

FAITH, SUBSIDIARITY AND HUMAN RIGHTS

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Outline

Invited by the organizers of this series of lectures to elaborate on these three key concepts, I would like to share with you some reflections based on my research projects in recent years. Three topics are coming to the fore:

- The paradox of regionalism in a globalizing world
- The quest for a new narrative for European integration
- European citizenship : rights and responsibilities

1. Subsidiarity and multi-level governance

Thanks to Jacques Delors, the concept of subsidiarity, borrowed from Catholic social doctrine, was introduced as a guiding action principle of the EU. Since Maastricht (1992), the Treaty on European Union, is explicitly stating that “under the *principle of subsidiarity*, in areas which do not fall within its exclusive competence, the Union shall act only *if and in so far* as the objectives of the proposed action cannot be sufficiently achieved by the Member States..., but can rather, by reason of the *scale or effects* of the proposed action, be better achieved at Union level” (art. 5.3).

Originally, the Church wanted to guarantee a space of autonomous action, i.e. free from state intervention, for value-based initiatives in the educational-, health- or welfare sectors. Nowadays, we would probably rephrase it as initiatives from civil society, with a state-monitored quality label, that offer widely appreciated services in the mentioned fields. Depending on the political culture in a given country, these services can be more, or less, encompassing, but are in any case legitimate.

In the EU's interpretation, a remarkable shift has taken place from a *horizontal* division of tasks in society - non-state next to (or parallel with) state initiative - to a *vertical* delimitation of powers, in this case between the Member States and the Union.

A quarter of a century after the negotiations in the wake of the fall of the Berlin wall and communist regimes in general (1989-1991), the paradigm of multi-level governance is more frequently used than the principle of subsidiarity when referring to the interplay of levels of government. First, strict delineation of competences is only possible from a static legal perspective. In the reality of policy-making with regard to complex matters with an impact in society, all levels – from the global to the local – happen to be *partners*, be it to a different degree and in different forms. The main challenge in view of effective policy-making consists in finding formulas for structural dialogue and efficient cooperation. In other words: good government refers to good governance.

In present-day society, this governance does not only imply *multiple levels*, but also a *multiplicity of actors*. Without compromising the ultimate responsibility of the politically legitimized authorities, successful governance implies all kind of actors from civil society : the business community, the ‘social partners’, advisory and planning boards, but also the educational community, health- and welfare organizations, the Churches and other value-based communities, advocacy groups and, finally, concerned and committed citizens. The rationale behind this mobilization of what is called in French “les forces vives”, is not that much a breakthrough of participatory democracy as such, but the successful experience with policy-making involving the ‘target group’: no lasting reform is possible without participation. To put it in the words of the EU’s Committee of the Regions (and Local Authorities) : “The challenge of multi-level governance is to ensure that there is a complementary balance between *institutional governance* and *partnership-based governance*”.

In a reflection paper on active citizenship at the occasion of the 2013 Year of European Citizenship, a group of academics is linking subsidiarity, governance and participation: “Subsidiarity requires that states respect regional distinctiveness and appropriate regional autonomy, as well as other elements of collective identity and competence, including that of civil society”.

2. (European) Citizenship

Ultimately, well-understood governance involves the individual citizens. A well-known academic authority on human rights, Antonio Papisca, stresses the link between all hitherto used concepts and approaches: “The benchmarks of (good) multi-level governance are human rights, democracy, the rule of law, subsidiarity and interconnectedness... According to international law of human rights, citizenship should be defined as the legal status of the human being... The enlarged constitutional space coincides with the common vital space of what the Universal Declaration calls ‘all members of the human family’... So, the legal status of the human being does not stem from state power. It is not ‘*octroyé*’, but simply ‘*recognized*’, because the holder is an original subject of law...”

In this sense, we are all global citizens and are entitled to express our concern on issues as climate change or (un)fair North-South relations. But we are also EU citizens, not only because the Treaties have provided us with this qualification in addition to our citizenship of one of the 28 Member States. In line with Papisca’s argument, we have a fundamental right to participate in the common vital space that is our own continent. If we happen to like or dislike the current EU institutions and policies, is not too important in this respect. The fact is that - *rebus sic stantibus* - the EU offers the framework for many of our policies, norms and standards. Consequently, we have the fundamental right to be involved in setting that legislation and assessing these policies.

