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Feminism, Law and the Power of Transformative Narratives

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Feminism, Law and the Power of Transformative Narratives

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1. Narratives and Counter-narratives

As Y.N. Harari wrote, the power of narratives lies in their ability to simplify social complexity, and to make human cooperation fluid: 'Any large-scale human cooperation – whether a modern state, a medieval church, an ancient city or an archaic tribe – is rooted in common myths that exist only in people's collective imagination' (Harari, 2015, 25). Precisely because of their function, such narratives, once disseminated, give rise to social constructs and norms that, as long as people believes in them, and precisely by virtue of that belief, exist and live in the social dimension.

The three essays collected for this focus of *Athena* are linked together not only by a common interest for the feminist thinking in relation to various aspects of law, but also and above all by the fact that they all modulate, under different aspects and with different nuances, the theme of the essential relationship that exists between the strength and resistance of the dominant moral, political and legal structuring, in relation to the feminine, and the logically preceding establishment in society (at a latent even more than declared level) of correlative 'narratives'.

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Some are among the oldest and most foundational ones, such as the essentialist and bipolar narrative that would affirm the idea of a separation between a rational and self-interested perspective, attributed to the masculine, and a bodily, emotional and caring perspective, attributed to the feminine (see, e.g. Graziosi, 2016; 2002). A second narrative, closely related to the previous one, and very old too,[1] postulates a clear separation between the public sphere (the place of legally relevant rational evaluations, of politics, of socially recognised work) and the private one (in which the 'natural' and emotional activities of care and reproduction, commonly attributed to the feminine, are located).

The point, as is well known, lies in the fact that the questionable dividing line that separates these differences is not merely dividing them, in a 'horizontal' manner, in the sign of equal complementarity, but also acts on a 'vertical' level, constructing them as hierarchically constructed.[2]

These narratives, sedimented and endowed with an enormous force of inertia, operate in an extremely powerful way. Not only they constitute the *cardo* and *decumanus* of the structuring of our legal universe, but they also set the limit that, vertically, separate the acropolis of a male identity traditionally understood as the sole measure of itself (self-authorised to assert its own vision of the world), from the lower quarters of a female identity traditionally excluded from subjectivity and political bargaining among peers, and destined for the reserved zones of the private sphere.

From such primary structure, many other narratives have then logically descended, which over time have constituted the stages of the historical course of our culture, bringing with them the indication of the relative models of behaviour that, over time, have cooperated in sustaining the pattern of feminine subordination. Even this macro-narrative itself, i.e. the way in which

[1] The origins of this distinction go back to Roman law, but it was in the 16th and 17th centuries that it was revived: think of the way in which the distinction is emphasized by the natural law theorist John Locke in works such as his *A Letter concerning Toleration* (1983).
[2] In Italy, Letizia Gianformaggio (e.g. 1995; 2005) has often emphasised the importance of this hierarchisation.

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the entire ‘official’ history (and historiography) of law has traditionally been recounted, through reconstructions that are never neutral and are ‘dispersed’ in the historical arc of the evolution of our legal culture, has always referred back, albeit in its diachronic variety, to the unifying element given by the perspective from which the gaze with which these varieties have been understood and reconnected has always been launched: the male perspective point, product of the earlier and never contrasted essentialist division mentioned above (see Scott, 2018).

There are other distant derivatives of the same: variations resulting from its continuous work of progressive readjustment to the changing world. Among the most recent ones, there is the late mutation of capitalist liberalism into the current neoliberal worldview (see Cooper, 2008; Brown, 2015; Casalini, 2018; Verza and Vida, 2020). According to this, the individual is conceived essentially as the manager of himself and of his assets (with the correlative responsibility of the ‘business risk’ of his life) in a social context assumed to be necessarily competitive.

Whatever is “other” with respect to this subjectivity (again: what pertains to care, reproduction, but also nature itself and its elements (see Mies and Shiva, 2014)) falls instead into the category of what is “resource” – and therefore, by definition and as a founding part of the narrative, extractable, appropriable and exploitable.

These generalised narratives, of course, also have a concrete impact on more specific issues: considering, for example, the topic of abortion, among the problems historically linked to the more ‘classic’ feminist claims, we would still find those same initial narratives translated back into practice.

This is the case either when, in tackling the problem, interpretative frames are judicially imposed that take for granted a necessary vulnerability of the woman who asks to be able to practise it, producing (see Triviño Caballero, 2019) paternalistic solutions (in a full re-proposition of the most classic essentialism that underpins the idea of her non-subjectivity), or when the liberal model of the personal choice made by the free and autonomous

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individual (a re-proposition of the classic 'proprietary' narrative of autonomy proper to liberalism) is applied to the woman, in a manner, however, blind to the peculiarities of her actual particular situation,[3] producing, on the part of the institutions, disengaged choices, and decisions scarcely capable of affecting the reality of the problems faced.

Even if the socially rooted narratives, mentioned above, can count on the very powerful force of habit – a normative force of the traditional kind, as Max Weber (1922) emphasised, i.e., not played on the rational level, which is easily overridden –, nevertheless, it is possible, operating with the rational counter-tool of conscious and careful critical analysis and argumentation, to try and rebuild different counter-narratives (Verza, 2022). Indeed, since "large scale cooperation is based on myths, the way people cooperate can be altered by changing the myths - by telling different stories" (Harari, 2015, 32). It is for this reason that it seems necessary to reinforce and relaunch these narratives, with the task of dismantling the disciplining force of stereotypes that still today keep women, in fact, in a position of subordination, regardless of the equality they enjoy on paper. This is important, if we want to try to actually counter the force of the essentialist model, in favour of a real non-discrimination, operating "*in action*", and not only "*in books*".

In the chessboard on which they confront each other, however, narratives and counter-narratives not only possess different sources of force, but also pose different challenges. Indeed, it is mainly the latter that bear the burden of rationally proving the constructed and non-neutral nature of the former (which are, instead, ordinarily not called to provide this argumentative obligation,[4] thanks to the power of habit that underpins them), and that are especially faced with the task of disproving the oldest myth concerning the

[3] On the importance of context for the actual exercise of freedom of choice, see Philip Pettit (2001).
[4] Even when arguments have been provided in this regard, they have usually been arguments that appealed to the 'natural' evidence of things, as in the case of the Aristotelian thesis of the natural complementarity of the functions of the sexes, later revived also by Jean-Jacques Rousseau in Book V of the *Emile* (1994).

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dualism of reason/body-emotion, from which all the others in different ways originate.

Precisely in relation to this, a great reinforcement comes today from the current advances in neurosciences, which are increasingly and clearly demonstrating the inconsistency of the assumption of such a separation, in the face of evidence that shows instead that human intelligence is not only embodied (see Varela, Thompson and Rosch, 1991; Varela, 1996; Shapiro, 2010; Gallese, 2006; Aydede and Robbins, 2009), and thus at one with body and emotions, but also necessarily connected (Clark and Chalmers, 1997; Paul, 2022) to the environmental context in which it grows and lives, and with which it carries out continuous exchanges in a relationship of mutual dependence.

Thus, science itself today confirms the correctness of the foundations of the counter-narrative, called to replace the bipolar and hierarchical one that sees the separation between reason on the one hand, with a self-interested self at the centre, and on the other hand care as a residual, and obscure, mode of expression of one's humanity.

On the contrary, this new narrative cannot but express an awareness of the existence of a necessary, continuous and profound connection both between the self and the "other" (the individuals we care for and which care for us, with whom we interact, but also nature and its resources), and between the parts of the self itself. This, in fact, no longer lends itself to being seen as divisible, *à la* Descartes, into the two sectors of reason *vs.* body/emotion, since the life of the organism and psychic life constitute, as we now know, a single flux (and in this by the way, on closer inspection, the most powerful role is precisely played by emotion, as opposed to rationality (Kahneman, 2013; Haidt, 2012; Greene, 2015)).

But the contrasting of the first essentialist narrative, through a different one, could bring along, with a domino effect, the weakening of the other narratives depending on that. The hope is that by dismantling dichotomies that are too rigid and penalising (such as the one dividing public and private

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spheres, or the one proposing a neo-liberal framing of social life), and historical reconstructions that are too closely tied to a single point of view, we might finally contribute to transforming women's paper rights into living rights.

And, in fact, this is precisely the perspective, as we shall see, that prompts the articles gathered in this section.

2. Counter-narratives in Feminist Legal Studies

The critique of dominant narratives in the legal field, along with the consequent unveiling of their male-centric foundation, characterizes the entire body of feminist legal studies and represents its foundational inspiration (De Gouges, 1791; Smart, 1989; Mackinnon, 1991). Feminist legal theory, in fact, is distinguished not only by its intrinsic connection to the advocacy for women's rights but also, and more importantly, by its establishment as an alternative approach to law and its understanding, analysis, production, interpretation and application.

The strong normative dimension of feminist theory stems from the systematic deconstruction of the supposed neutrality of legal culture, both in its historical development and its transcultural manifestations. Given that women have long been excluded – everywhere - from the official and institutional spaces of legal production (being barred from university education, legal professions, and political participation), it is undeniable that legal thought has, for centuries, been produced exclusively by men, predominantly for men.

This reality necessitates a significant effort of (re)conceptualization in the contemporary era.

Initially, this effort focused on the (legal) relationship between equality and difference, aiming to include women within the framework of legal rights. However, it has become evident that the contemporary challenge lies, on one hand, in redefining the key concepts and principles of modern legal

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experience with respect to women's legal and political subjectivity, and, on the other, in designing alternative and innovative notions capable of translating women's demands – and those raised by women – into the legal domain.[5] The prevailing approach to date, which has centred on the gradual inclusion of women into roles and spheres previously denied to them without prompting radical transformations in the law itself, is increasingly recognized as inadequate. What is required instead is a comprehensive rethinking of legal structures and concepts, ensuring that they not only accommodate women but also reflect and incorporate their diverse experiences and perspectives, thereby fostering genuine systemic change.

The essays collected in this volume align closely with this perspective, exploring concepts and theories of classical legal thought from a feminist point of view and critically examining the narrative dimension of legal experience. The aim of the proposed analyses is to reconceptualize dominant legal narratives, with the goal of re-establishing law and its representations on egalitarian grounds.

The resulting call is for an *original legal reflection* (Alvarez Medina, 2021), not merely to adapt legal terminology and jurisprudential theories to the subjectivity of women, but rather to radically and alternatively rethink the law itself and its foundational concepts.

In these essays, the approach unfolds both de-constructively and constructively, encompassing the analysis of key concepts and a critique of jurisprudential approaches that underpin contemporary legal culture. Particular attention is paid to the relationships between legal concepts and the theoretical-legal articulation of women's rights, illustrating the need for a transformative engagement with the principles and narratives that shape the legal domain.

[5] An example in this regard is provided by the contemporary legal discussion on intersectionality (Krenshaw, 1991; bel hooks, 1987; Bello, 2020).

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Specifically, the first two articles focus on a critique of neo-constitutional theory, while the third addresses neoliberal ideology. Constitutionalism and neoliberalism represent two distinct contemporary approaches to law (Dardot and Laval, 2017; Garapon, 2010; Giolo, 2020), which diverge so markedly as to orient contemporary legal experience and jurisprudential debates in opposite directions.

These two discordant narratives offer fundamentally irreconcilable visions of rights, subjectivity, normativity, violence, and power, constructing competing and contradictory legal frameworks (Beck, 2006). Each approach not only interprets the legal domain differently but also sets the stage for profoundly divergent normative and philosophical horizons.

Both approaches are currently at the centre of global debate, particularly in light of the pressures that neoliberal globalization exerts on the constitutional frameworks of nation-States. Neoliberalism thus emerges as a competing framework to the constitutional model.

The resulting tension between these two opposing narratives unfolds on an international scale, taking on specific characteristics depending on the diverse geographical, cultural, and legal contexts through which it is embedded. It is no coincidence, therefore, that the three essays in this collection examine these two approaches, interrogating them through the lens of feminist legal studies.

An additional value of this focus lies in the authors' and contributors' close engagement with the rich Latin American literature, which today arguably represents the most cutting-edge body of work in feminist legal studies. This is particularly evident in the context of feminist constitutionalism and feminist critiques of neoliberal global policies. The result is a rich overview of the issues central to the international debate on the intersections of feminism, law, rights and narratives.

In the first two essays, Silvina Alvarez Medina and Lucia Pilar Giudice both focus on feminist critiques of constitutionalism, offering a reconstruction of the feminist jurisprudential debate on the shortcomings and

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gaps that constitutional philosophy exhibits when viewed through a gendered lens. This line of inquiry is particularly compelling because constitutionalism, in contemporary legal culture, is often regarded as the main model for law, the state, and democracy (see, recently, Ferrajoli, 2024). Due to its primacy, constitutionalism has long remained above criticism. Feminist legal thought itself has, for a significant period, considered the post-war constitutional paradigm grounded in fundamental rights – as the privileged context within which women's claims could finally gain recognition and space. And, to some extent, this has indeed been the case. However, it has now become evident that constitutionalism, when analysed from a gender perspective, reveals critical flaws. These critiques underscore the importance of scrutinizing even foundational legal paradigms to ensure they do not perpetuate systemic exclusions or inequalities.

The essays by Alvarez Medina and Giudice delve particularly into issues surrounding the continued prominence of the notion of autonomy in contemporary constitutions, especially in light of the deconstruction this concept has undergone within feminist legal theory:[6] feminist scholars have highlighted the limitations of autonomy as traditionally conceived, advocating instead for alternative notions such as interdependence, relational autonomy, and vulnerability.

Another focal point of critique is the public/private dichotomy, which remains a foundational framework in constitutional law. Feminist analyses seek to deconstruct this dichotomy, emphasizing its role in perpetuating the original liberal inspiration underlying constitutionalism. As Alvarez Medina observes, “feminist deficits of constitutionalism come from the seamless attachment to that axiological framework of original liberal constitutionalism”. This critique underscores the need to move beyond traditional liberal paradigms, which have often failed to address the systemic

[6] Consider, for example, the feminist debate on autonomy, vulnerability, care, freedom, and so forth (cfr., ex multis, Fineman, 2013, Kittay, 2003; Facchi and Giolo, 2020).

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exclusions embedded within constitutional frameworks, and toward models that better reflect the interconnected and relational dimensions of human and legal subjectivity.

In this context, Alvarez Medina proposes a rearticulation of constitutionalism by revisiting the *agenda, strategies, and implementation* of feminist constitutionalism. Drawing on contributions from the rich body of Latin American feminist literature, she adopts ecofeminism as a privileged perspective, noting that it "has opened the political and legal agenda to integrated perspectives on issues of vulnerability, dependence, and interdependence concerning women from an ecological approach". Particularly noteworthy is Alvarez Medina's emphasis on the transformative nature of feminist constitutionalism. She argues that it cannot be reduced to mere adjustments within existing frameworks, which have already proven inadequate in fully recognizing women's subjectivity. Instead, such approaches tend to confine women within "different spheres", failing to achieve substantive equality or a meaningful reconfiguration of legal and political paradigms.

Giudice's essay similarly focuses on the feminist critique of the artificial public/private dichotomy and constitutionalism, enriching the discussion by engaging with the concept of "legal culture". In her analysis, the pervasive nature of historically dominant legal narratives is fully acknowledged and directly addressed. Reimagining constitutionalism from a feminist perspective means critically revisiting what legal culture has historically represented and simultaneously propagated. This process aims to give rise to alternative narratives that are more consistent with the demands and aspirations of women. The public/private dichotomy emerges as a particularly significant case study in understanding the power of dominant narratives. In contrast, the feminist constitutionalism proposal takes on the character of a radical alternative, even a form of subversion:

> [t]hus, the feminist critique not only interrogates what happens in legislatures and courts but also extends to law schools; it does so

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> when it refers to the basic assumptions behind what we understand as law: its supposed neutrality, systematicity, coherence, rationality, and autonomy—legacies of a positivist and liberal outlook that predominates in our academies and originates from an androcentric and exclusionary point of view.

This critique challenges not only specific legal doctrines but also the foundational assumptions of the legal system itself, revealing how deeply entrenched biases have shaped the principles and frameworks considered foundational to law. By questioning these assumptions, feminist constitutionalism opens pathways to fundamentally rethinking the law and its role in fostering equitable and inclusive societies.

This underscores the necessity of a historiographical approach capable of deconstructing dominant narratives to more accurately reconstruct the evolution of legal culture. Such an approach must not overlook the inherently male-centric origins of legal thought and must critically address the centuries-long exclusion of women from the processes of legal development.

Equally radical is the work of Matteo Codelupi, who adopts also feminist critiques particularly from Latin American literature on care work, reproductive labour, and exploitation. In his essay, the focus shifts from constitutional frameworks to the neoliberal order, which is profoundly reshaping how law, rights, subjectivities, and power are understood and represented. The narrative of globalization, rooted in a neoliberal perspective, appears to revive premodern legal models that enable regressive practices, such as exploitation. In this context, particular attention is given to the notion of extractivism, a concept widely discussed in Latin American debate. Extractivism effectively captures and synthesizes neoliberal policies aimed at the privatization and appropriation of resources: “from the alliance between extractivism and neoliberalism emerges a comprehensive reorganization of access to land that transforms the very act of living and reproducing (accessing water, means of subsistence, etc.) into modes of exploitation”.

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A key reference in Codelupi's analysis is Silvia Federici, whose groundbreaking work on women's reproductive labour has significantly influenced international feminist debates. Codelupi particularly focuses on the neoliberal processes of *over-exploitation* and the *housewifization* of reproductive labour, emphasizing how these dynamics reinforce traditional practices of devaluation and misrecognition of women's work.

Through this lens, he explores how neoliberalism not only exploits women's labour but also transforms it into a resource to be extracted, perpetuating systemic inequalities and erasing the essential contributions of reproductive and care work to social and economic life. This critical analysis situates the neoliberal framework as a key driver of gendered exploitation and calls for a reimagining of value systems that fully recognize and integrate reproductive labour.

From the essays collected here, the power of feminist counter-narratives emerges strongly, highlighting their ability to unveil the hidden mechanisms that have underpinned the construction of male-centric legal frameworks.

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CRITICAL INQUIRIES IN LAW, PHILOSOPHY AND GLOBALIZATION

Rethinking (Eco)Feminist Constitutionalism

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ABSTRACT

This article focuses on the developments of liberal constitutionalism *vis a vis* the challenges posed by feminist and ecofeminist constitutionalism. First, it explores the insufficiencies of contemporary constitutionalism for fully incorporating the gender perspective. Second, it proposes two key notions for capturing the feminist proposal towards a new reading of the constitution: the relational perspective and the vulnerable self. Along with the relational approach and the review of autonomy in the light of vulnerability, the article proposes a constitutional reflection on the axiological basis of the constitution.

Keywords: feminist constitutionalism, ecofeminism, relational approach, autonomy, vulnerability

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"Feminism has become something to be done more than a flag to be flown"
C. MacKinnon

1. Feminist Constitutionalism

I would like to think about feminism as proposed by Catherine MacKinnon, "something to be done", to be built; the same for feminist constitutionalism. As we know, feminist constitutional thinking began a long time ago, and it has developed important and relevant proposals about representation, fundamental rights and women interests. As a whole, feminist constitutionalism has focused on interpreting the constitution - its dogmatic but also its pragmatic dispositions - according to the conceptual and normative vindications of feminist theory and feminist jurisprudence. Besides, so called legal feminism or feminist jurisprudence are here understood as the background theory - as well as feminist theory - which leads to feminist reflections about the constitutional legal framework; in other words, feminist constitutionalism is an elaboration of legal feminism into constitutional code. Extensive catalogues of political, sexual, reproductive, civil and social rights have been presented to think the constitution and its protections on the bases of feminist theory (Y. Gómez, 1994, 2006; Baines y Rubio Marín, 2005; Irving, 2008; Baines, Barak-Erez and Kahana, 2012; I. Gómez, 2017; Rubio Marín and Irving, 2019; Alvarez Medina, 2021; Rubio Marín, 2022; Rubio Marín and Salazar, 2024; Pou, Rubio Marín and Undurraga, 2024).

The history of feminist constitutionalism is usually traced back to XVIII century (Irving, 2008, 4-16; Rubio Marín, 2022, 26-57). However, from the perspective of feminist vindications, the liberal constitution still embraces important deficits; it was because of the non-written constitution and its principles on wider bases and implicit clauses, that permitted to accommodate legal feminist vindications to some point. The invisible constitution (Tribe, 2008; Dixon y Stone, 2018) has progressively and only lately incorporated

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women's demands. Impossible not to have done it and have kept a coherent set of liberal foundational principles, individual autonomy, dignity, justice (Dixon y Stone, 2018, 14) and, of course, equality. According to Laurence Tribe (2018, 26) "constitutional silences" live in the constitution as much as words do: some absent issues yell its constitutional belonging; otherwise, constitutional text may appear old and lack legitimacy. Then, we can affirm feminist legal achievements match precisely the liberal constitutional horizons, and such constitutions can't avoid recognising women's interests and keep being liberal constitutions of our time.

A quick look over the tenacious work done over the time on the field of feminist constitutionalism,[1] permits to observe the persistence and sagacity of lawyers and jurists who knew the limits and hardness of legal reasoning. The name of Ruth Bader Ginsburg is an example of such careers, fighting case by case, sculping changes and opening new legal ways at the pace of constitutional equality (Gibson, 2018). The achievements of feminist constitutionalism have had diverse results, from progressive effectiveness of political representation to persistent resistance to the inclusion of special treatment in the realm of fundamental rights, as in the case of sexual and reproductive rights, or body, psychological and moral integrity against gender violence in the couple. About reproduction, reactionary uprisings in some European countries illustrate the phenomena, and generates fear and concern on abortion legislation national and internationally.[2] The backlash to abortion constitutional rights in the United States is a case in point, as stated in the

[1] See, for example, the recent volume on gender and the constitution in Latin America, edited by F. Pou Giménez, R. Rubio Marín and V. Undurraga (2024), which includes chapters analysing eleven countries of the region and reveals complicated, gradual and slow constitutional and legal itineraries for opening the way towards public recognition of the intense and turbulent private life of women; legal changes comprise the family, children, marriage, reproduction, household labour, violence, care and the balance of private and family life.

[2] At the G7 meeting that took place in Italy in June 2024, the president of the Italian Council of Ministers managed to exclude the right to abortion from the joint declaration, which had been included in the 2023 declaration; see https://elpais.com/internacional/2024-06-14/meloni-consigue-eliminar-el-derecho-al-aborto-de-la-declaracion-conjunta-del-g-7.html.

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Supreme Court decision, *Dobbs v. Jackson Women's Health Organization* (2022).

The persistent tension between constitutionalism and feminist vindication of women's interests, leads me to explore in this article the convenience of the present strategy of more or less successful constitutional annexations or amendments. I propose to widen the scope and to address a concomitant task aiming at the axiological basis of constitutionalism. Important Latin American voices have pointed out severe shortfalls regarding the present constitutional model. Isabel C. Jaramillo, for example, affirms that, besides the project of reform of the feminist agenda, we have to pose the question on the effectiveness of the strategies undergone by feminist constitutionalism and its utility for overcoming persistent material inequality (2024, 68-69). Present and abundant legal production - constitutional and legal, as well as the case law - reveals to be not fully satisfactory if we observe women's life in different spheres. See, for example, the case of the Spanish regulation on gender violence under Act 1/2004, an innovative and ground-breaking proposal which introduced a novel and decisive gender-specific criminal classification model in addressing the problem, which has received the endorsement of the constitutional jurisdiction.[3] Despite this initiative, the figures of gender violence against women in relationships with a partner or ex-partner continue to exhibit more and more victims in Spain,as existing records show.[4] Naturally, the causes of this scenario of violence against

[3] Decision 59/2008 of the Spanish Constitutional Court established the constitutional basis of Law 1/2004, ruled out discrimination based on sex and affirmed the peculiarity and distinctive character of the typified acts, that is, violence against women exercised by the partner or ex-partner. This ruling was followed by others handed down between 2008 and 2010 that responded to other aspects of the law called into question through numerous questions of unconstitutionality. The success of this jurisprudence, some authors have pointed out, is not without improvements. Bodelón and others have pointed out that the ruling could have gone further and configured the protected legal asset as "a legal asset that is unique and diverse from others that already exist." (2009, 250); see also, Salazar and Rubio Marín (2024, 82).

[4] See the reports of the state observatory of violence against women, of the Government of Spain,
https://violenciagenero.igualdad.gob.es/violenciaencifras/observatorio/informesanuales/.
See also,

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women are multiple and the legal approach is only one variable among many to take into account; and yet, the stubborn sexist reality challenges legal systems as well.

In the same direction Francisca Pou examines the Mexican context and refers to the reforms undertaken in the constitutional field to facilitate constitutional litigation on gender matters; the author points out the insufficiencies of the current model and states that "Nevertheless, the overall impression remains that Mexico lives under a superficial layer of inflationary normativity that fails to penetrate 'deep structures'. The formal inventory of norms, and even Mexico's position in equality indexes, somehow masks the degree of gender subordination that still prevails" (Pou 2024, 174). On a similar path, Rubio Marín and Salazar point out the urgency of persisting in reforms, given the important "deficiencies of a social State that has not only lacked public resources but also a feminist perspective" (translated of the original version, 2024, 144). Notwithstanding the many reforms already done in the realm of women's rights, there is a gender gap persistent in society. I propose a reflection on the value and conceptual grid of liberal constitutionalism, the matrix of which has persisted almost the same over time. The women's rights milestones have permitted key progress in terms of recognition and visibility for women as citizens. However, a gap persists in the constitutional arena. A step forward in the way of feminist vindications has still to be done; this doesn't mean including more rights or more aspirations in the constitution.[5] Nor do I mean further constitutional reforms, in terms of more inclusive conditions or parity standards. Indeed, such steps have already been taken, in different ways, throughout the last two centuries.

https://observatorioviolencia.org/incremento-el-numero-de-victimas-de-violencia-de-genero/#:~:text=Hasta%20el%20momento%2C%20en%20lo%20que%20va%20del,el%20maltrato%20siguen%20aumentando%20con%20resultados%20sumamente%20preocupantes.

[5] On the other hand, the so-called "aspirational constitutionalism" often functions as a mirage of political and social inclusion that, however, is far from making changes in people's lives; As Loughlin states, after giving the constitutional results of South Africa and Ecuador as examples, "drafting ambitious principles is much easier than turning them into reality" (Loughlin 2022:171; see also, Baines and Rubio Marín, 2005,6).

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Rubio-Marín (2022) has proposed a periodization of gender constitutionalism which begins with exclusive constitutionalism and moves progressively towards inclusive, participative and, finally, transformative one. According to her, we find ourselves at the point in which constitutions transform themselves at the pace of gender issues (Rubio Marín, 2022, 211-214). [6] In my view, deep transformation should be the focus, i.e., allowing women to have a leading role and be authors of transformation; such a move forward into constitutional change implies a step beyond rights inclusion, even beyond participation as presence. It is necessary to explore the transformation of the foundations of constitutionalism, in order to allow a genuine and original constitutional reflexion. MacKinnon affirms that many scholars find "constitutionalism too narrow and formalistic a container for addressing the problems feminism identifies" (2012, xi). This is also the problem with legal systems, a set of norms designed for other sort of conflicts and other's interests, different, very different, from those identified by feminism as women's interests and conflicts in patriarchal societies. Consequently, it shouldn't be a surprise that liberal constitutionalism as we know it has reached the gender agenda only partially. Political parity, sexual and reproductive rights, protection against gender violence, all of them are translated into legal rules attached to classical liberal legal systems, and are interpreted and enforced only with the same value instruments of already existing liberalism, whose basal and fundamental value is individual autonomy - mainly a male conception of autonomy. The fundamental rights achievements have been and are crucial for women, and I have supported its inclusion in the constitutions in former writings (Alvarez Medina, 2021). However, the serious problems feminism has found for interpreting and applying such rights reveal that annexing rights to national constitutions is not enough for transforming them. The *legal corset*, and specifically the

[6] At this stage of feminist constitutional development, and in the current political scenario, it is necessary to be alert, as Rubio Marín suggests, in the face of the dangerous attacks that loom over feminist advances and achievements (2022, 315 ff.).

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constitutional corset, fits someone else's measurement, and it hasn't been made for women's size.

In the following paper, I propose to look at aspects that may seem secondary at first sight, not centrally related either to fundamental rights nor to constitutional design. I will focus on the theoretical bases that on my view should nourish constitutionalism, not only considering normative and institutional design, but also substantive legal interpretations. I will focus on two key notions for capturing the feminist proposal towards a new reading of the constitution: the *relational perspective* and *the vulnerable self*. I will present first the relational approach, as opposed to individualism alone, which manifests itself properly through a new interpretation of the notion of personal autonomy, and its conceptualization as relational autonomy I will propose to incorporate the notion of vulnerability, along with dependency and interdependency, as variables themselves of personal autonomy in its relational dimension. Both the relational approach and the vulnerable self are called to complement the feminist legal proposal, and respond to core critiques made to key concepts of traditional legal systems - concepts such as universal and neutral individualism, public-private distinction, autonomy as full cognitive capacity.

The liberal conception of personal autonomy has worked as a hegemonic constitutional concept. This has been the case not only because it remains a key concept of the liberal political theory, hegemonic as well, but also because the concept retains centrality and influence also in other theoretical realms, beyond political and legal theory. This conceptual power exercised by the liberal conception of autonomy has been questioned by feminist theory which has proposed a less idealized and more context-related conception, under the notion of relational autonomy (MacKenzie y Stoljar, 2000; Nedelsky, 2011; Alvarez Medina, 2018). In parallel, the notion of vulnerability has also gained theoretical space, as a necessary counterpoint or contrast to autonomy, a core human condition, which also allows the identification of situations of structural and group dependence and

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interdependence (Fineman y Grear, 2013; Timmer, 2013; Kittay, 2020, 57-77). As long as the reference and recipient of constitutionalism continues to be the person conceived as an autonomous individual that is capable of rationally mediated decision-making, emotionally neutral and contextually indifferent, the constitutional subject will not properly capture the lives of women or their interests and conflicts. Unless the notion of full autonomy, intended as the capacity of an ideally rational and contextually free subject is overcome, democratic liberal constitutions could barely be reshaped (Rodríguez Ruiz y Rubio Marín, 2012).

In this article I will focus mainly in rethinking constitutionalism on the basis of women's important interests and the underlying values developed by the feminist theory. However, the reflection can be extended to other realms. Together with the feminist perspective, other approaches question the constitutional agenda as well, and in some cases overlap women interests. Such is the case with environmental issues, activated by the climate crisis and the urgency of ecologically friendly legal developments. Ecofeminism has opened the political and legal agenda to integrated perspectives on issues of vulnerability, dependence and interdependence concerning women from an ecological approach (Mies y Shiva, 1998; Mellor, 2000; Puleo, 2016; Herrero, 2015). The relational approach to law and rights connects to vulnerability and dependency, which also connect to care work and caring values. Relations, then, open the road to caring, which is a core relational set of actions, beyond the limits of individualism and comprises caring the earth, its ecological equilibrium. Although I will not explore this issue here, caring as a constitutional value poses the challenge of a new dimension for equality, as well as for some key constitutional concepts, such as the public-private spheres, privacy or family life. Besides, another crucial challenge comes from relations with nature and the productive spheres, new vulnerabilities pushing towards a new interdependent and ecosocially sensible approach. Ecofeminism has pointed out two very important issues which question the

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basis of liberal theory[7]: first, that individualism and the autonomous, rational, independent agent as the very centre of our social, cultural, economic and political world, proves to be a mistaken approach, which distorts the facts of an interdependent life and nature; second, that the underestimation and consequent neglect of emotional human capacities and caring attitudes have turned out into a big distortion which twisted reality and deprived it from an integrated approach. Furthermore, patriarchy, the key concept of the feminist theory, connects feminism with ecologist claims (Mellor, 1997, 81), as long as it highlights male oppression and the disregard of important issues of interdependency, caring and the relational approach.

My proposal will be based on the rich feminist genealogy, particularly some feminist political and legal theorists, such as Martha Fineman (2010), Eva Feder Kittay (2020) and, significantly, Jennifer Nedelsky and her article "The Gendered Division of Household Labor" (2012). According to Nedelsky, rights help to structure relations and, in addition, the structure of relations influences the exercise of rights; consequently, patriarchal arrangements in private and family life, and the division of household, strongly conditions the exercise of women's rights (2012, 16). One important factor in the patriarchal structure of relations is the public-private divide; Rubio Marín affirms that the public-private divide sets the gender order of the constitution and pervades the structure in a way that limits the possibility of emancipation for women (2022, 14). In order to overcome the gender deficit of liberal constitutionalism, I propose to look into the value system underpinning the constitution or, to say it with Nedelsky, "to rethink our values" (2012, 19). I propose to explore the hypothesis according to which the *feminist deficits of constitutionalism come from the seamless attachment to that axiological framework of original liberal constitutionalism*. In order to counteract this deficit, feminist and ecofeminist axiological background offer important inputs. In the following pages, I will start by posing the focus

[7] See, for example, Mellor (1997:136,148,153); Herrero (2015); Puleo (2016, 29-128).

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on the relational approach as the adequate perspective to address legal systems and individual rights.

2. The Missing Dialogue Between Feminism and Liberal Constitutionalism

It's been affirmed that the fundamental purpose of feminist legal work in the constitutional field is to reverse the subordination of women through constitutional law.[8] This simple formulation, however, confronts us with several questions. First of all, the question of how to effectively combat the subordination of women, historical and structural inequality, patriarchy, the political silencing of women's voices, economic domination, physical and ideological oppression, and so many other manifestations of subordination. This is a very relevant question because it inevitably leads to the substantive reflection on what women - represented both in their shared structural position and in their unique group diversity - want to make or carry out in the framework of constitutional protection; in other words, it confronts us with the so-called "feminist constitutional agenda" (Baines and Rubio Marin, 2005, 4). The substantive question about the *agenda* focuses on which important interests of women should come to light, be named and collected normatively, to make visible and counteract the subordination exercised through legal silence, absence or substitution.

But the agenda, in turn, can be addressed in various ways and through various feminist *strategies*.[9] Then, a second question arises regarding how to approach such an agenda from the perspective of women's interests, which is the best legal reading of women's demands. Legal feminism has presented two well-known strategies: first, the solution that assimilates women's

[8] See, for example, Baines and Rubio Marin (2005,5).
[9] Baines and Rubio Marín refer to "constitutional strategies" in a different sense than the one I use here, to present the claims of women in the legal field, referring more specifically to the legal framework; see Baines and Rubio Marín (2005, 8).

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demands to liberal-masculine legal categories, that is, that translates feminist demands into traditional legal language; second, the solution that specifies new, ad-hoc categories that complement the already existing ones, or even subvert them, and add new concepts and institutions (see Sohrab, 1993; Costa, 2000). Thus, legal changes aimed at closing gender gaps or solving inequalities have alternated between these two strategies over time, depending on the circumstances and the different social and political scenarios. Progressively, and starting with the so-called second feminist wave, the specificity of the feminist demands made evident the need for new legal instruments. This latter path of vindication through women's specific claims continues nowadays, and it is laborious and difficult, longer and slower, which is why I have spoken elsewhere about the two speeds of feminist vindications - a fast one through assimilation and a slower one through specificity (Alvarez Medina, 2021, 88-91).

