

# 12

## The Peoples Imagined

### Constituting a Democratic European Polity

*Kalypso Nicolaidis*

*Chorus:*

...

*We are the people and no protagonist in this play can speak in our name.*

*We are the masses and no one can know us.*

*We are the mob and no one can stop us.*

*We are the plebians and no one can outfox us.*

*We are the citizenry and no one can patronize us.*

*We are the publics who watch attentively.*

*We are the crowd and we are wise.*

*We are the multitude and no one among us can claim to know our mind.*

*The naming does not make us real, or one.*

*But we have imagined ourselves into being to bask in our popularity.*

*We are the sum of all the struggles that have come before us which we have  
no right to undo.*

*We the people have no enemy except ourselves, no friends only courtiers.*

*All want to honour and serve us. The EU pays homage to our cause: popular  
sovereignty, they say, the very core of European heritage.*

*Remainers lament that we have been duped. Brexit is a populist con, not a  
popular revolt, they say.*

*Leavers rejoice that we have spoken. Brexit is the people's will not an ig-  
norant whim, they say.*

*No longer can we be ignored or ordered to change our minds.*

*Nor should our say be God-equivalent—we do change our minds, you know!*

*Our status is not morally supreme but politically superior.*

*We will not let politicians appropriate our anger, even if our MPs must interpret it.*

*We say: with Brexit we have reminded everyone that democracy is always  
incomplete and unpredictable, the shaker upper of all Leviathans.*

*Remainers say: The EU was just unlucky.*

*Brexit is collateral damage, our national democracies the targets.*

*The EU is democracy's friend.*

*In the south and in the east, in Europe and out, it has given the demoi an anchor.*

*It helps shame our nepotistic oppressors and moderate our extremists.  
It empowers us in every guise: activists, consumers, women, fighters against  
corporate greed and privacy theft.  
Brexit will weaken us . . .*

*Leaver say: Brexit will strengthen us.  
It will demonstrate the EU's complicity in our fate.  
Brussels has enabled our elites to collude across borders, escape political con-  
straints at home and hide behind its laws against our wishes.  
Call them plutocrats, technocrats, bureaucrats, eurocrats, elitocrats or  
epistocrats, their creed is to reassure the markets, not the masses.  
They advance, votes-what-may.  
When they do not like our say, they re-elect us.  
National and supranational elites unite!  
Brexit is our payback for ganging-up against us.*

*It started at the foundation, the plan to replace us, unruly war-mongering  
mobs, with a grand European scheme.  
We might have deserved it.  
We had eaten our democratic child and happily killed each other in an end-  
less war.  
The well-intentioned founders, humanist technocrats, former resisters and  
fathers-without-mothers enshrined their views in a cathedral of limitations.  
Ulysses in dark suits, they tied their hands to the supranational mast better to  
resist our people's sirens every time battles would have been lost at home.*

*Shielded by Brussels, our European establishment sacrificed us to unmiti-  
gated market competition and austerity fetishism.  
Shielded by their privilege, they let us bear all the risks.  
Shielded by Weber's iron cage of bureaucracy in a Euro-bubble, they achieved  
the impossible: an iron cage in a bubble!  
A bubble to keep us riffraff out.  
A bubble we can neither enter nor poke.  
So don't be surprised if we put our lips together and blow.*

*James Madison, the great American founding father was wrong to doubt us.  
We the people have read him, with fickleness and passion.  
We have nothing against fences to constrain power, checks and balances and all.  
We know with Montesquieu that the stuff we can't do is best done at the  
top by a cadre of competent administrators devoted to serving the general  
interest and the rule of law.  
But we wonder about their post sell-by-date credentials.  
We wonder what makes Madisonians think that those at the top, are less  
self-interested, emotional or fallible than us. There can be madness in  
technocratic reason.  
We know that the Olympians who preside over our destinies in our capitals  
and in Brussels want to protect us against predatory forces, corporate*

*elites or obscure interests. Many of them are nice, educated, tolerant, environment-friendly, moral-enthusiasts.*

*And when they are nepotistic and corrupt, we ask the EU to help us reign them in. But we remember our (Greek?) ancestors and how the lives of the true Olympians gods, from Zeus downwards, were best enmeshed with humans. We have a soft spot for Machiavelli's advice to the prince, to use his skills against grandees and for the populi, to entrust the people with defending their city.*

