Democracy beyond the Nation State

The 1999 John Stuart Mill Institute Lecture

John Stuart Mill Institute

Democracy beyond the Nation State

Ralf Dahrendorf

Democracy has arguably become a debased word in the language of politics. Not only was it used to label nearly the opposite of its original intent when communist dictatorships called themselves "people's democracies", but more recently the use of the word has been stretched so far as to rob it of all definition. When twenty-three hereditary Liberal Democrat peers elect three from their midst to remain in the "transitional" House of Lords, the winners are described as "democratically elected". It is an unfortunate mistake to confuse elections – all and any elections – with political democracy. On the other hand, when "democracy" is brought to formerly authoritarian parts of the world, the term is

used to imply the whole gamut of modern values – liberty, certainly; equality, which Tocqueville first called, democracy, and more recently, fraternity too; Jürgen Habermas's unconstrained discourse or even Amitai Etzioni's communitarian love world. Democracy becomes a synonym for the good society, and that too is an unfortunate mistake.

In my argument about democracy and the nation-state I want to avoid such mistakes and use, with the help of Karl Popper and John Stuart Mill, clearly defined terminology. The simplest definition of democracy is that by Karl Popper: a constitution which makes it possible to get rid of government without bloodshed. Perhaps this definition is more laconic than simple because its implications are actually quite complex. Popper's one big idea, first

developed in the *Logic of Scientific Discovery* and later applied to the *Open Society*, was that while we are striving for truth and for the good society, we can never know for sure whether we have achieved the end. Nobody can know, however, wise or powerful they may be. It is therefore above all important to make sure that no-one can turn his or her approach into dogma, like the Prolemean view of the world, or the despotism of monarchs and popes who defended it. Galileo's *eppur si muove* – and yet the earth is moving – marks real progress by revealing the fallibility of accepted wisdom. Not only progress but liberty itself depends on the constitutional possibility and occasional reality of falsification, of the replacement of a false theory or a bad government by a better one.

Leaving the theory of knowledge on one side, Popper's notion of democracy has other

corollaries, even implications. Some of these are not all that simple: the existence of a government, which as we move to supranational spaces is by no means a matter of course; a method of enabling people to express their views; and a "constitution of liberty", a set of legitimate – of reasoned and accepted – rules which provide for change without bloodshed. The method of giving expression to popular views – elections or referenda? parliamentary or presidential democracy? what kind of electoral systems? – would justify a lecture in its own right. Popper argued for example that the first-past-the-post system is a necessary concomitant of his notion of democracy, because the fudge of permanent coalitions between the same parties makes changes of government almost as difficult as despotism does. While I sympathise with him on that score as well, I

shall nevertheless not pursue this and many another issue further.

Many of Popper's views are foreshadowed in John Stuart Mill's Considerations on Representative Government of 1861. Here, Mill makes a strong case against the "altogether false ideal" of a "good despotism". The case rests on the need for free citizens to be active if they do not want to lose their freedom. "Leaving things to the Government, like leaving them to Providence, is synonymous with caring nothing about them, and accepting their results, when disagreeable, as visitations of Nature." Given the risk of creeping authoritarianism in our own time, and more particularly a growing apathy among the electorate, it is worth reminding ourselves of Mill's strictures. The answer to despotism is representative democracy which allows change by debate and gives every

citizen a voice. "The ideally best form of government is that in which the sovereignty, or supreme controlling power in the last resort, is vested in the entire aggregate of the community."

Thus, with the help of Mill and of Popper, we can conclude that democracy is about three things: it is about holding governments to account and in the limiting case, removing them from office by peaceful means; it is about regular, institutionally contained public debate and decision-making to achieve this end; it is about involving all citizens of a community in this process. Note that this definition does not prejudge the detail of democratic institutions; it covers Westminster as well as Capitol Hill, the cantons of Switzerland as well as the power centres of successive French Republics. But

the examples themselves underline the one issue which is the theme of this lecture: what exactly do we mean by the community in which sovereignty is vested in the last resort?

