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CRITICAL INQUIRIES IN LAW, PHILOSOPHY AND GLOBALIZATION

Introduction: Looking Forward

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EDITORIAL NOTE

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The current issue marks the introduction of a dedicated section on supranational democracy—an idea rooted in legal, philosophical, and political thought. This concept suggests that democracy can extend beyond the national dimension, transcending borders to manifest itself in a broader political sphere. While not an entirely new notion in Europe, where the European Union serves as a reference point, it is essential to clarify that the EU is not necessarily a model or a direct path to broader and more widespread democratic spaces. Instead, it could function as a laboratory where intriguing experiments or unconventional legal solutions are explored.

In an era characterized by profound interconnection and interdependence among economic systems and regions of the world, with much communication travelling through global social networks, the notion of democracy beyond national borders is, strangely enough, still considered futuristic or even utopian. This is even more worrying when juxtaposed with the fact that national democracies are grappling with a profound crisis. This crisis is evident in the ongoing democratic regression in various countries and a growing disenchantment with voting in mature democracies, as evidenced by escalating abstention rates.

It may appear paradoxical that the creation of transnational spaces could be perceived as a threat to national democracies. Some argue that such spaces divert attention and polarize citizens, hindering their ability to approach national problem-solving with a critical and positive mindset. Simultaneously, the globalization of markets erodes states' tax revenue, creating a growing chasm between citizens and economic political elites.

This fragmentation is exacerbated by algorithm-generated "bubbles" in political discourse, a consequence of social media political profiling. These bubbles allow manipulation, the spread of fake news, and an "us versus them" mentality, legitimizing the dismissal of competences and skills. Furthermore,

they fuel hate speech and conspiracy theories, contributing to the dropping of trust towards political and legal structures.

In this gloom scenario, much contemplation goes on quietly behind the scenes: social science scholars are fervently exploring potential remedies. Democracy, though not antiquated, is undergoing a transformation. In the 21st century, marked by interdependence, threatened global commons, and the need to address overarching global issues, simply holding on to existing institutional structures in the hope of restoring their previous efficiency is no longer sufficient. The time has come to gaze forward.

Five years ago, in 2018, the first edition of the Supranational Democracy Dialogue (SDD) event was inaugurated at the University of Salento. This event serves as a platform for dialogue among scholars, civil society, and creative thinkers, all focused on democratic solutions to global challenges. Over the years, the event has experienced continuous growth, attracting intriguing voices and forming prestigious partnerships. Its journey, spanning five editions, aligns with the topics and values expressed by the Athena journal—created specifically to address topics at the crossroad of law, philosophy, and globalization- a much needed space for contemporary reflection. Interdisciplinarity, the imperative to think beyond conventional boundaries, and a keen eye for innovation will characterize this section, dedicated to the most structured interventions presented at the annual SDD event.

Our aspiration is for this section, the magazine, and the annual event to grow synergistically. Above all, we hope to foster awareness of the epochal challenge at hand: the imperative to save democracy by reinventing it for the 21st century.

The over thirty contributors to the V Edition “Focus on tools”, in May 2023, shared their thoughts about several democratic instruments for collaboration and promotion of democracy and general interest across national borders, the articles which follow are perfect examples of this conversation.

The first precondition for real, genuine active citizenship at all levels is the existence of a political space beyond borders, where ideas may be exchanged, and political positions built.

Unfortunately, social media are global, TV channels and news programs are focused on the national dimension. Even if the European Union is a legal order and a space where European citizens' rights find their protection, we are still far from a genuine European public sphere where civic and political rights are expressed. The building of a political sphere appears to be a priority, it requires movements, parties, and associations that interact transnationally. Europe would set an example if only European elections were to become truly European, with European transnational parties, European electoral law, and a truly European political debate.

Still, such progress at the European level (as well as the most needed and lacking ones at the global level) even if encouraged by the appropriate reforms, cannot just be top-down. There is a need to complement them bottom-up through civic engagement. There are many ways to participate in public conversation in a public space, from demonstrating to signing petitions, from blogging and interacting through public platforms to joining transnational movements and parties. There are many online platforms in Europe to ease the way and spreading knowledge about them is another of our citizens' duty. They include The European Citizen's Initiative, Together for Democracy, Fit for Future Platform (F4F), Have your Say, the Conference on the Future of Europe. The latter has been a stunning example of citizens' involvement. Technology plays a fundamental role both in allowing a multilingual conversation, thanks to the automatic translation, as in organizing and making sense of the amount of data and contributions collected, through digital tools for data mining and mapping of ideas. In the contribution by Francesca Martines this topic is well explored.