*We know that the best among the elite can manufacture our consent without inventing enemies or denying the difficult choices we must make. Against the extractive elite, we trust the defiant elite who do not monopolise power but seek to empower others. But still we can't blindly trust them over ourselves. Let's face it, democracy today is a fiction to cover up the ways the wealthy continue to squeeze us. Only rule by the poor would be true democracy . . .*

*We are told that the EU may override our domestic politics for progressive ends. But that does not make the means any less anti-democratic. We are not localists against globalists, nationalists against internationalists, communitarians against cosmopolitans. We are all these things, just as elites can be tribal.*

*We can be expert publics if you let us.*

*The problem with our transnational elites is not that they lead, that's what they are paid for, but that they don't feel the need to be followed. After our insurgent vote, we were not surprised to learn that the more ruling-class elites felt we distrusted them, the more they tended to trust their European counterparts. Huddled in their life boat, they drift in the belief that Reckoning is simply part of the false consciousness that has beset us, hoi polloi, an ungrateful lot who fail to acknowledge what they have done for us. We the people do not seem to grasp that their Brussels conspiracy is truly for our own good, there to deliver public goods, precisely because these are 'public' and thus cannot be left to the public's whims.*

*What is subordination to the common good worth anyway, if the common good has been privatised, captured, twisted and monopolised?*

*The intelligentsia doubts our sound judgment.*

*Do we appreciate the ways in which populist politicians and the technocratic sphere feed each other's conceit, as they collude in proclaiming that we are one and only one true people, national or European, a single expression of the general interest, and that they alone can know and enact it, in truth*

*responsive only to the requirements of their staying power? Do we agree that majoritarian politics are a convenient short cut, but only if winners are conjured up from a genuinely democratic process, and only if they do not monopolise the public space but respect oppositions and minorities? Do we appreciate that losers' consent is predicated on winners' respect for them?*

*And that the people have no enemies but disagreements?*

*Do we take it upon ourselves to change the rules of mutual political engagement in Europe and absorb each other's concerns across borders?*

*Yes on all counts.*

*In an ideal world, we European citizens stubbornly remain a multitude, unamenable to attempts to pervert our cherished popular sovereignty as if we were one.*

*The elites in that ideal world refrain from dismissing as 'populist' the kind of politics which channels our pent-up frustration, admittedly short of the nasty nativist kind.*

*In that world, we all know that democracy is not just about election but is a way of life. We reclaim our right to politics and to disagree intensely but with civility in the public sphere within and across our countries.*

*And we proclaim that a decision can only be democratic in a moral sense if it is attuned to the dignity of all the peoples affected.*

*In such an ideal world, our squabbling European politicians refrain from pitting us against each other, peoples against peoples.*

*Instead, they park their egos to respect the most basic power imperative: thou shalt do no harm.*

*We, the sleeping sovereign, have awakened to the eery silence of democratic corruption, our muffled voices echoing in the distance . . .*

*Out of reach of electoral cycles, the EU may be a beautiful idea, but most among us have not been allowed to make it our own when it comes to decide.*

*So it must reckon with all the other ways we express how we feel, in squares, on the web or in the ballot box . . .*

*As we clamour for the EU's democratic atonement, Leavers or not, British or not, we the peoples of Europe will let no one speak in our name.*

*(Extract from Kalypso Nicolaïdis, *Exodus, Reckoning, Sacrifice: Three Meanings of Brexit*, Unbound 2019)*

## I. Introduction—Paul Ricoeur's Social Imaginary

In a book which probes the foundations of Europe's contemporary constitutional imaginary, I will ask what happens when we try to imagine not the great founding fathers,

not the great founding scholars, but the mostly invisible yet indispensable characters in the play, the supposed authors and addressees of the constitutional playbook: the peoples of Europe, otherwise referred to as *masses*, *mob*, *plebians*, *citizenry*, *publics*, *crowd*, or *multitude*.

For it seems impossible to seek to imagine the peoples without acknowledging in the same moment that they are the ones supposed to be doing the imagining, both object and subject of European imagination. *Being imagined* by those from philosophers to politicians who need to pin them down for the sake of their theories or ideologies. *Doing the imagining*, as Cornelius Castoriadis argued in the wake of May 1968, as an act of self-institution.<sup>1</sup> It is in this disjuncture between the peoples being imagined and doing the imagining that lie the tensions around the construction of a modern polity.