To many, the city-state will appear the perfect space for an active and effective democracy. They will think of ancient Athens, of Rome in certain limited periods, of its classical history, of medieval cities in Italy and elsewhere torn between tyranny and democracy, of the Hanseatic towns. In all of them, geographical definition helped; but on inspection all these democracies were in fact democracies of the minority which for the many, the slaves and the serfs, the strangers and the disenfranchised, and of course for women were oligarchies at best, nomenklatura tyrannies in most cases. Still the city state was

clearly a space within which democracy could be practised.

As we move to other, wider spaces however, it soon becomes evident that historically at least democracy has grown up alongside that other modern invention, the nation-state. In some countries, like Germany and Italy, the battle for democracy and nationhood was carried on by the same forces, often described as "national-liberal". It was the great theme of the 19th century, not least of the abortive revolutions of 1848. In the Anglo-American world, nationhood was less of a problem though American democracy remains linked to the end of colonial rule, and even British democracy advanced as the country, Britain, gained national confidence. In our own times, the establishment of democracy was invariably

related to the definition of nation-states, first in Latin America, last in Africa.

It is hard to regard such widespread simultaneity as a mere accident. Let me, instead of a longer argument, return once more to John Stuart Mill and the impressive string of statements he makes in the chapter entitled "Of nationality, as Connected With Representative Government": "Free Institutions are next to impossible in a country made up of different nationalities. Among a people without fellow-feeling, especially if they read and speak different languages, the united public opinion, necessary to the working of representative government, cannot exist. The influences which form opinions and decide political acts are different in the different sections of the country. An altogether different set of leaders have the confidence of one part

of the country and of another. The same books, newspapers, pamphlets, speeches, do not reach them. One section does not know what opinions, or what instigations, are circulating in another. The same incidents, the same acts, the same system of government, affect them in different ways; and each fears more injury to itself from the other nationalities than from the common arbiter, the state. Their mutual antipathies are generally much stronger than jealousy of the government. That any one of them feels aggrieved by the policy of the common ruler is sufficient to determine another to support that policy. Even if all are aggrieved, none feel that they can rely on the others for fidelity in a joint resistance; the strength of none is sufficient to resist alone, and each may reasonably think that it consults its own advantage most by bidding for the favour of the government against the rest."

A description of today's European Union, structural funds, beef war and all? But I must not rush ahead, let alone allow prejudice to get the better of argument. The first important comment on Mill's case is that it was made in 1861. Since then, much has changed. In some places, liberal hopes have been borne out by new experiences. Mill seems to argue for democracy in homogeneous nation-states. Yet one great aspiration of the twentieth century has been to use democracy as a constitutional framework for heterogeneous societies. Different creeds and races, ethnic and cultural communities can live together under democratic conditions. No example is entirely clear-cut, nor is any a model for others. But surely the great achievement of American democracy is the fact that one constitution bound together heterogeneous communities.

In a different way, democracy as an instrument for unity in diversity applies to Switzerland too. At least in the last decades – unless one wants to call the United Kingdom itself a heterogeneous community – Britain has been a democracy of differences. Then there is the largest democracy, India, with its multiplicity of cultures.

However, one cannot allude to such examples without observing that more recently there has been a regrettable reversal to homogeneity. Even in the United States, what Arthur Schlesinger has called, The Disuniting of America, has created a more tenuous democratic diversity. The nation-states which emerged from the collapse of the Soviet Empire have been of the Mill variety rather than of the old American one. Czechoslovakia

split, to say nothing of Russia; and on the Balkans we are now using troops of liberal Western countries to guard homogeneity, Kosovo Albanians against Kosovo Serbs, Muslim Bosnians against Catholic Croat Bosnians. Such homogeneous communities are always at risk to be intolerant within and aggressive without. They are also liable to be taken over by despots, benevolent or otherwise. Democracy in our time does not thrive in homogeneous political communities.

