but also more generally speaking as an existential challenge. In fact, religions enhance human aspects which escape the ethics of autonomy, such as sufferance, fragility, vulnerability, solidarity itself. The ethics of law do not exhaust that human sense and expect to communicate within the realms of interdependence and community. Hence, the direction to be followed should be the one clearly indicated recently by Habermas:

If we intend the modernisation of public consciousness in Europe as a learning process which invests and at the same time changes religious mentalities as well as the laic ones, making the Enlightenment tradition, like the religious doctrines, reflect on their respective limits, then a different light is cast on the international clash between the large cultures and world religions.<sup>38</sup>

Where does the difficulty lie? Where does the main obstacle lie in this constructive dialogue? Once again, one must keep in mind the scarce propensity of European culture overall, whether it be laic or religious, to welcome pluralism and tolerate diversity. The fundamental point – in my opinion – resides in the relationship between civil and political societies. The nation state has enslaved civil society,

---

<sup>36</sup>Cf. S. Ferrari, “Religione, società e diritto in Europa occidentale”, *Sociologia del diritto* 31, no. 2 (2004): 213–224 and bibliography hereby cited.

<sup>37</sup>“In a number of ways the Christian conceptions out of which modern liberalism originated remain richer and deeper than their secular offspring. For that reason – and this is my point – they continue to offer themselves as resources and clusters of clues for the modern political debate”. J. Waldron, “Religious Contributions in Public Deliberation”, *San Diego Law Review* 30 (1993): 846–847.

<sup>38</sup>J. Habermas, *Zwischen Naturalismus und Religion.*, p. 212. Amongst these limits of Enlightenment, there is the habit of criticising ideology along the lines developed by Marx, Freud and Nietzsche up to the Frankfurt School, to discredit topics ascribable to the spheres of “false consciousness” such as the religious one. In this sense, this criticism of ideology is part of the anti-pluralistic trend in Europe. Ideology, in turn, as a negative form of collective thought, should be distinguished from reasoning truly motivated by personal interest and without a universal communication capacity. To eliminate the latter from public debate, one needs to appeal to the ethics of discourse.

which is the most suitable place for the culture of diversities and has suffocated any possibility for multicultural dialogue from its inception. Consequently, the groups and individuals whose identity is not welcomed and recognised by civil society, try to request recognition from the perspective of political society and the law which taken on a symbolical function relevant and prevailing. In such a manner, however, the question does not find a solution, becomes complicated and embitters the conflict: on the one hand, in fact, since the political society is the area for determining the common good, it seems hard to reach a compromise on all matters which everyone is bound to accept as a shared value; on the other, a merely legal recognition, not supported by a corresponding attitude of the civil society, exasperates the conflicts and foreshadows the rebirth of an ethical state, even though different to the past.

Where the nation state has cut ties with pre-political restrictions, public ethics developed by political institutions, intellectuals and bureaucracy are separating from the present state in a confused manner within the core of a civil society where it has grown, even for the previously mentioned reasons, with the weight of religion and cultural identities. What is occurring in society is part of the public sphere in every way<sup>39</sup> and is the start of public debate, the movement of reciprocal awareness; communal life and cooperation. Without this preparation, the outcome of public debate on political society would appear as a pure and simple imposition of the “majority” within the perspective of a democracy which Dworkin has considered purely “statistical”,<sup>40</sup> or as the result of a purely philosophical debate based on the abstract logic of constitutional rights.

Refusing to set aside the question of the truth of comprehensive doctrines does not mean – as already said – transforming the public debate into a philosophical congress, because the truth sought is “practical” and the reasons set forth are “practical”, meaning understandable and acceptable by people who respect each other and intend to live together. The order of liberties comes from the heart of civil society and cannot be construed by political decisions. The European path to Public Reason cannot be taken if the reconciliation between the political and civil society is not implemented, starting from the national dimension to each single state.<sup>41</sup>

While for Rawlsian Public Reason – as we have seen – the problem to be solved mainly consists in setting up a political society with an eye to pluralism, European Public Reason aims towards a civil society which welcomes pluralism. But civil society is not something which can be either built or planned, being the result

---

<sup>39</sup>Identification between “political” and “public” is the lasting sign of a statism which dies hard. Cfr. P. Hirst, *From Statism to Pluralism. Democracy, Civil Society and Global Politics* (London: UCL Press, 1997).

<sup>40</sup>R. Dworkin, “The Moral Reading and The Majoritarian Premise”, in *Deliberative Democracy and Human Rights*, ed. H. Hongju Koh and R. C. Slye, pp. 81–115 (New Haven: Yale University Press, 1999).