Few conceits are more problematic than that of the politician or the technocrat who claim a unique insight into the public psyche. Can we, scholars, be granted a bit more artistic licence, simply because such a ventriloquist exercise on our part is likely to be pretty inconsequential? I for one assumed so in the passage cited at the beginning of this chapter, offering a kaleidoscopic take on how European citizens might be moved to *bask in their newfound popularity* not only by the sound and fury of Brexit or the rise of populist politics in Europe, but also by a growing acknowledgement that in the grand systemic competition between democracies and autocracies, the ‘wisdom of the crowds’ can give the former a competitive edge.<sup>2</sup>

Of course, the actual flesh-and-bone citizens of the world speak for themselves, wisely, angrily, funnily, or softly, all the time, in public squares and roundabouts, in backrooms and assemblies, connected physically or virtually, and are captured doing so in myriads of ways. And increasingly loudly they say: *no one can speak in our name*. My ambition therefore was not to offer a potted sociology or anthropology. Instead, I wonder what it might be like for a multifaceted Picasso-like odd assemblage of peoples (who seem to have read some political theory, as Jan Komárek cheekily remarked to me) to think, shout, and sing on their feet as a chorus in a Greek play.

Let me then use this imagined declamation as the starting point of the chapter, where I hang my hat as transcriber to return to the more familiar ambit of critical social theory. In doing so in the Covid era, I have been inspired by Yaron Ezrahi’s proposition that democracy, like any other political regime, must be imagined and performed by multiple agents in order to exist.<sup>3</sup> To be sure, the pandemic might have created a radical stress test for our democratic political systems, but the test will be deployed in part in our societies’ political imagination.<sup>4</sup> For if democracy was born from the fall of authority figures, gods, kings, emperors, or nations, its continued relevance as an ideal rests on citizens’ full self-awareness as the authoritative originators of its continued reinvention.

To probe into the connection between social, political, and constitutional imagination is to ask in part about different incarnations of our ‘sense of we’ (here I am using

<sup>1</sup> Cornelius Castoriadis, *The Imaginary Institution of Society* (MIT Press 1997).

<sup>2</sup> For a discussion on this topic, see Hélène Landemore and Jon Elster (eds), *Collective Wisdom: Principles and Mechanisms* (CUP 2012).

<sup>3</sup> Yaron Ezrahi, *Imagined Democracies: Necessary Political Fictions* (CUP 2012).

<sup>4</sup> Kalypso Nicolaidis, ‘Reimagined Democracy in Times of Pandemic’ in Miguel Poiras Maduro and Paul W Kahn (eds), *Democracy in Times of Pandemic: Different Futures Imagined* (CUP 2020).

the term ‘constitutional’ in a broad sense, for constitutional settlement can refer to a political pact rather than a specific constitution<sup>5</sup>). As Jan Komárek cogently argues in his discussion of Joseph Weiler’s thirty-year-old master text *The Transformation of Europe*, constitutional imaginaries play a twin role: ex ante as ideational engines when polities are set up, and ex post as justificatory narratives to help these polities endure.<sup>6</sup> To be sure, neither constitutional constructs nor their interpretations are neutral, imbued as they are with the ideologies of their time. Hence, we need to probe the ways in which they betray a deep structure which serves some interests and not others under the fiction of unity which they purport to offer to the citizens of a political community.

More broadly, constitutionalism itself, at least in the European context, can be seen as an ideology, standing in for a political programme which sought to fence off the integration project from the rough-and-tumble of democratic politics all the way down, the kind of politics played out in the peoples’ arena rather than in the corridors of power.<sup>7</sup>

And so we may ask: is it not possible to recover a kind of bottom-up constitutional imaginary, inspired by the peoples we hitherto imagine in the act of imagining?

The French philosopher Paul Ricoeur offers us an apt starting point for this journey, suggesting as he does that if polities need to rest on some sort of social imaginary, such collective horizons can be uttered in two contrasting languages—that of ideology or that of utopia—and that, moreover, both of these vernaculars can be saved from their pathological expression.<sup>8</sup> Where one entrenches reality and the other transcends it, under what conditions can either help transform it?