But perhaps it does not thrive at all. And arguably its decline has something to do with the decline of that civilised type of community which John Stuart Mill called, nationality, and which I prefer to call, the nation-state. It has almost become commonplace to speak of the progressive weakening of the nation-state in our time. Now, anything that becomes

commonplace quite rightly raises doubts in critical minds. I am emphatically not of the view that the nation-state has had its day. Crucial areas of policy remain national even if international bodies and conferences like to utter mostly irrelevant views on them. All central concerns of social policy, including taxation, redistribution and the rest, indeed including policies to deal with employment and education, remain basically national. There is no reason to believe that profoundly different approaches to pensions, or to health services, should not continue to exist side by side among neighbouring countries, even countries which share a common currency. Where national policies remain prevalent, traditional representative democracy has not lost its bite.

On the other hand, there are two major areas of government which have increasingly come

to transcend spaces. One is the framework of economic activity. Some parts of this framework have been lodged in international organisations ever since the end of the Second World War. This is true for what is now the World Trade Organisation, but also for the so-called Bretton Woods institutions in the fields of money and aid, to which setting the tone of economic policy by G7 and other mechanisms have been added. Other parts of the framework of economic activity have simply crumbled under the influence of the new productive forces of globalisation. Many financial transactions these days take place without any regulatory framework to speak of. One must doubt whether having a British Minister for e-Commerce will lead to a return of controls at the national level. New spaces of economic action have emerged which are certainly international if not necessarily global.

If nation-states try to come to grips with them, they are more likely to destroy than to promote their opportunities for growth and prosperity.

The other area which has opened up new spaces goes right to the heart of the fundamental functions of government, internal and external security. Again, the post-war period set the tone so far as external security is concerned. Few now invoke issues of sovereignty when it comes to NATO – but who exactly took the decision to conduct the Kosovo war in the way in which it was conducted? And if people did not like this war, which government could they attack, even remove to express their feelings? The NATO Council? Or perhaps the US government, thus confirming the quip that in view of America's power in the rest of the world, the rest of the world should have a vote in American Presidential elections? More recently, internal

security – what in Europe is now called, the Justice and Home Affairs portfolio – has become a subject of joint international action, ranging from the exchange of information to police co-operation and the creation of the new international judicial institutions. Once again, the nature of the issues has left the political space of the nation-state behind. Countries can refuse to join international police agencies but if they do, they pay a price in precisely the security which they want to provide for their citizens.

This then takes us to the heart of the question of this lecture: what happens to democracy when issues and decisions emigrate from the nation-state to political spaces for which we do not have adequate institutions? In the strict terms of our definition, the answer must surely be: democracy loses out. It is hard even to

identify the "governments" responsible for decisions in the fields of economy and security, and impossible to remove them by constitutional means. There is no effective public in which a structured debate about their actions could be carried on. The relevant community of citizens simply does not exist as a community. Thus internationalisation is invariably and it seems, inevitably a loss in democracy. What cannot be done in nation-states, ceases to be accountable to enfranchised citizens operating within the constitution of liberty. Democracy lives and dies with the nation-state.

These are strong and perhaps unduly dogmatic statements. Among all kinds of objections one question is bound to arise in the minds of citizens of the EU: what about the European Union? Is it not, at least potentially

and increasingly in reality, an example of democracy beyond the nation-state. And cannot what is possible in Europe also become real elsewhere, in wider political spaces like those of the Council of Europe with its now 41 members or even the OECD world if not the United Nations itself? Let me leave these larger questions on one side for the moment and say a few words about democracy in Europe.

When the European Economic Community, and the European Coal and Steel Community before it, were designed in the 1950s, their structures were ingenious and perhaps effective but certainly not democratic. Decisions involved two institutions, one representing the European interest and making proposals in the EEC, the Commission; the other – the Council of

Ministers – representing the combined national interests and reaching conclusions. What was then called, the Assembly, a body of delegates of national parliaments, was clearly an afterthought. It was no more powerful than say the North Atlantic Assembly in NATO, or the parliamentary assemblies attached to other international organisations. Except for the Dutch, democracy had simply not been on the agenda of the original members.

