

The EU is not a government, it is a management system

By Grahame Lock

The so-called ‘democratic deficit’ of the EU is not a failing but lies in the logic of its principles of operation, argues Grahame Lock, Professor of Political Philosophy at Leiden University, the Netherlands. The EU provides the European population with a system of justice and it polices that system; it is oriented to the satisfaction of needs. In short: it is a management system for civil society. It is this fact which makes it feasible to take up the challenge of running a Union of 450 million inhabitants – too many for a traditional political unit.



The miserable turnout for the European elections – exceptionally meagre by the standards of national elections in the European nation states – has already been much debated in political and journalistic circles. Participation was at a record low in the old member states, and dramatically lower still in the accession states. The main line of press reaction has been to deplore the lack of public interest. But what if the reaction – or lack of it – among the European peoples is rather a sign of their political astuteness?

José Saramago recently published a novel in which most of the population of an unnamed European city simply don't turn out to vote; the authorities react with vicious measures of repression. Saramago's point is that this refusal is an expression of what he calls the people's "lucidity" (the novel's title is *Essay on Lucidity*). Saramago commented on his theme: "I would like to know how a so-called democratic system would hold up if a majority of people somewhere, in Europe, decided to cast blank votes." Pierre Legendre, French professor of the history of law, commenting on the Brussels approach to political consultation, writes: "As the French Republicans used to say at the time of the Emperor Napoleon III: Referendum is a Latin word which means yes!"

Perhaps European elections and referenda are indeed not such a central part of the process of European unification. Perhaps the Europe of the 21st century is about something else – for example, about a new way of managing the old continent, a way called *governance*. And perhaps, in this respect, Europe is ahead of much of the rest of the world, including the United States.

Europe was always in a certain sense a 'monster' – that is, from the start it had a very odd shape which didn't fit the pre-existing categories for the classification of political bodies. But it has recently begun to assume a new shape. To put the idea in the simplest terms: the present and probable future shape of the European Union is a function of an ever more fashionable view of political administration and of its functions, known as 'contractual governance'. As the name suggests, this approach finds its basis in the application of a novel conception of the social contract, in which public decision-making is semi-privatized.

It has been suggested that Europe is becoming something like a regulatory State or a regulatory super-State (or even a post-regulatory super-State). But 'state' and 'super-state' are in fact the wrong terms. The point is that the government function is tending to be usurped by that of European governance – a sort of continuous and incremental policy-making and policy-implementing process, bringing together all kinds of public, semi-public and private organisations and bodies (sometimes called 'civil society') in endlessly repeated cycles of discussion, negotiation, contractual agreement and constantly changing policy.

We might say that Europe has now emerged – though not without resistance from various quarters, including some of those influential in the drafting of the new European Constitution – as a kind of regulatory super-administration, with a governance form. The term 'governance' is indeed used in official documents, for instance in the European Commission's *White Paper on European Governance* of October 2000. This document, in spite of its official and thus partly PR character, is worth careful study for what it reveals in this connexion.

Let us take a step back in the history of Political Philosophy – to the not entirely forgotten German thinker G.W.F. Hegel. Hegel (writing in 1821) insists that the State cannot be a contractually-based institution. Now in this regard I was interested to read a few years ago a piece by the French political scientist Gérard Duprat, in which he argues that, precisely from a Hegelian point of view, the European Community is indeed not a State-like institution, even if it plays a 'governing' role. Its powers ought not even, he suggests, to be called political. The EU functions for the most part outside of any system of representation – and to that extent its so-called 'democratic deficit' is not a failing but lies in the logic of its principles of operation. It does however provide the European population with a system of justice and it polices that system; it is oriented to the satisfaction of needs. In short: it is a *civil society*, in Hegel's sense of that term. More accurately, it is a management system for civil society. In short, it is contractual governance.

The reluctance of the European Union to endow itself with orthodox State-like powers is an expression not just of political discretion in the face of the sensitivities or resistance of the member States but also of the influence of the presently influential revisionist view of how society should be run. On this view, the Union's assumption of a governance role may render not only the old-fashioned nation-state function at least partly redundant, but the State function itself – including in a super-State variant.

The European Union has thus evaded a number of problems concerning the relation of the EU to the principle of democratic rule. For some years there has for instance been controversy about the role and competence of the European parliament. No satisfactory solution has been found to this problem – and for good reason. For as long as the Union lacks the essential characteristics of a sovereign state or super-state (and of course it does and will always do so, at least as long as its member-states maintain their existence) then its parliament cannot function as sovereign representative. But, on the other hand, to assign

the parliament only secondary or derivative rights is to suggest the existence of a 'democratic deficit', a notion which seems to cry out for remedy.

This line of thinking was an impasse. By transforming itself into a governance system, the European Union assumes a status which is much vaguer, more flexible and thus more robust than if it were to try to operate according to the traditional, much more rigid principles of a properly governmental body. It also makes it feasible to take up the challenge of running a Union of 450 million inhabitants – too many, one may argue, for a traditional political unit. Yet this ingenious solution creates new problems. To the extent that the European Union defines or redefines its role in governance terms, it necessarily tends to shy away from fundamental political struggle (where politics means more than an iterated process of negotiation between the member states, as well as between 'social partners' and so on). But to the extent that political conflict cannot be eliminated by administrative means, this conflict will tend to relocate again to national level – where however, given the real transference of powers that has taken place from the member states to the European Union, it is likely to be met with frustration.

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