Ideologies, says Ricoeur, may serve not only to legitimize authority but also to justify domination under the guise of pseudo-universal rhetoric, progressively becoming an ‘artificial authoritarian lens not only for how the group is supposed to live, but also for its place in the history of the world’. But they also exhibit the precious ‘use of tropes such as metaphor, irony, ambiguity, paradox, hyperbole’, all indispensable to guide political praxis as uttered in everyday language.<sup>9</sup>

Utopias, for their part, risk papering over our differences in social status in the here and now, and turn our gaze away from the injustices that ensue, as ‘science fiction applied to politics’, unhinged from conditions of possibility.<sup>10</sup> But they too can express a group’s ‘denied potential’, as alternative imaginary variations on power conjuring up the ‘available believable of an era’.

<sup>5</sup> This is the sense in which Jan Komárek discusses Weiler’s argument in ‘Why Read *The Transformation of Europe* today? On the Limits of a Liberal Constitutional Imaginary’ in this volume. See also Kalypso Nicolaidis and Andrew Moravcsik, ‘Federal Ideals vs Constitutional Realities in the Amsterdam Treaty’ (1998) 36 *Journal of Common Market Studies* 13; Andrew Moravcsik, ‘The European Constitutional Settlement’ (2008) 31(1) *World Economy* 158; Kalypso Nicolaidis, ‘Braving the Waves? Europe’s Constitutional Settlement at Twenty’ (2018) 56(7) *Journal of Common Market Studies* 1614.

<sup>6</sup> Jan Komárek, ‘Why Read *The Transformation of Europe* today? On the Limits of a Liberal Constitutional Imaginary’ in this volume. Also Komárek’s Introduction in this volume.

<sup>7</sup> For a detailed discussion, see the special issue of *Journal of European Public Policy* (2020) 27(9), in particular Jonathan White, ‘Europeanizing Ideologies’ (2020) 27(9) *Journal of European Public Policy* 1 and Kalypso Nicolaidis, ‘Kant’s Mantle: Cosmopolitanism, Federalism and Constitutionalism as European Ideologies’ (2020) 27(9) *Journal of European Public Policy* 1307.

<sup>8</sup> Paul Ricoeur, ‘L’idéologie et l’utopie: deux expressions de l’imaginaire social’ (1984) 2(1) *Autres temps* 53.

<sup>9</sup> *Ibid* 57 (translation by author).

<sup>10</sup> *Ibid* 54.

For my part, I would argue that if this ‘available believable’ is to be extracted from the present, our methodological toolbox ought to avail itself of a third concept—that of immanent critique, which is about exploiting the vistas, contradictions, and blind spots in our contemporary condition to effect change without ideology, utopia, or revolution.<sup>11</sup> Alternatively, if it is to ground critical theory, utopia must give up the end state to concentrate on the commitment to permanent reinvention. It must be about not tomorrow but the here and now, the breach in our present which suddenly allows for myriad possible futures.<sup>12</sup>

My goal in this chapter is to employ immanent critique both in lieu of and alongside ideology or utopia in order to tease out some of the meanings of ‘peoples’ in the EU’s constitutional imagination. I draw on and extend previous work to further ground the central motivating idea of an alternative, constitutional imaginary for the EU, which I have labelled demoicratic, expanding traditional democratic theory to imagine a transnational democratic order giving pride of place to participatory and deliberative democracy across borders.<sup>13</sup> My ultimate aim is to provide a core building block for what I have referred to in the past as ‘sustainable integration’—a concept which seeks to capture the utopian quality of our imagined peoples-hood short of teleology, as an ideal connecting ethos and praxis in the long term.

The chapter suggests five stepping stones in this endeavour, by exploring: (1) how the ideal and practice of demoicracy can be construed as a demanding but powerful way to push back against techno-populism (II); (2) the ways in which we have unimagined ‘oneness’ in the EU’s constitutional imagination (III); (3) the fragility of equilibrium in this version of Europe’s constitutional imaginary (IV); (4) how classical definitions of ‘peoples’ can help tease out the various dimensions of the cross-border exercise of joint sovereignty between peoples (V); and (5) how the EU may help interconnect present and future demoi (VI).

<sup>11</sup> For a recent work in this vein see Albenaz Azmanova, *Capitalism on Edge: How Fighting Precarity can Achieve Radical Change without Crisis or Utopia* (Columbia University Press 2020).

<sup>12</sup> Kalypso Nicolaidis, *Exodus, Reckoning, Sacrifice: Three Meanings of Brexit* (Unbound 2019).