It is hard for institutions to lose their original flavour, but clearly there has been change. The Assembly is now called Parliament, and its members are directly elected in the member states. They have with difficulty acquired some so-called co-decision-making powers. At the same time, the Commission has lost much of its original monopoly right to make proposals. Jean Rey in the late 1960s

was the last Commission President to interrupt Council meetings in order to enable the Commission to consider new proposals. Moreover, important developments have taken place outside the institutional structure of the Treaty of Rome. European Monetary Union, the Schengen Agreement and the appointment of "Monsieur PESC" with responsibility for common foreign and security policy are but three examples. Whatever Romano Prodi says, the Commission is no government; its removal actually makes little difference as Europe discovered when a Commission was "sacked" in March but still present at the Cologne Summit in July and indeed still in office in September. The point about the European Union is that governmental functions are diffuse and dispersed. One would not know whom to remove peacefully if one wanted change.

Nor is there a European community of citizens, a demos. Almost none of the criteria listed by John Stuart Mill apply to Europe. Even if there is "fellow-feeling" (which is not always certain), there are very "different languages", there is no "united public opinion", politics in different parts is subject to widely divergent influences, people do not read the same newspapers or hear the same speeches, the same decisions affect them very differently (just think of the withholding tax or the 40-hour-week), competition between members is by no means confined to the location of industries. One or two attempts to invite foreign nationals as European parliamentary candidates have remained token (and with few exceptions unsuccessful) tries. What is more, judging from the recent European elections, there is no sign of the community of active European

citizens growing closer, even before the Union is – as it should be – further enlarged.

Democracy in the full sense of the word is a wonderful, an almost miraculous invention of civilised liberal societies. It has been fought for both by those who insisted on its extension to all citizens and by those who were robbed of its benefits by dictators. It has been defended in wars between countries of liberal and illiberal persuasions. For precisely these reasons, democracy is not a game. Setting up an assembly, calling it parliament and electing its members does not constitute democracy. This is not to say that the so-called European Parliament – or indeed other international "parliamentary" assemblies – are useless. They provide opportunities for informed debate about issues which transcend nation-states, even if they are lacking both a government

and a people. Moreover, they can set up and sustain agencies which promote accountability in other ways than genuine parliamentary democracies do. The European Parliament would never have been effective in its criticism of the Santer Commission had it not been able to rely on reports by the independent Court of Auditors and initiate its own audit subsequently.

This takes me to my central thesis in this lecture: There is no sign of any democracy worth the name beyond the nation-state. At the same time, decisions taken in wider spaces cannot be left suspended in mid-air or in the hands of unaccountable executives. We will succumb to a new despotism of impersonal but nonetheless effective tyrants unless we devise methods of holding international decisions to account. Liberty

requires that at least the principle underlying democratic institutions – accountability in the interest of free citizens – is applied to the new world of global decisions. The question is how this can be done if democracy is not the answer.

Two tentative proposals come to mind in response of this question. The first has to do with the rule of law. Where democracy fails, the rule of law is still available to constrain those in power and bring them to book if they fail to comply with certain agreed rules. This is delicate ground on which I shall tread softly because it leads us deep into the confusions of history. It is often not appreciated that democracy and the rule of law are not the same thing. Though they go together in terms of values like the fight against arbitrary rule, they require separate efforts and institutions.

Prussia had adopted the rule of law long before democracy took a hold in Germany. In the United Stated, democracy was not the problem, but Alexander Hamilton (in his contributions to the Federalist Papers) frequently pointed out the weakness of the law in a world of power. In the new democracies, we – the West – have only too often given the impression that by holding elections to parliaments the rule of law will come about as a matter of course. Today we know that it does not. The problem of Russia is not primarily one of democracy but one of the legitimacy and effectiveness of the law and its institutions.