Remarkably enough, European citizens did not have to struggle for getting access to this representative and participatory democracy on a quasi-continental level. The Treaties, especially since the Lisbon revision (2009), explicitly invite each and every citizen to “participate in the democratic life of the Union” (TEU, art. 10.3). And, let’s keep in mind, these provisions have been unanimously agreed upon, signed and ratified by all 28 governments and parliaments.

On the other hand, every six months the ‘Eurobarometer’ signals a decreasing support for EU strategies and policies, whereas the overall turnout at EP elections is going down from 63 % in 1979 to 43 % in 2009. No sharper contrast can be imagined between a generous and eloquent offer of democratic participation, on the one hand, and the ‘No, thanks’ of an increasing number of citizens from a wide variety of countries.

In this lecture, we cannot discuss the issue of the EU’s democratic legitimacy in full detail. But we could try to point at the key problems:

- Is it a matter of information (or disinformation) on the aims and the functioning of the EU?
- Are we informed on our rights and do we want to exercise them in the European context?
- Do we have a conceptual framework and a proper discourse for dealing with citizenship at the trans-national level?

In my eyes, the latter dimension is as important as the former ones. Our political philosophy, our history and educational background always refer to the national context, to the nation-state, to the country that is beloved and, if necessary, defended against its enemies. So, our citizenship concept is not (yet) adapted to the outer circles of multi-level governance: the continental and the global level. Moreover, we are eventually prepared to exercise our rights (on free travel, settlement, professional opportunities), but did not develop an ethic of responsibility and commitment vis-à-vis the new levels of governance.

3. Towards a balance of rights *and* responsibilities

Ought we to imagine European citizenship as a simple expansion of those rights and liberties held at national level? Or ought we to start from the postulate that European citizenship reaches beyond a list of individual freedoms and civic rights for half a billion people and encompasses *representation* and *participation* on a quasi-continental scale?

Rather than to focus on the institutional instruments for participatory democracy offered by the TEU (e.g. the recently introduced ‘*Citizens’ initiative*’) or on an overview of ‘best practices’ in effectuating citizens’ participation (e.g. in regional development policies), we would like to elaborate on the understanding and interpretation of (fundamental) rights.

We note that two different readings of human rights are possible, entailing distinct value bases. Art. 3 of the Universal Declaration of Human Rights states: “Everyone has the right to life, liberty and security”. We can read this article to mean: “I have a right to life, liberty and security and nobody can deny me this right”. Alternatively, we can read it to mean: “I must respect and protect – and perhaps even help effectuate – others’ right to life, liberty and security, especially for those who cannot defend their own rights”. Legally speaking, both claims are legitimate. Both readings may well be indispensable. Yet it makes a significant practical and ethical difference if we give either reading our prior commitment. The first reading coincides largely with the current *rights-driven* approach of citizenship, the second one with an enlarged *responsibility-driven* approach.

Therefore, we envisage a *holistic* definition of citizenship that includes, alongside rights and freedoms, duties and responsibilities. Citizenship should be seen as a *relational concept*, emphasizing the position of every individual citizen vis-à-vis fellow citizens, the political community at national and trans-national level and also vis-à-vis past and future generations and the common goods of humanity.

In this perspective the question ‘Who is an EU citizen?’ should reach beyond the legal answer provided by the Treaties. We prefer the *Council of Europe’s* position: “Citizenship, in the widest sense, is a right and indeed a responsibility to participate in the cultural, social and economic life and in public affairs of the community *together with others*”.

4. A view from faith

First, the doctrine of the Church is still providing interesting elements of reflection on the organization of present-day society, updating classic principles as the one of subsidiarity. In his encyclical letter *Caritas in Veritate*, Benedict XVI calls it “an expression of alienable human freedom...first and foremost a form of assistance to the human person via the autonomy of intermediate bodies... it fosters freedom and participation through assumption of responsibility”. In his view the principle of subsidiarity must remain closely linked to the principle of *solidarity*.

Solidarity is exactly what so many Christians are effectuating, not only in the traditional sectors of education, health care and welfare, but in various ‘hot spots’ as conflict zones, support to refugees, or asylum seekers. We would like to draw attention on those initiatives that not only offer shelter and support to those who survived the dangerous passage to Lampedusa, but also question the European countries and the EU itself on the consistence of their ethical discourse.

Finally, over the centuries, people who have been touched by the message from the Gospel , have tried to live accordingly, taking care of others, especially those in need. In our view, the definition of ‘citizenship’ as a relational concept, can certainly be defended on rational grounds as a correct interpretation of universal human rights, but is as well inspired by a Christian ethical reflex.

References

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