<sup>13</sup> For a recent overview of the theory, see Kalypso Nicolaidis and Ulrike Liebert, ‘Demoicratic Theory: Bridging Positive, Critical and Normative Approaches to European Studies’ in Samuel Faure and Christian Lequesne (eds), *Elgar Companion to the EU* (2023). Scholarship with a demoicratic parentage tends to address the constitutional, institutional, or legal matrices which underpin the EU as priors to the democratic question—unsurprisingly, since the EU was not designed with democracy in mind. We can recognize its basic tenets in the work of many authors for whom the EU as ‘not-a-state’ is a core premise. The concept has strong affinities with multilateral democracy—Francis Cheneval, *The Government of the Peoples: In the Idea and Principles of Multilateral Democracy* (Springer 2011); transnational democracy—James Bohman, *Democracy across Borders: From Demos to Demoi* (MIT Press 2007); compound democracy—Sergio Fabbrini, *Compound Democracies: Why the United States and Europe Are Becoming Similar* (OUP 2010); directly deliberative polyarchy—Charles Sabel and Joshua Cohen, ‘Directly-Deliberative Polyarchy’ (1997) 3 *European Law Journal* 313; agonistic democracy—Chantal Mouffe, *The Democratic Paradox* (Verso 2000); and, for that matter, some of the variants of federal and cosmopolitan democracy, or constitutional pluralism—Neil Walker, ‘The Idea of Constitutional Pluralism’ (2002) 65 *Modern Law Review* 317, Matthias Kumm, ‘The Cosmopolitan Turn in Constitutionalism: On the Relationship Between Constitutionalism in and Beyond the State’ in Jeffrey L Dunoff and Joel P Trachtman (eds), *Ruling the World? Constitutionalism, International Law and Global Governance* (CUP 2009). And it chimes with Joseph Weiler’s defence of the EU at its best as committed to a philosophy of constitutional tolerance—Joseph HH Weiler, ‘Federalism Without Constitutionalism: Europe’s Sonderweg’ in Kalypso Nicolaidis and Robert Howse (eds), *The Federal Vision: Legitimacy and Levels of Governance in the United States and the European Union* (OUP 2001).

## II. Resisting Technopopulism through Demoiocracy

It is tempting to follow the French philosopher Catherine Colliot-Thélène in dismissing the very idea of a ‘people’ as but a myth attached to a concept—that of popular sovereignty.<sup>14</sup> And yet, the idea of people, however constructed, has been so useful to politics in the past two centuries that we simply could not do without it. The fact is that in a world of bureaucratic expertise, financial spoliation, and global corporate immiseration, the people seem pretty powerless, in Europe and in the rest of the world. The danger of thinking democracy without attaching it to popular sovereignty is present for everyone to see: managerial bureaucratic drift and populist backlash, a conspiracy between two mutually reinforcing ways of expropriating the peoples, both proclaiming: ‘I, the people.’

Arguably, the demise of ideologies or the social structures that were built upon them has deprived us of a vocabulary to discuss politics and ushered in the rise of the new political logic of our age, which we can refer to as technopopulism.<sup>15</sup> *Do we appreciate the ways in which populist politicians and the technocratic sphere feed each other’s conceit, as they collude in proclaiming that we are one and only one true people, national or European*, asks my chorus. If politics is about translating real cleavages and their partial accommodation into the exercise of collective power, societies no longer need to bother, if either populist politicians or technocrats appeal directly to the peoples onto whom they will bestow magical political fixes. Political decision making is replaced by either pure rhetoric or pure problem-solving. Short of political processes, debates and conflicts, ‘only the balance of social forces ... dictates the way in which we interpret our political and social world.’<sup>16</sup> Such a world where social differences become entrenched into political tribes and give birth to over-polarized politics is not one where most of us feel at ease.<sup>17</sup>

How then do we reassert the primacy of democratic politics?

In the opening pages of this chapter, our people’s chorus bemoans the void between those people and the decisions made in their name. This empty space which used to be occupied by traditional politics, parties, unions, associations of all sorts symbolizes the hollowing out of democracy.<sup>18</sup> They see governing elites who fail to connect, whether in national capitals or in Brussels, as they sigh: *Shielded by Weber’s iron cage of bureaucracy in a Euro-bubble, they achieved the impossible: an iron cage in a bubble!*

I like to believe that citizens in their great majority are not fooled: *We the people do not seem to grasp that their Brussels conspiracy is truly for our own good, there to deliver public goods, precisely because these are ‘public’ and thus cannot be left to the public’s whims.*

At stake is not only who defines and decides what is the ‘public’ good but how the very process takes place, failing to deliver on the promise of democracy, namely to

<sup>14</sup> Catherine Colliot-Thélène, *La démocratie sans ‘demos’* (PUF 2013).

