Schriften zur Rechtstheorie

Heft 215/I

Law, Politics, and Morality: European Perspectives I

Globalisation, Democracy, and Citizenship – Prospects for the European Union

Edited by

Jordi Ferrer
Marisa Iglesias

Duncker & Humblot · Berlin

JORDI FERRER / MARISA IGLESIAS (eds.)

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Contents

Jordi Ferrer and *Marisa Iglesias*
Introduction 7

I. Globalisation and Multiculturalism 15

Neus Torbisco
Building the European Polity: Towards a Multicultural Model of Integration? 17

Vello Pettai
Prospects for Multiethnic Democracy in Europe: Debating Minority Integration in Estonia 53

Maria Laura Tasso
Multimoralism and Multiculturalism: Some Reflections on a Proposal of Martín D. Farrell 83

II. Deliberation and Democracy 99

Samantha Besson
Disagreement and Democracy: From Vote to Deliberation and Back Again? The Move toward Deliberative "Voting Ethics" 101

José Luis Martí Mármol
The Democratic European State: Republicanism and Deliberative Democracy 137

Guillaume Tusseau
Democracy and Information: The Perspective of Jeremy Bentham's Political Panoptism 175

III. Citizenship and the European Union 199

Nick W. Barber
Citizenship, Nationalism and the European Union 201

Maribel Narváez Mora
European Citizens: Rights and Identities 227

Paolo Comanducci and *José Juan Moreso*
Epilogue 249

About the Authors 251

Introduction

Towards the end of 2000, a group of junior scholars from different European universities elaborated a proposal for a series of three international conferences on questions of current interest in legal philosophy. One basic idea was to structure the content of the conferences along the lines of the three main subdisciplines of legal philosophy, that is, *political philosophy, legal theory,* and *moral philosophy*. The second fundamental criterion for the choice of the topics to be discussed at the conferences was that they should focus on questions raised by the ever-increasing political activities of the European Union and its institutional framework. Finally, a more indirect purpose of the project was to contribute to the creation of research networks among a large number of junior scholars working in European universities of the highest international renown, by offering them a forum for the discussion of their work.

We would not have been able to bring this project to fruition without generous financial support from the European Commission which we gratefully acknowledge. Our thanks also go to the publishers of Duncker & Humblot (Berlin) for their willingness to publish the proceedings of the conferences, in a series of three volumes of which the present one is the first. We hope that these books will contribute valuable arguments to the debate of some of the more pressing problems currently discussed in legal philosophy.

This first volume is the fruit of the papers read, and the discussions had, at the *First PhD EuroConference in Legal Philosophy* in Tossa de Mar (Spain) during the days of November 15–17, 2001, with the participation of some 80 European scholars. For this first conference, we chose a topic that has recently received great attention in political philosophy on an international level, in general, and in Europe, in particular, namely, the question about the interrelations between *Globalisation, Democracy, and Citizenship.*

The European Union is the result of a long and on-going process of cooperation and integration between the member states – a process that once began mainly in the economic sphere. In the course of that process, member states gradually delegated part of their political sovereignty to independent, supranational institutions intended to represent the common interests of the community as a whole, in other words, the interests of the citizens of this new European entity. As an institutional structure, the European Union

must fulfil certain functions and attain certain goals (such as economic stimulation and social progress, the creation of a transnational European citizenship, the establishment of a zone of freedom, security and justice, the forging of a European identity in the international context, etc.). But existing structures have proven too weak for the effective pursuit of all these ends. The institutional model needs to be revised and strengthened if there is to be a chance for progress in the future. Such a revision must take into account that the harmonization of different systems, values, and cultures raises multiple questions of articulation and justification.

In our view, for instance, the European Union needs to reconsider (as it has just begun to do) the element of *citizenship*. This element is the starting point from which a unified common identity across all member countries might then be forged, all the while taking care not to threaten the survival of presently existing national identities. At the same time, the citizenship status to be established must be firmly rooted in *democratic* structures that give stability and legitimacy to the institutional framework of the Union. Moreover, this process must be undertaken without losing sight of the new international reality characterized by the phenomenon of *globalisation*.

It has been pointed out that one of the main effects of globalisation is the increasingly multicultural composition of our societies. In contemporary political theory this has become a central concern since it is one of the fundamental factors that must be taken into account in determining the basic conditions of an adequate institutional design. So far, however, the question how different cultural groups can be made to live together in justice and fairness in one and the same political entity has been discussed almost exclusively from the perspective of the particularities and functionings of nation states. The European Union is a very different kind of organisation, with an in-built expansive tendency, and as such offers an interesting new context for the discussion about how social justice can be ensured in multicultural societies.

In fact, the European integration process at present faces a great number of challenges. The initial objective to create a primarily economic association of sovereign states has surreptitiously been replaced by more ambitious ends, in the sense of constructing a political union and a common space of liberty and legal protection. The rapid changes this has led to in the institutional structure and the nature of the European Union raise a number of questions which, although not entirely new in legal and political thinking, acquire renewed relevance when referred to a peculiar and changing reality regarding the design and distribution of power. In the post-Maastricht era, particularly the debates about the need for a European Constitution and the plans to incorporate a number of Eastern European countries into the European Union show that the process of regional integration must be accom-

panied by profound reflexion on issues such as multiculturalism, democratic legitimacy and the idea of citizenship.

These were, then, the topics on which the papers and discussions at our first conference concentrated and which now characterize the studies included in the present volume.

The book is structured in three parts. But we readily admit that this is a somewhat artificial division, intended only to give the reader a rough orientation. On the whole, all the papers are strongly interrelated, and each one could easily fit into more than one part of the book. The classification we have chosen therefore corresponds only to what we perceive to be the main thrust of each paper.

I.

The first part, on *Globalisation and Multiculturalism,* begins with *Neus Torbisco's* essay 'Building the European Polity: Towards a Multicultural Model of Integration'. Torbisco explores the paradoxes and mistakes, in the formation of nation states as well as in liberal theories of institutional justice, that have resulted from underestimating the political and moral importance of cultural diversity. In her view, positions which insist on the neutrality, understood as the non-intervention, of the state as a strategy for dealing with the phenomenon of diversity are inadequate. Since it is in fact impossible for the state to avoid intervening in cultural matters, the revised liberalism she subscribes to offers an interpretation of the neutrality postulate that links it with the idea of impartiality, i.e., the idea that the interests and expectations of no social group should get preference over those of any other. On this view, the equal treatment of social groups is the right way to pay genuine respect to cultural pluralism. Torbisco makes use of ideas first formulated in considerations about multiculturalism *within* nation states in order to point out the dilemmas and contradictions that may arise in the design of the post-national model to which the European integration process seems to be heading. Many of these dilemmas and contradictions could be avoided, she argues, if we learned from historical experience and did not repeat the mistake of ignoring the fact of diversity.

Although the European Union already has a multicultural background, the admission of new countries with their peculiar cultural characteristics and their own internal pluralism increases even more the complexity of living together with all these differences, and of designing an appropriate institutional framework. In his article about 'Prospects for Multiethnic Democracy in Europe: Debating Minority Integration in Estonia', *Vello Pettai* presents the case of Estonia to demonstrate how it may be possible to