Litigation, claiming mechanisms, spreading information and countering fake news and hate speech, and unmasking manipulation are all ways to participate, individually and in the aggregations of civil society. Aude

Bouveresse aims to assess to which extent the European Court of Justice (ECJ) is able to play an effective role just like some national courts are doing. Courts may be precious in supporting individuals ready to take a stance for the collective. Climate litigation is clear evidence of what courts and civil society may achieve together. Taking a stance for collective rights, exposing governance flaws, claiming old and new rights, and addressing the lack of implementation of existing rights (see – as a tool - the referring for preliminary ruling to ECJ in EU case law), all require adequate laws to allow actions and class actions, but also protecting whistleblowers (in need of effective guarantees about their own fundamental and labour rights) and journalists exposing corrupt politicians and powerful manipulators. There is a need for laws effectively stopping the strategic lawsuits against public participation (so-called SLAPP), intended to silence, intimidate or impoverish those who have courage enough to expose powerful enemies of the public interest through abuse of legal instruments.¹ The contribution by Marco Pasqua is dedicated to the analysis of lights and shadows in the European Directive that is but a first attempt to stop the phenomenon.

Artificial intelligence is a precious tool to use with caution to make sense, for instance, of the large number of inputs collected through participatory and deliberative democracy channels – see CrowdLaw – as well as to check facts. An example may be provided by iVerify, the UNDP’s automated fact-checking tool that can be used to identify false information and prevent and mitigate its spread. It is supported through the UNDP Chief Digital Office and the UNDP Brussels-based Task Force on Electoral Assistance. Yet, a force for good may be misused as a force for evil, and like many tools, it is neutral in essentials.

Balancing ethics and technological advancement are widely understood as one of the current challenges, a topic we can only briefly touch upon here.

¹ See e.g. the EU Commission’s Proposal for a Directive of the European parliament and of the Council on protecting persons who engage in public participation from manifestly unfounded or abusive court proceedings (“Strategic lawsuits against public participation”), 2022/0117 (COD), 27 April 2022.

Another need, not less important, is the improvement of internet governance to guarantee access rights as well as fair conditions to all.

Democracy is a multifaceted system that involves managing complexity across various aspects of governance. It encompasses designing policies, adopting legislation, interpreting legislation, choosing the most effective enforcement tools, and managing conflicts. One key aspect of democracy is mapping needs, which involves understanding the diverse requirements and priorities of the people. By adopting a needs-based approach, policymakers can better identify the issues that require attention and formulate policies accordingly. Furthermore, digitalizing governmental processes can enhance efficiency and accessibility, ensuring that decision-making is transparent and inclusive.

Another crucial element is prioritization, where democratic systems must weigh different concerns and allocate resources accordingly. For example, environmental protection can be prioritized to address pressing ecological challenges. To accomplish this, building partnerships is essential. Initiatives like the UN Partner Portal facilitate collaboration between governments, international organizations, and civil society, fostering coordinated efforts to tackle global issues effectively.

In the democratic context, building synergies is crucial for sustainable development. Balancing environmental policy, economic growth, and human development is a complex task, but it is necessary to ensure comprehensive and well-rounded progress. By identifying common goals and aligning strategies, policymakers can work towards mutually beneficial outcomes.

Building structured dialogues among stakeholders is an important element in this strategy, and it is vital in a democratic framework. This can be achieved through various means; an example is provided in the EU by the AI Alliance, well explained in the article authored by Gabriele Rugani.

However, democracy also entails trade-offs. It is impossible to please everyone, and conflicting interests and opinions are inevitable. Therefore, it becomes crucial to manage these trade-offs effectively using all the

mentioned tools and approaches. Carlo De Stefano addresses this conundrum through the powerful example of international investment agreements and the need to assess (somehow) their compliance with climate engagements.

In summary, democracy entails managing complexity across different stages of governance. Through needs mapping, digitalization, prioritization, partnerships, synergies, structured dialogue, and managing trade-offs, democratic systems can address societal challenges and ensure inclusive and effective decision-making. Yet, much work is needed, and many legal challenges await us.

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