Thirdly, beyond agenda and strategy, we must address the more technical question about *implementation*, i.e. which normative, legal-constitutional instruments are more effective or convenient for realizing feminist demands: the reform of the constitutional text, legal regulation that incorporates constitutional values, mainly equality, or the judicial route, particularly constitutional jurisdiction, which offers judicial solutions based, again, on constitutional values, mainly equality, but not only equality. These three pathways - constitutional reform, legal regulation and judicial decisions - have been used to open paths in the field of legal claims with a constitutional basis. Some authors have focused more on constitutional reform,[10] others have worked on constitutional expansion through legislative and judicial means,[11] and in general the specification of women's rights has been deemed the appropriate route, without renouncing a universal model of constitutional liberal values.

[10] In Spain, see Yolanda Gómez (2006,10-11); Itziar Gómez (2017,166-168; 173-174, 183).
[11] Also in Spain, see Blanca Rodríguez Ruiz (2017, 37-61, 118-119, 201-217).

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The three issues mentioned above, *agenda*, *strategy* and *implementation*, are present in the efforts of feminist constitutionalism, through the various proposals of feminist scholars who have addressed the constitutional path towards women inclusion. Along questions of agenda, strategy, and implementation, feminist constitutionalism has made its way while remaining within the axiological pattern of Western constitutionalism. By affirming the values of the liberal constitution, not only has the liberal political ideology and its principles been adhered to, but a unique interpretation of such principles or values has also been followed vis-a-vis the constitutional history of the last two centuries.

I propose here to explore the hypothesis according to which the *feminist deficits of constitutionalism come from the seamless attachment to that axiological framework of original liberal constitutionalism*. Baines and Rubio Marín raise a question that remains relevant and crucial to addressing change. The authors pose the question of "how" to carry out constitutional change with a view to gender equality and how to do it taking into account that "feminists and judges emphasize different material facts, rely on different terminology, reason quite distinctively, and do not necessarily share the same goals when they examine the issue of gender equality" (2005, 3). The problem is still present despite some progress that, thanks to legal and constitutional reforms, have allowed timid changes and nuances in judicial reasoning. Feminist legal theory has posed important challenges for legal systems, such as the criticism of the public-private category, the conceptualization of the subject of rights as an autonomous individual alone, the neutrality and universality of legal norms as well as recipient subject, among others. Although feminist legal theory continues to question constitutional systems, the latter barely acknowledge or incorporate feminist criticism.

The explanation for such a dialogue between deaf that exists between liberal constitutionalism and feminist constitutionalism may be traced back to what Mariela Puga (2023) called "the disciplinary narrative." As the author explains, classical liberal constitutionalism clearly did not include women

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either as authors or as recipients or as references of what the constitutions wanted to capture or convert into norms. However, there is a contemporary constitutional narrative that understands this is an anomaly of Cronus, nothing that cannot be saved with a bit of constitutional interpretation. In other words, women can be incorporated to the constitution, you just have to think about them as you think about men. Another narrative is possible. The exclusion of women is forged with key categories and concepts of the constitutional and legal design: the public-private divide, individual autonomy as an exclusively rational capacity, the separation and independence of the individual. The exclusion of women is also forged by the silences of the constitution: the absence of the intimate and private, the invisibility of the body and reproduction, the denial of ties, relationships, emotions and care, mandatory privacy in the family. When feminism brings these silences to light, what Puga calls "the destabilizing narrative" emerges, which points to liberal constitutionalism as a "construction intended to support an andro-centric state that disciplines society based on hierarchical sexual differentiation between men and women" (Puga, 2023).

At this point, it is worth asking to what extent the graft that united feminism to liberal constitutionalism has been successful. To answer this question, it is not enough to verify that the graft has been carried out, that rights for women have been added to many Western constitutions, that in a voluntaristic manner and after successive waves of vindications and theoretical production, liberal constitutionalism has annexed or incorporated appendices of the feminist claim. A successful graft, as botany teaches, is one that produces a united organism, which grows on the basis of a pre-existing one, but which is transformed by the incorporation of a new tissue; it stops being as before and becomes a new organism. A successful graft results in a new plant, its parts growing together, as a single organism with renewed characteristics.

Despite its indisputable liberal pedigree, constitutional changes made for incorporating women have required numerous and continuous battles of

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vindication, recognition and implementation, waged by feminism. The changes have been achieved little by little; they are important and yet they highlight important deficits too. On the one hand, as already noted in the first section, the impact of legal progress on women's lives remains modest in some spheres, mainly private and family life, but in many cases it is clearly insufficient - either due to regulatory deficits or implementation, either due to deficits in social reception of the regulatory changes. On the other hand, in the legal context, progress shows time and again its constitutional precariousness - legislative setbacks, jurisprudential changes such as those already mentioned on abortion, etc. The advances of legal feminism remain in the whole of constitutionalism as more or less accepted, more or less compatible patches, but they encounter serious difficulties to transform mainstream constitutionalism, to transform the legal conventions in use, to reformulate its axiological pillars. In short, the graft does not prosper because a new constitutional body has not emerged. The advances in agenda, strategy and implementation are undermined as long as they fail to provoke significant changes in the axiological model which, in turn, is what nourishes and confers ultimate meaning to the legal categories.

My proposal in the following pages aims to review the pillars of liberal constitutional framework, starting from the fully autonomous individual. At reviewing the capacity for autonomy, other perspectives appear that add vulnerability, dependence and interdependence to the core conceptual pattern. These, in turn, also allow us to display the dimension of care, which has permeated much of the feminist singularity. Relational autonomy, vulnerability, interdependence and care are notions with a strong normative load, which, when transferred to the constitutional sphere, can facilitate a better integration of the feminist *agenda*, counteracting the condition of uncomfortable and poorly integrated appendix, as is very often the case with the fundamental rights of women. It is also necessary to rethink the *strategy*: while assimilation seems to have been surpassed, specification alone does not bring about the desired changes. *Implementation*, finally, must also be

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accompanied by changes in both the configuration and use of legal concepts and institutions. The achievements of the agenda in recent decades have been enormous and invaluable: new rights, new protagonists who are subjects of rights and new ways of accessing equality. All of this, however, has been adhered to pre-existing legal systems, sometimes in a more or less forced manner, fitting the new categories into structures whose form often exhibit intrinsic deficiencies. In other words, the implementation of women's rights requires a renewed technique and legal argumentation. The bare application of pre-feminist or patriarchal legal structures will not help to achieve genuine change, nor will the invocation of what Pou has rightly called "magical formalism", the belief in the changes that the forms of law may do by themselves alone (Pou, 2014, 36).

In order to explain the type of transformation that feminist constitutionalism should aim for, I propose to explore an idea by Jennifer Nedelsky about what people's rights are for in legal systems. The author describes North American legal development through the conceptual and theoretical keys of individualism, which cast rights as limits (Nedelsky, 2011, 91-117). The need to protect property and provide it with security shaped legal categories that advanced protections and guarantees in the public and the private spheres with a patrimonial-individualist model; rights set limits on the interference of others. Nedelsky advocates overcoming the theoretical framework which characterizes constitutionalism in the USA, a model of political and legal development focused on the idea of the individual owner, and consequently confined in such a conceptual framework. The challenge is not only about enriching categories and concepts - which have naturally evolved and changed - but, says Nedelsky, about changing the "metaphorical structure" (2022:83), the lines of work, the legal language, dogmatics, the interpretive models. In contrast to the vision strongly anchored in the individual as a fully autonomous, fully capable, fully decision-making agent, the theory of relational autonomy has designed another way of understanding agency and the decision-making capacity that derives from it. Besides these

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assumptions about relational autonomy, vulnerability as a human feature adds for the comprehension of people and subjects of rights in another version, a more fragile and exposed version. Hand in hand with situations of vulnerability, dependency and care issues emerge. In what follows I will briefly present these notions, impregnated with a strong evaluative charge, and explore the contribution they can make to a renewed conception of feminist constitutionalism.

3. The Relational Approach: Autonomy and Vulnerability

Vulnerability has become a key concept for understanding private and family life, intimate relations and privacy, as well as public and institutional behaviour, concerning power relations and emotional aspects beyond strictly rational-cognitive capacities. Martha Fineman affirms vulnerability is both universal and particular: since all persons are vulnerable, the body has an intrinsic and constant potential to be harmed, but each individual is vulnerable in a different way, according to her body, psychic capacity and disposition, as well as context and relational conditions. Vulnerability is also complex, it has a social dimension, mainly relational, which comprises the institutional and economic environment (Fineman, 2010, 267-268). It is crucial, therefore, to acknowledge persons are not vulnerable in isolation, but they become vulnerable as part of an environment which constructs their comparative position as inferior, weak or dependant persons. Vulnerability has a structural meaning or matrix, better than exclusively individual; it originates in processes and interactions. María Ángeles Barrère warns about using categories of the vulnerable person or group without properly identifying the system of oppression, domination or inequality which lies beneath, i.e., power relations positioning people into a wither context (Barrère, 2016, 19, 29).

Besides the universal and the particular dimensions of vulnerability, there is also a group dimension, one related to membership or being part of a wider group of people, as developed in the decisions of the European Court of

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Human Rights (Peroni y Timmer, 2013; Timmer, 2013; La Barbera, 2019). Therefore, we have three aspects of vulnerability, as a *universal* or inherently human aspect, as a *particular* aspect linked to specific dependency situations, and as *group* condition, i.e. a condition related to social or cultural positions. Political philosophy hasn't gone deep enough into vulnerability as an unavoidable dimension of moral, social and political agency; on the contrary, it has inflated personal autonomy, as a full human capacity exclusively based on rationality, which not only pervaded political philosophy, but also became crucial for legal theory and the law.[12]

Liberal political philosophy has focused on personal autonomy as synonymous of independence. Such a characterization led to consider the autonomous individual as almost an isolated one, whose agency is not conceived primarily because of human relations with others but in opposition to them. This serious distortion contributed to the idea of autonomy as a capacity of the sole individual *against* others, not *with* them. Instead of highlighting the human necessity of coping with ties to others, habitat, emotions and other relational abilities, the liberal conception of autonomy as a full, absolute capacity, has intended that the autonomous person has to overcome them all. However, as Nedelsky has brilliantly noted, the core of autonomy is made of constructive, other-regarding relations (2022, 93), and legal attention should be posed on them.

We can now rethink constitutional design, taking into account universal, particular and group vulnerabilities. For the liberal classical model, the priority of the fully rational independent and autonomous individual is to undertake election and decision in a context free of obstacles or interferences by the state -government and the institutions.[13] However, if the individual is thought no longer as a fully autonomous person but as a vulnerable one, then

[12] Fineman (2004) has referred to this approach in his work on "the myth of autonomy" and its consequences for private and family life, in relation to childhood, dependency and the role of public institutions in the task of providing care. About the liberal conception of full autonomy, see Alvarez Medina, 2021:70-78.

[13] On personal autonomy as a fundamental value of liberal constitutionalism, see, for example, Nino (1992 162-168); Tribe (2008,190); Gargarella (2013, 5-6).

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autonomy will clearly appear as a necessarily gradual capacity, dependant on human fragility, plus eventual particular weaknesses - biographical, social, cultural -, and group membership disadvantages - colour, ethnic, religious, sexual or others.

According to Fineman, government, public institutions and the law should be aware of vulnerability as part of the capacity of autonomy (2010, 255-256). A state compromised of individuals seen not just as autonomous, independent people, but as fully capable of incurring in situations of universal, particular or group vulnerability, entails a compromise with material, rather than merely formal, equality. While the liberal state embraces non-interference as a fundamental guaranty for the protection of liberty and personal autonomy, the protection of the vulnerable subject goes further in the deployment of a system of guaranties. When guarantying personal autonomy alone, as Fineman affirms, the state gets less involved with institutional presence and action, than when assuming a compromise regarding unequal situations of vulnerability and, consequently, it is less prone to intervention (2010, 258). Equality is a central value of the liberal state too. However, according to Fineman, liberal states consider equality mainly as dependent on autonomy, i.e., they guaranty a formally equal exercise of autonomy (2010, 262). Changing the narrative from autonomy to vulnerability implies considering persons in a different way, and it entails another conception of the human condition more normatively, morally laden; a different light shines over political and legal theory. This change of perspective makes it possible to go forward into a conception that is no longer suspicious of the state as a negative interference or an obstacle for people's private life, but a conception of the state as a positive participant for options and the making of equality. In order to overcome the conflict between autonomy and equality, we should focus on the exercise of autonomy and have a look at the constituent elements of the capacity to choose, mainly options for action. The notion of autonomy that dominates in liberal constitutionalism is based on an exclusively procedural conception that relegates substantive aspects, even those linked to the options

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in relational contexts. Instead of that, a conception of personal autonomy that is more adjusted to the decision-making process should incorporate the relational dimension as well as contextual aspects that affect the construction of options.[14]

The incorporation of vulnerability as a constituent element of autonomy transforms the concept. Two main consequences of the recognition and incorporation of vulnerability can be outlined. First, vulnerability alerts about *human dependency* - ecological, social, cultural, etc.- and the need of strengthening relations for managing situations of need and fragility. Such a recognition puts into question independence as a condition for the deployment of autonomy, as stated by the liberal conception (Nedelsky, 2011, 27-29; Alvarez Medina, 2018). At this point relational autonomy and the centrality of vulnerability intersects with many of the claims posed by ecofeminists. According to María Mies and Vandana Shiva, biodiversity is a relational category, not likely to be reduced to individual or isolated parts (1998, 19-21), which means that no sustainable way of life may take place without a sort of equilibrium which takes parts into consideration and conceives them as interconnected by the web of relations (1998, 23). Second, vulnerability discloses an array of human capabilities: *emotional*, *imaginative*, *dialogic* (Mackenzie, 2022:69), and *body capacities*. The body may be the most evident sign of human vulnerability, neglected at length by rationality, which is in turn less evidently bounded to human fragility. For Nedelsky,

> When people experience sickness, injury, or fatigue as an interference with their capacity to live as they want to, the body becomes a threat to the constancy of reason and agency, which the tradition treats as the core of our humanness. The "otherness" of the body is both a cause of such experience and is reinforced by it (2011, 163).

[14] About relational autonomy and conceptions of personal autonomy, see Alvarez Medina and De Miguel Márquez (2025, forthcoming).

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All these aspects - body, affections, emotions, imagination, dialogue - are rescued and incorporated into the notion of relational autonomy, which proposes a capacity far closer to human abilities and cut off from the illusion of full autonomy - which is much more devoted to cognitive and volitive aspects of the isolated person. Also related to these physical and body aspects of the relational approach, ecofeminists have warned about the dangers carried out by the Enlightenment fiat on rationality alone and the contempt towards the body and the carnal (Mies y Shiva, 1998, 99). Furthermore, such a contempt goes hand in hand with the disassociation of humanity from nature as a whole, and the supremacy of the human being over the rest of natural life (Mies y Shiva, 1998, 157).

The changes proposed for the concept of autonomy impact also on the legal design of individual rights. According to Nedelsky, individual rights should be thought as an expression of the relational function they serve, and their contribution to recognition, depiction and establishment of personal relations (2011, 236-238). She proposes a conception of constitutional rights as core axes for the building of personal relationships (2011, 249),[15] and the deployment of civil, contract, commercial, labour, administrative law and all the legal regulations as part of the constitutional system of relational rights.[16] The relational perspective proposes a turning point for the constitutional basis of the legal system as a whole. Autonomy and vulnerability combine themselves into the relational conception of autonomy which takes into

[15] In the field of constitutional reflection, Aileen Kavanagh's (2024) proposal regarding what she calls collaborative constitutionalism, resorts to notions such as "constitutional relations", "constitutional government as a relational phenomenon" or "relational interaction between a multiplicity of actors". The author's purpose aims to move from an approach of confrontation to another that looks at relationships – "from rivals to relationships" -, and seems to announce a paradigm shift in the profound conception of legal dynamics, particularly constitutional ones (2024, 7-8). Although Kavanagh does not refer to Nedelsky's work, her proposal could be strongly enriched by Nedelsky's relational theory of law.

[16] Although the liberal theory on constitutional rights has posed the emphasis on a static vision of rights as trumps - on the celebrated formula proposed by Ronald Dworkin -, some legal theoretical areas, like the one contained in the literature on conflicts of rights, extensively recognises that rights have a strongly relational aspect. Conflicts uncovered the extreme consequences of the relational dimension, as they point out those situations in which the individual alone cannot be ultimately protected by the law, unless interdependency allows for better scenarios of entrenchment and adjustment.

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account the three dimensions of vulnerability exposed above, i.e., universal and particular - both concerning body and psyche -, as well as the position people occupy in the historical-socio-cultural structure as members of a disadvantaged group.[17]

Women often find themselves in a situation of vulnerability when patriarchal society, its gender structure, positions them in sexual, reproductive or other relationships in which their situation is potentially and comparatively less equipped to make decisions and carry out their choices. These are situations of vulnerability that occur, for example, when a woman is in a relationship with regular abuse, or in a sexual relationship with notorious power asymmetries - which may be reinforced, for example, by bodily superiority, physical strength, age difference, economic inequality, or others -, or in a reproductive process that exposes her to making decisions that compromise her body or the creation of bonds of motherhood and future care. These situations and processes take place within the framework of strong social and cultural pressures, mediated by prescriptive readings; such obligatory commands deal with gender stereotypes and roles, sometimes blocking access to relevant options, as in the case of women seeking for an abortion in contexts where it is not a legal and socially supported option, or is not accompanied by social and health support. In all these situations, women are in a vulnerable position.

To summarise, being able to recognize or identify vulnerability requires, in most cases, a contextual and relational reading, capable of linking the person with their environment, their sphere of interaction - sometimes their ecosystem -, their options. Vulnerability is then presented as an aspect of moral agency that complements the capacity for autonomy and qualifies it, modulates it, places it in relation to the emotional, interactional and social framework of the person. Autonomy is thus better shaped, more broadly, and

[17] A case in point is that of migrants, whose specific situation of vulnerability has been extensively developed by de case law of the European Court of Human Rights. For a classification of the different areas covered by the Court under group vulnerability label, see Timmer (2013, 151-161); La Barbera (2019, 241-244).

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reveals it does not pivot only on cognitive factors, rationality, calculation and weighing of preferences. Autonomy appears now in its contextual and relational dimension, and independence gives way to interaction, attention, dependence and care.

4. Conclusions. The Transformation of the Constitutional Axiological Pattern

In this article I have proposed a new reading of the constitution from the relational perspective, a new constitutional reading of the whole legal system. This reading implies a fundamental constitutional change, which should be oriented to overcoming the traditional liberal structure of rights as shields, intended mainly to protect individuality. As Nedelsky (2011; 2012) has proposed, such a structure results from the denial of important aspects of the relational and emotional dimensions of the self. Carrying out the relational approach and recognizing the complexity of agency beyond cognitive abilities requires thinking about people's interests as part of a network that connects various aspects of their lives. The relational conception is the opposite to the idea of public and private as separate spheres, the opposite to the conception of social, political or labour developments as something distant, separated from personal, emotional or family developments. The legal design of constitutional rights is unclear and insufficient as it responds to one-dimension protections only, instead of highlighting the complexity and connections between rights. Along with the relational approach and the review of autonomy in the light of vulnerability, the challenge of a new constitutional reflection on the values of relational autonomy, vulnerability and caring has been proposed here. The task is not minor, it should permeate the system in all its corners and take significant steps through regulatory changes. Some theoretical developments have been exposed here.

How to carry out a reflection of this depth is a question for the constitutional practice. The success of this task cannot be achieved without

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women and men sitting together to undertake the reflection. Nancy Fraser, by pointing to the bases of social construction, points out in her work ambitious goals, such as generating responsibility for care in men, a "utopian aspiration," she says, of […] "converting the current life model of women in the norm for everyone" (1994:611), which entails, in turn, disrupting the gender structure not only in the different social orders but also in its idiosyncrasy, and dealing with opportunism or evasion of responsibilities (1994:613). The task for feminist and ecofeminist constitutionalism is to think about the constitution and its objectives of equality and justice with renewed principles, fruit, in turn, of renewed ethical categories. I have stated here that transformative change involves incorporating values still absent in the constitution, fundamentally, the recognition of the relational approach and human vulnerability, added to the value of caring as part of a just social and political structure. For this, an audience will also be needed that is capable of recognizing women's constituent power. Ruth Houghton and Aoife O' Donoghue refer to the fundamental place that hearing plays in ensuring that women's opportunity to navigate new constitutional paths is contemplated and valued (2023:413-416). As the authors state in their excellent study on the manifestos, the allusion to "we" wants to awaken the audience and distance it from the context that subordinates or oppresses it (2023:419).

Feminist legal theory has been insistent in its criticism of the strongly patriarchal categories of liberal constitutionalism based on the public-private distinction, the fully autonomous universal subject and the neutrality of citizenship, as well as in its criticism of the supremacy of freedom understood as a decontextualized and formal value. These axes of criticism are precisely those that underpin the persistent feminist constitutional discomfort. The graft that united feminism to liberal constitutionalism hasn't been successful; the graft hasn't prospered because a new constitutional body hasn't emerged yet. To grow a new feminist constitution, more is needed; more than incorporating women as subjects of rights, more than recognizing the special rights of

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women. It is necessary to update the conceptual and axiological framework of the constitution.

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ATHENA

CRITICAL INQUIRIES IN LAW, PHILOSOPHY AND GLOBALIZATION

Towards a Feminist Legal History of the Public/Private Dichotomy: Rewriting Constitutionalism

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ABSTRACT

This article examines the foundational myths of constitutionalism by deconstructing the public/private dichotomy, a central but underexplored element in dominant constitutional legal culture. Drawing on feminist legal theory and historiography, the article argues that traditional constitutional narratives have marginalised women and reinforced hierarchical structures by relegating them to the private sphere. It contends that feminist constitutionalism must go beyond adding rights or redefining existing principles; it must prioritise reconstructing constitutional history to reveal the gendered processes that shaped the dichotomy and its implications. This approach challenges the presumed neutrality of constitutional frameworks and seeks to dismantle the epistemological biases underpinning their formation. The article concludes that a feminist reimagining of constitutionalism requires a radical critique of foundational concepts and the development of alternative narratives that address structural inequalities.

Keywords: feminist constitutionalism**,** public/private dichotomy**,** legal histor**y,** gender and law**,** legal culture

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"Artista: ¿divaga Ud. en una pintura ambigua que es solo un mediocre esteticismo? Aplique a sus obras REMOVEDOR abundante y concienzudamente hasta llegar al fondo limpio de sus telas, más aún, hasta lo más hondo de sus conceptos de Arte y sentirá Ud. que sus obras y sus conceptos se clarifican y engrandecen."[1]

J. Torres García

1. Introduction

Revisiting the compatibility between feminism and constitutionalism may seem unnecessary in a time and context where this reconciliation is frequently affirmed not only as possible but also as desirable. Nevertheless, this article argues that rather than simply debating their compatibility, unveiling the artificial nature of the public/private dichotomy, challenging it, and redefining it within constitutional discourse is crucial. This effort, however, finds its greatest strength in the need to retell legal history, reconsider traditional narratives, and show how these have shaped the hierarchies and exclusions typical of contemporary constitutionalism.

Analysing the construction of the public-private dichotomy reveals the biases underlying constitutional principles. In this context, feminist historiography plays a crucial role by challenging the narratives that have shaped constitutionalism and contributed to existing legal and social structures. Simply adding rights to constitutional texts or reforming the institutions that hold power is not enough. While these actions are necessary, they have proven insufficient for addressing the root causes of gender inequalities. This article argues that one reason for this inadequacy is the

[1] "Artist: Do you find yourself wandering in an ambiguous painting that amounts to mere mediocre aestheticism? Apply paint remover to your works abundantly and thoroughly until you reach the clean surface of your canvases, or better yet, delve into the very depths of your concepts of Art. You will feel that your works and concepts become clearer and more elevated" (*translated by the author*).

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historical narrative that legitimises traditional constitutionalism and many of its newer variants.

Although often portrayed as a neutral and linear discipline, legal history significantly shapes our understanding of the legal system and the principles it upholds. The narratives we create about law are not neutral; they configure the hierarchies that reinforce inequalities and define the pathways for dismantling them. In this context, the dominant constitutionalist narrative, shaped by a prevailing historiographical perspective, has established the public-private dichotomy as an organising principle of law and social life. This mechanism has served to legitimise the marginalisation of women, confining them to the private sphere or, more recently, overburdening them with responsibilities spanning both the private and public domains.

Confronted with this reality, it becomes imperative to hierarchise a legal history that challenges traditional narratives and encourages a re-evaluation of how legal structures perpetuate gender inequalities. When we encounter narratives that claim to be neutral, we often uncover the underlying issues that women wrestle with in their efforts to ensure that constitutionalism genuinely meets their needs.

This article is organised into six sections. The first section examines the challenges presented by the grammatical core of the term "constitutionalism" and the various meanings it has taken on in different contexts. The second section analyses the artificial nature of the public-private dichotomy, one of the foundational pillars of the dominant constitutional legal culture. In the third section, I expose the legal consequences of the Public/Private dichotomy; the fourth section is dedicated to exploring the contributions of feminist theory and "feminist constitutionalism" to understanding this dichotomy as a historically constructed concept. In the fifth section, I argue for the necessity of a feminist legal history that deconstructs traditional narratives and rewrites them from alternative perspectives. Finally, the sixth section provides some thoughts on the topics discussed.

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2. On the Conceptual Limits of "Constitutionalism"

In canonical literature, the term "constitutionalism" is frequently employed without a clear definition or explicit agreement on its meaning. It is used indiscriminately to denote phenomena that may be related but are not necessarily interconnected. Thus, the term refers to a political ideal, a legal ideology, a historical process, an object of study, or the discourses that justify different normative constitutional models. This indiscriminate use mistakenly assumes that we all share a common understanding of what "constitutionalism" entails. However, given its proliferation across theoretical and practical legal disciplines, it becomes essential to ask what does "constitutionalism" indeed mean? What ideas, interests, and exclusions underpin its usage?

The term "constitutionalism" has undergone various transformations over time; however, it remains characterised by vagueness and an open texture, as noted by Carlos Santiago Nino (1992, 2). Juan Carlos Bayón further observes that both "constitutionalism" and the "constitutional state" can have multiple interpretations, ranging from simple to more complex and demanding conceptual meanings (2010, 407). These differing interpretations, rather than enriching the concept, may lead to confusion, significantly when qualifiers such as "liberal", "social", or "feminist" do not effectively challenge its epistemological foundations.

Beyond the inherent difficulties of its conceptualisation, constitutionalism cannot be disentangled from the historical and political context of its emergence. Rooted in the liberal revolutions of the 18th century, its development has shaped law and politics by justifying and regulating power through the Constitution as the supreme norm. Over time, this notion has evolved to include social rights and has given rise to multiple variants, such as the neo-constitutionalism of recent decades. Nevertheless, its epistemological foundations remain primarily intact: a normative model that

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prioritises individuality, rationality, personal autonomy, and property as the central axes of legal subjectivity.

Given the multiple issues evoked by the grammatical core of "constitutionalism", it may be more appropriate to abandon any attempt at exact disambiguation and instead recognise that we are ultimately dealing with a predominant "constitutional legal culture" capable of articulating and encompassing the diverse notions and dimensions invoked by this category. Regarding the legal dimension of the phenomenon, the notion of legal culture emphasises the practices of legal operators in identifying the law (Tarello, 2002). Legal texts play a central role, particularly the interpretive — and discursive — activity of doctrine or dogmatics, jurisprudence, and other legal operators. Tarello (2018) states that legal culture refers to the "set of attitudes, ways of expression, and modes of reasoning specific to legal operators".

In a similar yet broader sense, Luigi Ferrajoli argues that legal culture can be understood as the sum of different sets of knowledge and approaches: first, the legal theories developed by jurists and philosophers of law within a specific historical context; second, the ideologies, models of justice, and legal thinking characteristic of professional legal operators (legislators, judges, or administrators); and third, the common sense regarding law and legal institutions as it manifests in a given society. Furthermore, there is a reciprocal interaction between positive law and legal culture. Law can be conceived as a linguistic framework that is simultaneously the object and product of legal culture: a system of normative signs and associated meanings constructed and applied in legal practice by jurists, operators, and users. All these actors contribute to the production and interpretation of law in diverse ways and at different ways and levels (Ferrajoli, 2010, 15).

As Carmen López Medina notes, this approach to the legal phenomenon highlights the political choices that guide interpretation and application and the specific historical context in which the conceptual representations of those manipulating the discourse of legal sources are formed. These representations influence the body of interpretations provided by legal operators insofar as

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they generate consensus on the correct application of normative texts (López Medina, 2014, 233). In this context, the history of law plays a central role in shaping constitutional legal culture, given that it forms part of legal education and the narrative employed by legal doctrine and jurisprudence to justify their positions.

Therefore, rather than advancing a specific descriptive or normative proposal about constitutionalism, the chore lies in dismantling its foundational myths and interrogating its conditions of possibility. Once we acknowledge the existence of a dominant constitutional legal culture, this requires delving into the historical narratives that have shaped its conception and normative grammar. Faced with a narrative that has systematically excluded women, the challenge is not merely to add new categories but to recount history anew, revealing how constitutionalism is not a neutral paradigm, but a historical construction deeply intertwined with gender hierarchies.

Classical constitutionalism -understood as a specific legal culture- is grounded in a modern rationality that consolidates a male legal subject, abstract and devoid of relational ties. As Ruth Rubio-Marín points out, the liberal historiography of constitutionalism constructed the myth of the independent and self-sufficient political being, shaping the individual as self-sovereign. This construction systematically excluded women, regarded as "creatures of emotion rather than reason" (Rubio-Marín, 2014, 7), and confined their citizenship to specific roles that reinforced their subordination to male power.

The concept of citizenship, traditionally anchored in property and contracts, assumes an abstract and universal subject — "neither noble nor commoner, neither peasant nor merchant, neither rich nor poor" (Pisarello, 2013). This notion often obscures the structural inequalities beneath a façade of neutrality. However, as Geneviève Fraisse points out, women's citizenship has not been developed abstractly. Instead, it is based on specific determinations that fragment and exclude women from achieving true

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political equality. Fraisse notes that those who oppose gender equality are adept at manipulating distinctions among various categories, thus complicating the relationship between civil and political rights, economic status, ontology, eroticism, and legality (Fraisse, 2003, 12).

Even with the advancements in social rights in the 20th century, new forms of exclusion persisted. The link between "property/freedom" and citizenship broadened to include wage labour. However, it continued to marginalise women's contributions in reproductive and caregiving roles, which were relegated to an invisible private sphere. While the economic sphere gained greater significance as a "public" domain, women remained confined to roles that did not align with this categorisation (Ruth Rubio-Marín, 2014, 7).

In fact, the idea of property is epistemologically crucial to how we contemporarily understand rights. Jennifer Nedelsky's thesis is particularly illuminating in this regard. Framing her analysis of constitutionalism in the United States, the author explains that during the constitutional consolidation of the American Revolution, the Federalists and Madison addressed the tension between democratic demands and the protection of private property by constraining democracy's egalitarian impulses and reinforcing individual rights against the perceived tyranny of the majority. Nedelsky argues that understanding individual rights as constraints on government authority arises from the necessity to protect property, a perspective grounded in a patrimonial-individualist framework. As she suggests, this approach serves as a paradigm for understanding how constitutionalism generally conceives rights — as boundaries that prioritise individual liberties while constraining collective governance (Nedelsky, 2022). The resulting consequence is a conception of individual rights, understood primarily as boundaries, disregarding context, emotions, and any other aspects beyond defence against unwanted interferences — mirroring how the private sphere is conceived within traditional constitutionalism.

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3. The Public/Private Dichotomy: From Artificial Construct to Conceptual Corset

The separation between public and private spheres has been one of the foundational pillars of the liberal tradition from which modern constitutionalism derives. This construct not only structured social life but also became a central category in constitutionalist narratives and other areas of law, shaping our understanding of institutions and legal relationships.

Political theory has primarily focused on two main traditions: classical and liberal. The classical tradition distinguishes between oikos, which refers to the domestic sphere of production and reproduction typically associated with women, children, and enslaved individuals, and polis, which represents the space for deliberation and decision-making occupied by citizens.

In the liberal tradition, the distinction is made between the State, viewed as a space of public authority, and civil society, understood as a space of private, voluntary relationships. As Carole Pateman explains, the separation between paternal power and political power marks the starting point for how we currently understand the division between the public and private spheres.

The conventional interpretation of John Locke's social contract theory emphasises the creation and separation of civil or political society from the private familial realm. The political society is characterised by "the universal bonds of the contract among formally free and equal individuals". In contrast, the private sphere is comprised of "an order of natural bonds of subordination" (Pateman, 2019).

Although commonly portrayed in legal and political discussions as a natural distinction, the separation between public and private spheres is an artificial mechanism with specific purposes. This situation is not unique; many of the categories used in the prevailing legal narrative are neither neutral nor natural, even though they are often presented and accepted as such.

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Even in contexts where legal dogmatics are less central than in Civil Law traditions, Duncan Kennedy points out that the prevailing liberal legal discourse often obscures the ideological foundations of legal doctrines. This discourse also tends to overlook how these doctrines can perpetuate social and economic inequalities and the contradictions inherent in the "fields of knowledge" they create (Kennedy, 2010, p. 13). Additionally, Martha Chamallas notes that "legal subjects tend to be described using neutral categories, unmodified by any particular perspective or methodological orientation" (Chamallas, 1999, 10).

The field of constitutional law exemplifies the importance of critically analysing legal frameworks. As Christian Courtis explains, any set of legal texts is influenced by specific political, social, or economic perspectives. Legal dogmatics often attempt to characterise these influences by "modelling" different legal systems, such as "liberal constitutionalism versus social constitutionalism, or authoritarian criminal law versus liberal criminal law" (Courtis, 2006, 355).

In this context, the public-private dichotomy serves descriptive but, above all, normative functions. Although its roots trace back to Roman law and medieval commentaries, its modern form began developing between the 16th and 17th centuries as a mechanism to limit power — a fundamental element in the evolution of modern constitutionalism. However, as Klare warns, the peculiarity of legal discourse is that it tends to "restrict political imagination and induce the belief that our evolving social arrangements and institutions are just and rational, or at least inevitable, and therefore legitimate". The law operates as a legitimising ideology by "making the historically contingent appear necessary" (Klare, 1982, 1358).

In contemporary Western political and legal literature, this dichotomy is often accepted as inherent, as if it had always existed. However, despite seeming like an abstraction detached from reality, the distinction between public and private has tangible consequences. Created at a time when the concept of the State was central to political theory, it persists in a world where

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politics transcends the State, encompassing international organisations, corporations, and individuals (Mancilla, 2017).

While some more recent versions of constitutionalism have softened this sharp separation, none have entirely abandoned it. As Silvina Álvarez Medina states,

> the categories of public and private have guided the course of political philosophy in matters related to the most personal and intimate aspects of life and have often been used by legal theory with a certain dogmatism as a sort of corset, to classify actions whose characterisation cannot easily be subsumed into one category or the other in an exclusive manner.

Conversely, "some actions traverse both spheres, blurring the boundaries and demanding a reinterpretation of the categories under analysis" (Álvarez Medina, 2021b, 38).

Feminist critiques developed from the 1960s onward focused on challenging this dichotomy within the liberal tradition, emphasising the need to include domestic life within the definition of the private. As Pateman notes, this new way of understanding the public/private dichotomy became central to the feminist movement's concerns. In the 1980s, Jean Bethke Elshtain analysed the dense network of meanings associated with these categories and argued that they operate as

> twin force fields to create a moral environment for individuals, singly and in groups; to dictate norms of appropriate or worthy action; to establish barriers to action, particularly in areas such as the taking of human life, regulation of sexual relations, promulgation of family duties and obligations, and the arena of political responsibility (Elshtain, 1981, 5).