It has to be said that not only the United States but the United Kingdom – or at any rate, England – have a problem in this regard. In America the law has become a part of the power game, a weapon in personal and public

battles, rather than an independent yardstick of acceptable action. For many, the gun has been replaced by the lawyer if they want to get their way. (Some have retained both and continue to do so.) In England, the sovereignty of parliament embraces the law and its institutions. The separation of powers is regarded as a far-fetched Continental idea, transported to the United States by a French author – Montesquieu – who did not know what he was talking about. The Lord Chancellor sees no problem in sitting as a judge, presiding over one of the houses of parliament, and attending a cabinet meeting on the same day. As a result, the separation of democracy and the law is an alien idea. There is deep suspicion for example of the European Court in Luxembourg. Thus Britain and the US cannot necessarily be counted on when it comes to international legal institutions.

Nevertheless these are one way forward to accountability beyond the nation-state. The tentative establishment of judicial institutions to deal with crimes against humanity and other violations of the UN Charter and other relevant documents is a beginning. It is to be hoped that the treaty setting up an International Criminal Court will be ratified even by the United States. There is also the vexing and important question of rules of the game for international finance. It would be wrong to try and thwart the new productive forces of globalisation but when unchecked individual transaction can threaten the stability of banks, indeed countries, and in the end the livelihood of millions; a modicum of rules and some guardians of rules are needed. Some would argue that a similar need arises where the

degradation of our environment leads to global threats.

The German – dare I say it? the Prussian – philosopher Immanuel Kant was the first to associate the need for law with the desire for peace and world government. The process raises many questions. The key one is: how can laws be binding in the absence of a world parliament which has the power to legislate and a world government which can back up laws by sanctions? Since such institutions are not going to be set up for some considerable time to come, we have to settle for more untidy arrangements. There will have to be international agreements ratified by national parliaments. Not all countries will be part of them, so that the process will remain incomplete. Creating an international judiciary whose independence is both guaranteed and

respected is another matter. (In this regard, judges in the Anglo-Saxon tradition have a good record, for which actually the Commonwealth was an excellent training ground.) But it can be said that we are groping towards elements of the global rule of law and should build on what we have got even if this does not amount to either world government or a global constitution. It is relevant in this connection that the Luxembourg Court is arguably the most important institution of the European Union, at least for those of us who want true accountability rather than games of pseudo-democracy.

Another important European institution has already been mentioned, the Court of Auditors. Auditing is a strange and important process for the purpose of accountability and control, and even of removing those in power. It uses

expertise to check expertise. Auditors are in a sense counter-experts. It is their role not to be taken in by the experts in power, but unless they share this expertise they cannot do their job of control. This is a far cry from the old dream of democracy and the common man, whose common sense is perfectly capable of passing judgement on issues of public concern. John Stuart Mill was much concerned with the need for education in order to make representative democracy work. He realised that only educated common sense would make a community of all citizens go down the democratic road. As we get to issues and decisions beyond the nation state, common sense becomes less and less effective. Controlling global financial transactions can hardly be left to the untutored judgement of all citizens. Thus citizens have to rely on auditors, on tutored controllers,

professional controllers even, with all the ambiguities and temptations of their position.

The remedy leads to the second tentative proposal, the creation of a world public, or more modestly, of transnational publicity as a means of exposing malfeasance. Publication of information is the first crucial requirement. These days it is also one of increasing effectiveness. This is where the internet may turn out to have a "democratic" function: it enables in principle everybody to pick up relevant information, and the probability must be high that among the many there are some who know what to do about it. An organisation like Transparency International makes a point of using such information to fight corruption. The transnational public is unstructured and without institutions to express its views; it is nevertheless real and can affect the prospects

of those in power. Not only newspapers will pick up available information but shareholders, politicians at all levels, members of non-governmental organisations. There are even activist organisations from Greenpeace to G30 which base their happenings on generally available information. What is not kept secret is a part of a diffuse world-wide public space, and keeping things secret becomes increasingly difficult.

