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Both Muslims and Christians prize their places of prayer,
as oases where they meet the All Merciful God
on the journey to eternal life, and where they meet
their brothers and sisters in the bond of religion.

JOHN PAUL II

Speech at Damascus in the Omayyad Mosque, 6 May 2001



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The Shared Good that Precedes the Constitution

FRANCESCO BOTTURI*

From an ethical-political point of view, a process of constitution-making is a moment of high cultural significance and great moral responsibility when a society gives (new) foundations to its political character, or, to express the point more effectively, recognises its own political character, asserts its foundations, and defines its conditions of liveability. A democratic constitution – again from an ethical-political point of view – requires respect for certain fundamental conditions, and I will now attempt to outline some of their elements.

The advantage of a democratic mechanism lies in allowing cooperation between different, indeed even opposing, theoretical and cultural positions; as such, democracy is that institutional political ideal which safeguards the wish for political cooperation not because of a technical mechanism (procedure) or even because of theoretical agreement (identity of a substantive conception). This is the valuable legacy of the democratic tradition in which is condensed the positive outcome of modern troubled pluralism.

All of this does not legitimate, however, a *relativistic approach to democracy* – a hurried and shallow vision, given that the practical nature of modern democracy does not eliminate the fact that some shared *practical foundations* are nonetheless indispensable to it. When one interprets democracy in an exclusively proceduralist way and one seeks an absolute institutional neutrality, democracy is seen in a relativist way. If, on the other hand, one sees democracy as a work of political practical logic it is easier to recognise the undeniable need for certain founding practical references which a democracy that is conscious of itself cannot consider as being a matter for negotiation.

The levels of this practical foundation are at least three in number. First of all (1), there is the level where it is necessary to justify *the reason of the preference for democracy* itself as a political regime that allows the coexistence of the diverse. This inter-

est is not automatic and is never taken for granted because it is always possible that consent is achieved for an authoritarian policy. The preference for democracy is a work of practical reason which must be argued, that is to say endowed with the justification of its own practical 'faith'.

(2) This foundation concerns the *relationship between democracy and the dignity of the person*. There is a limit to the possible manipulation of the human being which is expressed by the Kantian formula according to which man can never be treated only as a means but must always be treated as an end as well. This point expresses a foundation of the ethos of the West. If democracy was born in the West this was because of a pre-political ethos as well, according to which a threshold exists beyond which the human being cannot be manipulated or disposed of. This point defines the democratic institution, allowing the concept of the 'person' to be relevant, although it does not force individuals or groups to share a common justification for the idea of the 'person'.

Many of the internal conflicts that lacerate the Western democracies, indeed, concern exactly the redefinition of the boundaries of the manipulation of humans by the new technical possibilities (the biotechnologies, ICT, finance, etc.) to which the human person is increasingly subject.

(3) The democratic idea is based upon an anthropology in which it is possible *to distinguish between a substantial level of human subjectivity and an operative level*. Indeed, the idea of politics that is *directly* expressive of human identity as such is the logical premiss of a political regime where human identity is 'handed over' to politics: this is the idea of the *ethical State*, whatever form it may take in history (the sacral State, the authoritarian State, the totalitarian State). If one identifies the substance of the subject with political identity, one is in the presence of a political regime to which can belong fully only those who identify with it with a full and exclusive membership.

To end, political democracy has the problem of putting together, on the one hand, (economic, social, cultural, family, etc.) operations without involving the most intimate identity of man, and, on the other, preserving the space of an exceeding identity which should be recognised as such without being privatised. This is a difficult undertaking which does not find a satisfactory answer either in traditional liberalism, which safeguards the irreducible identity of citizens but privatises it, or in communitarian traditions that incorporate identity with social membership. How can one put together the two aspects of subjective substance and its operativeness? Through an operative agreement between subjects that are not identified with the cooperative system itself but which are recognised as irreducible, politically significant, identities.

THE COMMON GOOD AND THE POLITICAL FOUNDATION

For this agreement to be possible there should be a *commonalty within the historical-social plurality* itself. There should be an *already shared good* that is recog-

nised as a heritage of value rooted in the historical-social experience of a certain national or international community. This good is the fact itself of being placed in an interactive, collaborative, and even conflict-marked network, within a structure of common action, of open interlocution, in short of *social communication*, understood not in the limited sense of the transmission of information but as openness of a shared space of relationships between interlocutors, in which are included interaction and involvement, the background to an always possible understanding; communication, that is to say, as spoken about by Aristotle (*koinonia*) and by Thomas Aquinas (*communicatio*), as the foundation of human sociality.

We can find traces in this direction in the contemporary debate on liberalism as well. Charles Larmore¹ attempts, for example, to dissociate liberalism from an individualistic philosophy and to emphasise the ethical nature of political liberalism. In the view of Larmore, a correct conception of political life in the liberal sense implies that the people involved in public discussion must see themselves as 'a people', they must already have a 'shared life', a prior commonality of minimal elements such as a geography, a language, and a historical experience. The journey taken by Larmore is interesting because, in anchoring the political endeavour in a pre-political experience it re-establishes the continuity of the social and the political, reinterpreted as a conscious and normative expression of practical and axiological criteria that make coexistence possible.

A similar critique is also to be found in Charles Taylor,² according to whom it is essential that democratic regimes be animated by perception of a shared common good which constitutes that social tie, similar to the tie of friendship ('civic friendship'), to which Aristotle referred.