Thus, paradoxically, the space historically presented as one where individuals can fully exercise their autonomy is, in fact, shaped by the very

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dichotomy that modernity sought to establish in order to eliminate unwanted interferences.

4. The Legal Consequences of the Public/Private Dichotomy

Although the rhetoric of the public/private dichotomy is ever-present in constitutional doctrine, it lacks significant analytical content. Its consequences, however, vary considerably depending on gender, disproportionately affecting women. In this regard, feminist theory has made key contributions by exposing these differential consequences. As MacKinnon emphasises, constitutional law impacts women's lives by creating and maintaining a legal distinction between these two spheres (2012).

Indeed, constitutional law and human rights have predominantly focused on the political-public sphere, sidelining private actions. In this context, the private sphere is often described as a domain of complete autonomy, free from institutional constraints and associated with authenticity—a space of freedom from public authority. However, as Álvarez Medina (2021a, 64) argues, this standard of minimal intervention, inherited from classical private law, has not prevented significant regulation of private life, particularly in intimate areas such as marriage, sexuality, reproduction, and family. These regulations have historically aligned with religious and patriarchal norms, imposing rigid roles on women as mothers, caregivers, and providers of emotional well-being.

From the prohibition of divorce to laws requiring wives' obedience to their husbands, the law has carefully shaped the private sphere. Even today, power dynamics within households often remain invisible in legal discourse, perpetuating structural inequalities that particularly affect women.

Despite the discourse emphasising the protection of the private sphere from state intervention, regulating this domain has undergone profound transformations. This is particularly evident in family law, where conflicts increasingly require external intervention. This phenomenon underscores the

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need to redefine the role of law in private and family life and reconsider the very notion of autonomy.

Recognising the effects that the space defined as private has on women leads us to investigate the foundations underlying the legal regulation of this sphere. Critical and feminist legal theories offer key tools to uncover the moral and political assumptions embedded in legal frameworks. Furthermore, these theories shed light on areas where legal regulations reveal their biases and significant omissions (Lacey, 2004, 29).

In this vein, Álvarez Medina points out that the original liberal conception of private life was constructed on a public sphere that positioned men as protagonists of a rational and emotionless domain. This conceptual dichotomy simultaneously relegated women to the private sphere, configuring it as a particularly precarious space for their autonomy. In this context, the lack of state intervention in relationships such as marriage and family perpetuates unequal power dynamics, turning the private sphere into a space of subordination. As MacKinnon observes, "epistemically and daily, the private transcends the private" (1995, 340).

Thus, the liberal tradition, by separating reason from passion, constructed opposing categories representing divergent modes of existence: the public and the private. At the same time, the public sphere was consolidated as the domain of rationality and political society, emotions, passions, and feelings were confined to the private sphere (Álvarez Medina, 2021b, 18). This binary scheme not only reproduced and reinforced gender hierarchies but, by completely ignoring contextual relationships, legitimised a normative structure that limits women's conditions to exercise their autonomy fully while privileging, at their expense, the exercise of men's autonomy.

5. Towards a Historical Understanding of an Artificial Dichotomy

Modern constitutionalism has shaped legal practices that often depict masculinity as the normative standard for what is considered human and

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public. In contrast, femininity is relegated to the private and singular sphere in narrative contexts. This entrenched perspective overlooks the reality that women, despite being traditionally associated with the "private" realm, have consistently made their mark in the so-called "public sphere." However, as Yanira Zúñiga Añazco explains, women's struggles to recognise their rights have often been marginalised, leaving their advocates as spectral figures in dominant discourses (2022a).

Within the described context of the proliferation of the term "constitutionalism," feminist theorists have shed light on underexplored issues. As a complex movement, feminist constitutionalism seeks to develop from multiple perspectives, including historical, theoretical-epistemological, methodological, and legal-discursive frameworks (Peter da Silva, 2021, 154). While other approaches to constitutionalism have attempted similar endeavours, these efforts have not achieved comparable visibility in canonical literature.

As Mariela Puga points out, the concept of "feminist constitutionalism" is complex and challenging to define. It grapples with finding its role within established and emerging constitutionalism forms. At times, it encounters a fundamental dilemma: it can either conform to the existing narratives of dominant constitutional frameworks and their shortcomings or challenge and disrupt them. This tension is a fundamental aspect of the constitutional changes we witness today (Puga, 2023b).

The languages developed to interpret and apply constitutional texts have been predominantly androcentric, limiting their ability to reflect on the effects of these interpretations. As Sánchez Muñoz (2019) warns, the "original wound" of constituent processes occurs not only in the act of creating constitutions but also in the scarring of the discourses woven around them.

Feminist constitutionalism, as Puga suggests, seeks not merely to expand rights but also to "destabilise constitutional common sense", critically examining the foundations upon which the existing constitutional order is built (Puga, 2023b). This approach invites a rethinking of constitutional

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categories and principles, questioning their implicit meanings. In terms of Baines, Barak-Erez y Kahana, "it is timely for constitutionalists – scholars, jurists, lawyers – to attend to the contributions that feminism offers to the traditional domains of constitutionalism" (Baines et al., 2012, 2).

Many feminist authors have shown that merely adding rights to constitutions is not enough. On one hand, the language of rights can be paradoxical. On the other hand, enabling women's participation in drafting processes is neither sufficient (Pou Giménez, Rubio-Marín, and Undurraga Valdés, 2024; Jaramillo Sierra, 2024; Álvarez Medina, 2024). While it is inevitable that rights have helped mitigate certain forms of historical subordination and inequality faced by women, as Wendy Brown points out, rights often function more as a mitigation than a resolution of the systems that reproduce these inequalities. Moreover, there is an inherent paradox: rights specifically designed for women tend to reinforce the identity categories that perpetuate their subordination, while rights framed as neutral and universal often overlook and sometimes exacerbate the structural conditions that disadvantage them. Within this framework, rights not only reflect the tensions between regulation and equality but also the power dynamics that disproportionately benefit those who already possess social and political resources (Brown, 2000).

Furthermore, even in contexts where women manage to become involved in constitutional process-making, the dynamics highlighted by Rubio-Marín and Helen Irving persist: Formal constitution-making remains largely dependent on traditional forms of political representation. As a result, given the ongoing underrepresentation of women in political institutions and senior roles within the legal profession, these processes continue to be dominated by male politicians and legal experts. The enduring glorification of the "founding fathers" as the architects of constitutions further marginalizes the recognition of women's contributions (2019).

This analysis underscores how traditional power structures constrain the transformative potential of women's participation in these processes.

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Consequently, the objective is not merely to revisit and reinterpret what constitutional law has established but to adopt a fundamentally different standpoint — one that embraces a new epistemological and methodological perspective on legal culture.

The value of these approaches becomes evident when analysing feminist critiques of conjectural historical narratives that underpin the foundations of constitutionalist discourse. As Puga highlights in her analysis of Roberto Gargarella's work, even hypothetical narratives that imagine an egalitarian conversation between men and women — such as the one presented in *The Law as a Conversation Among Equals* — reproduce a "blindness" to the dynamics of gender subordination. In chapter 2 of his book, Gargarella describes an imaginary conversation among immigrant settlers on a ship, where men and women discuss the rules for the new world. They listen to one another without prejudice and with mutual respect. According to Puga: "The conversation unfolds as if the women were not, at that moment, busy preparing food, cleaning, or caring for children and the elderly, allowing the men to converse in peace" (Puga, 2023a, 239).

Although Puga is fully aware that this scenario is hypothetical, the author seeks to demonstrate how such narratives erase the sexual hierarchies that have historically shaped political relations. Even as a regulative ideal, the hypothesis, Puga argues, challenges our imagination by assuming that women would participate on equal terms in everyday spaces. This blind spot not only limits our capacity to envision egalitarian relationships but also reinforces cultural preconceptions that shape positions taken in contemporary debates (Puga, 2023a, 240).

To delve deeper into this issue, Pateman's warning proves useful: contemporary contract theorists tend to subsume women under the seemingly neutral category of "individual", thus following the example of classical authors, who argued that natural capacities and attributes are sexually differentiated (Pateman, 2019). Adopting a feminist approach entails a profound re-examination of these narratives and the foundational

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assumptions that have shaped constitutional law. This process not only aims to expand the possibilities of constitutionalism but also to challenge the boundaries of what has traditionally been understood as such.

Ultimately, feminist constitutionalism involves a fundamental questioning of the historical and normative foundations that have shaped constitutional law. Beyond expanding rights or reinterpreting traditional principles, this approach calls for a rethinking of the very structures of modern constitutionalism. Recognising historical exclusions and androcentric biases is not enough; it is essential to subject the core categories of constitutionalism to thorough scrutiny from a framework that not only incorporates women's experiences but also transforms power dynamics. Understanding its tenets requires acknowledging dominant narratives, especially historiography.

6. Rewriting History: A New Narrative on the Two Spheres

Feminism has focused much of its efforts on formulating non-androcentric epistemologies, moving away from the normative figure of a specific masculinity. In this context, early critiques of the two-sphere theory emphasised the importance of recognising the multiple and concurrent discourses surrounding the public/private dichotomy in each historical moment. However, while feminist contributions from disciplines such as social sciences and philosophy have enriched the legal field, feminist historiography has had a limited impact on the domain of law (Costa and Lerussi, 2022, 114).

By adopting the notion of legal culture to explore additional layers of the legal phenomenon, we can acknowledge that legal history, far from being an intellectual fetish, constitutes a fundamental component of legal practice. The way law is historicized — if it is historicized at all — significantly influences our approach to it. According to Vita and Cacciavillani, the dominant narrative of legal history taught in law schools is not only uncritical but also riddled with biases — of gender, race, and class, among others. This narrative

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often portrays actors such as women, racialized individuals, sexual minorities, workers, or migrants as lacking agency, disregarding their knowledge as legally relevant. Consequently, it reinforces the presence of a single narrative in which these groups neither participate in the production of law nor understand what it means (Vita and Cacciavillani, 2023).

From a broader perspective, law has not been the subject of any canonical work within historiography, nor is the legal dimension particularly considered by the leading figures in this field. Nevertheless, legal historiography has gradually established itself as a distinct field, gaining significant momentum since the 1960s with the emergence of what is known as Critical Legal Historiography (Costa and Lerussi, 2022, 119).

Legal historiography must go beyond merely uncovering missing stories; it must critique the fallacies of the singular narrative that dominates the teaching of law and expose how this narrative reinforces biases related to gender, race, and class. As Vita and Cacciavillani (2023) argue, history provides a necessary corrective that challenges the traditions and habits in which law students are socialized, functioning as an antidote to the indoctrination of legal doctrine. From this perspective, it is essential to question the assumption that the core categories of law are neutral or universal, as they are deeply shaped by the values, expectations, and prejudices of their creators.

Incorporating the perspective of gender into legal history requires more than simply adding women to existing narratives. It demands a radical transformation: constructing new timelines and narratives that not only make women's historical contributions visible but also challenge the seemingly neutral categories of law. This approach is particularly transformative when applied to areas that, at first glance, appear untouched by gender, as it dismantles the underlying assumptions sustaining the dominant legal order.

In this way, the introduction of gender broadens the field of study and opens new possibilities for rethinking the fundamental structures of law and

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its historical narratives[2]. This critical exercise allows us to imagine alternative present and futures where the central categories of constitutionalism—and law in general—are no longer seen as immutable but rather as the product of specific historical decisions that can be questioned and reimagined (Vita and Cacciavillani, 2023; Sandberg, 2021).

6.1. Telling the Story Anew

Traditional constitutionalism has systematically relegated the private sphere to the margins of theoretical and normative concerns. This dynamic solidified a hierarchical structure that prioritises the public sphere while relegating the private to a subsidiary, supportive role. Within this framework, intimate life and women's contributions were rendered invisible, limiting their autonomy and reinforcing unequal power relations (Álvarez Medina, 2021b, 27).

The second half of the 18th century was a significant historical period for developing what is now referred to as "constitutionalism" in its various dimensions. This interest arose not only from the active drafting of new constitutions but also from rapid advancements in their formulation and legitimacy. While men positioned themselves as the protagonists of liberal revolutions, women's inequality remained a stark reality — an issue that constitutionalism legitimised with minimal effort to address within its dominant narrative (Garay Montañez, 2012, 203).

Moreover, the modern identity of men and women, as conceived by the liberal revolutionary program transplanted to the American independence movements, was based on the notion of formal equality yet limited by the concept of the "individual". This, in turn, stemmed from the distinction between reason and emotion, which, as Álvarez Medina explains, "is entirely aligned with the public-private distinction" (Álvarez Medina, 2021b, 27).

[2] At this point, it is important to give special recognition to Ruth Rubio Marín's work, *Global Gender Constitutionalism and Women's Citizenship*, along with the historical framework she presents within it. As Beverly Baines notes in the book's foreword, the work addresses the "her-story" of constitutionalism (Rubio-Marin, 2022).

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The analysis of the dichotomy between the public and private spheres reveals the latter's subsidiary nature about the former. Despite its relevance to individuals' development and personal growth, the private sphere — and precisely intimacy — has been displaced in favour of the public sphere's supremacy. This subordination is not accidental; it reflects a dominant approach in philosophical-political theory and constitutional jurisprudence, prioritising the public-political sphere as the central focus of concern.

Within this framework, the private sphere and its activities were valued solely for their capacity to support and sustain the public sphere, thereby consolidating their instrumental character. This structure not only excluded women from public spaces but also limited their autonomy within the private sphere. In fact, in an inversely proportional relationship, the autonomy of men in the private sphere expanded precisely at the expense of women's autonomy, solidifying unequal power dynamics within the household and intimate relationships. It is also crucial to recognise that the empowerment of men in the public sphere was and remains possible only through the marginalisation of women from this domain and their fulfilment of roles explicitly imposed by theorists such as Rousseau on the ideal companions of the model citizen.

In traditional historical narratives, the private or intimate sphere has been conceived as a subsidiary and less significant space compared to public life. This dynamic systematically excluded it not only from normative frameworks and institutional design but also from the theoretical elaborations underpinning these systems. Consequently, the marginalisation of the private sphere from central concerns reinforced a hierarchical structure that shaped conceptions of social and political order, granting prominence to the public sphere as the only fully recognised space.

For a long time, the private sphere — and, by extension, women's actions — was not considered a subject of scientific, historical, or academic interest. Moreover, women did not speak for themselves; they were conceived and interpreted through external perspectives, viewed through the lens of writings

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by others — representatives of patriarchal power and order — thereby establishing knowledge that was "foreign" to them.

As Elshtain observed, the public sphere was routinely defined in terms of the political domain, while the private sphere was framed in terms of the family or home. She argued that a recurring problem for women was not only their exclusion from political participation but also the terms under which this exclusion occurred. Throughout the Western tradition, this problem, framed as political, has been part of an elaborate defence against the influence of the private, the allure of the familial, and the evocations of feminine power (Hawkesworth, 2019, 91).

Faced with this, it is crucial to challenge the prevailing historical narrative that creates the classic and artificial constitutionalism dichotomy, differentiating between the public and private spheres. In this regard, feminist activists and scholars have engaged with the public/private dichotomy in diverse ways to highlight the social significance of different spaces, each with its own rationalities and normative frameworks.

The historiography that recounts the formation of these spaces exhibits biases that significantly influence how constitutionalism justifies its principles, relying on historical events deemed supposedly determinative of its emergence. In this context, the critique posed by feminist historiography is essential, as it challenges the narratives that have underpinned the constitutionalism sustaining current structures.

6.2. Challenging the Dominant Narrative of the Public/Private Dichotomy

Building on the previous discussion, it is crucial to delve deeper into the historical narrative that sustains the artificial constitutional dichotomy between the public and the private. Feminist activists and scholars have taken up this dichotomy to uncover how these spheres have been socially and historically constructed, each governed by distinct rationalities and normative frameworks. By doing so, they challenge the hierarchical ordering that has

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historically subordinated the private sphere to the public, revealing its implications for gendered power dynamics and constitutional thought.

Historiography recounting the formation of these spaces reveals biases that significantly shape how constitutionalism justifies its principles, often relying on historical events deemed supposedly pivotal to its emergence. In this context, the critique offered by feminist historiography is fundamental, as it challenges the narratives that have underpinned constitutionalism and supported existing structures.

Traditional constitutionalism, both in the design of constitutions and in the narratives developed about them, suffers from the same flaw that Moreno identifies in hegemonic historical discourse. This flaw goes beyond the systematic erasure or omission of pages that might document women's participation in events now attributed solely to men. The portrayal of the "virile archetype" (Moreno, 1987) as the protagonist of history has also permitted dominant constitutional analysis to remain, until now, narrowly centred on men who fit the prototype of the "founding fathers."

This perspective has led to the elevation of certain events or phenomena as significant — those in which men predominantly participated as exclusive protagonists, particularly in matters related to the public sphere. Consequently, everything that women have done exclusively or predominantly throughout history has been undervalued and ignored: reproduction, domestic production of goods essential for daily survival, and, in general, everything considered specific to the private sphere of men (Moreno, 1987, 39). Thus, in constitutional design, not only were women's interests and issues overlooked, but also the historically conflictual relationships between genders, the sexual division of labour, and, more broadly, the subordination that the private sphere has historically imposed on women.

Consider how historiography depicts women's existence following the liberal revolutions. This representation remains highly uncertain due to the lack of foundational texts and historical certainties. In the context of the brief

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history of the Republic compared to the extensive history of the monarchy, the construction of sexual, civil, political, economic, and social ties — erotic and legal — follows a particular thought process, logic, or even deliberate intent. This logic has been obscured through various mechanisms: the absence of a foundational text on sexual relations during democratic times, subtle shifts between civil law and citizenship, and especially the apparent self-evidence of a separation between private and public life. Only a genealogy of this historical period will reveal the structure we must conceive regarding the relationship between family and the city, the articulation of the two forms of governance, and the domestic and political realms (Fraisse, 2003, 13).

Nineteenth-century constitutions "enshrined a gendered order in society" by omitting women from their texts. This omission was no mere oversight. This gendered order, intrinsic to constitutionalism, rested on two pillars: the separation of social functions by sex and the subordination of women to men. Classical constitutionalism did not ignore this order; instead, it constitutionally codified it and served as a vital tool for its perpetuation. This is the "destabilizing" narrative of feminism, which forces constitutionalism out of its comfort zone (Puga, 2023b).

Feminism has urged constitutional law scholars and practitioners to critically examine the underlying assumptions of their theories. One such assumption is the rigid separation between the two worlds — public and private — inherent in liberal constitutionalism, or the distinction between productive and reproductive labour characteristic of gender studies. Efforts to advance these discussions are evident in the National Constituent Assembly of Colombia's 1991 Constitution (Buchely Ibarra, 2014) and, more recently, in the Chilean case (Zúñiga Añazco, 2022b).

At this point, the necessity of telling a different story becomes crucial. As historian Mary Nash suggests, based on the contemporary feminist affirmation that "the personal is political" and that gender is a social category, the history of women evolves from an initial focus on justifying its own legitimacy toward approaches that challenge traditional historical theses and

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propose new conceptual frameworks, methodologies, and research sources. By attempting to situate women within the complexity of their historical contexts, new historiography not only seeks to reconstruct women's history and expand our understanding of the many dimensions of their protagonism in historical processes but also endeavours to understand the significance of gender groups in historical contexts (Nash, 1985, 101-102).

The invisibility of women in the history of certain key events that shaped the understanding of dichotomies like public/private does not arise from malicious conspiracies by male historians but rather from an entrenched androcentric conception of history that has privileged a masculine perspective within a patriarchal value system (Nash, 1984).

The core of this discussion seems to lie in a more fundamental unit of historical analysis: the concept of the individual, which underpins this dichotomy and inherently conflicts with a feminist proposal. While the notion of "the individual" has ambiguous meanings, Scott argues that Enlightenment philosophers and revolutionary politicians used it to refer to an abstract prototype of the human being. This served as a foundation for asserting the existence of natural and universal rights (to liberty, property, happiness), which granted men a shared claim to the political rights of citizens. Thus, revolutionary philosophers established abstract individualism as the rhetorical basis for their republic, even though, historically, republics were not founded on such inclusive notions (Scott, 2012, 23).

Through this abstraction, the concept of fundamental human equality — a set of universal characteristics — emerged, paving the way for equality in political, social, and even economic realms. However, precisely because the abstract concept of the individual was singular and defined by a specific set of attributes, it could also be used to exclude those deemed not to possess the requisite traits (Scott, 2012, 23).

When abstract individualism referred to a prototypical individual, it generalized all humans while invoking individuality as uniqueness. Yet, a contrasting relationship of difference was required to conceive an individual's

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uniqueness. The most common way to address individuality and difference was through the lens of gender. Under this approach, the broad spectrum of differences between "self" and "other" was reduced to the question of sexual difference; masculinity was equated with individuality, while femininity was associated with otherness in a rigid, hierarchical, and immutable opposition. Consequently, the political individual was considered both universal and male. In contrast, women were not regarded as individuals — first, because they were not identical to the human prototype, and second, because they were the "other" that confirmed men's individuality (Scott, 2012, 25).

7. Some Final Thoughts

Feminist contributions to legal scholarship have brought about a paradigm shift, enabling a radically different perspective on entrenched truths. These insights reveal that the constitutional ideology built around the private sphere sustains a conception of the individual rooted in classical liberalism, which disregards the relational aspects of identity. Based on a network of normative principles grounded in self-preference and independence as self-sufficiency, such an ideology appears incapable of redistributing social power (Zúñiga Añazco, n.d., 55) or recognising the value of that which does not conform to the male archetype that has dominated history.

In this sense, feminist theories, particularly since the second half of the 20th century, have challenged the traditional understanding of the public and private spheres. They have exposed the fiction underlying the notion that the domestic sphere is free from state intervention and the supposed neutrality of the state regarding this domain. The private sphere has been subject to legal regulation and control over family and reproduction, historically wielded to reinforce patriarchal structures (Sánchez Muñoz et al., 2001, 95). Through a feminist lens, the private space emerges as a domain constructed in opposition to the public, defined by its exclusion from institutional and legal authority

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and its characterisation as detached from state interference (Álvarez Medina, 2020, 3).

Despite longstanding elaborations, feminist constitutionalism remains a work in progress. Recognising this is not a sign of theoretical immaturity but rather a testament to the rigorous efforts of feminist scholars to sustain a proposal without resorting to the easy solutions offered by the dogmas of traditional legal-historical narratives. This underscores the importance of advancing feminist constitutional history as a core dimension of feminist constitutionalism. Beyond addressing conceptual tensions, feminist constitutionalism must prioritise the reconstruction of a feminist constitutional history that reveals the construction of the public/private dichotomy — a dichotomy central to contemporary constitutionalism itself. By highlighting the historical processes that shaped this divide, feminist constitutionalism gains the tools to dismantle entrenched narratives and reimagine constitutional frameworks.

At this juncture, we must ask: What are the limits of reconceptualising fundamental theoretical categories that "constitutionalism" can withstand before it pushes us outside its grammatical core? Alternatively, should we consider abandoning the invocation of a concept that provokes such tensions and instead advocate for a transition toward a new form of social organisation and institutional legitimacy — one that incorporates elements of constitutionalism without being entirely subsumed by it?

Without disregarding the risks of pursuing the latter option, feminism has always been a dissident, counter-hegemonic movement. In the words of Yanira Zúñiga, women have organised protests, broken paradigms, challenged beliefs, and imagined utopias. They have strategically chosen which battles to fight, when, and how. "Feminism has been an uncomfortable idea, an insolent genre, a curious gaze, a disruptive word, a divergent thought, an irreverent alliance" (2022a, 9). Feminist constitutionalism must follow this same path.

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Thus, we must certainly examine the Constitution's "engine room" but with an eye toward far more ambitious reforms, reclaiming the true meaning of utopia. Perhaps we need to dismantle the machine, scrutinize each of its components, and question — even its power source — if necessary. Perhaps the time has come to insist on our own metaphors and trust their illuminating potential.

I draw here on the powerful words of writer Cristina Morales, who reflects on creative labour as an act of constructive destruction:

> If I am to write to build, how can I erect any building on the reader's ground without first tearing down the one already in ruins? Writing to please — is it not piling more rubble onto the ruins, or perhaps clearing and rearranging them, pretending to build when there is no building but only an orderly heap of trash? (2020, p. 65).

Similarly, feminist constitutionalism cannot limit itself to "rearranging the rubble"; its purpose must be bolder — not reorganising the existing constitutional edifice but also imagining and constructing an entirely new architecture.

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ATHENA

CRITICAL INQUIRIES IN LAW, PHILOSOPHY AND GLOBALIZATION

A Feminist Crisis Perspective: Between Exploitation and Politicisation

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ABSTRACT

Starting from a short reconstruction of the ongoing social reproduction crisis, with this article proposal we present an analysis that aim to investigate the close connection between globalisation and reorganisation of the patriarchal domination, that set out the social reproduction (and the reproductive work) as a crucial research ground to comprehend the current extensive and subjective process of both capital and labour. Specifically, we want to focus on two mutually dependent elements of analysis. Firstly, we will try to investigate the methods of operation through which the extractivism and the neoliberalism take root on the social reproduction, as "body-territory" of the crisis, that reconfigures the dispossession's and the exploitation's shape itself. Secondly, we want to remark the feminist and directly political character of the social reproduction as a common ground of departure, clash and conflict between capital and "*potencia feminista*", that opens up to interesting scenarios to rethink the shapes of commons life.

Keywords: social reproduction, conflict, neoliberalism, finance, extractivism

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1. Introduction

The ongoing global context is characterised by an overwhelming social reproduction crisis that affects multiple aspects and dimensions of human life. Privatisation, welfare deregulation, financialization of social reproduction, continuous enclosures of lands and raw materials, are just some aspects of the ongoing social crisis that is becoming an increasingly common condition of daily routine. These many practices and forms of valorisation, that constitute the crisis as a daily life condition, should not surprise (Mezzadra, 2008). Instead, it is necessary to understand the time and space of the crisis as immanent condition of capitalist development, closely connected to the continuous expansion of the capital (Federici, 2012; Fraser, 2017, 2023; Gago, 2019; Mezzadra and Neilson, 2014). *Videlicet*, to the capital's never-ending tendency to widen and expand its boundaries of valorisation, exploitation and expropriation, on the world.

The continuous tendency of the capital towards accumulation and crisis is not a mystery. Since the 1990s, an intense debate has developed in critical Marxist thought about the relevance of primitive accumulation. That is the violent process of separating the producers from the means of production and reproduction, that Marx locates at the origins of capitalism, that ended the common, political and reproductive use of the land and left a large number of workers, both men and women, into a condition of absolute poverty never known before, assuming as the only way to live and survive, the sale of their labour power as a commodity to the capitalist (Marx, 2007). Accumulation by dispossession (Harvey, 2005), Capital polymorphism (Mezzadra and Neilson, 2020) and Bio-political Capitalism (Negri and Hardt, 2010), are just some of the theoretical frameworks used to problematise the present continuity of primitive accumulation. In other words, to problematise this capital's continuous tendency towards self-valorisation and crisis, towards continuous accumulation and expansion of its valorisation borders, which

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advances undaunted through wars, continuous land enclosures and welfare privatization, the use of pedagogical cruelty against women's and feminised bodies (Segato, 2016) and a global reorganization of work and reproduction, that make inequality, misery, poverty and exploitation indispensable and structural conditions, eternally recurring, in the everlasting continuous process of capitalist accumulation (Federici, 2021). In these processes, it is the relationship between people and land, welfare and social services that are being reconfigured. It is the very forms of exploitation and labour that are becoming more precarious, feminised and informal through the intensive and extensive action of debt and finance. However interesting, in this article we cannot analyse the Marxist debate on accumulation and crisis in its thoroughness. Instead, in order to problematise this issue, we adopt a specifically focused perspective that will investigate the close connection between accumulation and reproduction, between globalisation and gender relation in the processes of valorisation, presenting them as intensive and extensive grounds for the articulation of the contemporary crisis. When talking about social reproduction, it is worth emphasizing, we refer to various interrelated aspects and activities (reproductive labour) that are essentials for the very existence of capital, as a totality of production and reproduction. Specifically, we mean domestic and biological labour, classically understood, necessary for the production and reproduction of labour power, and its specific modalities of differential inclusion in valorisation processes in terms, for example, of continuous invisibility and concealment, (whose transformations directly affect the production and reproduction of value, species, and community bonds); social reproduction in its expanded dimension. That is, that heterogeneous and articulated set of networks, economies, processes of self-organisation of labour, largely informal, unpaid, and with a strong female and migrant composition, as well as social welfare systems which, in a continuous struggle over the appropriation and production of value, allow for the daily social reproduction of life in the long term. Within this context, care and reproductive work transcend domestic

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boundaries and become direct ground of action and organization of labour. In this light, the crucial role played by social reproduction for the development of capitalism becomes clear. What emerges is the social, public and productive dimension of reproduction necessary for capital's self-valorisation and continuous accumulation, of which it seems to be "uninterested". In other words, we propose considering capitalism as a productive and reproductive system, whose continuous valorisation inexorably passes through an overall reorganization of the modalities of species reproduction, labour power reproduction, and the reproduction of social bonds and care resources, that constitute reproduction as an intensive and extensive ground of valorisation and articulation of the contemporary crisis (Casalini, 2018; Cielo, Bermúdez, Guerrero and Moya, 2016; Picchio, 2020).

In that sense, the reading of feminist economics is particularly interesting for our analysis. It solicits us to read social reproduction and gender relation as key points for understanding contemporary forms of valorisation. For instance, Silvia Federici, interprets globalisation and world-wide enclosures as a direct and unprecedented attack on social reproduction that drastically reorganises the methods of contemporary exploitation and the forms of reproductive and domestic labour (Federici, 2012; Federici, 2021). An attack on social reproduction that reconfigures the concrete and materials possibilities of life and opens up a new configuration of social and labour relations. As we will analyse throughout this article, it is not only the social and collective welfare systems and commons lands that are exploited, but also, the very forms of productive and reproductive labour itself, intensifying the differential exploitation within reproductive and domestic labour.

At the same time, a particularly interesting reading is proposed by the Argentinian feminist sociologist Veronica Gago who, in dialogue with Silvia Federici and Luci Cavallero, invites us to analyse the neoliberal processes of dismantling and privatisation of welfare in their complementary and combined articulation with the intensive and extensive processes of indebtedness of popular life, which open up to a new configuration in the

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relationship between capital and reproduction, between debt and exploitation (Cavallero, Federici and Gago, 2021; Cavallero and Gago, 2022). According to the author, a new cycle of accumulation emerges that connects directly finance and rights, debt and reproduction, extraction, expropriation and exploitation, which transforms each moment of one's life into a moment of intense valorisation (Gago, 2019).

Similar, although having some theoretical differences, is Nancy Fraser's analysis who, describing capital's continuing tendency towards self-valorisation and crisis, shows the patterns of a socio-reproductive crisis that is gradually undermining the material and concrete possibilities of reproduction in the long term (Fraser, 2017). According to the author, what is at risk in the current financialised and neoliberal phase of capitalism are the ecological conditions, the natural processes and the political systems; as well as the ensembles of affective, cognitive, and socio-cultural relations - known as care and reproduction - that enable the expanded reproduction of life (Fraser, 2023).

Another key aspect to consider is the interplay between technological advancement and social reproduction. Specifically, how technological progress is radically restructuring the ways in which society reproduces itself, thereby transforming contemporary exploitation and labour practices. As capitalism collides with the Earth's limits and the finiteness of global boundaries, individual and collective bodies, conceived as territory, become the object/subject of valorisation. This occurs both in terms of an intensive production of subjectivities, desires, and new reproductive needs; and in material terms, as valorisation extends to the entire biological process of material reproduction of life and the species (consider cloning, DNA, etc.). Historically, capitalism has always exploited the biological dimension of labour, as seen in the functionalization and naturalization of procreation and women's bodies (slaves and wet nurses) for productive purposes. However, we are currently witnessing a qualitative and quantitative shift, characterized by the direct intervention of capital on the human and no human bios. This is

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leading to a proliferation of extractive practices on bodies and the emergence of new forms of global bio-labour that are radically altering the modes of reproduction of the species, the labour force, and value on a global scale[1] (Cooper, 2013; Cooper and Waldby, 2015; Haraway, 1995).

In that sense, throughout this article we suggest a situated analysis of crisis and accumulation, that aims to comprehend and investigate the centrality of social reproduction and reproductive labour within the coordinates of contemporary exploitation, expropriation and valorisation. Therefore, we propose to understand the social reproduction ground as the main scene through which to problematise and investigate the continuous capital's extension, and, consequently, the multiplicity of labour and value forms that exceed the direct wage relation. This allows us to directly interrogate the contemporary experience and meaning of exploitation. To be more specific, we want to examine the operational modalities through which finance and neoliberalism take root on social reproduction, including the effects they produce in terms of the reorganisation of productive and reproductive labour and the intensification of gender differential. Highlighting this issue has a clear political significance, directly linked to the class and conflictual dimensions of feminism and reproduction. In other words, it means understanding the specific place that reproduction (and reproductive labour) occupies in processes of accumulation and uncovering the contemporary forms of its valorisation.

Secondly, we propose to analyse the neoliberal and financial configuration of social reproduction within a political frame. That is to say, as a direct and violent response of the capital to the "*potencia feminista*" (Gago, 2019) to the power expressed by the feminist movement and informal economy networks with a strong female and migrant composition. To put it another way, we want

[1] Donna Haraway's "A Cyborg Manifesto" (1995) offers a significant contribution to this discussion, inviting us to analyse the relationship between technological development and reproduction through a dual lens: as exploitation of women's biological labour and bodies, on one side, and as a dynamic of liberation on the other. This complex issue, which deserves further exploration, raises a central question in feminist debate: the relationship between the development of productive forces and social reproduction.

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to emphasize how this neoliberal and financial restructuring of social reproduction directly targets the processes of politicization of social reproduction and the bodies and places of women's power that explicitly challenge the terms of capitalist valorisation. To be more specific, we refer to the struggles opened by the feminist movement in Italy during the 1970s; and to the more recent proliferation in Africa, Asia, and Latin America of processes of self-organization of reproduction and labour that are challenging the production-reproduction dyad and its associated gender roles. Focusing on this political dimension allows us to explore two interconnected elements. Firstly, the political, organizational and conflictual dimension of social reproduction, as a common ground of departure, clash and conflict, in terms, for example, of wage claims and social policies. Secondly, makes evident the political nature of capital, the political dimension of its contemporary operations that dissolves its supposed neutrality.

2. Neoliberalism, Finance and Social Reproduction

As already mentioned above, in this section we analyse the operational methods in which neoliberalism and finance take root on social reproduction, through continuous processes of privatisation and financialization of welfare, expropriation of commons lands, and reconfiguration and disciplining of labour, through the intensive and extensive action of debt and finance. A set of processes that are redefining the spatial and geographical coordinates of contemporary exploitation and expropriation. To achieve this, it is necessary to explore the deep connection between neoliberalism and extractivism, understood both in its literal dimension of privatisation and extraction of lands and commodities; and in its financial dimension (Mezzadra and Neilson, 2020; Mezzadra and Gago, 2015). Basically, it is a matter of understanding the connection that exists between enclosures, job insecurity and processes of indebtedness of popular life in the reconfiguration of labour on a global scale. This combined analysis directs our attention to the

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operational modalities through which capital reorganises social reproduction, gender differentials and forms of expropriation and exploitation. It also reveals the heterogeneous space of capital and the heterogeneous, multiple and polymorphic dimension of its contemporary operations (Mezzadra and Neilson, 2020). Furthermore, it is important to emphasize that adopting social reproduction as a privileged ground of analysis does not imply marginalizing the transformations taking place in productive processes. On the contrary, it means conceiving capitalism in its totality and unity of production and reproduction, where this relationship changes as processes of valorisation evolve and in response to social conflicts. For instance, in the ongoing global context, where value production permeates all aspects of life, both productive processes (assuming a biopolitical character) and social reproduction are undergoing profound transformations, revealing a complex and multifaceted landscape of exploitation and expropriation on a global scale. Within these violent extractive, neoliberal, and financial processes, the very modes of reproducing life, labour power, and capital are being reconfigured.