<sup>15</sup> Chris Bickerton, ‘The Rise of the Technopopulists’ (*The New Statesman*, 21 October 2020).

<sup>16</sup> *Ibid.*

<sup>17</sup> Kalypso Nicolaidis, ‘In Praise of Ambivalence—Another Brexit Story’ (2020) 42 *Journal of European Integration* 465.

<sup>18</sup> Peter Mair, *Ruling the Void: The Hollowing of Western Democracy* (Verso Trade 2013).



empower otherwise disempowered groups—how can we be surprised then by the disillusionment of voters everywhere and the radicalization of their political voice? *Let's face it, democracy today is a fiction to cover up the ways the wealthy continue to squeeze us. Only rule by the poor would be true democracy . . .*

Whether or not one adopts such a radical understanding of democracy, it is hard to deny that the expansion of its reach to enfranchise an increasingly inclusive definition of 'peoples' has historically been resisted by governing elites. In this light, the interconnection between peoples implied by a truly democratic system can be seen as the most contemporary form of empowerment and push-back against the privileged few.

If the popular authorship of laws or self-government is to be the be-all and-end-all of democracy, it is urgent to imagine the EU as a polity of interconnected popular sovereignties. *Do we take it upon ourselves to change the rules of mutual political engagement in Europe and absorb each other's concerns across borders?* Yes, answers our chorus.

To be fair, it is not as though it is easy to imagine yourself as part of a people joined at the hip to other peoples all while imagining yourself as an individual, potentially free to break loose of your own community to reach out to faraway others thanks to the magic of virtual clouds. More prosaically, the interests, ideas, values, and fears of European peoples clash and converge in different ways when we consider them either as collectives—that is, states—or as individuals—that is, citizens.

Here is the challenge: who, where, how in Europe do we see the imagining of the peoples (plural) autonomous yet intertwined, sovereign yet interdependent, who together constitute the polity underpinning the EU? Can the EU's forever fluid constitutional imagination conjure up a network of peoples eventually capable of adapting to the condition of 'reciprocal democratic interdependence' which their governments opened up for them through a string of backroom deals and which the European Court of Justice (ECJ) policed for them through a string of obscure rulings? 'We, the peoples' is an even more challenging injunction than its singular antecedent, calling as it does for reconciling togetherness with radical pluralism.<sup>19</sup>

Of course, the Euro-democracy conundrum is not new. Think only of the two-decade-long angst suffered by Germany's constitutional court: according to the country's basic law, Germany is constitutionally barred from belonging to an EU that would become a state. At the same time, the Court also believes that to be legitimate the EU needs to be more democratic—and it tends to associate democratic legitimacy with the European parliament, and a parliament with more proportional representation at that. But if the German Court cannot separate state-like features from democracy-like features, it faces a true dilemma: more of the latter (which it wants) brings it closer to the former, and more of the former is a constitutional sin.

The euro crisis made this conundrum more acute than ever. It is at this stage of the reasoning that democratic theory usually steps in to say something about democracy beyond the state for entities which are not themselves states. The problem is that

<sup>19</sup> See for instance Kalypso Nicolaidis and Janie Pelabay, 'One Union, One Story? In Praise of Europe's Narrative Diversity' in Alex Warleigh-Lack (ed), *Reflections on European Integration* (Palgrave 2008). For a federal take on this agenda see Kalypso Nicolaidis and Robert Howse (eds), *The Federal Vision: Legitimacy and Levels of Governance in the US and the EU* (OUP 2001).

democratic theory has traditionally been based on the overarching idea of a single demos, be it national or supranational. A plurality of peoples coexisting within a single polity is seen at best as a fundamental obstacle to the fulfilment of democracy within that polity and at worse as a conceptual impossibility.<sup>20</sup> Such a polity will necessarily be out of touch with citizens and collective political identity and needs to be redeemed by the formation of a single demos, ideally on a regional and eventually a global scale, which will be capable of enacting decisions through various modes of representation.<sup>21</sup> And indeed, there is no denying the hold of traditional ideas of democracy, which connect directly a plurality of voters, their representatives, and decisions that translate majoritarian preferences. But if we can't have that beyond the state, what is to be done?