<sup>41</sup>And here we should not generalise and learn to distinguish between the different national situations, because under this common problem lies the kaleidoscope of cultures which is the European populations.

of the spontaneous meeting (and clash) of the cultural resources of the political community. It is important to let it blossom (or wither) by itself. One can only hope that the new injection of pluralism in contemporary Europe, especially by way of a type of immigration characterised by its religious and cultural imprint, shall induce the basic culture of European societies to abandon hegemonic positions and to develop an intercultural debate respecting human rights. But signs coming from all quarters, from left and right, are not that encouraging.<sup>42</sup>

## 7.7 Public European Consciousness

So we are back to the main point which still revolves around pluralism. Shall the European public consciousness be able to keep “pluralism” in mind? To identify this consciousness with the laic processes of the Enlightenment means that this question has already been replied to in the negative. And actually – as we have suggested – managing pluralism has always been an unsolved problem for Europe. Full of strong ideological powers, Europe has lately learnt to be tolerant and not always to the fullest. European history is full of examples of persecutions for diversity, from the religious to the anti-religious. That's why the Holocaust is a key point of European history. Pluralism appeared as a scandal which had to be necessarily removed. Many methods can be used to this purpose. Stakes for the heretics, guillotine for the papists, cremators for the Jews and Siberia for dissidents are violent methods. However there are less bloody exclusion methods which are more scientific, yet nonetheless still painful. To distribute rationality patents is one of these and has a long history. We are speaking of deciding participation or not in public debate, admitting or excluding parties in it. However, if there is no respect for pluralism, the problem of Public Reason, or public use of reason in a pluralistic regime, cannot be invoked. If pluralism is eliminated, the die is cast and the matter easily solved, even though substantially betrayed.

Now, even admitting the possibility of reconciliation between civil and political society within Member States,<sup>43</sup> the problem of a European public consciousness still remains together with the creation of a civil society in European terms,

---

<sup>42</sup>Unfortunately it is significant to note that the compilation whereby Habermas describes Europe as the most laic part of the Western world does not refer in any way to the integration of immigrants which, instead, is the pride of the United States: “With the abrogation of the death penalty, liberal laws on abortion, equal legitimacy of sexual rights, equal rights to homosexual couples, absolute rejection of torture and generally speaking with the priority given to rights instead of to the collective good, for instance, national security, the European states seem to walk alone down a road which, starting from the two constitutional revolutions during the late nineteenth century, they had taken with the United States”. J. Habermas, *Zwischen Naturalismus und Religion*, p. 21.

<sup>43</sup>For relations between one and the other please review my article “Società civile e società politica. Tra cooperazione e conflitto”, in *Religione, società civile e stato: quale progetto?* ed. P. Donati and I. Colozzi, pp. 85–102 (Bologna: EDB, 2002).

something which still has a hard job in getting off the ground. This cannot start from above, meaning from a juridical-political structure like a constitution plan, which in fact encounters well-known difficulties. Integration through law (and even more through rights) cannot thrust ahead over a certain threshold beyond which the need for a public European consciousness arises.

As we have already seen, this commonality can never rise from the rubble of national cultures, but, on the contrary, should be the result of their getting together. We are not speaking of a dialogue between European citizens individually considered, but first of all between European peoples. We know that often this confrontation creates unrest. Chauvinism and the reason of state die hard. The more the European Union grows, the greater the trend to establish preferential relations between two or more states with the exclusion of others (*differentiated integration*), due to various factors like being amongst the founding countries of the Community and/or being the propellant of economic integration and of the other main concerns. We are speaking of a Europe with various degrees of velocity, of a Europe with a varying structure.<sup>44</sup> However, by now it is clear that a European public consciousness should stick to two conditions: respecting the variety of national cultures and not follow the forms of the national state itself. Europe cannot be a Europe for citizens if it is not first a Europe for people and it can only be a Europe for people if it is a Europe of states. In this case it wishes to follow its history which does not cancel the experience of a modern state, but remodels it.

Perhaps it is precisely in this case that we should speak of *reflective modernisation*, which recognises multiple ways of accessing the principles of modernity and in this sense represents an alternative to the *American way*.<sup>45</sup> However, this cultural process should come from the bottom of the civil societies of Member States, where different identities are welcomed and learn to dialogue and cooperate. This intercultural foundation is the necessary precondition to assess the different political approaches and the different legislative solutions as alternative ways to the common good, which in essence are equivalent.<sup>46</sup> The practical truth does not imply one sole correct answer, but a plurality of approaches and solutions whose soundness depends on multiple factors like cultural tradition, institutional history, and special social frameworks. This does not mean that any decision by political society is in itself right or acceptable. Constitutionalism invites us to consider political life as a revision process always open to corrections and reassessments. Where it implies a sacrifice of claims coming from reasonable ideas of the good

---

<sup>44</sup>The question has been examined by Marlene Wind, who seems to have faith in conciliating *widening and deepening*. Cf. M. Wind, "The European Union as a Polycentric Polity: Returning to a Neo-medieval Europe?", in *European Constitutionalism beyond the State*, ed. J. H. H. Weiler and M. Wind, pp. 103–131 (Cambridge: Cambridge University Press, 2003).

<sup>45</sup>Cf. U. Beck and E. Grande, *Das kosmopolitische Europa. Gesellschaft und Politik in der Zweiten Moderne* (Frankfurt a.M.: Suhrkamp, 2004).

<sup>46</sup>The principle of equivalence is already present in Community Law even though mainly applied to the economic and administrative field. Cf. L. Torchia, *Il governo delle differenze. Il principio di equivalenza nell'ordinamento europeo* (Bologna: Il Mulino, 2006).

life or identity requests worthy of consideration, it should be considered as an integration possibility still to be fulfilled. However, a mutual learning process between constitutional regimes is currently possible and, even though they have different institutional backgrounds, they share fundamental values and can draw benefit from the conflict of interpretations if, that is, they are not to remain prisoners of national pride and of jealous autonomy.