2.1. Neoliberalism and Extractivism

A first key aspect to focus on is the continuous processes of lands enclosure and expropriation occurring in the world-wide. Enclosures, both material and immaterial, promote a violent separation of producers from the means of production and reproduction, leading to a drastic reorganization of social reproduction that affects different aspects of life. Firstly, the relationship with land and resources changes from being means of subsistence and community life to private property in the hands of global capital. That is, they become central means of accumulation and exploitation, whose enclosure reconfigures the modalities of access, in terms of exclusion. In this context, collective strategies for the expanded reproduction of life are also destabilized. Specifically, those networks and subsistence economies, with a strong female and migrant composition, which through a collective and political use of land and resources allows the expanded reproduction of life

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(Carrasco, 2016). As a matter of fact, privatizing and enclosing land means depriving communities of the means of subsistence, leaving no other option but to migrate; it means "making millions of people dependent on monetary income, even in the absence of access to paid employment" (Federici, 2012, 94)[2] and on relationships of exploitation and oppression; it means multiplying the time of life necessary to obtain water and food; it means an exponential increase in poverty and exploitation. Essentially, it means completely reorganising the forms of reproduction and tying up it to money and monetary ties, migratory processes, and the meshes of exploitation.

> Depriving a community of water for use by mining companies' forces [...] to go to the city to fetch water, pay for the bus ride there and back plus an extra fee for each canister transported, make the effort of the journey, organize to go with children or leave them in someone's care, carry the canisters on foot for a stretch of the road. Of course, all in the name of "development" (Gago, 2019, 90-91).[3]

In that regard, what comes to light in this continuous process of enclosures is the destructive and creative power of capital. It is the capacity of capital, in the process of its continuous expansion, to destroy everything around it and to create and propose a new configuration of social and labour relations. This finds in the privatisations, enclosures of lands and in the attack on the material means of social reproduction decisive grounds for amplifying and modifying the meshes of exploitation and dispossession on a multi-scalar level.

The centrality of the enclosures and expropriation of lands and resources in the contemporary phase of accumulation is not accidental. On the contrary,

[2] "Facendo dipendere milioni di persone dal reddito monetario, anche in assenza di accesso a un'occupazione salariata" (*translated by the author*).
[3] "Despojar de agua a una comunidad para que sea utilizada por las empresas mineriarias obliga [...] ir a buscar agua a la ciudad, pagar el omnibus ida y vuelta màs un plus por cada bidon que se transporta, hacer el esfuerzo del viaje, organizarse para ir con ninxs o dejarles al cuidado de alguien, cargar los bidones a pie un trecho del camino. Por supuesto, todo en nombre del "desarrollo" (*translated by the author*).

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we encourage to read them in relation to a qualitative and quantitative change occurred in the processes of expansion of advanced capitalism that "increasingly requires larger quantities of raw materials and energy for its maintenance, exerting greater pressure on natural resources and territories" (Svampa, 2019, 18).[4] This results in a never ending and always expanding race for the land, extending the frontiers of extraction and expropriation towards territories previously considered unproductive from the perspective of the capital. Indeed, if at first the processes of enclosures were mainly linked to the Structural Adjustment Programs (SAPs) promoted by the IMF and the World Bank, aimed at the extension of monetary relations and the extensive commercialization of agriculture, today they must be read in relation to the extractive framework and the mega-projects that configure territory and resources as spaces of continuous valorisation. Some tangible examples include: the construction of large hydroelectric dams and waterways, the expansion of oil and energy frontiers with the use of highly invasive practices such as fracking and the intensive expansion of monocultures linked to agribusiness, such as the case of soy in Argentina (Federici, 2021; Mezzadra and Neilson, 2020; Svampa, 2019). A set of processes that generate imminent damage to the reproductive cycles of nature, and not only, configuring the territories crossed by these processes as spaces that are "socially variable and disposable depending on profitability and commodification" (Svampa, 2012 b, 6).[5]

In simpler terms:

> Neo-extractivism presents a specific territorial dynamic whose tendency is the intensive occupation of territory and land grabbing, through forms linked to monoculture or single-product production, one of whose consequences is the displacement of other forms of

[4] "Exige cada vez más para su mantenimiento mayor cantidad de materias primas y energías, lo cual se traduce por una mayor presión sobre los bienes naturales y territorios" (*translated by the author*).
[5] "Socialmente vaciables y desechables en funcion de la rentabilidad y la mercantilizaciòn" (*translated by the author*).

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> production (local/regional economies), as well as populations. In this sense, at the beginning of the 21st century, neo-extractivism redefined the dispute over land, which pits poor and vulnerable populations against powerful economic actors, interested in implementing transgenic crops linked to soy, palm oil, sugarcane, among others (Svampa, 2019, 23).[6]

A significant contribution to this discussion is provided by eco-feminism, which, in problematizing the relationship between humans and nature, highlights a hierarchical and dependent relationship that is concretely expressed in violence against territories and natural bodies. This violence is a direct expression of a capitalist-patriarchal system that informs and hierarchizes the lived experiences of women and nature in everyday life, manifesting in a directly violent, patriarchal, and androcentric dimension[7] (Barca, 2018).

Focusing on extractivism to understand the contemporary relevance of enclosures on a global scale does not in any way diminish the relevance of ongoing neoliberal processes of land dispossession, which facilitate the progressive commercialization of agriculture and the monetization of social relations. On the contrary, it means considering these two dynamics, and their effects, in their combined articulation. In reality, from the alliance between extractivism and neoliberalism emerges a comprehensive reorganization of access to land that transforms the very act of living and reproducing (accessing water, means of subsistence, etc.) into modes of exploitation. In this sense, we can understand the current processes of enclosures on a global

[6] "El neoextractivismo presenta una determinada dinámica territorial cuya tendencia es la ocupación intensiva del territorio y el acaparamiento de tierras, a través de formas ligadas al monocultivo o monoproducción, una de cuyas consecuencias es el desplazamiento de otras formas de producción (economías locales/regionales), así como de poblaciones. En esta línea, a inicios del siglo XXI, el neoextractivismo redefinió la disputa por la tierra, lo cual enfrenta de modo asimétrico poblaciones pobres y vulnerables, con grandes actores económicos, interesados en implementar cultivos transgénicos ligados a la soja, la palma de aceite, la caña de azúcar, entre otros" (*translated by the author*).

[7] To delve deeper into this issue, we refer to the work of Stefania Barca (2018), *Ecologies of Labour: An Environmental Humanities Approach*, in S. Cristiano (Ed.), *Through the Working Class: Ecology and Society*, Edizioni Ca' Foscari, Venezia.

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scale as an expression of an extensive and intensive articulation of accumulation and valorisation processes that drastically redefine the organizational modalities of social reproduction, forcing more and more workers, both men and women, to migrate in order to survive - nomadism becomes the objective condition of labour - and obliging them to assume their own reproduction, often falling into relationships of oppression and exploitation. It can be argued that "never have so many people been attacked on so many fronts simultaneously" (Federici, 2021, 27)[8] by this destructive violence of capital, which, at the same time, creates new territories, new extensive and intensive processes of valorisation.

2.2. Neoliberalism and Finance

A second key aspect for understanding this neoliberal and extractive reconfiguration of reproduction and class relations is represented by the progressive disarticulation, privatization, and dismantling of social welfare systems (education, healthcare, pensions, etc.), which opens up to a privatized-domestic return of care and reproduction at the expense of families and communities, in a context where more and more women are employed in paid work. This general process of welfare dismantling must be read in its combined articulation with the profound transformations that have occurred in the labour market in terms, for example, of a drastic attack and reduction of real wages which "tend to fall below the socially necessary costs of reproduction" (Fraser, 2023, 77),[9] with the consequent increase in the "number of hours of paid work required to support a family and triggering a desperate race to offload care work onto others" (Fraser, 2023, 79).[10] Wage cuts, which goes hand in hand with a general process of deindustrialization (of de-centralization of salaried and contract work), is accompanied by the

[8] "Mai così tante persone sono state attaccate e su così tanti fronti contemporaneamente" (*translated by the author*).
[9] "Tendono a scendere al di sotto dei costi socialmente necessari della riproduzione" (*translated by the author*).
[10] "Numero di ore di lavoro retribuito necessarie a mantenere una famiglia e innescando una disperata corsa a scaricare il lavoro di cura su altri" (*translated by the author*).

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proliferation of increasingly precarious, black market, underpaid or poorly paid employment contracts.

The job insecurity and the reduction of wages, coupled with the privatization of welfare, having made lifespans increasingly fragmented and employed in multiple activities to ensure one's own reproduction. This issue is described in terms of a general process of feminization of labour[11], that is, increasingly precarious, differentiated, and socially invasive jobs (Del Re, 2008; Del Re, 2018). Indeed, with the job insecurity and processes of welfare dismantling, which shift the entire cost of reproduction onto families and communities, what emerges is a processual and differentiated conception of time that does not follow a specific linearity but becomes multitasking. Time divided into multiple activities involving reproductive and domestic labour, generally unpaid, such as childcare and elderly care - activities that were guaranteed by the State through, for example, public nurseries, social centres for the elderly etc -; remunerated work - increasingly precarious and underpaid -; and finally, leisure time. Ultimately, in this context a different conception of time takes shape, that radically changes the approach to life and work:

> One of the characteristics of the feminization of labour that I want to highlight, in addition to the demand for empathetic attitudes, is the modification of the use of time. Time, from linear, becomes processual, meaning that multiple things enter it simultaneously without hierarchies. Those who take care of people's reproduction are accustomed to moving from one time to another in daily life, a mother knows this. There are, in fact, different times in care, some compressible, others that can be moved, others that cannot be delayed. The traditional dichotomy between public and private time is challenged in this new paradigm […] Women are trained in these

[11] The term further denotes a comprehensive shift in production processes, wherein the skills of reproductive labour, such as empathy, availability, attention to human needs, and today to customer's needs, have permeated the broader landscape of social production and post-Fordist capitalist management.

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> non-linear times, on different levels. Now this training is being transferred to all workers (Del Re, 2023).[12]

At stake, in these violent transformations, there is a double process that we can define as intensive and extensive. That is, the finance-driven capitalism that promotes global disinvestment in social reproduction areas - education, health, youth policies -, with the burden of these activities falling on families and communities, while promoting a drastic reduction in wages and an overall precariousness that reduces the time spent in reproduction (Fraser, 2017). What emerges is a dual organization of reproduction, where care becomes commodified for those who can afford it, increasingly outsourced to the market or global care chains, through the employment of domestic workers and caregivers, who are overwhelmingly poor and racialized women; and left to the responsibility of individual families or households in other cases, with the paradox that the latter will take care of the reproduction of the former in exchange for low wages. This dependence on the market (or the private sector) for care services reproduces gender, race, and class inequalities on an ever-larger scale, exacerbating exploitation and oppression[13]. This has direct and immediate consequences for the organization and reorganization of both productive and reproductive labour. In this sense, as Nancy Fraser argues, this widespread privatization and global disinvestment generates a "care deficit"

[12] "Una delle caratteristiche, che però voglio sottolineare, della femminilizzazione del lavoro, oltre alla richiesta di attitudini empatiche, è la modificazione dell'uso del tempo. Il tempo da lineare diventa processuale, cioè vi entrano più cose contemporaneamente senza gerarchie. Chi si occupa di riproduzione delle persone è abituato a trasferirsi da un tempo all'altro della vita quotidiana, una madre lo sa. Vi sono infatti tempi diversi nella cura, alcuni comprimibili, altri che si possono spostare, altri ancora che non hanno possibilità di dilazione. Salta la dicotomia tra tempo pubblico e tempo privato, tra il tempo del corpo e i tempi sociali […]. Le donne sono addestrate a questi tempi non lineari, su piani diversi. Ora vengono trasferiti all'addestramento di tutti i lavoratori" (*translated by the author*).

[13] The emergence of global care chains is a prime example. These involve caregivers, primarily women and migrants, who follow differentiated migration routes and shoulder the burden of reproductive and care work in host countries (childcare, eldercare, sex work). This labour, previously performed by more privileged women, is now transferred onto the bodies of migrant women. The formation of these care chains has enormous social, economic, and emotional costs for migrant women, both for themselves and for their communities and/or families of origin, as they shift their reproductive burdens onto even poorer subjects, "who in turn will do the same, creating ever-longer global care chains" (Fraser, 2023, 79).

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(Fraser, 2017; Fraser, 2023), which undermines the conditions of possibility of adequate care, reactivating a socio-reproductive crisis that is progressively undermining the material and concrete possibilities of reproduction in the long term. In essence, this intensive and extensive action of capital on the ground of reproduction intensifies the intrinsic contradiction of capitalism between economic production and social reproduction:

> While the previous regime (Fordist regime) encouraged States to subordinate the short-term interests of private enterprises to the long-term goal of sustained accumulation, in part by stabilizing reproduction through the provision of public services (high wages and consumption), the current one allows financial capital to discipline States and the public sector in the immediate interest of private investors, not least by demanding disinvestment in social reproduction. (Fraser, 2023, 77).[14]

Consequently, we are witnessing a comprehensive reconfiguration of social reproduction that increasingly follows neoliberal trajectories of exploitation and expropriation on a global scale. Moreover, it becomes evident that the continuous production of value does not exclusively concern the productive sphere. On the contrary, it inevitably involves a comprehensive reorganization of reproductive labour and social reproduction, finding in global care chains, in women's and migrant labour, intensive and extensive trajectories of exploitation that radicalize racial and gender inequalities and lead to a widespread invisibility of reproductive labour and the costs of reproduction on a global scale. In this sense, to analyse the crisis of care and the neoliberal and financial reconfiguration of social reproduction means to

[14] "Mentre il regime precedente (regime fordista) incoraggiava gli Stati a subordinare gli interessi a breve termine delle imprese private all'obiettivo a lungo termine di un'accumulazione sostenuta, in parte stabilizzando la riproduzione attraverso l'offerta di servizi pubblici (alti salari e consumo), quello attuale consente al capitale finanziario di disciplinare gli Stati e il settore pubblico nell'interesse immediato degli investitori privati, non da ultimo, richiedendo il disinvestimento nella riproduzione sociale" (*translated by the author*).

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connect these issues to migration and informal work, and to problematize the links between reproductive/feminised labour, race, and gender, and their relationship to welfare systems, migration regimes, and the processes of global valorisation, exploitation and expropriation (Casalini, 2018).

In order to fully understand the radical nature of these transformations, it is necessary to delve deeper into an additional analytical element closely linked to what is written above. In this sense, we suggest reading neoliberal processes of welfare privatization and precarious employment in their complementary and combined articulation with processes of indebtedness and financialization of popular life, which constitute debt as a necessary mediation for consumption and access to citizenship rights (Gago, 2019). It is no coincidence that in many parts of the world (United States, Latin America, Africa) the dismantling of the welfare state is simultaneously accompanied by a generalized financialization of social reproduction, forcing millions of people to take out loans and get into debt with financial institutions in order to access rights (healthcare, education, food, etc.) that were once guaranteed by the State. When millions of people are forced to borrow money in order to access healthcare and education, or even just to pay bills and buy the essentials, a new equation emerges between finance and rights, between debt and reproduction, transforming the very act of living into a ground of accumulation and valorisation. What emerges is a financial colonization of social reproduction (Cavallero, Federici, and Gago, 2021) that invades domestic environments, homes, and community life, structuring debt "as a daily mandate under the formula of going into debt to live" (Cavallero and Gago, 2022, 17):[15]

> We define this process as the financial colonization of social reproduction [...] That is, the dispossessions and privatizations forced by state debt translate into forced indebtedness for the subaltern sectors, who now access goods and services through the

[15] "Como mandato cuotidiano bajo la formula de endeudarse para vivir" (*translated by the author*).

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> mediation of debt. This changes not only the relationship between income and debt but also between debt and rights. The aim is to turn life into a sum of debts: the one we pay for our countries and the one we pay personally (Cavallero, Federici and Gago, 2021, 12).[16]

So, debt is transformed into a device that organizes social reproduction, structuring financial intermediation as a condition for access to social and citizenship rights. This daily connection with banks and credit institutions (or even informal lenders) simultaneously opens the doors to a new type of exploitation that we can define as "financial exploitation" (Cavallero and Gago, 2020 a). That is, a present and future type of exploitation that links working conditions to debt repayment, forcing people to accept any job - both formal and informal - in order to pay off future obligations. Thus, a new cycle of accumulation emerges, a cycle that connects the material possibilities of social reproduction with financial capital and neoliberal privatization processes, opening the doors to an exploitation of labour (under the command of debt) that radicalizes and exacerbates precarity, poverty, informality and life uncertainty:

> Debt operates by producing and intensifying future labour and existential precarity as a condition to come. This is because debt structures a compulsion to accept any job to pay the future obligation. In this sense, it dynamizes precarity from 'within'. Debt sets in motion the exploitation of creativity at any price: it does not matter what one works on; what matters is the payment of the debt. (Cavallero and Gago, 2020 b, 53).[17]

[16] "Llamamos a este proceso colonización financiera de la reproducción social [...] Es decir, los despojos y privatizaciones a los que obliga el endeudamiento estatal se traducen como endeudamiento compulsivo hacia los sectores subalternos, que pasan a acceder a bienes y servicios a través de la mediación de la deuda. Esto tiene el efecto, tanto de modificar la relación entre ingreso y deuda, como también entre deuda y acceso a derechos. El propósito es convertir la vida en una suma de deudas: la que pagamos por nuestros países y la que pagamos personalmente" (*translated by the author*).

[17] "La deuda funciona produciendo e intensificando precarización laboral y existencial a futuro, como condición por venir. Esto se debe a que la deuda opera estructurando una

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In this context, it is the creation of a neoliberal image that becomes hegemonic, redefining emancipation itself and the material and concrete possibilities of the production and reproduction of life in terms of the market, in terms of individuals investments, in terms of debt, dispossession and exploitation. From this perspective, we should understand the proposals presented in Argentina about turning women involved in reproduction into entrepreneurs of themselves through debt and microcredit (Cavallero and Gago 2020 a, 2020 b; Gago, 2019). Similarly, the proposal to introduce "financial education curricula" in schools opens up to a present and future dispute over the production of subjectivity, which directly informs and crosses the increasingly financialised reproductive ground.

3. Over-exploitation and Housewifization of Reproductive Labour

Given the global dimension of these transformations, we want to reflect on the specific and singular condition of women and feminized bodies. We want to understand how these violent transformations reorganize the forms of domestic labour, and its differential exploitation, leading to further changes in the sexual division of labour and gender roles.

We focus in particular on the dimension of overexploitation of domestic reproductive labour and on the constant and continuous overlap of different times and spaces of life, of different working days, all co-present, which constitute the material and relational living conditions of women and feminized bodies. Indeed, while it is true that the shift from the Fordist system of production and reproduction to a post-Fordist one has led to an increase in women's employment in paid work, this has by no means meant a liberation of reproductive-domestic labour on the part of women and feminized bodies (Del Re, 2008; Del Re, 2018; Federici, 2012; Federici, 2021). On the contrary,

compulsión a aceptar trabajos de cualquier tipo para pagar la obligación a futuro. En este sentido, dinamiza la precarización desde "adentro". La deuda pone en marcha la explotación de la creatividad a cualquier precio: no importa de qué se trabaje, lo que importa es el pago de la deuda" (*translated by the author*).

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if we analyse these transformations in articulation with the processes of privatization and financialization of welfare, we notice an opposite effect. That is, a tendency towards the overexploitation of reproductive labour that falls on women and feminized bodies, who with their labour have compensated for the deterioration of economic conditions produced by the continuous cuts to social spending and public policies. What emerges is a tendency towards the intensification and multiplication of labour, in terms of a contingent overlap of different working times and spaces, all absolutely co-present, between remunerated work – often informal and/or underpaid -, reproductive labour - in homes or community – and, more generally, lifetime:

> It should be added that in every country, women still perform most of the domestic labour, both remunerated and unremunerated. Not only that, due to cuts in social services and the decentralization of industrial production, the amount of domestic labour performed by women has likely increased, even when they are employed outside the home (Federici, 2012, 103).[18]

In fact, if the deterioration of economics conditions, precariousness and welfare cuts have led to a general impoverishment and additional workload for families and communities, these conditions have undoubtedly landed in a more violent form on the bodies of women and feminized subjectivities, who have been the true social shock absorbers of these transformations. That is to say, of this neoliberal experimentation that proposes a progressive return of reproductive labour to homes or communities, with the annexed moralization and re-proposition of gender roles (Gago, 2020). This is particularly true, for example, in countries subjected to structural adjustment programs, where violent cuts to healthcare spending, education, access to basic necessities,

[18] "Va aggiunto che in ogni paese sono ancora le donne che fanno la maggior parte del lavoro domestico, pagato e non pagato. Non solo. A causa dei tagli ai servizi sociali e del decentramento della produzione industriale, la quantità di lavoro domestico che le donne svolgono è probabilmente aumentata, anche quando le donne hanno un lavoro extradomestico" (*translated by the author*).

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etc., have led to a multiplication of the time needed to collect water, to obtain food, or to treat illnesses. A set of activities and "reproductive tasks" that fall mainly on women or feminized bodies. Or again, in Western countries, such as the United States, following cuts to public spending, all expenses related to recovery times or post-hospital care are directly demanded in households. Similar processes are taking place in Italy, Greece, Spain, etc., and it is primarily women, mothers, grandmothers who take care of them (Del Re, 2008). Ultimately, it can be stated that the intensification and expansion of neoliberal processes is leading to an acute crisis of social reproduction. This crisis is sustained by a contemporary and brutal increase and overexploitation of the labour of women and feminized bodies who, through their daily work in homes and communities, replace public infrastructures without any recognition or remuneration:

> A few years after the debate on post-neoliberalism in the region, we are facing a renewed conservative neoliberal onslaught. The deepening crisis of social reproduction is sustained by a brutal intensification of feminized labour, which replaces public infrastructures and is implicated in dynamics of overexploitation. The privatization of public services and the restriction of their scope mean that these tasks (health, care, food, etc.) must be supplied by women, lesbians, trans as unremunerated and mandatory work, alongside widespread indebtedness in lower-income sectors" (Gago, 2020, 38).[19]

[19] "Unos años después del debate sobre posneoliberalismo en la región, estamos frente a un renovado embate neoliberal conservador. La profundización de la crisis de reproducción social es sostenida por un incremento brutal del trabajo feminizado, que reemplaza las infraestructuras públicas y queda implicado en dinámicas de superexplotación. La privatización de servicios públicos y la restricción de su alcance se traducen en que esas tareas (salud, cuidado, alimentación, etc.) deben ser suplidas por las mujeres, lesbianas, travestis y trans como tarea no remunerada y obligatoria, junto con un endeudamiento generalizado en los sectores de menos ingresos" (*translated by the author*).

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Within this neoliberal and extractive reconfiguration of social reproduction, there is a reactivation of the housewifization[20] of the labour process (Mies, 2019), which makes the home and reproductive labour as the neuralgic centre of production, as a second hidden and invisible pole of capitalist valorisation, externalizing the entire cost of reproduction onto women's bodies and feminized subjectivities. What becomes evident is an enhancement of women's subordination to reproductive-domestic labour, which increasingly binds them to reproductive tasks and to specific gender roles, which become more and more necessary for the expanded reproduction of life. In essence, neoliberal, extractive, and financial policies have recentred the family and domestic sphere as the primary sites for social reproduction. This renewed emphasis has exacerbated the invisibility of reproductive labour and its associated costs on a global scale. This element emerges even more clearly in the current financialized phase of capital, which, by linking reproduction and finance, enables a multiplication of debt conditions, that inevitably spread into the homes, exacerbating and radicalizing the specific condition of women's oppression and exploitation, linking them to violent relationships with husbands and undermining any possibility of autonomy and liberation:

> A feminist reading of debt aims to uncover how debt is linked to violence against women, lesbians, and trans. From the concrete narrative of indebtedness, its connection to sexist violence emerges. Debt is what prevents us from saying no when we want to say no. Debt ties us to violent relationships that we want to escape. Debt restricts one's ability to sever ties, forcing us to remain in broken relationships due to financial obligations. Debt is what blocks

[20] Maria Mies uses this term to describe a process that devalues and marginalizes women's work. She emphasizes the crucial role of the division between public and private spheres in these processes, relegating women and reproductive labour to the domestic realm and denying their social and economic value.

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economic autonomy, even in heavily feminized economies (Cavallero and Gago, 2020 a, 20).[21]

4. Social Reproduction and Conflict

Another way, perhaps more political, to read and understand these phenomena is to analyse this neoliberal and extractive reconfiguration of reproduction as a direct response of the capital to a feminist political protagonism that is express in various labour, union, and territorial contexts, which enrols social reproduction as a common ground of departure, clash and conflict, as a place of organisation of labour. In other words, it is a direct response of the capital to those processes of politicization of social reproduction that have challenged the artificial division between productive and reproductive labour, between the public space of organization and the domestic sphere, undermining the sexual division of labour and gender roles that confine reproductive labour and women to the domestic realm, to a biological and unproductive dimension. This element also allows us to highlight the political dimension of capital and its contemporary operations, which do not take place in a neutral space, but rather within an evident class conflict that encompasses multiple dimensions.

A prime example of this is represented by the feminist struggles of the 1970s and the International Wages for Housework Campaign, which opened the door to a politicization of social reproduction in terms of both wage demands and the recognition and subsequent rejection of reproductive labour as exploitation, manifesting in both theoretical and practical terms the class

[21] "Una lectura feminista de la deuda se propone detectar cómo la deuda se vincula a las violencias contra las mujeres, lesbianas, travestis y trans. De la narración concreta del endeudamiento surge su vínculo con las violencias machistas. La deuda es lo que no nos deja decir no cuando queremos decir no. La deuda nos ata a futuro a relaciones violentas de las que queremos huir. La deuda obliga a sostener vínculos estallados pero que continúan amarrados por una obligación financiera a mediano o largo plazo. La deuda es lo que bloquea la autonomía económica, incluso en economías fuertemente feminizadas" (*translated by the author*).

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and conflictual dimension of feminism (Archivio Lotta Femminista, 2015; Austin and Federici, 2019). In this sense, we argue that neoliberal and financial transformations of social reproduction, which since the 1970s have permeated common and collective lives, are the result of a direct and immediate response by capital to the struggles of "housewives workers" and to the wages for housework campaign (Dalla Costa, 2021; Federici, 2020; Federici, 2022). The 1970s were years, in fact, when more and more women, in Europe and around the world, challenged the Fordist system of production by refusing domestic reproductive labour and the domestic discipline associated with it, leading to a "break with the model of reproduction that had been the pillar of the Fordist pact" (Federici, 2012, 89).[22] That is, of that specific unity of production and reproduction that constitutes homes and bedrooms as an extension of the factory in society. These were years in which women's condition and struggle "were no longer invisible" (Federici, 2012, 90)[23] but expressed in a fierce and open rejection of the sexual division of labour and all that it entailed, such as: the total economic and wage dependence that had contributed to the construction and production of the woman-poverty binary; the home as a ghetto of existences and marriage as the ultimate professional aspiration; home economics and gender roles that constituted reproductive labour as non-labour, as an activity of love; to the lack of wages for reproductive labour performed daily in homes, which constituted women's bodies as natural resources that could be used freely and at no cost, including a sexualization of their daily tasks; and finally a clear rejection of the control that capital and the State exercised over procreation and female sexuality (Dalla Costa, 2021; Del Re, 2018; Federici 2020; Federici, 2022). These years are thus described by Alisa Del Re:

> For Italy, this refers to a very specific period: the 1960s and 1970s. During these years, laws on divorce, new family law, and abortion

[22] "Rottura con il modello di riproduzione che era stato il pilastro del patto fordista" (*translated by the author*).
[23] "Non erano più invisibili" (*translated by the author*).

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> were passed. The practice of wage autonomy went hand in hand with the acquisition of a series of civil rights. The discourse on reproduction and the reproduction wage, which at that time passed through the male breadwinner's wage, no longer holds (Del Re, 2008, 114).[24]

In this sense we suggest that these ongoing transformations represent a direct response of the capital to these processes of women's organization and politicization, which, in demanding wages, rights, and autonomy, have progressively challenged the hidden dimension of reproductive labour and the profitability of its exploitation within valorisation processes.

A second example of this politicization of social reproduction is expressed by the networks of subsistence economies, with a strong female and migrant composition, that have emerged in Africa, Asia, and Latin America. These networks have deployed a series of strategies and practices of struggle in order to confront privatizations and the absence of wages, such as land occupations, the creation of urban and rural *"asentamientos"* (Zibechi, 2012) and exchange networks, opposing a firm refusal to a type of production and use of land destined for exports. For example, in Africa, women often refuse to help their husbands in the production of crops for export and for the international market, defending a type of agriculture destined for daily subsistence and, with this, a different way of using the land and organising labour, transforming many villages into places of resistance to the models and development plans proposed (imposed) by the World Bank for the commercialization of agriculture (Federici, 2021).

A similar phenomenon is occurring in Latin America with the emergence of Popular Economies in urban, metropolitan, and rural spaces**.** This is a complex network of productive and reproductive activities, largely informal,

[24] "Per l'Italia si tratta di un periodo molto preciso: sono gli anni Sessanta/Settanta. In questi anni passa la legge sul divorzio, sul nuovo diritto di famiglia, sull'aborto. La pratica dell'autonomia salariale va di pari passo con l'acquisizione di una serie di diritti civili. Il discorso della riproduzione e del salario di riproduzione che allora passava attraverso il salario maschile del capofamiglia non regge più" (*translated by the author*).

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that has emerged in response to the crisis. These economies occupy public spaces as a means of survival and structure social reproduction and daily life as a collective and political grounds for social organization and conflict (Gago, 2014). Specifically, this is a heterogeneous proletarian landscape with a strong female and migrant composition. In the face of material scarcity, these communities have developed multiple strategies for organizing life. These range from self-organized work initiatives, such as recovered factories, textile cooperatives, and community-managed agricultural projects, to socio-community work in neighbourhoods, including communal kitchens, community centres, and health clinics. These practices articulate and organize daily micro-politics and provide essential infrastructures for the social and political production and reproduction of life (Fernández, A., Pacìfico F, and Señorans, D, 2019). The emergence of these processes and networks contributes to a feminist reconfiguration of urban space. Both the home and the knowledge associated with reproductive labour transcend domestic boundaries, creating public infrastructures (Gago, 2019; Gago and Quiroga, 2014). These networks provide and compensate for basic rights that are no longer guaranteed, such as access to housing, utilities, healthcare and food, particularly in marginalized communities:

> In this sense, the social reproduction of life appears to both remedy and replenish, and at the same time critique, the dispossession of public infrastructures. Popular economies are currently building common infrastructure for the provision of services that are considered basic but are not: from health to urbanization, from electricity to education, from security to food (Gago, 2019, 132).[25]

[25] "En este sentido, la reproduccion social de la vida aparece subsanando y reponiendo y, al mismo tiempo, criticando el despojo de infraestructuras publicas. Las economias populares construyen hoy infrarstructura comun para la prestacion de servicios llamados basicos pero que no son tales: desde la salud hasta la urbanizacion, desde la electricidad hasta la educacion, desde la seguridad hasta los alimentos" (*translated by the author*).

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The political and social processes set in motion by the networks of popular economies challenge two central elements of contemporary valorisation. Firstly, they highlight the radical nature of contemporary exploitation and expropriation, which characterizes both individual and collective lives. This is countered by collective strategies of subjectivation and political organization that problematize the paternalistic perspective that often characterizes discourses on vulnerable populations. Secondly, they very clearly demonstrate the political and directly conflictual dimension of social reproduction, openly challenging the social, spatial, and gendered division between productive and reproductive labour, between the domestic and the public sphere, in order to rethink political organization. In other words, what emerges in these spaces is the political, organizational and conflictual dimension of social reproduction, which breaks with the assumed unproductiveness and marginality of reproductive labour and transforms the activities of organizing daily life into moments of collective encounter, into a central ground of encounter-clash-conflict with local and global capital, opening up interesting scenarios for the organization and reproduction of life:

> Starting from the crisis, the status of domestic-reproductive labour enters processes of social recognition and political valorisation of great impact. […] This has fostered the creation of a new urban spatiality, characterized by non-state public spaces that are central to the production of social value and the emergence of alternative economic models. (Gago and Quiroga, 2014, 13)[26].

We believe that these political processes of self-organisation of labour and reproduction, which directly challenge patriarchal mandates and processes of expropriation and exploitation, are the privileged targets of the current

[26] "A partir de la crisis, el estatuto del trabajo doméstico-reproductivo entra en procesos de reconocimiento social y de valorización política de gran impacto. […] En la ciudad estas dinámicas producen una nueva espacialidad a través de lo público no estatal, la cual se puso de relieve como lugar decisivo de producción de valor social y fundamento de otro tipo de prácticas económicas" (*translated by the author*).

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neoliberal and extractive-financial configuration of reproduction, through continuous processes of privatisation and financialization of welfare, precariousness of labour and enclosure of common lands. A set of processes that exacerbate the current social crisis, breaking social bonds and making inequality, poverty, exploitation and expropriation as objective and subjective conditions of work and life.

5. Conclusions

With this article, we aimed to emphasize the centrality of social reproduction as a dynamic ground of valorisation and conflict, opening up to interesting areas of analysis, in order to understand and problematize both, the contemporary forms of valorisation that transform every aspect of human life into a moment of intense accumulation; and the forms and processes of self-organization of labour and welfare that challenge the pervasive effects of the crisis, opening up to innovative forms of organization. What is yet to be understood is the actual strength and durability of these processes of self-organisation of labour, with a strong female and migrant composition, in the face of the advance of reactionary and fascist forces. The road is long, and the path is still undefined. However, we believe that these processes of politicization of work and reproduction are and will be a force, a compass and devices for organization, subjectivation, and alliances between multiple bodies, in the face of the advancing darkness.

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ATHENA

CRITICAL INQUIRIES IN LAW, PHILOSOPHY AND GLOBALIZATION

Discussing Democracy, from Local to Global

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EDITORIAL NOTE

Due to the introductory nature of the manuscript, this paper has not been subjected to the double blind peer-review process.

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On May 2-3, 2024, the sixth edition of the *Supranational Democracy Dialogue* organized by the University of Salento was held in Brindisi, Italy. It is an event aimed at gathering scholars from different backgrounds, international officials, representatives of civil society as well as innovative thinkers to discuss the most significant challenges that humanity is currently facing and, possibly, respond to these challenges offering democratic solutions.

It may seem like a topic too broad or too vague, and yet it is at the heart of the political and social evolution that all of us, willingly or not, are called to face. Humanity faces problems of planetary dimensions – the climate crisis, the loss of biodiversity, the migration waves, the water scarcity, the oceans' plastic pollution, not to mention the current wars and their excruciating toll in human lives – and yet the instinctive reaction is to seek refuge in the intimate and parochial dimension offered by one's own territory, in the reassuring protection offered by identity, in the shelter provided by one's roots. This is the story that recent elections, wherever, in the western world and beyond, seem to tell us.