There are other elements of a public which extends beyond the nation-state. Think-tanks for example not only influence decision-makers in politics and business but also publish analyses of institutions and processes which enter into public discourse. They are auditors in the wider sense of the concept, policy auditors. (For a while, the notion of "technology assessment" was current for

similar processes, and some parliaments have set up “offices of technology assessment” to compare promises, resources invested, and results.) Clearly, all international bodies, however powerless they may seem, have a role in this connection, whether it is a World Congress of Accountants, a meeting of the Inter-Parliamentary Union, or of PEN, a publication by Human Rights Watch, or whatever of a myriad of activities.

Once again, it would be premature – if not intrinsically absurd – to look for institutions to channel the information available to a global or at any rate transnational public. There is just not going to be one single focal point where the multiplicity of available data is translated into a single decision. Parliamentary democracy will not exist in the European Union, and thus evidently not in wider spaces.

Talking of democratising the United Nations is an abuse of language. Making them more accountable is on the other hand a worthy and necessary objective. To the extent to which we have to say goodbye to the nation-state we will have to say goodbye to democracy also. I have much understanding for those who want to hold on to both and will often be found on their side. But nostalgia in the midst of massive change is a bad source of advice on the future. In important areas changes are taking place to which we have to respond not by defending the indefensible, nor by stretching the language of democracy until it loses all meaning, but by devising and promoting new instruments of a liberal order.

A number of eminent personalities from over sixty countries have recently launched a movement called, Charter 99. They seek to

promote what they call, "A Charter for Global Democracy". I have much sympathy with the intention of this new movement. "We want the decision takers to know that they are answerable to the public in every country which feels the breath of international bodies." I am less impressed by the list of issues to which this appeal is directed and which apart from human rights, peace and justice includes "promoting social progress and better standards of life". The confusion of basic rights and social needs is one of the more unfortunate intellectual fallacies of recent decades. Rights are rights and needs are needs, and by calling needs rights all one achieves is the dilution of language and not the solution of a single problem. A liberal order is one in which rights are defined precisely and narrowly, and social policy is a subject of debate and even division.

Perhaps my main objection to Charter 99 is similarly related to the loose use of language which often betrays imprecise thought. The organisers want all of us to sign the following statement:

"I support the Charter for Global Democracy and call on you to set in motion a rigorous process to hold all agencies of global governance to account and democratise international decision-making according to the principles of accountability, equality, justice, sustainable development and democracy."

Even apart from the more obvious muddles – like democratising according to the principles of democracy – this statement bears all the hallmarks of good intentions badly thought out. Holding all agencies of global governance to account is important. Actually it is not just agencies of global governance but also

decisions of transnational significance taken by private agents which need to be accountable. But democracy is not the answer, not at any rate if the word is to retain any recognisable meaning. What is needed is rules, guardians of rules, and public scrutiny. We are living in a new and unfamiliar world. We therefore need to look at new and unfamiliar ways of making sure that this remains a world of liberty. National democracy is but one element in the complex picture. The real task of the future is to devise methods for achieving the purposes which democracy served in the nation-state on a wider canvas. The global rule of law and elements of a global public are the first steps in this direction.

John Stuart Mill Institute

The John Stuart Mill institute was founded in 1992 to stimulate debate on issues of public concern. Inspired by the philosopher economist and social reformer, John Stuart Mill (1806-73), the institute stands for the freedom of the individual, supports responsible democratic participation and seeks to develop a coherent tradition of thought on political, economic and social issues relevant to the 1990s and beyond.

Working at the point where academic research, serious journalism and policy formulation meet, the institute is independent of any political party. It seeks, however to apply the values of liberty and participation to present-day problems and to suggest policy positions. Valuing society, yet putting the individual first, the Institute asserts the importance of a principled approach, both to problems and opportunities in the UK and also internationally.

Trustees:

His Hon. John Baker
Dr Alan Butt Philip
Gordon Lishman OBE
Ann Moore DL
Professor lan Morison
Cllr David Morrish FRGS
Edward Mortimer
Roger Pincham CBE
Earl Russell FBA

Charity reg. no. 1010395

For further information, please write to: John Stuart Mill Institute, Whitehall Place, London SWIA 2HE.

£4:50

ISBN 1 871952 20 4