In the debate that has just been considered, there emerges that what a democratic constitution should recognise and protect is that unity which is already present in the form of interaction (cooperation and conflict), that is to say of *social communication* (which includes the very wide gamut of forms of common action, of information, of exchange, of transaction and of interlocution, but also of dispute, of polemic and of conflict), where social pluralism finds its condition of possibility.

Communication/coexistence between traditions, groups or even individuals is the original social event that lies at the basis of the political phenomenon. Indeed, it is the original social fact that also becomes the primary political fact, at the moment when it is *recognised as the good that whatever the case brings together*. The move to the political does not involve, therefore, anything else but the shared perception of what already brings together, that is to say that common thing, which is being in a communicative relationship, adopted as a heritage to be conserved and increased. The political body is thus born when the 'relational good' of which one is a part is adopted as a 'common good'; when,

¹ CHARLES LARMORE, 'Political Liberalism', in *Political Theory* 18 (1990), pp. 339–360,

² CHARLES TAYLOR, 'Cross-purposes: the Liberal-Communitarian debate', in NANCY L. ROSENBAUM (ed.), *Liberalism and the Moral Life* (Harvard University Press, Cambridge 1989), pp. 159–182.

adopting in an aware and instrumented way spontaneous social communication, the pursuit of social communication itself is instituted as a common end. In this sense, the political, coherently understood, does not add to the social if it does not have the finality of its responsible pursuit, respecting all the institutional and normative conditions that make it possible. For this reason, society is not the subject of politics but its end (to be protected, helped, increased etc.). In other terms, democracy is the political form of a civil society that is assumed as a fact and value, so that without such a reference to society, endowed with its relative autonomy, democracy is reduced to forms, procedures, but it does not constitute a living political reality.

THE CONDITIONS OF COEXISTENCE

The political coincides at this level with the permanent, regulated and protected institution of the space of communication, that is to say of dialogue, conflict, mediation and cooperation between the diverse. Thus understood, the political has its *normativity* which springs from the voluntary adoption of the good that brings together being and living together. The element of *voluntariness* founds that bound because it constitutes the pact that obliges holding to everything that works to preserve and increase what 'brings together' and to pursue its historical ends; as a consequence, the rules that govern and support social communication are essential to the fundamental political pact.

This means, first and foremost, that the good of communication delimits the *boundary of political participation*, distinguishing those who recognise its bound from those, instead, who, in not recognising it, are excluded from it. In this sense, there immediately emerges the impossibility of understanding a society as inclusive of every cultural component (fundamentalism, anarchism, separatism, terrorism, criminal organisations, hidden sectarianism, etc. are immediately excluded because they contradict the fundamental criterion of political coexistence). The good of coexistence brings with it certain *structural conditions* which come to constitute the same number of normative bounds. It is by its nature *open without limits* and thus includes as a principle every possible participant, without preventive discrimination; as a consequence, it requires that all the *forms of freedom of participation* are assured, placing the participants in a condition of being social protagonists (*subsidiarity*) and supportive actors (*solidarity*). Thus *justice* should be guaranteed in access to political society and to the distribution of those means that are needed for the exercise of exchange, cooperation and dialogue. Similarly, the conditions for the achievement of coexistence should be preserved and defended against its violent violations and subtle counterfeiting.

All these normative conditions – and how many others could one list – are *analytically included* in the fundamental communicative fact and thus do not

depend on a particular speculative foundation. Commonalty in the good of communication/coexistence – as has already been observed – is in itself an act of public practical reason that is susceptible to many theoretical justifications, each one of which remains within the perspective of different cultural ‘traditions’ or ‘comprehensive conceptions’. Commonalty in the formal and normative good of social communication is the foundation of coexistence as an act of political practical reason which cannot take the place of its many (and conflict-marked) theoretical legitimations.

This difference in terms of levels between the practical principle that is the foundation of the constitutional pact and understanding conceptions, proposed to justify the different social identities and different cultural traditions, defines the *space of so-called ‘secularity’*, according to which where identity and culture cannot contradict the principle of coexistence, this last, in turn, cannot interfere in them, either privileging them or opposing one of them.

This perspective of the practical institution of the political does not end with its formal constitutional profile because it is internally open to receive all those *value contents* that the different traditions, according to a concrete common history, might share. If, indeed, the sharing of the communicative bound is an institutive absolute of political coexistence, the encounter/clash of the various traditions and understanding conceptions delimits a related field of forms of sharing and exclusion that is defined and redefined historically, according to the model of the ‘dialectic of traditions’.³ The formal meaning of this good is the ‘form’ of the ‘*material common good*’, that is to say of all the (economic, social, value, moral and spiritual) contents variously identified according to the different cultural contexts, the changing historical circumstances and the specific political negotiations that are involved.

At this level there rules the logic of negotiation concerning procedures and contents which the various social forces and cultural traditions engage in with each other, according to the legitimate pressure of interests, of relational discussion, of persuasion, etc. that give rise to the variable physiognomy of the historically determined common good, the subject of legal protection and political promotion. In this way, in the stable fabric of the shared and regulated project of communication/coexistence, pluralism can find the space of its innumerable variations.

Thus a democratic constitution is such if it respects its functionality in relation to a civil life that precedes it and which at the same time receives from it its political condition and the rules of its historical existence.

³ ALASDAIR MACINTYRE, *Whose Justice? Which rationality?* (University of Notre Dame Press, Notre Dame, 1989).

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