Unfortunately, problems aren't solved by locking them out nor by building a nice sturdy wall around our space to keep them out. It is much more complex than that and at the same time more intellectually stimulating, it is the challenge of democracy which implies openness, confrontation, dialogue.

At different times in the history of mankind we had different levels of government that appeared to be the most relevant: cities, kingdoms and empires, nation states – and it has not been a linear nor a democratic process at all. Unfortunately, or fortunately, we now have – at the same time – at least four relevant levels of government: the local level, the national level, the regional level (especially in Europe, but not only, since there are other integrated regions of the world and cross-regional groupings like G7 or BRICS), and the global level.

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For some of these governance levels we have democratic models to discuss upon: municipalities, states, the EU. For others, and especially for the global one, the solutions are largely to be invented. We have already learned that there are scalable democratic tools such as citizen consultations, randomly selected deliberative assemblies, multi-stakeholder dialogues, courts and tribunals. Others are perhaps less so, such as parliaments. We have learned that technology can do a lot to reproduce on a larger scale models that previously worked only at the townhall level.

And this is the first part of the governance dilemma.

The second part is how all these levels of government can and will interact with each other. How can citizens be at the same time holders of rights in their municipality and citizens of the world? How can local administrations interact with continental and global ones? How can states act as a transmission belt between these levels of government and how can they all be legitimate, accountable, inclusive?

If we have any hope to take up the global governance challenge successfully, we need at the meantime to address the people's need for belonging, for the protection of their cultural rights, for roots: the local dimension. The "global" without the "local" has no appeal for individuals.

The following two contributions are very different. The contribution by Matteo Fulgenzi is an analysis of the current trend in the glocal diplomacy from a legal perspective; the contribution by Oleksiy Kandyuk is about the evolution of the European Union because of the war in Ukraine, grounded in international relations studies. They are a perfect example of how big the interdisciplinary area of multilevel governance is and how heterogenous may be the relevant interactions among different institutional actors at different levels. And how interestingly diverse may be the contributions by scholars.

There is no claim to conclusiveness in a dialogue: the more numerous the voices, the more interesting the conversations, the possibilities for mutual learning and cross fertilizations in research and in practice, the better.

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In terms of the evolution of societies, six years is a short time. This conversation has just begun.

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ATHENA

CRITICAL INQUIRIES IN LAW, PHILOSOPHY AND GLOBALIZATION

Subnational Authorities as Key Global Actors

Glocal Diplomacy in Pursuit of World Peace and Security in the Prism of the Vision and Goals of the *UN 2030 Agenda*

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ABSTRACT

The emerging role of subnational governments on the international scene, characterized by direct foreign engagements and participation in global networks, marks a pivotal shift in the architecture of world governance. This paper examines the essential role of local and regional authorities (LRAs) as key actors in advancing sustainable development, human rights protection, and democratic participation on a global scale, highlighting their involvement in the implementation of the *UN 2030 Agenda* and their multifaceted merits in conflict prevention and post-conflict reconstruction across the globe. Moving towards the analysis of the central role of Member States' LRAs in the context of the EU/EEA legal framework – with their important contribution to the achievement of EU's objectives both internally and in terms of external projection of the founding values and policies of the EU – this article delves into the dynamics and implications of the so-called paradiplomacy in order to shed light on how subnational actors are redefining the paradigms of traditional state-centric diplomacy. In such perspective, this work explores the relevant impact of informal diplomacy on international relations, international law, and global governance, emphasizing the innovative concepts of glocal diplomacy, global law, and glocal law and their significance for the pursuit of world peace and security.

Keywords: multi-level governance, LRAs, supranational democracy, glocal diplomacy, global law, glocal law

This study delves into the arguments of the paper prepared for discussion at the international conference *Supranational Democracy Dialogue, VI Edition: "Shared Values and Global Governance for Peace and Sustainable Development"* held in Brindisi (Italy) on 2-3 May 2024 at Palazzo Granafei-Nervegna (University of Salento). This work collects the results of the thematic research entitled *Local authorities as protagonists of development initiatives and democratic participation in the European Economic Area* conducted in the academic year 2023/2024 at the University of Salento (Italy) within the EU Framework Programme *Horizon Europe*.

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1. Introduction: The Rise of Decentralized Global Democratic Governance

The Preamble of the *Charter* of the United Nations (UN) states the commitment of all the peoples of the world "to save succeeding generations from the scourge of war," "to reaffirm faith in human rights" and "to promote social progress and better standards of life in larger freedom." To this end, it pledges the determination "to practice tolerance and live together in peace with one another as good neighbours." Those who drafted these words in 1945 were not the first to promote a vision of one world in which all humans are *neighbours*, envisaging horizontal and equal relationships and equal coexistence within *the family of mankind*. A similar ideal had inspired the League of Nations in the early twentieth century. And long before then, philosophers and religious and political thinkers had been concerned with the shared fate of humanity and the very nature of human aggregates as communities of *political beings* (*i.e.*, πολιτικὸν ζῷον, *politikòn zôon*; Aristotle, 4th-century BC). As noted already back in the 90s by the work of the Commission on Global Governance: "Governance is the sum of many ways individuals and institutions, public and private, manage their common affairs." In its renowned Report entitled *Our Global Neighbourhood*, presented in 1995 to the UN Secretary General and the UN General Assembly, the above-mentioned Commission stressed that in the past, governance and law were almost exclusively national concerns. However – just as at the national level, so also in the *global neighbourhood* (and in the subnational dimension where it takes root) – effective governance requires democratic and accountable institutions and the rule of law.

In this regard, effective democratic governance is called upon to function in a bottom-up sense, strengthening the link between legitimacy and effectiveness. Especially in the pursuit of the concrete *materialization* of their *ideal* objectives, as such functionally destined for a necessary *localization*

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(*e.g.*, the prism of multifaceted and participatory actions underlying the realization of sustainable development), institutions without territorial roots may prove less effective in the long term, lacking continuity, understanding, and responsiveness to people as well as the cultural, social, economic, and political grounding necessary for structured outcomes (Bouteligier, 2014; Jeannerat and Crevoisier, 2022; Och, 2018). Without *localized* roots and a *place-based* approach, institutions may experience significant challenges in gaining trust, ensuring accountability, maintaining relevance, and effectively implementing and enforcing their policies and programs (see Acuto, 2019, 136; Curtis, 2014, 16 ff; Ljungkvist 2014, 32; Senatore and Bellabarba, 2021; Smith, 2019, 134)[1]. In some key fields, State sovereignty might best be exercised at the level closest to the daily life of human communities, especially given the frequent pressing humanitarian and human rights concerns – which often emerge as sources of inequalities and conflicts – and the need to protect the environment and climate, as well as peace and justice in the world. This is evident in an international context marked 1) by the crisis of the top-down global order established at the end of World War II with the creation of the UN Security Council (UNSC) as a kind of "World Legislator" (Talmon, 2005) for the maintenance of international peace and security[2] (as per Articles 24, 25 and 39 of the *UN Charter*) and the exhaustion of its revitalization following the fall of the USSR in the 1990s, during the so-called *Sanctions Decade*, as well as 2) by the subsequent decay of the post-Cold War global security architecture epitomized by the Western-led *rule-based world*

[1] In an interesting parallel, it is worth considering the *territorial* articulation of the structure headed by the UN Sustainable Development Group (UNSDG), responsible for the systemic coordination of the UN entities and agencies committed to sustainable development (UNDS) with the support of the Resident Coordinator system (RC) managed, under the guidance of the UN Deputy Secretary-General, by the UN Development Coordinator Office (UNDCO). This includes the Resident Coordinators, the Resident Coordinator Offices, and the country teams (UNCT) with the task of following the alignment of UN Members with the SDGs and ensure transparency (A/RES/71/243; A/RES/72/279; see Fulgenzi, 2023, 216-217).
[2] See The World Bank (2011). *World Development Report Overview: Conflict, Security and Development*,4-5.

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order, following Russia's annexation of Crimea in 2014 and the furious outbreak of the Russian invasion of Ukraine in 2022 (see Dugard, 2022).

Indeed, global democratic governance remains the only political, legal, and value-based structure in which the founding patterns of global interaction will be determined in a shared deliberative process where all stakeholders can collaborate. This is even more true in view of the multidimensional nature of democracy itself, understood as a specific set of assumptions and procedures that regulate access to political power, its exercise and the consequent accountability to the plurality of citizens, considering both the electoral aspect and the liberal perspective, as well as a multiplicity of (often overlapping) elements that include political control between institutions, the rule of law, civil liberties and social rights (see Dahl, 1971, 13; Freidenberg, 2023, 76). Moreover, fundamental rights and freedoms are universal, but their implementation will always have to be translated appropriately in the specific political, social, and economic contexts of different local dimensions, duly considering the need for coherence and dialogue between all spheres, levels, and interested parties involved (see Cafaro, 2013, 2017, 2021, 2023; Schmidt, 2013). Hence, only political mechanisms that prove useful to configure a global order in the sense of better inclusion, transparency, and proximity can guarantee the realization of global security and justice for all the peoples of the world. Effective participation and rooted democracy at the local and regional level can really help to peacefully and consciously replace ethnic or national interests with universal goals (see Kaldor, 2013; Sisk, 2001), highlighting the remarkable similarities that different countries show today at the grassroots level, together with the close interrelationship between the numerous problems they are called upon to face. These considerations demonstrate the opportunity for continued support and recognition of subnational authorities by international bodies to promote a more inclusive and sustainable future for the Earth, within the programmatic sublimation of the participatory concept of *global citizenship* (Guzmán and Hernández García de Velasco, 2024).

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Despite the complexity of the international scenario, characterized by increasing fragmentation and multipolarity, the growing impact of global issues mostly arising from critical asymmetries related to anthropic factors (*e.g.*, pollution, climate change issues, various theatres of war, instability contexts, etc.) turns out to be a good reason to consider democratic governance in its broader international dimension. It is also true that the situation of "anarchy" in the international sphere (Mearsheimer, 2001) that the theorists of structural realism have described regarding international relations is far from being overcome. Therefore, the identification of innovative global democratic governance mechanisms – both formal and informal in nature, although necessarily functioning on legal premises and on a programmatically shared basis – can prove useful in overcoming the lack of guarantees for the effective participation of all the stakeholders affected by global issues, contributing to actively pursuing the suppression of under-representation and inequalities between and within nations starting from the local and regional dimensions that are empirically closest to the reality in which populations (and the various minorities within them) live (see Matusescu, 2013; Umanets, 2018), in full implementation of the familiar mantra *think globally, act locally* originally used for environmental and community planning (see Powell, 2012).

In the changing landscape of global governance, local and regional authorities or governments (*i.e.*, LRAs) have increasingly been recognized as crucial democratic actors in addressing the myriad challenges that define the modern world, from environmental and climate sustainability to human rights implementation (Bouteligier, 2014, 58; Smith, 2019). Subnational authorities refer to the levels of government below the central national level, including regions, provinces, municipalities, and other territorial political and administrative structures. These entities – situated closest to the specific territories and citizens they were created to serve – are deemed to possess unique insights and capacities to effectively tailor global initiatives to local realities, avoiding the disconnect that can lead to policies and actions that are

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poorly suited to real local needs and conditions (Acuto and Rayner 2016; Haupt and Coppola 2019; Marks, Hooghe, and Schakel, 2008, 113; Tömmel, 1998; Weiss and Wilkinson, 2022). Hence, LRAs emerge as facilitators of "proximity democracy" (Matusescu, 2013, 282-284). Besides, they still serve as political and cultural incubators to strengthen the concrete basis of otherwise abstract global thinking (Barber, 2013; Curtis, 2016; Gordon and Ljungkvist 2022). Coherently, an ever-increasing number of constitutional systems now recognizes the unique value of the contribution that internal political-administrative bodies operating at local and regional level can make to the full realization of the objectives pursued by the central state apparatus. Moreover, this teleological approach also includes the full adaptation of the inner structure and *modus operandi* of nation-States to the binding obligations that central governments have contracted at an international level.

Moving from this background, the involvement of subnational authorities in global governance has expanded significantly in recent decades, marking a historic shift towards more decentralized and participatory approaches to international relations and diplomacy. This significant evolution reflects the recognition of the position and capacity of LRAs to address global challenges such as sustainable development, human rights protection, and democratic participation. Scholarly perspectives further enrich our understanding of the legal and normative dimensions of LRAs in global governance, arguing for the importance of cities and other LRAs in global affairs and underscoring their potential to drive progressive change and innovation (see Barnett, Pevehouse, and Raustiala, 2022, 18). The concept of "The Global City" (Sassen, 1991) and the query "If Mayors Ruled the World…" (Barber, 2013) provide compelling arguments for the centrality of LRAs in addressing global challenges from a *localized* point of view. Another important implication is the increased global influence of the LRAs themselves. As cities and other levels of subnational government collaborate and form transnational coalitions, they gain greater influence in global governance. This is also evident in the growing presence of LRAs in thematic international forums

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such as those sponsored by the UN, where they advocate for *localized* interests and help shape values and trends in global policies (Bouteligier, 2014, 58; Davidson, Coenen, Acuto, and Gleeson, 2019, 3541; Ljungkvist, 2014, 2016).

Furthermore, this concept is supported by the significant moral and programmatic weight carried by the so-called *soft law*, which – although formally not binding – often embodies the very essence of international law, disseminating ethical principles and fundamental values that provide guidance to States, international organizations, and other international actors. These principles reflect a consensus on global critical issues such as human rights, environmental and climate crisis, and social justice, demonstrating the ability to transcend the notion of legal obligation in international law, as well as the sphere of the *traditional* subjects of international law, namely States and international organizations (see Durmus and Oomen, 2022; Jakobi, Loges, and Haenschen, 2024, 12-14; Jurkovich, 2020; Winston, 2018). In the same perspective, the guidelines of the *UN 2030 Agenda* and its 17 Sustainable Development Goals (SDGs) – together with the 169 sub-Targets that substantiate them – underscore the essential roles that subnational authorities are called upon to fulfil, aligning with broader international efforts such as the Council of Europe (CoE) initiatives and the implementation of European Union (EU) law, principles, and objectives. This is also true in the wider context of the European Economic Area (EEA), which is the agreement that allows three EFTA countries (Iceland, Liechtenstein, and Norway) to participate in the EU's internal market without becoming EU Members, while adopting a significant portion of EU legislation relating to the EU single market (see Panara, 2022).

The CoE has played a key role in defining the importance of the functions and rights of LRAs through various resolutions, frameworks, and landmark international treaties such as the *European Charter of Local Self-Government* (1985). All these documents advocate for greater recognition, autonomy, public responsibilities, and resources for local and regional governments,

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ensuring that *regionalization* can effectively contribute to the CoE's broader goals in protecting of human rights (as set out in the 1950 *European Convention on Human Rights* – ECHR) and promoting democratic governance and legal standardization (see Marcou, 1998). Additional *soft law* tools further support these efforts by providing guidelines and principles that influence and coordinate local governance strategies. *City-to-city* or *local-to-local* diplomacy – in the sense of *LRA diplomacy* that the CoE itself has helped to affirm – has emerged as a dynamic facet of international relations, where LRAs interact directly with their counterparts across borders to address common issues and share best practices (Acuto and Rayner, 2016; Herrschel and Newman, 2017). This form of diplomacy extends beyond *traditional* State-centric models (*i.e.*, *Track-One diplomacy*) and offers a grassroots approach to global challenges, including city-twinning relationships, cross-border collaborative projects, and transnational *LRA networks*, as well as bilateral and multilateral agreements between LRAs which facilitate knowledge exchange and cooperation on joint initiatives (Davidson and Montville, 1981).

Moreover, it is already widely recognized that the so-called *informal* diplomacy – often referred to as *paradiplomacy*, or as *Track-Two* or *Multi-Track* diplomacy (Acuto, 2013b; Aldecoa and Keating, 1999; Curtis, 2014; Davidson and Montville, 1981; Kihlgren Grandi, 2020; Smith, 2019; Tavares, 2016) – may involve diplomatic activities conducted outside official government channels by non-state actors including, together with LRAs, also private individuals, NGOs, academics, former diplomats, private mediators, and think tanks (see Conley Tyler, Matthews, and Brockhurst, 2017; Jones, 2015; Kaldor, 2013, 75). Nevertheless, this innovative type of diplomacy can even retain a garb of *minoris generis* formality when conducted by subnational subjects, such as LRAs, officially inscribed in the constitutional architecture of their respective countries. In any case, it is characterized by flexibility, confidentiality, results orientation, and not ordinary approaches in the pursuit of shared higher goals and in the pragmatic resolution of potential

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or real conflicts. This kind of non-canonical diplomacy certainly plays a crucial role in conflict mediation, relationship-building, and raising awareness on global issues, complementing (Terruso, 2016) – or even compensating on the implementation side – formal diplomatic efforts by setting the stage for subsequent international negotiations, and often helping to overcome (or at least elude) on a practical and effective level, the obstacles posed by central state institutions (Acuto and Leffel, 2021, 1768; Ljungkvist, 2014, 48). This is also demonstrated by the opening of fully-fledged *paradiplomatic* offices (even abroad) dedicated by LRAs to the development of multi-level relations with counterpart bodies in foreign countries or with the international institutions where such offices are activated (Hooghe and Marks, 1996, 2001; Ljungkvist, 2014, 42; Marks, Hooghe and Blank, 1996, 358-359; Tatham, 2014).

Thereby, *informal* diplomacy has emerged as a significant trend in global governance, representing a shift from the *traditional* state-centric model of international relations to a more decentralized and polycentric approach. As previously stated, *LRA diplomacy* involves direct engagement between LRAs across national borders to collaborate on common interests (see also Bouteligier, 2014, 67; Herrschel and Newman, 2017, 74-75; Nijman, 2016, 231-232). In their various forms, transnational partnerships between subnational authorities facilitate cultural dialogue, economic collaboration, and the sharing of expertise. They are often institutionalized through formal agreements and approved by local councils and other subnational bodies, providing a solid legal framework for extensive and sustained cooperation (Acuto and Leffel, 2020, 1762; Davidson, Coenen, and Gleeson, 2019, 697). Moreover, the rise of LRAs in global governance following the emergence of *informal* diplomacy have further significant impacts and implications. Cities and regions often serve as veritable laboratories for real policy innovation, addressing global challenges with *localized* solutions and best practices that can be scaled up and exchanged as most notable outcomes. LRAs learn from each other and implement effective solutions to shared problems, creating a

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ripple effect that can lead to broader systemic change (Acuto and Rayner, 2016, 1162). For instance, Copenhagen's approach to urban sustainability in Denmark and Curitiba's innovative public transportation system in Brazil are models that have been recognized and emulated around the world (see also Tennøy, Hansson, Lissandrello, and Næss, 2016, on experiences in Scandinavian cities). This demonstrates how *localized* efforts can contribute to global solutions, particularly in sensitive areas such as climate change, environmental protection, and sustainable development, which should be understood as a counterbalance to the "positive entropy" that pervades our deeply interconnected world (Friedmann, 2012, 13-15).

Therefore, it is evident that the impact of the international projection of LRAs on the global stage is significant – but often underestimated – as they actively promote sustainable development, human rights, critical policy implementation, and global democratic participation. It is precisely in this perspective, for example, that LRAs play a pivotal role in achieving SDG 16 of the *UN 2030 Agenda*, which focuses on promoting peace, justice, and strong institutions globally. At the grassroots level, subnational governments are indeed responsible for maintaining public order and safety, ensuring the effective delivery of justice, fostering inclusive decision-making processes, and translating the most tangible aspects of social, economic, environmental and climate policies into concrete and durable actions (Oomen, Davis, and Grigolo, 2016). By enhancing transparency, fairness, and accountability, LRAs help build trust between citizens and government bodies. Furthermore, they are often at the forefront of conflict resolution and are actively involved in preventing violence within communities, addressing inequalities and discrimination at their root (SDG 10; see Sisk, 2001, 4, 73)[3]. Their ability to understand and address specific local issues makes them essential in creating peaceful and inclusive societies, thereby directly contributing to the

[3] See the topic of the so-called *Fit-for-Purpose Land Administration* (FFP LA) and its feasible role in UN development and peace-building programs (see Augustinus and Tempra, 2021; Enemark, McLaren, and Lemmen, 2021).

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realization of SDG 16 and its sub-Targets. Through this bottom-up engagement, *informal* diplomacy prioritizes the involvement of local communities in the form of "local nodes and global synapses" (Barber, 2013, 106-117), encouraging active participation in peace-building and security efforts.

Hence, LRAs are much more than mere enforcers of rules and directives issued by national and supranational bodies. In this sense, the growing role of LRAs within the EU is paradigmatic and showcases the ever-evolving nature of diplomacy and governance in the 21st century, highlighting the importance of *localized* and bottom-up approaches to global challenges. Coherently, the example of the EU system and the functional principles of its multi-level democratic supranational structure – as well as the external projection of its values and objectives and their significant contribution to the implementation and evolution of the global agenda – can only become a reference methodological parameter in both the theoretical and empirical investigation of the foundations and future prospects of *LRA diplomacy* as a phenomenon inherent in the democratic decentralization of global governance and as an operational model closely linked to the *glocal* essence of the *UN 2030 Agenda*, whose global projection represents a paramount factor in the pursuit of world peace and security in light of the innovative concepts of *supranational democracy*, *global law*, and – ultimately – *glocal law*.

2. The *Glocal* Essence of the *UN 2030 Agenda*

On September 25, 2015 – after endless, extensive, and participatory rounds of intergovernmental negotiations and consultations with a wide range of stakeholders over several years – the UN General Assembly adopted the challenging, multifaceted, and transformative plan entitled *Transforming Our World: The 2030 Agenda for Sustainable Development*[4] that has been

[4] UNGA Resolution 70/1 of 25 September 2015, *Transforming our world: the 2030 Agenda for Sustainable Development*.

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resolutely agreed upon by the 193 UN Member States to preserve the planet and ensure the prosperity of all humanity. This inclusive process helped build broad consensus and make sure that the *UN 2030 Agenda* reflected the diverse needs and aspirations of the entire global community. Its 17 SDGs and 169 sub-Targets are universal, ambitious, and indivisible, and they have been designed to eradicate poverty (SDG 1) and other forms of extreme deprivation (SDG 2), and to protect and secure the Earth and its resources – together with our common socio-ecological memory and the very idea of a liveable environment for future generations (see Barthel, Folke and Colding, 2010; Carrillo-Santarelli and Seatzu, 2024) – from dangerous and unsustainable approaches to economic growth. This was pursued through a global plan of action for people, Nature, and welfare, conceived to strengthen universal peace in larger freedom, equality, and democracy for all.

The unanimous adoption gives legitimacy and authority to the *UN 2030 Agenda*, making it a powerful and universally accepted framework for global sustainable development drawn up both as a consequence and as a foundation of world peace and security. The unanimity underlines the collective responsibility of all the UN Member States to work together to achieve the 17 SDGs. It emphasizes the need for international cooperation and genuine solidarity in addressing global challenges and brings with it a greater sense of accountability among UN Member States to meet their commitments, strengthened by the provision of regular review and reporting mechanisms such as the Voluntary National Reviews (VNRs) at the High-Level Political Forum (HLPF). Although the *UN 2030 Agenda* remains an example of international *soft law* due to its non-binding character – as is typical of the acts of international organizations, such as recommendations – various constitutive and contextual factors, including 1) the broad and concerted global consensus; 2) political pressure between governments; 3) the integration of its objectives into both national and supranational systems (as in the EU context); 4) the conditionality of financing; 5) monitoring mechanisms; and 6) the influence of non-state actors and other interested

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parties, also contribute to its full implementation giving the *Agenda* a *quasi*-mandatory character in practice (see Swiney, 2020, 271-273). Furthermore, the *UN 2030 Agenda* is grounded in numerous international legal instruments, which provide a normative framework for its implementation. Key references include the *Universal Declaration of Human Rights* – UDHR (1948) and the *per se* binding obligations arising from the *International Covenant on Economic, Social and Cultural Rights* – ICESCR (1966); the *International Covenant on Civil and Political Rights* – ICCPR (1966); the *Convention on Biological Diversity* – CBD (1992); *the Paris Agreement* (2015); and other environmental treaties.

In this perspective, the *UN 2030 Agenda* proves to be inherently *glocal*, again in the sense that it interrelates and combines global and local approaches, visions, and actions through its double focus on both global objectives and their necessary *localized* implementation. In fact, it is through 1) the integration of global goals with local actions, 2) the suitable adaptation of global strategies to different local contexts, and 3) the promotion of decentralized governance and accountability that the *UN 2030 Agenda* guarantees that sustainable development is inclusive, specific to the context, and effective at all levels, giving *localized* content to its universal core principles. This *glocal* approach recognizes that achieving the SDGs requires coordinated efforts that bridge the global-local divide, leveraging the strengths and resources of both global and local actors. This *glocal* essence is fundamental for addressing the complex and interconnected global challenges which require a collaborative *modus operandi* involving both international and local instruments in the pursuit of overriding universal values (Kaldor, 2013, 123). The *UN 2030 Agenda* indeed exemplifies its very *glocal* attitude by integrating multi-level objectives and priorities, supported by a robust framework of international law. This line of action ensures that sustainable development targets are both universally applicable and locally relevant, enabling countries to face their specific challenges while contributing to shared international interests and collectively reinforcing the *glocal* soul of

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the *UN 2030 Agenda* as a comprehensive path toward a sustainable future of peace and security for all.

Given the profound interconnectedness and indivisibility of the SDGs, the synergistic relationship designed between SDG 11 (*Sustainable Cities and Communities*), SDG 16 (*Peace, Justice and Strong Institutions*), and SDG 17 (*Partnerships for the Goals*) particularly underscores their relevance in delineating concerted actions towards the attainment of peace, equality, justice, and the establishment of strong multi-level institutions. SDG 16 embodies a dual function as both a consequential outcome and a *catalyst* for *glocal* sustainable development, sinking its deep roots in the creation of renewed communities responsible and capable of redefining the terms of interaction between human beings and Nature – as well as among human beings themselves throughout the world, and between their different communities and associations in a sense of truly *global neighbourhood* – according to the irreversible cornerstone of social, environmental and climate sustainability. The overarching aims of SDG 16 pivot around the promotion of peaceful and inclusive societies, ensuring universal access to justice, and fostering the establishment of effective, accountable, and inclusive institutions across all tiers of governance within the scope of the holistic realization of the *UN 2030 Agenda*. The nexus between peace and sustainable development finds further confirmation in the *UN 2030 Agenda*'s assertion that development progresses *hand in hand* with peace and security (see its paragraph 35), as also highlighted by UNSC Resolution 2282 (2016) under which the responsibility for sustaining peace and security throughout the world is largely shared by national governments and all other national stakeholders.

In the field of international law, moreover, the principle of sustainable development is increasingly recognized as a customary norm of international law, as it refers to an approach to development that combines economic growth, social inclusion, human rights, and environmental and climate

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protection (Barral, 2012; O'Neill, 2009; Schrijver, 2008; Voigt, 2009).[5] This concept first gained relevance with the publication, in 1987, of the *Brundtland Report* (entitled *Our Common Future*) by the World Commission on Environment and Development (established in 1983), which defined sustainable development as "development that meets the needs of the present without compromising the ability of future generations to meet their own needs." However, it is also a fact that humanity cannot strive for sustainable development without peace, and cannot enjoy stability, human rights, and effective governance regardless of respect for justice and the rule of law. Consequently, it is clear that "Peace, development and environmental protection are interdependent and indivisible" (*Rio Declaration*'s Principle 25) and that "Warfare is inherently destructive of sustainable development" (*Rio Declaration*'s Principle 24).[6] Unfortunately – but increasingly true today, considering the worrying international scenario that is emerging against the backdrop of the Russian-Ukrainian conflict and the new escalation in the Middle East – it is also necessary to remember that "among the dangers facing the environment, the possibility of nuclear war is undoubtedly the gravest" (*Brundtland Report*, paragraph 86).[7]

[5] This general principle is supported by the *precautionary principle* which requires that the lack of full scientific certainty should not be used as a reason to avoid or postpone measures aimed at preventing environmental degradation. Therefore, States must adopt necessary *precautionary measures* in their national legislation and international agreements (see *Rio Declaration on Environment and Development,* 1992, A/CONF.151/26/Vol.I, Principle 15). This perspective has been further enhanced in light of the international steps forward marked by UNGA Resolution 72/277 (2018) – *Towards a Global Pact for the Environment*, and UNGA Resolution 76/300 (2022) which recognizes *the human right to a clean, healthy and sustainable environment*.

[6] See also ICJ, Advisory Opinion of 8 July 1996, *Legality of the Threat or Use of Nuclear Weapons*, paragraph 30; ICJ, Judgment of 25 September 1997, *Case Concerning the Gabcíkovo-Nagymaros Project*, paragraph 140.

[7] See Article 35 (3) and Article 55 of the *Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I)* of 8 June 1977. On this topic, see UN General Assembly (UNGA) Resolution 68/32 of 5 December 2013, declaring "26 September as the International Day for the Total Elimination of Nuclear Weapons" (paragraph 7).

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2.1. LRAs as Key Operational Actors in Achieving Inclusive and Sustainable Territorial Goals

Peace seems increasingly at risk in a world that appears increasingly divided – where some regions still enjoy peace, security, and prosperity, while others are plagued by seemingly endless conflict and violence – epitomizing a new kind of *global vs. local* divide (Kaldor, 2013, 5). Armed violence and insecurity (or even just the threat of them) undoubtedly have a destructive impact on a country's development, impacting its social and economic growth and often causing suffering that lasts for generations. Sexual violence, illegality, exploitation, and torture, as well as inequality and discrimination, also prevail in conflict scenarios: "Nothing is more polarizing than violence and more likely to induce a retreat from utopian inclusive projects" (*Ibidem*, 93). SDG 16 aims to significantly reduce these distortions by promoting the rule of law and human rights, and fostering the participation of developing countries in global governance. Since LRAs embody the "operational terminal" of this theoretical framework, improving their powers, capabilities, and representativeness – particularly in promoting holistic sustainability, protecting human rights, and providing economic facilitations – therefore emerges as a fulcrum for crisis and emergency management (see *Ibidem*, 143 ff). This also plays a crucial role in conflict prevention and the post-conflict reconstruction process (see Musch, van der Valk, Sizoo, and Tajbakhsh, 2008; Musch and van der Sizoo, 2009), by addressing the root causes of conflicts related to socio-economic and territorial inequality through an impartial *reality*- and *consent*-based approach aimed at establishing *territorial peace* (see Cairo *et al*., 2018; Vanelli and Peralta, 2022, with particular reference to experiences in Colombia and the Philippines). At least this is possible among groups sharing a basic ideological background, and in practicable safety conditions for freedom of movement and physical integrity (Ghirladucci and Levorato, 2024; Kaldor, 2013, 133 ff).

One of the fundamental reasons for the international community's inability to prevent conflict and security issues is the reluctance or ineffectiveness that

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central state governments may demonstrate in responding effectively to crises – especially those initially arising from causes of a purely internal nature – "ignoring and undermining the very tenets of multilateralism with zero accountability" and underestimating the danger of the world entering an "an age of chaos" (Guterres, 2024), opting instead for procrastination to conserve resources, or to avoid difficult and unpopular decisions on necessary solutions that could however cause the loss of electoral support (see DeLeo, 2017; Harstad and Kessler, 2024). Therefore, it seems evident that some issues can be better addressed at the local or regional level – still in coordination with higher levels of governance – rather than at a national or even global level. This happens, for example, with the *localized* effects of pollution or other natural or even human phenomena (including social degradation and fragmentation) as well as for the concrete adoption of innovative behaviours and standards useful for making social well-being more inclusive and widespread, preserving the environment and effectively combating the climate crisis, thus laying the foundations for peaceful coexistence (Acuto, 2013a). Consequently, the growing significance of LRAs in realizing the SDGs mirrors the escalating complexity of national and global challenges. Evidence underscores the crucial role played by LRAs in fostering initiatives pertaining to climate change mitigation – as well as, recently, in pandemic management amidst the COVID-19 crisis – along with their unique capabilities in addressing social, economic, and territorial vulnerabilities where conflicts, instability and insecurity can take root (see Kaldor, 2013, 150).[8]

In this challenging context, the *UN Agenda 2030* serves as a guiding framework that empowers LRAs towards achieving inclusive and sustainable territorial goals. This governance paradigm places emphasis on the inclusion and valorisation of marginalized groups and populations, epitomized by the universal principle enshrined in the *Agenda*'s central transformative promise:

[8] See UNSC, 9299TH MEETING (SC/15249), 30 March 2023.

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leave no one behind (see Preamble, and paragraphs 4, 26, 48 and 72). As outlined above, transnational coordination and peer monitoring between LRAs can also significantly contribute to the *quasi*-obligatory character of the whole *UN Agenda 2030*. All subnational entities can play a crucial role in implementing the SDGs and promoting international cooperation for sustainability and peace. Even when looking more specifically at the world's most critical situations – such as those closest to the stage of civil or ethnic war – a transnational, interregional, and cross-border approach can help overcome historical enmities by establishing closer economic and political ties, creating economies of scale, developing common infrastructures, and experimenting with inclusive methods and solutions to deepen integration and understanding (Bulkeley and Castán Broto, 2013; Acuto and Rayner, 2016, 1162-1164). As observed about the principle of subsidiarity which permeates the EU regulatory architecture, multi-level global governance provides a framework to efficiently distribute responsibilities and resources between global, national, regional, and local institutions, configuring a new paradigmatic value for *functional interregionalism* (see de Prado, 2007, 105), and the relevance of *informal multilateralism* and *multi-stakeholderism* as *omnilateral* pathways towards sustainability, stability, and peace (see Cafaro, 2021; Pape, 2009). All this, moreover, leads to the affirmation of a complementary meaning of the broad concept of security as *proximity (policy for) peace*, understood as the first brick on which to build solid and shared progress at both global and local levels (see Prodi, 2002)[9] in the growing awareness of the interdependence between peace and sustainable development since "there can be no sustainable development without peace and no peace without sustainable development."[10]

[9] See UNGA Resolution 79/1 of 22 September 2024, *The Pact for the Future*, paragraph 34 (Action 13), recognizing "the interdependence of international peace and security." Significantly, the Russian Federation and Iran opposed the adoption (by consensus, without a vote) of this resolution, also proposing an amendment (A/79/L.3) reaffirming the principle of non-intervention under Article 2(7) of the UN Charter. Also notable is the abstention of other BRICS Members such as China and Saudi Arabia.
[10] UNGA Resolution 70/1 of 25 September 2015, *UN 2030 Agenda*, 2 (*Peace*).

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2.2. The Voice of the Global South: The Multipolar Path to Global Action

The so-called *Global South* – comprising Least Developed Countries (LDCs), Developing Countries, and Emerging Economies in Africa, Asia, and Latin America – usually presents a distinctive approach to sustainable development as well as a different, *multipolar* conception of global security and peace, based on full adherence to the principles of equality of all sovereign States and non-interference in their internal and external affairs. This approach is deeply rooted in the diverse political, economic, and social contexts of these countries, as well as informed by historical injustices, and a pressing need for economic growth and poverty reduction (see Bianchi, 2016, 205 ff; Mutua, 2000, 31). Indeed, the principle of *Common But Differentiated Responsibilities* (CBDR) *and respective capabilities, in the light of different national circumstances* is central to the *Global South*'s vision. This principle is widely advocated by major world players such as the BRICS (*i.e.*, the ever-expanding group led by Brazil, Russia, India, China, and South Africa) and is enshrined in key international instruments, such as the 1992 *Rio Declaration on Environment and Development* (Principle 7), the 1992 *United Nations Framework Convention on Climate Change* – UNFCCC (Article 3.1), the 1997 *Kyoto Protocol* (Article 10) and the 2015 *Paris Agreement* (Preamble, Articles 2.2, 4.3, and 4.19). The CBDR principle – considering the different structural conditions and levels of development, as well as the varying capacities of different countries to deal with global challenges – underpins the posture of the *Global South*, supporting a fairer distribution of obligations among States and a more equitable framework for international cooperation to address global problems (Ziero 2015, 318-320; see also Fulgenzi, 2023).

This *contextualizing* and *relativizing* approach to global issues and international principles elevates the BRICS to the rank of primary supporters of the *UN 2030 Agenda* and its *holistic* spirit (see Ziero, 2015, 306 ff). On the other hand, it characterizes the *Global South*'s interpretation of key principles

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of international law – such as the sovereign independence of States[11], and the indivisibility of security (*Ibidem*, 310) – in their interaction with other fundamental assumptions of contemporary international law such as the universality, indivisibility, interdependence, and interrelatedness of human rights,[12] or with *ius cogens* norms such as the imperative prohibition of the threat or use of force, pursuant to Article 2(4) of the *UN Charter* (*Ibidem*, 311-313, 316-318). With a view to fully realizing a renewed global supranational democratic architecture that can truly put equality and participation at its centre, the bottom-up approach enhanced through LRAs' *glocal* efforts allows for a direct sharing of contents, values, objectives, and solutions among the populations who directly and collectively benefit from sustainable development and all its presuppositions, including respect for human rights and – first and foremost – peace and security (see Löhr, Morales Muñoz, Bonatti, and Sieber, 2022). In particular, the path traced through *glocal* diplomacy also allows to evade and even compensate for cognitive and operational *biases* linked to the historical and political backgrounds of different countries and national governments, or relating to the economic specificities or various contingencies of each nation (see Bianchi, 2016; Gur, 2023; McCullagh, 2000).[13] In conducting international relations with the *Global South*, it therefore appears increasingly desirable to apply a *glocal* approach to transnational dialogue and development cooperation, especially due to the need to appropriately translate the CBDR principle – together with the above-mentioned *Westphalian guarantees* of State sovereignty, recalled as cornerstones of the nascent multipolar world – into a more equitable and adaptive global implementation of the international obligations to which all States are bound, and not into an excuse to dissipate the obligations that each

[11] See Articles 1-2 of the UN Charter; Conference on Security and Co-operation in Europe, *Final Act* (Helsinki, 1975), 3. See also: PCA, *Island of Palmas case (Netherlands, USA)*, Award of 4 April 1928, 838 ff.
[12] See UNGA Resolution 79/1 of 22 September 2024, *The Pact for the Future*, paragraph 13.
[13] For reference, see also the UNGA reports and resolutions *on the Rights of Indigenous Peoples* (among the most recent: A/RES/78/189, 22 December 2023; A/78/477, 21 November 2023).

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country has towards its own citizens, towards other States and towards the planet.

3. *Glocal* Diplomacy as a Catalyst for *Supranational Democracy* in Pursuit of World Peace and Security within the Systemic Framework of the *UN 2030 Agenda*

In the last few decades, the increasing stratification of international institutions and decision-making – with the growing involvement of LRAs as leading referents in the pursuit of global priorities – has marked a turning point in the field of international relations. Once adopted in a vast international context, dominated by the heterogeneous relational dynamics that occur between States, some international policies, and objectives – especially if not of immediate economic or financial relevance – may tend to no longer be structured and adequately implemented by national governments (see Cole, 2015; Harstad and Kessler, 2024). Consequently, the relationship of trust between citizens and the institutional system of the central State is often exposed to negative consequences, leading to poor management and unfair distribution of public goods with widespread, serious, and *ex ante* criticism accompanied by potential political disaffection, often heralding the rise of so-called "populism" (see Bergmann, 2020; Cafaro, 2021, 96 ff). Therefore, democratization of global governance and its multi-level participation are essential to fill this gap and meet the parameters of the *minimum democratic standards* which require that values and objectives of global relevance be pursued through *localized* participatory actions and procedures consistent with the same globally shared values and objectives (see Coppedge, 2023; Skaaning and Hudson, 2023). The concept of multi-level or (multi-layered) democratic governance implies that authority is not only centralized but rather *dispersed* across various layers of governance, including local and regional governments into an ever-evolving global policy

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framework (see Habermas 2012; Tortola, 2017). This *dispersion* or *stratification* of power reflects the complexity of modern democratic governance where LRAs become flagships for policy innovation and international diplomacy. Historically, cities and regions have always been hubs of trade and cultural exchange, but their contemporary role as direct actors in international affairs is a distinct characteristic of modern globalization (Bache and Flinders, 2005).

To understand the growing influence of LRAs in global governance, one must first look at the broader theoretical landscape. The contemporary concept of global governance itself is wide and multifaceted, encompassing a multitude of institutions, mechanisms, relationships, processes, and practices through which collective decisions are made and implemented on a global scale. This theoretical underpinning of multi-level governance has provided a new lens through which we can view the *dispersion* of authority. Emerging primarily from European integration studies, multi-level governance posits that decision-making power is spread across multiple institutional levels, ranging from supranational to national, regional, and local (see Cafaro, 2017, 2021; Marks, 1992; Triggiani, Nico, and Nacci, 2018). This theoretical framework helps explain the growing involvement of LRAs in global affairs, as it acknowledges the complexity and interconnectivity of modern governance. As emphasized by the *New Urban Agenda* (Habitat III UN Conference, Quito, Ecuador, 20 October 2016), urbanization has further amplified the role of cities as critical nodes in global affairs. With more than half of the world's population now living in urban areas (Toly, 2008, 343), cities have become central to addressing global issues, although *City diplomacy* is not a new phenomenon and *transnational city networks* are on average about 40 years old and progressively expanded their topical coverage in the so-called *urban age* (Acuto and Rayner, 2016, 1152; Barber, 2013, 3-24; Friedmann, 2012). This demographic shift has bolstered the political and economic relevance of municipal authorities, enabling them to engage more effectively in global interactions. Cities – as well as provinces and regions –

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also increasingly enter into bilateral and multilateral agreements to address specific issues such as trade, public health, and climate and environmental protection (Acuto and Rayner, 2016, 1153; Acuto and Leffel, 2021; Acuto, Kosovac, Pejic, and Jones, 2021; Bouteligier, 2013, 20-21; Kahler, 2009; Kendall, 2004, 59-73). As stated before, remaining within the legal framework of established national institutions and procedures, such agreements allow LRAs to *bypass* national governments and engage directly with their international counterparts, fostering cooperation on common challenges (see also Högenauer, 2014; Jeffery, 2000; Jeffery and Peterson, 2020; Schakel, 2020, 2; Tatham, 2010, 2014, 2017).

The narrative of international law and international relations has historically been dominated by States and international organizations such as the UN, the World Bank, and the International Monetary Fund (IMF). However, as previously indicated, the relentless forces of globalization have propelled cities, provinces, and regions into the forefront of global issues, such as sustainable development, and – certainly not least – peace and security (see Swiney, 2020, 233 ff). This powerful transformation has given rise to the intriguing phenomenon of *city-to-city* or *local-to-local* diplomacy. LRAs across the globe are increasingly engaging in international actions. They form networks and partnerships that outflank *traditional* diplomatic channels, framing international engagement within the broader discourse of multi-level democratic governance and global policy-making (Jakobi, Loges and Haenschen, 2024, 14). This shift in global diplomatic dynamics represents a significant facet of current international relations, where subnational units such as LRAs participate in foreign affairs *independently* of their national governments (Swiney, 2020, 229, 271), although according to the powers granted to them in the context of national constitutions and international treaties, and by citizens through popular vote (because "Civil society needs a State." Kaldor, 2013, 129). This phenomenon is directly driven by globalization and brings with it the growing recognition of urban centres, larger metropolitan areas, and regional authorities as pivotal actors

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on the global stage, capable of addressing complex transnational issues such as those set out in the *UN 2030 Agenda* while – for a long time already – they have been facilitating economic and cultural exchanges together with mutual understanding, bridging gaps between diverse communities and promoting social justice, inclusion, tolerance, and respect (Hsiao and Hwa-Jen, 2002).

This interplay between local and global dynamics has given rise to the concept of *glocalization* as a term that encompasses the *simultaneity* and *interdependence* of global and local influences and actions, as well as integration and fragmentation, homogeneity and differentiation (Kaldor, 2013, 73; Robertson, 1995). This phenomenon has profound implications for the field of diplomacy, as it introduces a new *glocal* approach to transnational dialogue and cooperation, characterized by the interaction and integration of global and local efforts. Indeed, *glocal* diplomacy can serve as a significant pull factor to innovate the concept of *supranational democracy*,[14] enhancing and completing the feasibility of democratic multi-layered governance at the inter-state and supranational levels, particularly within the framework of a *sui generis* international organization such as the EU[15] and in the context of its external action. Legally, the engagement of LRAs in international relations is a complex issue, as it intersects with principles of national sovereignty and the legal frameworks that delineate the powers of local governments. The *Treaty of Lisbon* (2007) acknowledges the role of LRAs in contributing to the EU's objectives, particularly in areas like environmental and climate policy, along with sustainable development. Internationally, the *Vienna Convention on Diplomatic Relations* of 1961 does not preclude subnational authorities

[14] *Supranational democracy* refers to a model of governance in which democratic principles, such as representation, responsibility, and participation, are applied at a level above the nation-State, within the layers of international or regional organizations where formal decisions are taken by institutions that represent both citizens directly and Member States collectively, operating with a degree of autonomy from national governments and with consequent accountability (in critical perspective, see Neyer, 2012, 56-70).

[15] See CJEU, Judgment of 5 February 1963, *van Gend & Loos*, case 26/62, EU:C:1963:1, Summary, paragraph 3. See also CJEU, Judgment of 15 July 1964, *Costa v E.N.E.L.*, case 6-64, EU:C:1964:66; CJEU, Judgment of 9 March 1978, *Simmenthal*, case 106/77, EU:C:1978:49. Lastly, see CJEU, Judgment of 26 September 2024, *Energotehnica*, case C-792/22, EU:C:2024:788, paragraph 67.

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from participating in *informal* international relations, although it addresses nation-States alone as bearers of international responsibility. The involvement of LRAs in global governance is also directly supported by various international legal instruments and references.[16] The CoE's *European Charter of Local Self-Government* enshrines the principles of local autonomy and decentralization (Preamble, Articles 2, 3, and 4). Thus, it provides a legal basis for the empowerment of LRAs and their direct engagement in international relations. The UNFCCC also acknowledges the importance of non-governmental entities in addressing climate change through cooperation in education, training, and public awareness (Articles 4.1.i, and 6), as well as the relevance of the services, support, and information they can provide (Article 7.2.l), admitting their possible representation at sessions of the Conference of the Parties (COP) as observers (Article 7.6). Similarly, the *Paris Agreement* emphasizes the effective role of subnational bodies in achieving its global goals, especially through participatory, cross-cutting, and gender-responsive capacity-building activities (Articles 7.2, 11.2, and 16.8).

In the contemporary global landscape, the pursuit of world peace and security remains a paramount objective for international relations and global governance. As previously mentioned, *traditional* diplomatic efforts often focus on *State-to-State* interactions, engaging in high-level negotiations and binding treaties. However, the emerging paradigm of *glocal* diplomacy is gaining traction, highlighting the pivotal role of LRAs in addressing international challenges and particularly in fostering peace and enhancing security, both locally and globally. The decentralization movement has significantly contributed to the empowerment of LRAs around the world (see Brenner, 2014; Hofferberth and Lambach, 2022). In the context of the establishment of interregional networks of transnational local actors, promoting cooperation on global challenges, many countries have already

[16] See UNSG, Report *Our Common Agenda* (A/75/982) of 5 August 2021, announcing the creation of the Secretary General's Advisory Group on Local and Regional Governments (paragraph 119).

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embraced decentralization, granting greater autonomy and resources to their subnational bodies. This fundamental change in the complex architecture of global governance – made *more democratic* precisely by this greater grassroots participation – has allowed LRAs to play more active roles in international affairs, redefining the *traditional* paradigms of diplomacy (Acuto and Rayner, 2016, 1159). For instance, regions such as Catalonia in Spain, and Flanders in Belgium, have developed their own *foreign policies* and maintain representative offices abroad, acting almost like *quasi*-States on the international stage. Similarly, the Italian regions of Emilia-Romagna and Veneto have intensified relations with a plurality of LRAs from countries across all continents in terms of multi-sectoral exchanges and collaboration, through the signing of memoranda of understanding (MOUs) and agreements always in compliance with national laws and foreign policy guidelines.

3.1. LRAs as Bearers of a "Post-Westphalian" Global Law

LRAs are increasingly at the forefront of implementing the SDGs due to their direct interaction with communities and their peculiar ability to mobilize local resources. SDG 11 tasks subnational governments with making cities inclusive, safe, just, resilient, and – in one word – sustainable. This involves all levels of urban planning and infrastructure management, as well as ensuring full and fair access to essential services and the active participation of citizens, consistently with SDGs 12 and 13 which respectively highlight the deep link between responsible consumption/production and climate action as a further prerequisite for systemic equality and non-discrimination. Accordingly, SDG 16 focuses on promoting peaceful and inclusive societies, guaranteeing justice while building effective and accountable institutions at all levels. LRAs are crucial in realizing all these goals by fostering the engagement of local communities, ensuring public safety, and enhancing institutional transparency. They can adapt the 17 SDGs to their local contexts, making targets more relevant and actionable. By integrating the *UN 2030 Agenda*'s framework into their concrete local policies, plans, and budgets,

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LRAs can help make sure that global commitments are translated into practical actions at the level closest to that of citizens. As previously outlined, cities, regions, and other subnational authorities often serve as testing grounds for innovative solutions to development challenges and these initiatives can be shared and replicated throughout the world, creating a widespread participatory approach to implementing the SDGs globally. LRAs and their representatives can play a critical role in raising awareness about the SDGs among citizens, businesses, and other local or regional stakeholders. Moreover, international organizations and NGOs can support *local-to-local* diplomacy by providing funding, expertise, and facilitating connections between local and regional realities.

SDG 17 emphasizes the importance of partnerships between public authorities, the private sector, and civil society actors, highlighting the role of LRAs in forming and sustaining these collaborations, and in pursuing each SDG as an integral and indispensable part of a single and indivisible project. In their cross-border interactions, LRAs significantly contribute to the *quasi*-binding legal nature of the *UN 2030 Agenda* by *localizing* and *materializing* its *ideal* global goals, building networks, increasing awareness, advocating for supportive policies, promoting accountability, leveraging resources, and sublimating the elements of international *soft* and *hard* law in the programmatic instruments (*i.e.*, MOUs, pacts, covenants, etc.) of an innovative and comprehensive "post-Westphalian" *global law* permeated by the ever-increasing LRAs' *soft power* (see Swiney, 2020, 230-232). These *territorial* efforts create a solid foundation for consolidating the vision of the *UN 2030 Agenda* at the level of citizens while promoting, supporting, and complementing national and international initiatives. The impact of transnational collaborations between LRAs reinforces the collective commitment to the SDGs, making adherence to the principles of the *UN 2030 Agenda* more compelling, convincing, and widespread globally. By sharing common challenges, cross-border interactions between LRAs help build public support and demand for the adoption of common behaviours,

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standards, and practices that are in line with the SDGs also beyond the different national circumstances (Acuto and Rayner, 2016; Bouteligier, 2013; Davidson, Coenen and Gleeson, 2019; Fraundorfer 2017). Furthermore, through these efforts LRAs can advocate for funding at both national and international levels, and influence national governments to prioritize the SDGs and integrate them into national frameworks, overcoming the *systemic resistance* that may persist in dysfunctional ways in national bureaucracies (Barber, 2013; Swiney, 2020; in critical perspective: Acuto 2019; Bassens, Beeckmans, Derruder and Oosterlynck, 2019).

In their SDGs implementation endeavours, LRAs insist on fostering strategic partnerships across different sectors and tiers of both national and supranational governance. Their orientation towards decentralized synergies and multi-stakeholder dialogue and planning proves their strong commitment to accountability, responsiveness, peer-learning, and dissemination, as well as their coherence within the 17 SDGs implementation context, also from an effective transnational and cross-border perspective (see Acuto and Rayner, 2016, 1165). As is evident, it is through the cultivation of such horizontal and heterogeneous partnerships that LRAs hold the core potential to offset knowledge asymmetries, fortify institutional capacities, and galvanize resource mobilization even circumventing certain national interests and *systemic reluctances* towards the changes needed to comply with international commitments and obligations (see Ku, Henning, Stewart and Diehl, 2019; Le Gales, 2002; Bache and Flinders, 2005, 88, 97). Besides, LRAs can mobilize interregional investments, human capital, *localized* know-how, and technological innovations (SDG 9). By leveraging local resources, they can contribute *on the ground* to the overall achievement of the *UN 2030 Agenda*'s targets, also facilitating public-private partnerships (Bulkeley and Castán Broto, 2013, 361; Spies, 2019). These collaborations can attract financial flows and expertise from the private sector, enhancing LRAs' capacity to achieve the SDGs. Moreover, subnational authorities can develop their own mechanisms for monitoring and reporting progress in implementing these

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common objectives. Local reports can complement national reviews and provide a more detailed picture of progress made or still to be made, highlighting areas where additional efforts are needed.[17] For these reasons, *informal* diplomacy and network participation often involve benchmarking and peer reviews through which LRAs compare their adherence to shared global goals, creating a form of peer pressure that encourages continuous improvement in SDGs implementation.

3.2. Initiatives and Successes of Glocal Diplomacy Across the Globe

A prominent example of successful *informal* diplomacy is the engagement between California and China on climate change initiatives. Lacking for a time a comprehensive national climate policy in the United States, the government of California – whose economy, if it were a country, would rank as the fifth largest in the world – engaged directly with Chinese LRAs (lastly with the province of Hainan, in 2023) and even with the Ministry of ecology and environment of the People's Republic of China (in 2018, renewed in 2022) in activities regarding environmental and climate protection, such as the signing of MOUs focused on reducing greenhouse gas emissions, promoting clean energy technologies, and sharing best practices in sectoral regulation. These efforts exemplify how LRAs effectively use *informal* diplomatic channels to address global challenges, fostering international cooperation and achieving outcomes *independently* of actions at national level. Moreover, LRAs engage in *informal* diplomacy through networks which often see the leading role of city governments. *Local Governments for Sustainability* (ICLEI), *United Cities and Local Governments* (UCLG), and *Global Parliament of Mayors* (GPM) are further examples illustrating the successful use of *paradiplomacy* by LRAs. These networks enable cities to pool resources, coordinate actions, and amplify their voices in international

[17] See UNSG, Report *Our Common Agenda* (A/75/982) of 5 August 2021, paragraph 106; Lastly, see UNGA Resolution 79/1 of 22 September 2024, *The Pact for the Future*, paragraphs 25 (Action 6), 56 (Action 32), and 83 (Action 55).

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forums providing platforms to collaborate on global issues, share know-how and best practices, and influence international agendas (Acuto and Rayner, 2016, 1161; Acuto, Kosovac, Pejic and Jones, 2021, 1-2; Nijman, 2016, 231-232). These *transnational municipal networks* facilitate the exchange of knowledge and resources, strengthening the global movement towards achieving the SDGs and advocating for local perspectives in global forums (see also Acuto and Leffel, 2021; Acuto and Rayner, 2016; Bouteligier, 2014; Leffel and Acuto, 2018; Toly, 2008).

Similarly, the *Covenant of Mayors for Climate and Energy* (CoM) – an initiative funded by the European Commission – brings together city governments committed to achieving and exceeding the EU's climate and energy targets. *Eurocities* is a network of major European (EU and extra-EU) cities that aims to influence EU policy and access funding for innovative projects, promoting cooperation and the exchange of ideas to address common challenges, with a focus on the areas of social inclusion, environment, mobility, and urban governance. Likewise, the *C40 Cities Climate Leadership Group Inc* is a global network of mayors of the world's major cities (New York, Tokyo, London, Paris, Rome, Milan, etc.) united to tackle the climate crisis and affiliated with the global coalition *Mission 2025*, urging national governments to align their climate action plans with the *Paris Agreement*'s target of limiting global heating to 1.5°C ahead of the UN's crucial deadline in February 2025, when countries are required to submit their enhanced climate plans (*i.e.*, *Nationally Determined Contributions*) to the United Nations for the period 2025-2035. Thus, the *C40 Group* enables mayors to collaborate on urgent climate action in line with science-backed targets, lobbying, planning, and collaborating across borders with the aim to protect lands, peoples, and communities, and build a more sustainable, resilient, and equitable future. Not least, the *Under2 Coalition*, which is the largest network of LRAs committed to reaching net-zero emissions by 2050 (or earlier), involves subnational governments like those of California, Catalonia, Scotland, Ontario, Lombardy, and others in reducing carbon

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emissions as a vital part of efforts to keep global temperature rise to 1.5°C, through thorough and short-term planning to ensure both progress and transparency. All these initiatives work mainly on the conscious and voluntary pursuit of global priorities (see Swiney, 2020, 232, 268),[18] translated into coordinated actions by citizens and their representatives at local and regional levels, preceding the slowness in defining or enforcing binding international obligations on the part of central governments (*Ibidem*, 2020, 247 ff, 260 ff). In fact, it could be argued that "nations talk, cities act" (Curtis, 2014, 1, quoting a statement by Robert Doyle, Lord Mayor of Melbourne, Australia).

Further to previous comments, city-twinning agreements – such as those between Chicago and Milan (since 1973), and Los Angeles and Guangzhou (since 1981) – can foster cultural and economic exchanges. As an additional example, the Great Lakes Council comprising US states and Canadian provinces provides a binational and multi-sectoral forum for collaboration on key risks and opportunities in this North American region. These solutions are not too different from the cross-border clusters inaugurated under the auspices of the EU in the framework of the EUREGIO initiative (*e.g.*, *Meuse-Rhine* between Belgium, Germany, and the Netherlands; *Tyrol-South Tyrol-Trentino* between Austria and Italy) or in the perspective of the European Groupings of Territorial Cooperation (EGTCs) set up to facilitate transnational and interregional cooperation between LRAs to implement joint projects, share expertise, and improve cross-border planning coordination. All these examples show empirically how LRAs effectively address

[18] LRAs adopt joint statements, MOUs, declarations, pacts, charters, policy plans, and other forms of *global law* close to international legal agreements and designed to implement and complement state-made international law at the level of transnational cooperation between local bodies. Similarly, LRAs have developed their own specific language for *soft law* (Swiney, 2020, 265 ff). They enter into voluntary or *quasi*-voluntary arrangements and their disputes are resolved through dialogue and negotiation considering the absence of any enforcement mechanism. Therefore, *trust is essential to produce order*, and the *hybrid customary practice* inspired by such widespread voluntariness will shape the further concept of *glocal law* (see the fifth section of this research work; see also Barnett, Pevehouse and Raustiala, 2022, 14-15; Martins Casagrande, 2009; Podolny and Page, 1998, 59; Rhodes, 2000, 61; Thompson, 2003, 31).

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transnational challenges and strengthen international relations through direct cooperation. These actions lay solid foundations for a widespread *glocal* approach capable of translating major global issues into concrete local priorities and actively involving people in the democratic definition of the dynamics of global governance. The decentralized specificity of each territorial reality therefore emerges as a basis for the consolidation of a renewed supranational conception of democracy and its instruments of participation, decision, and action in the face of global challenges, precisely as an inclusive and equitable transnational communion of intent between peoples: a new "global ecosystem" (Acuto and Leffel, 2021).

All these initiatives also fall within the broader concept of *People-to-People* (P2P) diplomacy understood as intentional and programmatic transnational interactions between organized groups of people for public, rather than private, interests that have – or aim to have – foreign policy implications (Ayhan, 2020). As already noted, such P2P activities aim to exert political influence through bottom-up actions that can challenge central governments' top-down policies, as for transnational advocacy networks through which civilians aim to indirectly influence government decisions. In this context, a renewed concept of *City diplomacy* – pursuant to Recommendation 234 (2008) of the Congress of LRAs of the Council of Europe, in accordance with the *European Charter of Local Self-Government* and its Article 10 – has evolved to encompass various forms of intra- and inter-state engagement and cooperation between LRAs, with a growing emphasis on their role in peace-building and security efforts. Strengthening partnerships between *LRA networks* and international actors can further improve the implementation of global policies. This is even more true on a global scale as the degree of institutionalization of these multi-level interactions increases, as demonstrated by the phenomenon of the creation of secretariats by *LRA networks* (Lecavalier and Gordon, 2020, 1-36). Furthermore, integrating local policies and practices into global frameworks can enrich international law and diplomatic practices with diverse

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perspectives and solutions (see Swiney, 2020, 265 ff). Not least, the integration of *paradiplomacy* into national and international policy frameworks can increase its legitimacy and effectiveness, ensuring a cohesive approach to global challenges (Barber, 2013, 140-145). Aligning local development with the global SDGs – particularly SDG 16 – enables subnational governments to contribute to peace and security *glocally*. In the foreground, this involves promoting transparent institutions, combating corruption, ensuring inclusive and fair development, and fostering equal economic opportunities that reduce social disparities, divisions, and tensions as hotbeds of conflict (see Tschudin, 2018).

3.3. The Creation of a Peaceful and Resilient World in the Face of Global Challenges

In its functional projection throughout the world, *glocal* diplomacy can indeed play a key role in peace-building by addressing the root causes of conflict and fostering human development. Joint education and cultural exchange projects promote understanding and respect between different communities, which is essential for lasting peace (see Boyadjieva and Grozev, 2004; Mallik, 2013). LRAs can promote peace education in schools and support cultural initiatives that facilitate social inclusion, fairness, diversity, and dialogue for the purpose of building bridges between different cultural groups (SDG 4). Effective public safety measures and community policing can prevent violence and enhance security. In bordering territories, LRAs can engage in cross-border cooperation to address common challenges such as migration (Durmus and Oomen, 2022; Geddes and Maru, 2020; Oomen and Baumgärtel, 2018), public health (SDG 3; see Acuto, Morissette and Tsouros, 2016; Jakobi and Loges, 2021), gender-equality[19] (SDG 5; see

[19] See UNSC Resolution 1325 (2000) of 31 October 2000, reaffirming the significance of the equal participation and full involvement of women in all efforts for maintaining and promoting peace and security. Lastly, see UNGA Resolution 79/1 of 22 September 2024, *The Pact for the Future*, paragraph 40 (Action 19).

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Och, 2018, Runyan and Sanders, 2021), youth participation,[20] and sustainable development, contributing to the creation of stable, secure, and peaceful border regions, and reducing the potential for internal and external conflicts. The same collaboration scheme can even ignore the constraint of geographical proximity and involve LRAs united by common interests regardless of directly sharing geographical borders. As previously explained, LRAs can implement strategies that foster trust between law enforcement and local communities, improve public safety, and address the root causes of hatred, violence, and crime, while advocating for *localized* interests and perspectives in national and international policy-making forums, influencing policies that affect their territorial reality, helping to remove cognitive biases, and ensuring that local needs are considered in land planning as well as in peace and security strategies (see Bouteligier, 2014, 58; Curtis, 2014, 1-15; Davidson, Coenen, Acuto and Gleeson, 2019, 3541; Dayton and Kriesberg, 2009; Ilcan and Phillips, 2008; Ljungkvist, 2014, 41; Vargas-Lama and Osorio-Vera, 2020).

As detailed above, *LRA diplomacy* can drive economic development by facilitating cross-border economic relations, investments, and innovation. In fact, collaborative projects between LRAs can create jobs (SDG 8), improve livelihoods, and reduce poverty, thereby mitigating economic instability as one of the primary drivers of conflict (see Abramo, Cecchini and Morales, 2019; Mallik, 2013). Leveraging digital platforms and technologies can facilitate the participation of local actors in global decision-making processes (Acuto and Leffel 2020, 1762) and improve communication and collaboration among LRAs, expanding the reach and impact of *glocal* diplomacy and valorising citizens' initiatives (Acuto and Rayner 2016, 1162; Lecours, 2005, 230-233). In any case, the peace-making and -keeping effects of *paradiplomacy* transcend the economic, programmatic, or purely *ideal*

[20] *Ibidem*, paragraph 41 (Action 20). In the same spirit, see UNGA Resolution 75/1 of 21 September 2020, paragraph 17; UNSG, Report Our Common Agenda (A/75/982), 5 August 2021, paragraphs 45-47.

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horizons, to instead take on empirical traits of absolute relevance. LRAs are often the first responders to emerging crises and conflicts. By engaging in *informal* diplomacy, LRAs can share best practices and efforts both locally and transnationally in conflict prevention and resolution, implement early warning and land management systems, and facilitate dialogue and appeasement between conflicting parties, directly contributing to peace and security on multiple levels (see Augustinus and Barry, 2006 ; Gaynor, 2016; Kyamusugulwa, Hilhorst and Van Der Haar, 2014; Huggins and Clover, 2005; Musahara and Huggins, 2004; Haslam and Tanimoune, 2016; with references to Kosovo, Latin America, and Sub-Saharan Africa). These *localized* efforts can prevent the escalation of disputes into larger, more destructive "new wars" that "are both global and local" and can be "different both from classic inter-state wars and classic civil wars," involving "networks of state and non-state actors" (Kaldor, 2013, vi; see Friedmann, 2012, 55, 150-153). *Paradiplomacy* insists on fostering social cohesion through inclusive and diffused governance and community engagement. Initiatives such as intercultural dialogues, community-based projects, and local peace committees help build trust and cooperation among diverse groups (Kaldor, 2013, 149; Sisk, 2001, 71 ff; Wolff, Ross and Wee, 2020). Addressing social grievances and promoting equity and equality, LRAs' *de facto* diplomacy thus contributes to creating stable and harmonious societies, developing a culture of peace, solidarity, and identification with global issues within a framework of international law, universalism, and multicultural values "which could perhaps be termed cosmopolitan law, and it would put emphasis on various forms of transitional justice" opposing particularism and exclusivism (Kaldor, 2013, 7, 12; see also Mignolo, 2011, 270 ff).

It is certainly no mystery that security challenges such as terrorism, organized crime, and cyber threats require coordinated and pragmatic responses that often go beyond national jurisdictions. Coherently with the previous examples, *glocal* diplomacy can enhance peace and security by improving cooperation and information sharing among LRAs, which are also

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often on the front lines of counter-terrorism efforts. By collaborating with cross-border counterparties, LRAs can share intelligence data, coordinate responses, and implement community-based solutions that integrate and support the policies of higher levels of government. This *glocalized* approach ensures a more effective and targeted response to security issues (see Rosenau, 2003, 120-123). Cyber-attacks also pose significant risks to global security.[21] *Glocal* diplomacy facilitates the exchange of cybersecurity expertise and best practices among LRAs. By collaborating on cybersecurity, LRAs can enhance their resilience and protect critical infrastructure.[22] Finally, natural disasters and humanitarian crises often have transnational origin and implications. LRAs can jointly develop comprehensive disaster preparedness plans, invest in resilient infrastructure, and involve communities in resilience-building activities, thereby reducing the overall impact of natural and man-made disasters and building resilient communities capable of withstanding and recovering from emergencies (see Imperiale and Vanclay, 2020). The tools of *glocal* diplomacy in fact allow LRAs to coordinate disaster prevention and response efforts, share knowledge and resources, and provide mutual aid. This collaborative approach ensures a more efficient and effective reaction to any kind of emergency, and helps limit damage and suffering for affected communities (see Toly, 2008) as well as cascading consequences such as poverty, instability, conflicts over scarce resources, and migration for economic, human rights or climatic-environmental reasons (on this last fundamental perspective, see Homer-Dixon, 1991, 1994; Gemenne, 2011; Kälin, 2010, 84-86, 92; Myers, 1993, 752; Picone, 2024).

[21] See UNSG, Report Our Common Agenda (A/75/982), 5 August 2021, *A New Agenda for Peace*, paragraphs 88-89.
[22] See UNGA Resolution 79/1 of 22 September 2024, *The Pact for the Future*, Annex I, *Global Digital Compact*, Objective 4, paragraphs 43-45, *Cross-border data flows*, paragraphs 46-47, and Objective 5, paragraph 62 (in broad realization of SDG 17, also considering an inclusive and risk-based approach to the governance of artificial intelligence – AI).

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LRAs, through their *glocal* action, are therefore essential to pursuing and maintaining world peace and security. They emerge as bottom-up catalysts of a supranational democratic vision that places inclusion and sharing, as well as participation in decision-making and implementation processes, at the basis of the reaffirmation of a renewed awareness of the meaning of *global neighbourhood* (see Chan, 2016; Kosovac, Acuto and Jones, 2020; van der Heijden, Patterson, Juhola and Wolfram, 2019; Wolff, Ross and Wee, 2020). Dealing with local issues and priorities from a global perspective (and vice-versa), engaging in transnational and interregional networks, and aligning their efforts with international goals, they can significantly contribute to creating a peaceful, just, and secure world. Nevertheless, while LRAs' *glocal* efforts offer significant potential, they also face some challenges. These include limited operational resources, varying levels of governance capacity, lack of coordination, and potential conflicts with national policies and interests. This is because LRAs' autonomy does not imply that they also have the power to shape final results, considering that "mobilization and influence are not synonymous" (Bache and Flinders, 2005, 157; Jeffery, 2000, 3). Again, most of these problems can be overcome through capacity-building, and by promoting partnerships between LRAs and the international organizations of which their States are members (and whose obligations States are required to fulfil), thus aligning local efforts with national and global commitments. Moreover, inter-institutional relations are not necessarily a *zero-sum game*: strengthening the regional level does not necessarily have to be interpreted as weakening the national level, and vice versa (Piattoni, 2005, 430; see Keating, 2014, 176-190). However, ensuring coherence between local and global actions can still be difficult. Different levels of governance may have varying priorities and political approaches (see Ku, Henning, Stewart and Diehl, 2019). Limited human, technical, and (limited ability to raise) financial resources at the local level can also hinder the initiative of local actors in *glocal* diplomacy and undermine the effectiveness of territorial actions (see Gancheva, Gea, Jones, O'Brien and

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Tugran, 2019, 34; Loessner, 2001, 57; Vanelli and Peralta, 2022). Therefore, continuous multi-level coordination, sharing of know-how, and mutual support is needed to ensure that LRAs can effectively participate and contribute to global efforts and – first and foremost – to the creation of a peaceful and resilient world in the face of global challenges common to all humanity.

4. The Subnational Dimension of Governance in the EU Legal Framework

In the European Union (EU), the implementation of EU law is a complex process that involves various subjects and different levels of government, including subnational authorities. The participation of these entities in the implementation of EU law is crucial because they possess the detailed *localized* knowledge and administrative capacity required for effective enforcement and compliance (Kafyeke and Srebotnjak, 2015). This is why, within the EU, LRAs have a defined role in implementing EU policies and legislation. The EU legal framework – in particular the *Treaty on European Union* (TEU) and the *Treaty on the Functioning of the European Union* (TFEU) – stresses the importance of local and regional autonomy and self-government, empowering LRAs to act as real engines of sustainable development, human rights promotion, and democratic participation. The *Treaty of Lisbon* (2007) truly represents a salient model for innovative and democratic global governance where global and local levels can be functionally synthesized in a *glocal* approach. In the axiological prism drawn by the Preamble of the *EU Charter of Fundamental Rights* – EUCFR (2000) as well as by Article 4(2) TEU, and Article 3 (paragraphs 3 and 5) TEU, the EU fully embraces the principle of subsidiarity enshrined in Article 5 (paragraphs 1 and 3) TEU, and the proportionality principle articulated in Article 5 (paragraphs 1 and 4) TEU, also referred to in *Protocol n. 2 on the application of the principles of subsidiarity and proportionality*, annexed to

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the Treaties. This occurs in conjunction with the principle of proximity referred to in Article 10(3) TEU which, in its paragraph 2, also reaffirms the principle of participatory and representative democracy. Accordingly, LRAs have clearly gained a crucial role in implementing EU law. Directives, regulations, and decisions thus shape and specify tasks for subnational authorities in areas ranging from climate and environmental protection to public procurement and social policy (see Borghetto and Franchino, 2009; Carter and Pasquier, 2010; Galletti, 2019).

The EU intrinsically promotes its multi-level functioning, configuring close cooperation between different levels of government (supranational, national, subnational) in order to ensure the cohesive implementation of its objectives, together with the structural reallocation of competences, resources, and fundings according to the proper semantics of multi-level governance (Acuto and Leffel, 2021; Piattoni, 2005, 419). This to the point of having fuelled the enthusiasm for a future "Europe *of* the Regions," foreseeing the development of an EU policy in which supranational and regional levels would gradually gain more and more competences at the expense of Member States, which might eventually even disappear (Loughlin, 1996; Tömmel, 1998). LRAs are essential for achieving the EU's objectives, both internally and externally to this international organization. Internally, they drive economic growth and cohesion, sustainable development, and social inclusion by leveraging EU funds and policies (Bache, 2004; Friedmann, 2012; Hooghe, 1996). Externally, they project the EU founding values of peace, the rule of law, democracy, human rights, sustainable development, and respect for international law through decentralized initiatives and cross-border cooperation. The mobilization of local expertise, and their autonomy, enable LRAs to effectively address diverse challenges and opportunities (Hooghe, 1995, 175 ff), making regionalism a crucial factor for the legitimacy and functioning of the EU multi-level system (Borghetto and Franchino, 2009, 759-761).

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Consistently, Article 300 TFEU defines the relevant mandate of the European Committee of the Regions (CoR), requiring, in its paragraph 3, that members of this additional consultative body of the EU hold an official electoral mandate within – or be politically accountable to – an elected subnational assembly. The European Parliament, the Council of the EU and the European Commission shall consult the CoR in the cases provided for in the Treaties and in all other cases where one of these institutions deems it appropriate, particularly in cases concerning cross-border cooperation, as per Article 307(1) TFEU. Through its consultations and opinions, the CoR ensures that political decisions at EU level consider the needs and specificities of the various regions and municipalities, promoting dialogue, inclusion, and respect for the European multifaceted territorial and cultural diversity, in line with the EU motto "United in diversity." Indeed, the role formally assumed by the subnational dimension of international cooperation within the EU legal framework cannot but appear emblematic, especially in view of the pursuit of objectives of primary importance and urgency, shared globally. In recent years, the EU has in fact increasingly recognized the strategic functions of LRAs in driving real social and economic growth, and fostering inclusive representation of citizens (including marginalized and minority groups) at supranational level (see Friedmann, 2012, 53). This is also achieved through the primacy attributed to the criterion of territoriality over that of nationality in enriching the sphere of rights associated with European citizenship (Articles 2, 3, 7 and 9-12 TEU; Articles 18-25 TFEU; Articles 39-46 EUCFR) with the right to vote and to stand as a candidate in local level elections of the EU State – other than that of nationality – where the EU citizen resides, under the same conditions as nationals of that State (Articles 20.2(b) and 22 TFEU, and Article 40 EUCFR).

Despite the challenges, the composition and work of institutional bodies such as the CoR (Articles 305-307 TFEU) certainly facilitate transnational, cross-border, and interregional cooperation within the EU, ensuring that the different voices and demands of subnational authorities and the citizens they

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directly represent are duly heard in the EU legislative process, and leading to more effective problem-solving and use of resources. Nevertheless, the structures, powers, and capacities of LRAs – which vary significantly across Member States – can lead to inconsistencies or delays in the implementation of EU legislation (Borghetto and Franchino, 2009, 776). The Commission cannot exert pressure directly on LRAs as central governments are the only responsible *vis-à-vis* the EU for infringements (*Ibidem*, 760), and this is so even if, on the part of citizens, "the provisions of a directive could be relied on against local or regional authorities."[23] In implementation, LRAs may not possess an "understanding of the EU policy process as a whole, which then enables them to have a clearer view of potential or actual infringements and the stance the Commission is likely to take" (Dimitrakopoulos and Richardson 2001, 339), whereas they may also face financial, infrastructural, connectivity or human resources shortfalls that can affect their ability to effectively implement EU regulations (Bache and Flinders, 2005; Jeffery, 2000). Navigating the various regulatory and administrative requirements can be complex and time-consuming, as can aligning the interests and priorities of the EU's multiple regions and entities, while communication difficulties arising from language differences can hinder effective collaboration and understanding between partners. Different cultural backgrounds, historical legacies, local practices, or institutional capacities can also influence ways of cooperation, requiring sensitivity and adaptability to different working styles and expectations. Ensuring the participation of local communities and stakeholders can therefore be a challenge, also because of the difficulty of obtaining and maintaining the commitment of all parties involved, especially in the face of ever-changing political scenarios. However, it is essential for the success of initiatives such as the EGTCs. Likewise, balancing the interests and priorities (even potentially conflicting ones) of the various stakeholders – including LRAs, private entities, and civil society – always requires careful

[23] CJEU, Judgement of 12 July 1990, case 188/89, EU:C:1990:313, paragraph 19, recalling CJEU, Judgment of 22 June 1989, *Fratelli Costanzo SpA*, case 103/88, EU:C:1989:256.

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dialogue, negotiation, and compromise. This is a sensibility deeply rooted in the organic structure of the EU (Kosovac, Acuto and Jones 2020; Tavares 2016), which is also institutionalized through the creation of the European Economic and Social Committee (EESC) as a consultative body representing the voices of organized civil society in the EU (Articles 300-304 TFEU).

4.1. LRAs as Key Functional Incubators of EU Policies

Mechanisms like the above-mentioned EGTC have been established to support and coordinate cross-border, transnational and interregional cooperation between EU Member States through their LRAs to implement joint projects, share expertise, and improve planning capabilities both at the policy formulation and implementation levels (Estelle and Engl, 2018) according to the Regulation (EC) 1082/2006 of the European Parliament and of the Council of 5 July 2006. This act established the EGTC as an EU legal entity, outlining its structure, objectives, and operating procedures, and was subsequently amended by Regulation (EU) 1302/2013 of the European Parliament and of the Council of 17 December 2013, which aimed to simplify the creation of EGTCs and broaden their scope, facilitating cooperation between the subnational authorities involved. Through the designation of new *European regions* (*i.e.*, EUREGIONS), EGTCs contribute significantly to regional development, addressing common challenges, promoting sustainability, and strengthening economic, social, and territorial cohesion by allowing public authorities and other relevant stakeholders from EU (and non-EU) countries to improve their dialogue and collaboration, as well as by providing a clear legal framework, with reduced administrative and legal barriers. EGTCs can manage and implement programs and large-scale projects co-financed by the EU, such as those under the European Regional Development Fund (ERDF), the Cohesion Fund, and other European structural and investment funds. They represent a significant innovation in the EU's approach to regional cooperation, offering a flexible and legally

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certified framework to tackle common problems and promote shared development across borders.

In line with this, the EU cohesion policy (Articles 174-178 TFEU) particularly emphasizes the role of subnational governments in fostering sustainable development and reducing disparities across EU regions, underpinning the essential involvement of LRAs in deploying EU funds and implementing measures to achieve EU's main goals such as economic recovery and growth, social inclusion, and climate neutrality. In the period 2021-2027, the EU cohesion policy has coherently identified five policy objectives (POs) for the ERDF, the European Social Fund Plus (ESF+), and the Cohesion Fund, namely: 1) *A smarter Europe*, innovative and smart economic transformation (PO1); 2) *A greener, low-carbon Europe* (PO2); 3) *A more connected Europe*, mobility and regional ICT connectivity (PO3); 4) *A more social Europe*, implementing the European Pillar of Social Rights (PO4); 5) *A Europe closer to citizens*, sustainable and integrated development of urban, rural and coastal areas through local initiatives (PO5). The steps in this programmatic document help to further outline the leading role of subnational bodies in pursuing the EU's existential interests. Therefore, LRAs prove to be much more than mere administrative entities. They are key players in implementing EU policies, reducing and preventing inequality, ensuring sustainability, protecting human rights, and enhancing democratic participation, thereby demonstrating their unique potential to concretely contribute to a new era of decentralized global governance starting from the multi-layered concept of a "Europe *with* the Regions" (Hooghe and Marks, 1996, 2001; Friedmann, 2012, 36; Piattoni, 2010; Schakel, 2020).

This programmatic outline consistently pervades the entire regulatory structure of the EU, taking shape in the allocations of the ERDF, in the European Territorial Cooperation (ETC) programming for EU funds (open to partnerships with non-EU countries) and, lastly, also in the leading role attributed to LRAs in the definition and implementation of the national recovery and resilience plans (NRRPs) of the EU Member States, funded

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through the *NextGenerationEU* (with its *React-EU* component) and *RepowerEurope* chapters. Regulation (EU) 2021/1059 of the European Parliament and of the Council of 24 June 2021 on specific provisions for the European territorial cooperation goal (INTERREG) supported by the ERDF and external financing instruments, has indeed focused on transnational and interregional cooperation projects based on collaborative efforts meant to address common challenges and opportunities in European cross-border regions. Furthermore, it is not surprising that European LRAs play a crucial role in implementing EU environmental and climate directives, considering that they directly manage local infrastructures, water supply, waste collection and treatment, as well as road and maritime traffic, energy grids, and the usage and maintenance of various types of public goods, while enforcing pollution control measures and sustainability programs (Artioli, Acuto and McArthur, 2017; Portney, 2003). All this fits perfectly within the axiological and programmatic framework of the *European Green Deal*,[24] pursuant to Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 (*European Climate Law*) and the related *Fit for 55 package*,[25] as well as according to the EU action on environment, climate, and sustainable development based on the values, goals, and competences inscribed in Articles 3(3), 3(5), and 21(2)(d) TEU; Articles 9, 11, and 191(1)

[24] See Communication from the Commission to the European Parliament, the European Council, the Council, the EESC, and the CoR (11 December 2019). *The European Green Deal* [COM(2019) 640 final]. It aims to make Europe the first climate-neutral continent by 2050, outlining strategies to foster economic growth while changing the concept for the use of resources. Accordingly, the Multiannual Financial Framework (MFF) for 2021-2027 allocates significant funds for climate action and sustainable development projects, indicating the EU's structural financial commitment to climate and environmental sustainability.

[25] The *Fit for 55* package was presented by the EU in July 2021 and emerges as part of the EU's comprehensive strategy to achieve significant reductions in greenhouse gas emissions and promote climate neutrality, comprising a series of legislative proposals and reforms across various sectors, including energy, industry, trade, transportation, and land use, *i.e.*, the *EU Emissions Trading System* (ETS) *Reform*; the *Social Climate Fund*; *the Effort Sharing Regulation (2021-2030)*; the *Carbon Border Adjustment Mechanism* (CBAM); the *Renewable Energy Directive* and the *Energy Efficiency Directive*; and regulations for specific sectors (including CO2 emissions standards for cars and vans, infrastructure for alternative fuels, and rules for the aviation and maritime sectors to reduce their carbon footprint).

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TFEU; and Article 37 EUCFR.[26] This configures the role of LRAs as key functional incubators of EU policies at both internal and global levels, including the *European Citizens' Initiative* (ECI) provided for in Article 11(4) TEU and Article 24(1) TFEU, and now regulated by Regulation (EU) 2019/788 of the European Parliament and of the Council of 17 April 2019 (text with EEA relevance), which replaced the original Regulation (EU) 211/2011, enhancing democratic legitimacy and citizen participation inside the EU (see Cafaro, 2023). Accordingly:

> The Commission should also encourage and support local and regional elected representatives in spearheading the efforts to inform their citizens about the ECI instrument. […] The ECI provides European citizens with an instrument which allows them to participate actively in European policy-making. The European Committee of the Regions recognizes its own role and responsibilities and, in this context, flags up the decision of its Bureau (3) on the CoR's involvement in European Citizens' Initiatives. It reiterates its commitment to support ECIs which fall within the CoR's political remit and which are deemed politically relevant, for example by: supporting the European Commission in its screening of proposed ECIs from the perspective of their local/regional relevance and subsidiarity; hosting events linked to the ECI; supporting decentralized communication action on the ECI; where appropriate, drawing up own-initiative opinions on the subject of the ECI; participating actively in EP hearings and the political follow up; supporting the implementation of successful ECIs and where appropriate the legislation in response to them.[27]

[26] See CJEU, *Opinion 2/15* (Full Court), 16 May 2017, EU:C:2017:376, paragraph 147; CJEU, Judgment of 11 June 1991, case C-300/89, EU:C:1991:244, paragraph 10 ff.
[27] CoR (2018). *Opinion – European Citizens' Initiative* (2018/C 247/10), 70, paragraphs 19-20. In a similar teleological perspective, see: Communication from the Commission to the European Parliament, the Council, the EESC, and the CoR (3 May 2022), *Putting people first, securing sustainable and inclusive growth, unlocking the potential of the EU's outermost regions* (COM/2022/198 final); Council of the EU (30 May 2022), *Conclusions*

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Similarly, Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021, establishing the *Recovery and Resilience Facility* (RRF), provides for the primary involvement of EU Member States' LRAs in the preparation and implementation of the NRRPs recognizing their importance in ensuring that EU funds are used effectively to support sustainable economic recovery and systemic resilience without neglecting the active involvement of civil society. Pursuant to letter (q) of its Article 18 (*General provisions on recovery and resilience plans*), NRRPs must be in fact prepared by EU Member States in dialogue with the European Commission, considering the views of subnational authorities as well as the positions of social partners, civil society organizations (CSOs), youth organizations and other relevant stakeholders. Coherently, recital 34 of the *RRF Regulation* emphasizes the importance of partnerships and multi-level governance, so that EU Member States are strongly encouraged to involve LRAs and other relevant stakeholders during the preparation and implementation of NRRPs, in accordance with their respective national legal frameworks. The NRRPs can also include cross-border or multi-national projects as foreseen in recital 39 of Regulation 2021/241. *Annex V* also contains the *Assessment guidelines* for the European Commission on NRRPs, which require EU Member States to provide information on consultations carried out with LRAs and other stakeholders and how their opinions and contributions have been taken into consideration.

Further to previous arguments, European LRAs also play a pivotal role in implementing and enforcing EEA legislation at the subnational level. These authorities can represent their interests through various EEA bodies and networks – such as the EEA Joint Committee, the EEA Consultative Committee, and the EEA Joint Parliamentary Committee – where specific local and regional issues can be raised and discussed. Since EEA/EFTA countries (*i.e.*, Iceland, Liechtenstein, and Norway) adopt a significant

on the Communication from the Commission COM/2022/198 final (9514/22), in particular recalling Article 349 TFEU.

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portion of EU legislation relating to the EU internal market, their LRAs are responsible for applying EU law in their jurisdictions within their areas of competence. Subnational authorities in EEA/EFTA countries can also benefit from participating in EU programs and initiatives aimed at interregional development and cohesion. These programs can provide funding and technical support for local projects in line with EU's objectives, involving economic resilience, environmental sustainability, climate protection, and social inclusion, and enhancing cooperation and integration across borders in strategic areas such as communication and infrastructural development. Even in the broader EEA/EFTA dimension, the functions carried out by LRAs are of primary importance, often being responsible for providing public services that are affected by EU regulations, such as the definition and monitoring of environmental standards and procedures, public health, and consumer protection, and ensuring that supranational policies translate into practical benefits for citizens.

Therefore, once again the EU proves to be a unique political and economic supranational union that emphasizes interregional cooperation and cross-border integration. While the EU's objectives are broad and multifaceted, the role of LRAs in achieving these goals proves to be paramount both within the borders of the EU and in terms of the EU's external projection, pursuant to the axiological and paradigmatic construction of Article 21 TEU and the relevant references to external "action on the international scene" – within the European continent, as well as with "the rest of the world" – contained in Articles 2 and 3.5 TEU, and Article 205 TFEU. Indeed, the external action of the EU is heavily influenced by its commitment to peace, democracy, sustainability, human rights, respect for international law and affirmation of the rule of law. EU LRAs contribute to the development of the EU's external action through decentralized transnational and cross-border cooperation, programmatic arrangements, and *informal* institutional dialogue with municipalities and regions outside the EU. These partnerships often involve exchanges of best practices in governance, public administration, and civil

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society engagement, thereby promoting EU values and goals globally with the provision of technical assistance, capacity-building, and logistical support, and the sharing of expertise in crucial areas such as infrastructural planning, and environmental and climate protection. Furthermore:

> […] with many LRAs working towards the same objectives, potentially facing the same problems, the role of social learning should not be underestimated. This also highlights the need for robust and active networks, where ideas and experiences can be exchanged (McNeill, Tugran and McGuinn, 2020, 33).

4.2. EU LRAs as Pillars and Catalysts for the Materialization of the UN 2030 Agenda

On the international stage, the EU recognizes the interconnectedness between peace and security, the challenge of sustainability, and the importance of international cooperation. Consistently with this assertion, the EU played a fundamental role in shaping the *UN 2030 Agenda* adopted by the UN General Assembly in 2015 and is also actively involved in global initiatives – such as the global framework of the *Addis Ababa Action Agenda* (2015) for financing sustainable development by aligning all financing flows and policies with economic, social, and environmental priorities – that address crucial issues such as poverty, hunger, health, education, and gender equality towards the creation of fair, inclusive, and peaceful human communities. The *EU Strategy for Sustainable Development* (EU SDS) – revised in 2016 by the Heads of State and Government of the EU – already outlined objectives and measures to foster sustainable development within the EU and in its external actions, setting forth requirements as well as concrete priorities while aligning the EU legal framework with the 17 SDGs.[28] In 2017, the EU adopted the *European*

[28] The report entitled *Sustainable Development in the European Union*, published annually by Eurostat, analyzes the EU's progress in meeting the SDGs. Furthermore, since 1994 the EU has also been a party to the 1992 *Convention on Biological Diversity* (CBD), a key international instrument for sustainable development (along with its subsequent protocols).

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Consensus on Development – entitled *Our World, Our Dignity, Our Future* – which sets out its policy on development cooperation structured around the "5 Ps" framing the *UN 2030 Agenda* (*i.e.*, People, Planet, Prosperity, Peace, and Partnership). Then, in 2021, the EU launched the *Neighbourhood, Development and International Cooperation Instrument* (NDICI) – *Global Europe*, its latest development cooperation instrument, which further deepens its global commitment to sustainability.

The EU supports interregional integration to promote peace and security, together with sustainable development, shared economic growth and human progress through social inclusion and justice. EU LRAs can already engage in cross-border cooperation with counterparts in neighbouring non-EU countries, fostering regional integration beyond the borders of the EU through joint projects that enhance connectivity, economic cooperation, and cultural exchange, and contribute to overall stability and cohesion in the EU's neighbourhood[29]. These initiatives, moreover, can be framed in the broader global context of EU international cooperation pursuant to Title III of the TFEU (Articles 208-214) and binding agreements signed by the EU with third countries under Title V of the TFEU (Articles 216-219). The restrictive measures that the EU adopts based on the legal framework outlined by Chapter 2 of Title V of the TEU and Article 215 TFEU – which EU LRAs must comply with – also aim to support the achievement of the EU's foreign policy objectives set out in Article 21 TEU, including global peace and security. In a similar vein, by means of trade policy and the use of conditionality the EU seeks to promote its principles and goals in the international trade deals that it signs with partner countries, functionally

[29] In this functional context, it is useful to recall *U-LEAD with Europe: Ukraine Local Empowerment, Accountability and Development Programme*, a multi-donor action financed under the European Neighbourhood Instrument, operating in all regions of Ukraine to strengthen municipalities and promote transnational partnerships between Ukrainian and EU LRAs aimed at local reconstruction during the war and in view of the post-war period (Pillar III). See Commission Implementing Decision of 2 December 2015 *on the Special Measure 2015 for Decentralisation Reform in favour of Ukraine to be financed from the general budget of the European Union* and the attached Action Document concerning this program (see also Umanets, 2018).

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exploiting its influence as a major global economic power.[30] Besides, Articles 208(1), 212(1) and 214(1) TFEU reiterate verbatim that "the actions of the Union and those of the Member States complement and reinforce each other," thereby paving the way for the operational involvement of EU Member States' subnational authorities in pursuing the EU's global objectives both *formally* – by virtue of the principles of subsidiarity, proportionality, and proximity – and at the *informal* level of *local-to-local* dialogue and activism as true *glocal* diplomacy (Chan, 2016; Swiney, 2020, 229), including various aspects such as peace and security, international trade, development cooperation, and humanitarian aid, to the point of further defining the EU's

[30] By means of its trade policy, the EU seeks to promote sustainable development in the international trade agreements that it signs with third countries or international organizations (Articles 207-209 and 216-218 of the TFEU). This is also the case with agreements concluded within the framework of the 2003 *EU Forest Law Enforcement, Governance and Trade* (FLEGT) *Action Plan*. Bilateral instruments include free trade (FTAs) and investment agreements, development cooperation agreements, and economic partnerships. By embedding conditionalities in these agreements, the EU aims to leverage its economic and political credibility and influence in order to promote sustainable practices globally and contribute to a more sustainable future, while preventing practices of unfair competition. Therefore, these agreements include incentives for compliance, supported by monitoring and enforcement mechanisms. In case partners violate human rights or sustainability provisions, several enforcement and remedial measures can be employed, ranging from diplomatic engagement and dialogue to the recourse to dispute settlement mechanisms, other legal actions, and even economic sanctions (*rectius*, countermeasures) passing through the possible suspension of trade preferences (like under the *Generalised Scheme of Preferences Plus* – GSP+) or the imposition of tariffs. This is in line with the assertive approach announced by the European Commission (see *The power of trade partnerships: together for green and just economic growth*, COM/2022/409 final). The EU's international agreements increasingly feature sustainability clauses, reflecting EU's dedication to global environmental standards. These clauses often cover environmental protection, labor rights, and corporate social responsibility. The *EU-Korea Free Trade Agreement* (FTA) includes the dedicated Chapter 13 on trade and sustainable development (TSD). Its Articles 13.1 to 13.16 require both parties to uphold and implement international labor and environmental standards, underscoring the EU's strategy to promote sustainability within its trade relationships. Similarly, the *EU-Canada Comprehensive Economic and Trade Agreement* (CETA) includes a robust TSD chapter (Chapter 22). Its Articles 22.1 to 22.5 reaffirm the parties' commitments to high levels of environmental and labor protection, and broad cooperation on sustainable development. Furthermore, the *Economic Partnership Agreement with African, Caribbean, and Pacific* (ACP) *countries* emphasizes the value of sustainable development. The *Samoa Agreement* (which succeeded the 2000 *Cotonou Agreement* in November 2023) outlines that the partnership shall be guided by inclusive and sustainable economic growth and development in line with the *UN 2030 Agenda*, involving social, economic, and environmental sustainability (Part II, Title IV). Hence, all these agreements incorporate provisions on sustainability, integrating this fundamental value as a core component of the EU's external policy (see Oberthür and Rabitz, 2014; Young, 2015).

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external projection as a truly global stabilization and peace-building effort to achieve a peaceful, resilient, and sustainable world, with EU LRAs increasingly emerging as pillars and catalysts for the materialization of the *UN 2030 Agenda*.

It is therefore clear that the role and actions of the EU Member States' LRAs – understood both as official operational offshoots of the central state power and as autonomous political entities capable of engaging in *local-to-local* transnational interactions – can effectively implement and complement EU external policies, sustaining international efforts to achieve all the SDGs and sub-Targets of the *UN 2030 Agenda* and to implement key international commitments such as those set out in the *Paris Agreement* (FCCC/CP/2015/10/Add.1, *Annex*). The cooperative approach of the *Team Europe Initiatives* (TEIs) established between the EU, the EU Member States (including their implementing agencies and public development banks), the European Investment Bank (EIB), and the European Bank for Reconstruction and Development (EBRD) can certainly prove to be a decisive vector in this direction, focusing on identifying critical priorities that constrain sustainable development (and then peace, justice, and security) in a given country or region, where coordinated and coherent activities would achieve results with a transformative impact. TEIs have already emerged as the backbone of the above-mentioned NDICI – the main financial tool for EU international cooperation from 2021 to 2027 – and its programming. By targeting its resources at the subnational level of governance and promoting transnational cooperation between LRAs, the *Global Europe* instrument could even more effectively support LDCs in overcoming development challenges posed to them by regional conflicts, instability, and insecurity, together with climate change and environmental criticalities, in full coordination with the structures of the UN Sustainable Development Group (UNSDG) and all the UN bodies, funds, and programs, thus contributing significantly to the bottom-up creation

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of the sustainable, secure, and peaceful world envisioned in the *UN 2030 Agenda* (see Fulgenzi, 2023).[31]

5 Concluding Remarks: *LRA Diplomacy* as a Foundation of the Evolutive Concept of *Glocal Law*

Glocal diplomacy refers to the *informal* diplomatic practices that bridge global and local levels of democratic governance, and facilitate cooperation between subnational, national, and supranational actors in the broader framework of international diplomacy, recognizing that local issues often have global implications and vice-versa. By fostering a multi-level dialogue, *glocal* diplomacy ensures that local voices are heard in global forums and that global policies are attuned to the different needs and capabilities of local and regional realities. By incorporating the diversity of local and regional voices into transnational and supranational decision-making and implementation processes, this multifaceted *glocal* outlook ensures that a broader spectrum of perspectives is taken into account, leading to more equitable and representative policies that resonate with the diverse needs of citizens in various parts of the world. The economic and social ramifications of *glocal* diplomacy are profound. From an economic point of view, LRAs-led endeavours can stimulate foreign direct investments and enhance trade relationships, as mentioned in relation to sister city partnerships and other *glocal* cooperation formats that often include such economic components. On the social side, *glocal* relationships can foster cultural exchanges and mutual understanding, contributing to global stability and prosperity while leveraging international connections to improve local quality of life. This integrative and synergistic interaction between LRAs across the globe is crucial to tackle transnational challenges such as migration, pollution, climate

[31] In the same perspective, see UNGA Resolution 75/1 of 21 September 2020, paragraph 16; UNSG, Report *Our Common Agenda* (A/75/982), 5 August 2021, paragraphs 106, 119 and 130.

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change, and economic inequality, which require coordinated cross-border efforts between different levels of governance and different countries, together with the active involvement of CSOs and grassroots movements in facing global issues, promoting peace and ensuring security.

Glocal diplomacy aims to fill the *physical* gap between the territorial dimension of LRAs and global policies. As outlined above, *traditional* diplomacy is designed to operate at the inter-state level, often overlooking the more nuanced challenges and potentials at the local and regional levels. Acting as a multiplier of the capacities of LRAs (and other local stakeholders), *glocal* diplomacy seeks to guarantee that the policies and frameworks developed at the global level are effectively adapted for implementation in local contexts. Therefore, it refers to the direct engagement and cooperation between subnational entities – such as municipalities, regional authorities, and other relevant local actors – *bypassing* the conventional state-centric diplomatic channels. This *informal* way of doing diplomacy leverages the special strengths, perspectives, and capabilities of local and regional governments and communities to address global issues from the ground up. As widely argued, the *glocal* approach emphasizes bottom-up initiatives and collaborative problem-solving, encouraging an innovative reading of the dynamics of the global scenario.

The evolving role played by LRAs in global governance and the rise of their *city-to-city* or *local-to-local* diplomacy indeed represent a significant change in the *classical* landscape of international relations. This fundamental development reflects a broader understanding of the importance of global democratic participation, recognizing the dynamic contribution of multi-layered governance and the pivotal function of subnational actors in tackling global challenges and complementing national and supranational policy levels. As in the case of the moral and programmatic essence of *soft law* – which lies in its capacity to influence the behaviour of States through ethical norms and flexible policy frameworks of a strong voluntaristic nature, albeit without the coercive power that is typical of binding instruments of

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international *hard law* – it is highly plausible that the growing significance of *paradiplomatic* cooperation in shaping the present and future of international relations through the synthesis of a new *global law* – animated by the LRAs' *soft power* – can end up influencing the behavior of States on the international scene. This is particularly true in the internal and external legal landscapes of the EU. In the EU architecture, *LRA diplomacy* already fosters transnational cross-border cooperation, guides policy development, and promotes global adherence to EU values and principles, contributing to the progressive realization of the EU's international objectives.

In the context of the *UN 2030 Agenda* – in particular of SDG 16 – effective, accountable, inclusive and just institutions are vital for peace and security around the world. As repeatedly pointed out, *glocal* diplomacy empowers LRAs by providing them with the tools, knowledge, and networks needed to engage in transnational dialogue and cooperation, in order to endorse the responsible achievement of all the SDGs. Strengthening local and regional institutions ensures that they can effectively contribute to and implement global peace and security initiatives. LRAs' unique position within the structure of democratic governance allows them to directly address local issues while aligning with global goals. Furthermore, inclusive governance makes sure that also marginalized and minority groups can truly have a voice in decision-making processes and policy implementation. LRAs can establish platforms for public participation and enable policies to effectively respond to the different needs and aspirations of populations, thus favoring better inclusion and social cohesion and reducing potential conflicts, while pursuing the establishment of a real supranational democratic order rooted in the open, active, and informed participation of every human being and every community.

Indeed, *Supranational democracy* concretely refers to a comprehensive system of multi-layered governance where – also through the local branching of powers and competences – democratic values, principles, and processes simultaneously pervade the internal structure and transcend the *traditional*

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boundaries of the nation-State, allowing for collective decision-making at a higher, transnational, and *beyond-national* level, yet rooted in the territorial dimension. This represents a pioneering approach to governance in an increasingly interconnected world. The EU's experience provides valuable insights into the potential and limitations of this model. As global challenges go beyond national borders, the model of *supranational democracy* is likely to become increasingly relevant though addressing its inherent criticalities will be crucial for its evolution and effectiveness. The EU, with its characteristic multi-level governance structure, nevertheless provides fertile ground for the practice of *glocal* diplomacy in view of its eventual projection and affirmation at a global level.

The EU multi-tiered system – encompassing local, regional, national, and supranational levels – mirrors the essence of *glocalization*. EU institutions such as the CoR and the EESC embody the ontological assumptions of *glocal* diplomacy by incorporating the demands and perspective of local and regional governments and populations into EU policy-making in a manner consistent with the EU pivotal principles of subsidiarity, proportionality, and proximity. Though the EU democratic model still faces several challenges, including the still limited participation of citizens, the perceived distance between the EU institutions and the public, and the different degrees of democratic practices among its Member States, the EU – given the supremacy and direct effect[32] of EU Law, and its action as a catalyst for democracy in the domestic legal systems of the Member States (see Neyer, 2012) – clearly is the most advanced example of *supranational democracy*, in which Member States pool sovereignty in certain areas to pursue shared values and achieve common goals both in their relations within the EU and in the external and

[32] See CJEU, Judgment of 5 February 1963, *van Gend & Loos*, case 26/62, EU:C:1963:1; CJEU, Judgment of 15 July 1964, *Costa v E.N.E.L.*, case 6-64, EU:C:1964:66; CJEU, Judgment of 9 March 1978, *Simmenthal*, case 106/77, EU:C:1978:49. Lastly, see CJEU, Judgment of 26 September 2024, *Energotehnica*, case C-792/22, EU:C:2024:788.

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global projection of the EU's axiological horizon, through EU's foreign policy and investments and trade tools.

On these premises, *glocal* diplomacy can serve as a mechanism to strengthen the EU's democratic legitimacy. By promoting the participation of local and regional actors in supranational decision-making processes and policy realization, transnational and cross-border cooperation between LRAs can address the often-cited democratic deficit within the EU. As previously highlighted, this inclusive approach ensures that policies reflect the diverse needs and interests of EU citizens, thereby fostering a more responsive and accountable system of governance, capable of evading the ever-present *national resistances*, and – at the same time – accompanying the external *propagation* of the EU model and the bottom-up *contamination* of non-European countries with EU values, sensitivities, and objectives. The EU should certainly exploit this great potential by facilitating the creation of platforms for *paradiplomacy* and leveraging the increasingly influential role of LRAs across the globe in steering and integrating global initiatives, for example by expanding the coordination support and the technical and financial means provided through the *Team Europe* and *Global Europe* frameworks.

In light of the documentary and empirical evidence collected and the logical-deductive arguments proposed in this analytical work, it is therefore increasingly evident that LRAs can play a central role in international efforts for world peace and security. LRAs and other local actors often have a deeper understanding of the root causes of instability and conflicts in their regions. This grassroots approach can complement *traditional* state-centric diplomacy and foster more equitable, durable, and locally calibrated solutions. *Glocal* diplomacy makes the most of this knowledge in conflict resolution and peace-building efforts, considering that LRAs have a greater comprehension of local culture and are better equipped to involve stakeholders and local people in their actions and policies. LRAs, in fact, are not only executors but also *de facto* co-authors of global governance paradigms, being active participants in

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the realization of global policies affecting human rights, democracy, and sustainable development in their hybrid substance of both presuppositions and consequences of global peace and security. The *glocal* essence of international documents of historical relevance, such as the *UN 2030 Agenda*, emphasizes the need for continued recognition and effective support of the capacity of LRAs to deal with global issues through *localized* actions. This fundamental acknowledgment will empower LRAs to strengthen their contributions to global goals, ensuring more cohesive, sustainable, peaceful, and secure human communities across the globe.

In this regard, *informal* diplomacy is reshaping the landscape of international relations, offering a dynamic and *localized* approach which is turning global governance into *glocal* governance. As LRAs continue to grow in influence, their role in international affairs will likely expand, necessitating thoughtful integration into the *traditional* frameworks of diplomacy. This evolution would not only improve the capacity of LRAs to tackle global challenges, but would also enrich the entire fabric of international relations. By integrating local insights with international expertise, *glocal* diplomacy creates more effective and sustainable peace and security processes. Local committees, customary conflict resolution mechanisms, and community dialogues can also be recognized and supported as interlocutors and actors of primary importance within broader international frameworks. Through transnational and cross-border peer collaboration, *paradiplomacy* facilitates the establishment of local institutional structures, practices, and mechanisms in line with international human rights standards as a cornerstone of world peace and security. Local NGOs, community representatives, and legal practitioners can also work with LRAs and international bodies to ensure that local judicial and administrative systems are accessible and equitable, consistent with SDG 16. Moreover, security is not only about the absence of threats and conflicts but also about the resilience of communities to resist and recover from crises and emergencies. *LRA diplomacy* can enable the creation of resilient communities by facilitating horizontal *glocal* partnerships that

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enhance economic stability, disaster preparedness, and social inclusion and cohesion.

Therefore, *glocal* diplomacy is a catalyst for peace and security in the world (see Wolff, Ross and Wee, 2020). By integrating LRAs and other local actors into the actual dynamics of the global diplomatic framework, it ensures that peace and security initiatives are inclusive, fair, sustainable, contextually relevant, and thus effective and durable. *Glocal* collaboration between local and global bodies not only bridges the gap between different levels of governance but also enriches the overall efforts towards the outcome of a truly and lastly peaceful and secure world. As humanity faces complex and interconnected threats, definitively integrating this transformative approach into the fabric of *supranational democracy* offers a promising path to a better future of peace and security for all. As underlined above, by fostering inclusive and participatory governance *glocal* diplomacy can contribute to the development of international norms that really reflect the collective will of diverse communities.

This bottom-up attitude – or, at least, "from the middle" (Román, 2010) – to international norm-making can enhance the legitimacy and acceptance of international law (see Swiney, 2020). By building networks of cooperation between local and global actors, *glocal* diplomacy encourages a common sense of responsibility and solidarity, leading to sustainable and effective solutions to transnational issues and strengthening solidarity in the structure of the international community. Furthermore, the central roles played by local politicians (see Setzer and Anderton, 2019), CSOs, citizens assemblies, journalists, and academia – together with the challenge of opening international organizations to their participation (see Cromm and Volk, 2024) – cannot be underestimated for the coherent pursuit of SDG 16 and in the perspective of the broader realization of the *UN 2030 Agenda*.[33] As has been

[33] Lastly, see UNGA Resolution 79/1 of 22 September 2024, *The Pact for the Future*, Annex II, *Declaration on Future Generations*, Actions, paragraph 29. Moreover, see UNSG, Report Our Common Agenda (A/75/982), 5 August 2021, *V. Purposes and principles: adapting the United Nations to a new era*, paragraph 109; UNGA Resolution 79/1, *The Pact for the Future*,

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widely detailed, *glocal* diplomacy can effectively connect all multi-level actors helping to *overcome* many of the bureaucratic mechanisms and systemic interferences that may persist at the national level by fostering *glocal* learning and collaboration for stronger democracy, sustainability, stability, and resilience, thus facilitating the affirmation of *inclusive informal multilateralism* as the *glocal* soul of the "explosion of spaces" (see Brenner, 2004, quoting Lefebvre, 1979).

Despite its merits, *glocal* diplomacy still faces several challenges. While it offers opportunities for fostering international cooperation and addressing local issues with global implications, it also suffers several limitations and problems, raising fundamental questions about coordination, legitimacy, and resource allocation. There is indeed a potential for conflict with national foreign policies, particularly when LRAs' initiatives do not align with national interests, which can sometimes restrict the autonomy of local governments on the international stage (see Herrschel and Newman, 2017, 23 ff). Moreover, the disparity in resources and expertise among LRAs can lead to structural inequalities in engagement, bargaining power, visibility, and benefits as well as to unequal participation and influence, with wealthier areas dominating the general agenda (Leffel, Derudder, Acuto and van der Heijden, 2023; Leffel and Acuto, 2018).

The proliferation of actors in global governance and the lack of a comprehensive legal framework for *paradiplomacy* can also lead to various inefficiencies, excessive fragmentation, and incoherence in policy-making. Especially in the extra-EU application of these practices – outside the paradigm of legitimacy provided by EU Treaties for the action of EU LRAs within the EU as well as on the global scene – LRAs can suffer from the lack of sovereign status under international law, which limits their ability to enter into binding agreements and affects the formal recognition and enforceability of those agreements. To optimize the benefits of *glocal* efforts, it is therefore

Annex I, *Global Digital Compact*, Objective 1, paragraph 17(f), in broad implementation of SDG 17.

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decisive to set clearer legal guidelines and support structures at both national and international levels. It is essential to create frameworks that facilitate *informal* diplomacy while preserving alignment with national foreign policies. Additionally, international organizations such as the UN could play a more active role in integrating LRAs into *formal* diplomatic processes, officially recognizing their importance in dealing with global challenges (see Acuto, Kosovac, Pejic and Jones, 2021).

Once again, this may raise pertinent questions regarding the *traditional* concept of diplomacy as an exclusive attribute of nation-States, as well as about the rationale behind LRAs' commitment in peace-building endeavours, their real capacity to undertake such initiatives, or the geographical and thematic scope of their involvement (see Miyazaki, 2021). However, the concept of *glocal* diplomacy highlights the global contributions of LRAs to conflict prevention, peace-building, and post-conflict reconstruction – both within and outside conflict-affected areas – acting as interlocutors of the institutional bodies of the international organizations to which their countries have adhered, as well as catalysts for the full implementation of international obligations undertaken by States and full respect for the supreme commitment to guarantee peace and security for all the peoples of the world, enshrined in the *UN Charter*.

Therefore, the *glocal* diplomacy of LRAs emerges as a foundation of the evolutive concept of *glocal law* – borrowed from the contemporary image of the law constructed on the theoretical basis of *critical legal pluralism* – in which all *informal* instruments of *global law* (*i.e.*, covenants, strategies, synergies, practices, etc.) activated at transnational level by LRAs for shared responsiveness and accountability on global issues and recognition of cultural diversity collaterally to international law created by States (see Jurkovich, 2020; Kleinhans and Macdonald, 1997; Martins Casagrande, 2009; Swiney, 2020) converge towards a hybrid form of *soft customary law* that calls for compliance with existing international values, objectives and obligations, but which is also capable of transforming into *hard customary law* once nation-

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States decide to follow the example of their *virtuous* territorial articulations with regard to the challenges that will mark the future of humanity.[34] And this not only by fulfilling their already binding duties under international treaty law – as also prompted through the *soft power* of their LRAs – but even by fully embracing, in their constant practice (*diuturnitas*), the inherent legality and necessity (*opinio iuris ac necessitatis*) of the *glocal* essence pervading acts of historical and vital importance such as the *UN 2030 Agenda*.

As globalization continues to shape institutions and societies, the integration of *glocal* diplomatic practices into supranational governance structures will consequently be crucial to building a more inclusive, fair, democratic, participatory, and collaborative global order. This innovative scenario emerges as the global projection and the growing acceptance of *glocal* actions and approaches define new horizons of transnational cooperation between LRAs, which could lay the foundations for a genuine democratic *regime change* in the current model of global governance. As we move forward in this complex world, it will be of the utmost importance to continue to explore and refine the mechanisms through which LRAs can actively and legitimately contribute to global affairs, ensuring that their growing involvement in the multi-layered governance of the *global neighbourhood* is effective, equitable and accountable.

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[34] In this regard, see UNGA Resolution 79/1 of 22 September 2024, *The Pact for the Future*, Annex II, *Declaration on Future Generations*, Actions, paragraph 28.

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ATHENA

CRITICAL INQUIRIES IN LAW, PHILOSOPHY AND GLOBALIZATION

Wartime Enlargement: How the War in Ukraine Transforms the Development of EU

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ABSTRACT

The war in Ukraine has profoundly transformed the European Union's enlargement policies, signalling a shift from economic-driven integration to a geopolitically motivated approach. Ukraine's pursuit of EU membership during wartime highlights the interplay between strategic security imperatives and the longstanding principle of conditionality. This process not only reflects the EU's adaptability to external pressures but also tests its ability to balance integration with the preservation of internal cohesion. The study explores how the conflict has acted as a catalyst for unprecedented consolidation among EU Member States, fostering unity on foreign policy while exposing institutional limits. The unique challenges of wartime accession underscore the need for new governance models and innovative strategies to maintain the EU's normative and regulatory influence. As Ukraine's integration unfolds, the findings illuminate broader implications for the EU's transformative potential amidst shifting geopolitical landscapes.

Keywords: European integration, EU enlargement, Ukraine accession, European security, EU institutional reform, EU strategic autonomy

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1. Introduction

Since gaining independence in 1991, Ukraine has undergone numerous political, economic, and social transitions that, despite various challenges, have brought the country closer to the European Union (EU). The ongoing Russian invasion has not only intensified Ukraine's resolve but has also led to renewed commitments from both Ukrainian leadership and EU officials to strengthen Ukraine's association with the EU, offering a clear "European perspective" and laying the groundwork for European Integration of Ukraine which is likely to trigger another major expansion.

But compared to the Eastern enlargements of 2004 and 2007, the EU now faces entirely different internal political conditions in potential accession countries and has undergone significant changes itself (Anghel and Džankić, 2023). These altered accession conditions directly impact the EU's enlargement policy, as the previously consistently proven political frameworks no longer efficient and applicable in the wake of Russia's aggressive war. Even the recent discussions on "staged accession" (Emerson and Blockmans, 2022) appear outdated due to the geopolitical pressures demanding an accelerated accession for Ukraine (Börzel, 2023; Schimmelfennig, 2023). Thus, the EU's Eastern enlargement during wartime signifies a "geopolitical enlargement" (Osipchuk and Raik, 2023), where the EU plays a central role in reorganizing European security (Anghel and Džankić, 2023; Helwig, 2023; Scicluna and Auer, 2023). The EU's enlargement policy has now primarily become a policy of geopolitical adjustment, with Ukraine's EU accession process turning into a geostrategic litmus test for the EU.

Another consequence of the changed security policy landscape is that national and European directive bodies are now called upon to radically rethink the EU's Eastern enlargement strategy in light of Russia's aggressive war against Ukraine and to reorganize the European security architecture.

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Similarly, academic study of relevant security and integration policy issues faces significant challenges in explaining these developments. The EU's principle of strict conditionality clashes with the political reality of a politicized EU, which had already manifested before the full-scale invasion through both internal and external contestation of the EU's norms and rules (Bélanger and Schimmelfennig, 2021; Johansson-Nogués et al., 2020). Russia's war against Ukraine has intensified the challenge for all participants in the process, leading to Ukraine's demands for rapid EU accession encountering resistance from member states (Gawrich and Wydra, 2024).

Therefore, the EU faces the task of developing enlargement tools that ensure maximum legitimacy for Ukraine's accession to the EU from all sides. Russia's aggressive war presents the EU with unprecedented challenges that ontologically threaten its stability, security, and international authority (Della Sala, 2018; Kinnvall, Manners and Mitzen, 2018; Mitzen, 2017).

To address these issues, the EU must develop new methods of enlargement and generate new knowledge, which it will formalize after achieving success. Meanwhile, it must test emerging and anticipated disagreements regarding the EU's norms catalogue during accession negotiations and provide special platforms to address contentious sections of the negotiations.

It is also worth noting that the EU's Eastern enlargement policy and Ukraine's accession process are taking place not only during wartime but also under drastically changed and highly politicized conditions within the EU and its neighbourhood (Bélanger and Schimmelfennig, 2021; Gawrich and Wydra, 2024; Börzel and Risse, 2018; Zeitlin et al., 2019). This is compounded by the fact that potential EU enlargement to ten new members will confront the EU that is not only fatigued by enlargement but also in urgent need of reforms (Börzel, 2023). The prospects and conditions of its membership do not inspire constant confidence due to its own rule of law crisis and do not meet the same readiness for domestic political reforms in all accession candidates: while Ukraine views both its resistance to Russia and its EU accession process as an embodiment of its aspiration for democracy

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and liberalism, some governments in the Western Balkans are turning away from the EU—and towards Russia and China (Börzel, 2023; Vachudova, 2019). Along with the geostrategic imperative of enlargement, these unequal starting conditions call into question the "external incentives model" (Schimmelfennig and Sedelmeier, 2004; Vachudova, 2005; see also Schimmelfennig and Sedelmeier, 2019) with its focus on conditionality and require not only a new enlargement methodology (Emerson and Blockmans, 2022; Schimmelfennig, 2023) but also new governance models that can theoretically represent the EU's enlargement policy in light of the changed European security architecture.

Analyzing Ukraine's EU accession process thus becomes crucial not only for understanding the specific challenges and opportunities it presents but also for developing new frameworks for EU enlargement policy that can adapt to the rapidly evolving geopolitical realities of Europe.

2. Crisis or Transformation?

The last half-decade has been more than rich in overlapping crises for the European Union. The crises occurred in different areas, and it is difficult to say which one was more powerful and had a greater impact on the EU. The migration crisis, which has become a significant economic and social challenge for many member-states and has obfuscated relations between them, forcing countries sometimes to even depart from the Schengen Agreement by establishing control at the borders of national states. The crisis of the rule of law associated with several legal reforms in Hungary and Poland, which jeopardized the fundamental values of the European Union – the rule of law and democratic governance. Brexit, which forced the United Kingdom to leave the Union after almost 50 years of membership and shook the unity of the Community. Or COVID-19, which has become an unprecedented challenge to healthcare systems around the world.

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But in fact, despite the problems and miscalculations associated with responding to multifaceted crises, the final decisions and transformations of the pan-European toolkit as a response allow some scholars to even conclude that crises are the indispensable basis for every transformational step on the path of the EU's institutional development, and only during crises does political decision-making in member states become receptive to further EU integration (Radović, 2022).

Leaving aside the certainly interesting hypothesis, we cannot but agree that the flow of crises has indeed significantly transformed the EU, and that transformation is not yet complete, because the war in Ukraine has become the most serious challenge for the European Union.

The discussion about the transformative powers of the European Union has been and is, in particular, a discussion about the peculiarities of the development and transformation of the EU itself, as a largely unique political construct of our time. Burgess considers the EU and its development to be a unique experiment, comparable to the birth of the United States of America 250 years ago. Attempts to categorize the EU in the straitjacket of the federation-confederation dichotomy do not reflect the fact that it is a new invention (Burgess, 2000, 266), a unique experiment:

> The EU represents something distinctly new in the world of both inter-state and intrastate relations. It is not yet a union of individuals in a body politic, but it is more than a confederation understood in the classical sense. It exists, then, in a kind of conceptual limbo, in a twilight zone where the firm boundaries that once defined it have been gradually eroded, reducing many of its distinct features to a blurred and indistinct union which has no name. The nature of its origins and development have combined to shape a peculiar, unique form the like of which we have never seen before. (Burgess, 2000, 40-41).

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After Russia's invasion of Ukraine on February 24, 2022, this experiment entered a critical phase. Since Putin's aggression, EU member states have made serious efforts to counter it without engaging in active warfare. Contrary to all expectations, they have managed to create a system of economic sanctions against Russia and some of its prominent citizens, as well as a dynamic package of humanitarian and military instruments to help Ukraine defend itself. This situation is likely to have some important consequences for the development of EU itself.

3. The Logic of Transformation

In the formative years of European Studies as a discipline, most political scientists studying European integration viewed the EU as a form of international organization. A dominant perspective explained the puzzle of deep and extensive EU cooperation as a product of the economic interests of the participating states and their relative bargaining power in EU negotiations (Hoffmann & Keohane, 1991; Moravcsik, 1998). Another group of scholars emphasized the development of a governance regime with truly supranational characteristics, but they also remained conceptually rooted mostly in intra-state relations (Burley & Mattli, 1993; Haas, 1964). Since the EU did not possess essential elements of statehood, it could not, in their view, be fruitfully studied using state-building approaches. Instead, scholars in this tradition developed a new conceptual vocabulary built around concepts such as "multi-level governance" or various forms of supranational institutionalization (Hooghe & Marks, 2001; Sandholtz & Stone Sweet, 1998). Most researchers, with a few exceptions, do not place the EU in a comparative historical perspective of state formation, but instead tend to view it as a special case of supranational political integration.

However, some researchers have directly compared the development of the EU to historical processes of state formation or state building, without, of

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course, assuming that the EU will or should become a state (Bartolini, 2005; Börner & Eigmüller, 2015; Mérand, 2008).

Positioning the EU in this way allows us to assess the transformative potential of the EU also in terms of the so-called "bellicist" logic that has stimulated the emergence of new states in the past: the logic of collective security associated with war, external threats and challenges. This logic is especially relevant at the current stage of European Union development.

Theorists of state formation and comparative political development have demonstrated the historical significance of war and security threats in promoting the transformation of political forms around the world (Centeno, 2002; Ertman, 1997; Herbst, 1990; Porter, 1994; Taylor & Botea, 2008).
This literature emphasizes that the functional demands of war, including revenue extraction, payments, and logistical complexity, created strong incentives for elites to centralize administrative authority and move from personalized, traditional forms of politics to bureaucratized and impersonal ones (Hintze, 1975; Porter, 1994). Also of great political importance was the perception of a security threat, which was often used to overcome the objections of community groups and local authorities to the transfer of power to the center.

In their view, the EU's institutional development is highly unbalanced: it has great legal power over European citizens and businesses through a powerful judiciary and a voluminous body of law (*acquis communautaire*), and it projects that legal influence internationally as the world's leading regulatory force (Bradford, 2020). However, the EU's powerful legal and regulatory powers stand in stark contrast to its minimal independent capacity, weak administrative apparatus, and virtually nonexistent enforcement power.

The incompleteness of the EU institutions has recently given rise to several major political crises with serious economic and humanitarian consequences. The tragedies surrounding the European refugee crisis were also partly due to the uneven development of the EU migration and asylum regime, which created an extensive legal framework for migration and asylum without

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providing the EU authorities with meaningful centralized enforcement capacities.

Of course, the state-building analysis in the classical sense is not fully applicable to the EU, as it is not a state in the traditional sense as Weber characterized it. Moreover, the vast majority of EU citizens and leaders do not want it to be such. However, speaking from the perspective of state-building, the researchers do not mean or assume that the EU will ever completely overcome the national sovereignty of its members. The EU does not have to be a Weberian state or be doomed to become one for the state-building perspective to be a powerful tool to understand the EU's characteristic unbalanced development model and its transformative potential for the future (Kathleen and McNamara, 2022).

From this perspective, the EU is an innovative and coherent form of political organization that exercises significant political power over the citizens of its member states in several policy areas (McNamara, 2015). The EU has also been empowered to act externally on behalf of its members as a unite foreign policy actor in several diplomatic arenas (Hill & Smith, 2011; McNamara, 2015, p. 135-160).

The historical experience of the European Union's development illustrates the dominance of the market construction logic over the logic of security. Modern EU certainly has its origins in the market construction project. The Treaty of Rome, which established the European Economic Community in 1957, the progenitor of the modern EU, was primarily aimed at creating a single European market that would guarantee the free movement of goods, capital, services and labour. The Single European Act of 1985, which sought to eliminate all barriers to trade within the EU by 1992, was an important milestone in achieving this goal and a critical moment in the delegation of EU powers by member states. Private commercial interests themselves actively promoted the European single market, and European political elites saw the benefits of consolidating European markets (Cowles, 2012).

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However, European political actors also strategically used the market framework as a powerful ideological resource to overcome resistance to centralization of power.

It was the desire to avoid renewed hostilities between the great powers in the post-World War II period that was the most important initial motivation for European integration, as expressed in the creation of the European Coal and Steel Community (ECSC) in 1952 and the signing of the Treaty of Rome in 1957 (Dinan, 1994; Trachtenberg, 1999). Similarly, the further deepening of the EU project over the following decades was widely understood as an attempt to solve the "German problem" by binding Germany to its former enemies through a set of deeply intertwined governance institutions.

In addition, the subsequent enlargements of the EU contained an equally powerful geopolitical component and had a significant geopolitical impetus for both the states that became new members of the European Union and the old EU "backbone".

For example, it is obvious that the fourth enlargement was not possible for a long time solely for geopolitical reasons – the influence of the Soviet Union, the existence of East Germany, etc. The actual change in the foreign policy situation inspired the very rapid accession of Austria, Sweden, and Finland.

Moreover, the accession of the above countries to the EU made it possible to include the Baltic States and Slovenia in the enlargement agenda and in many ways determined the great enlargement of 2004.

Thus, of course, being driven by economic and market interests, the logic of enlargement has always contained a geopolitical component, which, in turn, has been a trigger for the transformation of not only the territories adjacent to the EU, but also the structure of the European Union itself.

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4. Wartime Paradigm

In the context of the transformation of the European Union, there are several key issues that should be addressed after Russia's attack on Ukraine in February 2022.

First, an important question concerns whether the war in Ukraine has changed European foreign and security policy, whether the EU has managed to adapt to the new geopolitical reality? Was its activity enhanced or limited by the confrontation with Russia?

In fact, since the outbreak of the war, the EU has taken unprecedented steps to use its collective weight to punish Russia for its aggression. These include financial sanctions,[1] the exclusion of some Russian banks from the SWIFT international payment system, the imposition of a no-fly zone over the EU for all Russian aircrafts, a ban on Russian media broadcasting in the EU, and finally, the financing of arms shipments and the sending of fighter jets from the member-states for use by Ukraine.[2] The EU has never done anything like this before.

It may well be noted here that Russian aggression has consolidated the European Union in a rapid and unprecedented way. As Cross and Karolewski (2021) point out, the EU has been a largely reactive state, but as a result of Russian aggression in Eastern Europe, it is becoming increasingly proactive (Cross and Karolewski, 2021). The EU's activity and power are strengthened rather than restrained by Russia's actions.

Another important issue is whether the European Union has retained its transformative power. The EU's enlargements to the South in the 1980s and to the East in the 2000s were undoubtedly success stories, despite nuances in consequences and setbacks in some countries. However, the delay in the accession of the Western Balkans and Turkey once again underscores the

[1]https://www.consilium.europa.eu/en/policies/sanctions/restrictive-measures-against-russia-over-ukraine/.
[2] https://www.euronews.com/my-europe/2022/03/02/these-are-the-7-russian-banks-banned-from-swift-and-the-two-exempted.

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importance of a credible membership perspective to pay off the costs of internal reforms. Pro-Russian factions and rent-seeking governments are gaining strength in areas where the EU fails to deliver on its membership commitments. In the case of Ukraine, the unique case of enlargement during wartime also matters.

Certainly, the EU's ability to bring about change relies heavily on the credible prospect of membership provided by a community of democracies within the security domain, serving as an effective means to reinforce liberal democracy from an external standpoint. The conditions for EU accession empower coalitions advocating for liberal reforms against conservative nationalists and authoritarian populists. Additionally, these conditions create compelling incentives for governments driven by self-interest and a desire for power to implement challenging reforms aimed at enhancing democracy and good governance (Schimmelfennig and Sedelmeier, 2004; Vachudova, 2005).

Undoubtedly, candidate status, along with sanctions and weapons, has become a powerful political signal that the West supports Ukraine in its fight against Putin's aggression and that Europeans are ready to contribute to preserving the liberal international order. However, providing security guarantees to future member states in Eastern Europe will require the EU to develop strategic autonomy in defence policy. So far, EU governments are only willing "to contribute, together with partners, to future security commitments to Ukraine, which will help Ukraine defend itself in the long term, deter acts of aggression and resist destabilisation efforts" (European Council, 2023). This marks the first instance in which EU member states have made security commitments to a third nation. However, a security obligation that requires collaboration with other nations differs from a security guarantee provided solely by the EU. Even if such a guarantee were offered, it would not be credible, given that the EU currently does not possess independent military capabilities.

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In this context, the study of the EU's external subjectivity is particularly interesting. In other words, how the EU is perceived and reacted to by external actors as an agent of foreign policy. Particularly interesting in our context is the analysis of the perception of EU foreign policy by the Ukrainian side. Natalia Chaban and Ole Elgström in the book "The Ukrainian Crisis and the EU's Roles in Foreign Policy" use role theory and perception research to study EU foreign policy and EU-Ukraine relations.

Four roles of the EU in politics have been identified in the Ukrainian crisis: the EU as a global and regional leader; the EU as a bilateral partner; the EU as a mediator; and the EU as an actor in public diplomacy. While EU policy makers' own perceptions of effectiveness and efficiency are generally positive, an analysis of the perceptions of the Ukrainian elite shows a different picture. The EU is seen as a significant force in the economic and regulatory sphere, but as an ineffective mediator, weak in public diplomacy, and non-existent in the security sphere (Chaban & Elgström, 2021). Without going beyond the scope of our article, we would venture to assume that similar perceptions can be established by analyzing the attitudes of political elites in other European countries as well.

One of the main reasons for this perception is the striking asymmetry between the economic and geopolitical power of the European Union. The EU is the third largest economy in the world, but it does not consider itself – and is not considered by others – one of the world's leading political and military powers.

After the failure of the European Defence Community Treaty of 1954 and West Germany's accession to NATO in 1955, US-led NATO became the dominant collective security organization for the emerging political Union of Europe, and this relieved pressure on the EU to assume this role as it developed (Howorth and Keeler, 2004). Even when the EU later established a Common Foreign and Security Policy and a European Security and Defence Policy, the development of the Union as a security actor has always lagged far behind its development as an economic and legal state. Although it is

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impossible to determine now what security policy of the EU would have been like without the support of the United States and NATO, it is clear that, since NATO met the EU's collective security needs, the EU had far fewer incentives to develop coercive capabilities than in most historical state formation processes (Menon, 2017; Wallander, 2000).

While Europe may face the urgent need to develop its own military and defence capabilities already after the next U.S. presidential election, however, the prospects for such a development remain unclear.

But, while it can be agreed that neither the COVID-19 crisis nor the war in Ukraine has created a situation in which member states are willing to supplement the EU's regulatory powers with "core state powers" (Genschel and Jachtenfuchs, 2014), such as independent fiscal revenues, a significant bureaucratic apparatus, and external security forces. The war in Ukraine has pushed the EU towards greater unity and intergovernmental cooperation rather than supranational centralization in the realm of security and defence (Genschel, 2022).

At the same time, the war in Ukraine demonstrates that the EU is indeed capable of acting as a cohesive entity when unanimity is achieved (Kelemen and McNamara, 2022). Never before has the EU been so united on issues of foreign policy and security. The author believes that the current security pressures will finally encourage member states to enhance the EU's fiscal and coercive power, bringing it closer to the vision of a United States of Europe.

While some historical quasi state-building projects, like the EU, were initially oriented toward market development and the rule of law, those that successfully consolidated into strong states eventually gained ultimate power over the coercive apparatus associated with the Weberian state. The EU has come a long way on the path of institutional development by focusing on building a rule-of-law state, but it is unclear whether it can maintain this path without a fuller set of state powers.

This applies equally to pandemics and migration crises and is certainly relevant to the EU's political and military role in the world. In 2021, Bruno

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Maçaes argued that the EU was facing a choice: either it will become an actor in geopolitics, or it will disappear: "A larger crisis would force the EU either to finally take a decisive step toward a more perfect union, or to enter a state of terminal decline." (Maçaes, 2021, 154-155).

Thus, the full-scale war in Ukraine has become the greatest challenge for the European Union, while simultaneously acting as a catalyst for changes whose scale we have yet to fully comprehend. Despite average rates of deepening integration overall, the EU is demonstrating unprecedented consolidation among member states, particularly on foreign policy issues. This, in our view, creates significant conditions for further strengthening the institutions of the European Union.

5. Will Enlargement be the Answer?

A separate question arises as to whether the enlargement of the EU constitutes a logical and effective response to the destruction of Europe's security architecture by Russia.

The concept of integration capacity relates to the risks of enlargement that could undermine the integrity of the single market, the functioning of EU institutions, and public support for the accession of new member states. Börzel, Dimitrova, and Schimmelfennig (2017, 160), referring to it as the fourth Copenhagen criterion, define integration capacity as "the ability of the EU to expand its membership successfully, i.e., to turn non-member states into member states while maintaining the cohesion and functioning of the EU". According to this definition, integration potential has both external and internal dimensions. The external aspect involves transforming non-EU countries into member states, emphasizing the EU's capacity to closely associate these states and prepare them for membership. The internal aspect pertains to maintaining the cohesion and functioning of the EU, which means the EU's ability to prepare for enlargement.

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The accession of up to ten new members raises questions about both the external and internal integration potential of the EU. The apprehensions mirror those raised during the significant Eastern enlargement of 2004 and 2007. The nations in question are relatively underdeveloped and have faced challenges in progressing towards a democratic market economy, largely attributed to widespread corruption.

Meanwhile, the extensive enlargement of the EU in the mid-2000s did not systematically negatively impact neither the legislative capacity of the EU nor its legal system. In fact, the pace of decision-making accelerated, resulting in the adoption of more legislation, not fewer laws (Toshkov, 2017). The accession of 12 new member states did not negatively impact the adherence to and enforcement of EU regulations. (Börzel, 2021); it also did not result in a broader use of soft law and differentiated integration in the long term (Schimmelfennig and Winzen, 2017). Also, the European Union's economic integration capabilities have proven to be remarkably effective. Pre-accession assistance initiatives played a crucial role in averting economic collapse following the end of communism. The synergy of opening markets, transferring regulations, and providing substantial economic support facilitated the transition for Eastern European candidates, easing the challenges associated with joining the EU market and helping to narrow the economic disparities between older and newer member states. (Bruszt and Langbein, 2017).

Undoubtedly, it can be agreed that concerns about enlargement and associated migration have become fodder for Eurosceptic parties and movements across Europe (Toshkov and Kortenska, 2015; Dimitrova and Kortenska, 2016). Following the EU's enlargement in 2004, there was a trend toward declining public support for future EU enlargements (Toshkov et al., 2014; Dimitrova and Kortenska, 2017). Previously, a public majority opposed the accession of new members. However, the situation changed following Russia's aggressive war against Ukraine. In the spring of 2023, 53% of EU citizens supported EU enlargement. While it remains unclear how sustainable

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this public support for future enlargement will be, it can already be said that we are witnessing the most favourable moment for enlargement since the mid-2000s.

6. Conclusions and Observations

Thus, if we consider the transformations of the European Union in the paradigm of state development, then at the moment there are clearly "bellicose" preconditions and incentives for strengthening and consolidating the central government.

Russian invasion of Ukraine poses a clear and present danger to the collective security of the EU member states. Moreover, Putin's authoritarian regime, which is launching an unprovoked attack on a peaceful democracy, represents exactly the kind of common enemy that can help sharpen Europeans' sense of shared identity.

Without attempting to predict the future in such an uncertain and dynamically changing situation, we can emphasize a number of consequences of the war in Ukraine that are already present and may contribute to the transformation of the EU in the direction of the trends outlined in the previous paragraphs.

1) The mostly consolidated position of the member-states on most foreign policy issues (apart from Hungary, whose case should obviously be considered as part of a different discourse - the crisis of the rule of law in the EU member-states). But even the Hungarian government, a big supporter of Putin regime, backed collective sanctions, emphasizing that EU unity is paramount. In a very near past, researchers seriously feared that the growing economic and ideological differences between member states could weaken the communal institutions (the Commission, the European Parliament). At this stage, the opposite trends are more likely to be observed.

2) The willingness of member states to support the powers of supranational bodies as never before. Moreover, outside the context of the

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Ukrainian war, the powerful and intersecting crises that have hit the EU in recent years (the migration crisis, the COVID-19 pandemic, etc.) have demonstrated that the main reaction and organizational conclusions of European leaders were not to weaken central government, but to transfer even more powers to the EU in various policy areas.

3) The Franco-German core and traditionally more pro-Atlantic countries demonstrate nearly unanimity in foreign policy goals. The locomotives of the United Europe, Germany and France, were more or less immersed in their own national projects of European security before the war in Ukraine. France was nurturing the idea of European strategic autonomy, traditionally aimed at revising roles in transatlantic relations, including building its own security structure. Germany has taken a more moderate position, emphasizing that "Europeans will not be able to replace America as a key security provider".[3] However, in recent years, the French idea of strategic autonomy has enjoyed support not only from Paris but also from Berlin. Moreover, in many respects, it has gained more and more interest throughout Europe and has been related not only strictly to military security, but also, for example, to energy security. This concept caused some tension, leading to a split between those member states, especially France, who believed that Europe was ready to become strategically independent of America, and those countries, especially in the East of the EU, who believed that Europe was not ready. That is why the reaction of France and Germany to Russia's military aggression was so important and was in fact a test of confidence in the Franco-German leadership in the European Union.

Germany has increased its own defence capabilities by creating a special fund for the armed forces (*Bundeswehr*) and allocating a one-time 100 billion Euros to be used in 2022 for necessary investments in military defence

[3] H.J. von der Burchard, *German defense minister expresses surprise over Macron criticism*, Politico, 24 November 2020, https://www.politico.eu/article/annegret-kramp-karrenbauer-defense-ger- many-nato-macron-alliance/.

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projects.[4] While Germany will spend more than 2% of its GDP on security issues, EU member states that abstained from joining NATO, such as Finland and Sweden, have taken a tougher stance and applied to the Alliance.

4) Weakening of Euroscepticism. At first glance, this point seems controversial. Certainly, in the last decade, the EU political arena, and especially the political systems of its member states, have largely witnessed the rise of populism, including those based on Euroscepticism. But at the same time, even before the war, the 2019 European Parliament elections showed the limits of these forces' influence. At the European level, all Eurosceptic groups, including those in mainstream parties, won about 30% of the seats in the European Parliament.[5] At the same time, the overwhelming majority of them are soft Eurosceptics who do not seek to destroy the EU, but only to return to the national level some of the previously communitarized powers. This means that 70% of the European political elite support the level of integration achieved in the EU, and a significant part of it is in favour of further communitarization of certain policies. Despite the anticipated strengthening of the right-wing positions, the election of 2024 did not dramatically alter the situation.[6] Centrist parties maintained their majority. Thus, despite the apparent "rightward shift", the dominant forces in the European Parliament remain the Christian Democrats and Socialists, with the centre-right European People's Party continuing to be the strongest faction. Moreover, it is important to note that today's Eurosceptics differ from those of 5-7 years ago: they are now working towards a pan-European agenda and the strengthening of the European Union, particularly in enhancing its strategic autonomy.

5) Finally, the case of Ukraine is unique in the sense that it is obvious that Ukraine cannot join the North Atlantic Alliance at this stage, at least not

[4]https://www.bundesregierung.de/breg-en/news/policy-statement-by-olaf-scholz-chancellor-of-the-federal-republic-of-germany-and-member-of-the-german-bundestag-27-february-2022-in-berlin-2008378.
[5] https://www.europarl.europa.eu/election-results-2019/en.
[6] https://results.elections.europa.eu/en/index.html.

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until the end of the war. This situation has forced Ukraine, on the one hand, to look for security guarantees in its potential accession to the EU, and the EU, on the other hand, to think more deeply about its foreign policy capabilities and geopolitical subjectivity. In other words, the war in Ukraine has raised the issue of the EU's defence and security potential with renewed vigour and urgency.

In general, looking at the EU's development from the perspective of state-building (or, more correctly, quasi-state-building) encourages us to expand the time horizon of our academic analysis and see a large-scale, slowly developing logic that we may miss. Observing the EU's ineffective responses to several recent crises, we can conclude that the EU has not made significant progress in developing the institutional capacity necessary to address pressing issues and respond effectively to crises. However, in our opinion, the mirror conclusion would be more correct – that it is the insufficient consolidation of power and centralization of authority that has prevented the EU from providing adequate responses to the challenges of the times. And considering the way the EU's foreign policy has changed in the wake of the war in Ukraine, the trends are changing. This perspective allows us to believe that deep crises within the EU should be seen as an integral part of its development, not as harbingers of its demise.

If the EU continues to develop in this direction, it will likely have to face questions about the limits of its current political foundations. Of course, the war in Ukraine will not immediately transform the European Union into a federation. Such a prospect is debatable and raises reasonable doubts even in the long run. However, in the long-term perspective we cannot ignore the striking centralization of power that took place before the war in Ukraine, even in the absence of the usually critical causal impetus of war.

Consequently, it becomes evident that Russia's military aggression in Ukraine has triggered the consolidation of the European Union to counter the disruption of the geopolitical balance and security architecture in Europe.

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Alongside the remarkable alignment of member states on foreign policy matters, this significant challenge has reintroduced the enlargement paradigm as a strategy to counter the threats facing the security framework in Europe.

However, this new phase of enlargement requires a transformation of the EU's governance mechanisms, particularly given the unprecedented external political challenges at play. As a result, the current foreign policy dilemmas are driving the structural evolution of the European Union, creating the preconditions for deepening the integration and strengthening its governance structures. This, in our view, represents the most fitting response to contemporary foreign policy challenges and a logical progression towards an "ever closer Union".

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