Alternatively, as stated in the introduction, some of us have sought to address these questions around the construct of a new school of democratic thought, 'demoicratic theory'.<sup>22</sup> In their most general form works in this vein, examine the uneasy coexistence between European demoi, thus translating into democratic language the duality of member state and Community competence leading to a comingling of international and constitutional logics and vocabularies. Accordingly, if a democracy is the rule of the entire people, a demoicracy is a polity ruled by a plurality of peoples. The fact that a plurality of peoples is what the EU actually is—a basic claim encapsulated in Weiler's famous formula of the EU as a community of others—the starting assumption of demoicratic theory, although it cannot in and of itself indicate what constitutional form ought to follow. Accordingly, the imagined essence of the EU, untainted by its teleological and messianic demons or the ever present temptation to predicate the Union on a single demos, posits radical pluralism as its condition of possibility but thereon adds a second ingredient, which we can call its 'liberal glue' for lack of a better term. On this second front, it is not enough to say that diversity *per se* matters; we need to agree on how we can or not disagree about our differences—this is Ricoeur's utopia in the here and now, discussed earlier.

Our European demoicracy therefore is both a descriptive anchor for the EU as a demoicracy in the making and a normative aspiration, given the imperfections, the incompleteness, and, yes, these days the pathologies, of the EU-as-is or the EU-as-it-has become.<sup>23</sup> The forever truncated formula of 'ever closer union between the peoples

<sup>20</sup> Marcel Gauchet, *La démocratie d'une crise à l'autre* (Éditions Cécile Defaut 2007); David Miller, 'Holding Nations Responsible' (2004) 114(2) *Ethics* 240.

<sup>21</sup> Robert A Dahl, *Democracy and Its Critics* (Yale University Press 1989); Daniele Archibugi, *The Global Commonwealth of Citizens: Toward Cosmopolitan Democracy* (Princeton University Press 2008).

<sup>22</sup> See inter alia Richard Bellamy, *A Republican Europe of States: Cosmopolitanism, Intergovernmentalism and Democracy in the EU* (CUP 2019); Samantha Besson, *Deliberative Demoicracy in the European Union: Towards the Deterritorialization of Democracy* (Ashgate 2006) 181–214; James Bohman, 'From Demos to Demoi: Democracy across Borders' (2005) 18 *Ratio Juris* 293; Cheneval (n 13); Kalypso Nicolaidis, 'European Democracy and Its Crisis' (2013) 51(2) *Journal of Common Market Studies* 351; Kalypso Nicolaidis, 'We, the Peoples of Europe . . .' *Foreign Affairs* (November/December 2004); Francis Cheneval, Sandra Lavenex, and Frank Schimmelfennig, 'Demoicracy in the European Union: Principles, Institutions, Policies' (2015) 22 *Journal of European Public Policy* 1; Francis Cheneval and Frank Schimmelfennig, 'The Case for Democracy in the European Union' (2013) 52(2) *Journal of Common Market Studies* 334; Francis Cheneval and Kalypso Nicolaidis, 'The Social Construction of Demoicracy in the EU' (2016) 16(2) *European Journal of Political Theory* 235.

<sup>23</sup> For a statement of the structural flaws of the EU that have become apparent in its current multicrisis, developed around a 'research collective' of critical EU scholars, see Damian Chalmers, Markus Jachtenfuchs,

of Europe' stands in for the tension which pervades the plurality question in the EU. And its progressive replacement with the motto 'united in diversity' speaks to the crystallization of the EU's constitutional settlement in the past twenty years around a democratic aspiration, if not a democratic condition.<sup>24</sup>

The ideal of democracy starts from the Janus-faced meaning of peoples in everyday speak, rather than its various and contested definitions in constitutional documents. When we speak of peoples in Europe these days, we may be speaking of states: states that have been transformed over decades into member states, some good guys and some bad guys depending on who you ask (I will leave aside the term statepeoples used by political philosophers). And at the same time we may be speaking of citizens, individual citizens who must be asked what they think, what they expect, what they desire—and who are supposed continuously to imagine the EU into being since it has not acquired the taken-for-grantedness character of nation-states.<sup>25</sup> For the moment, scholars in the democratic constellation have agreed to disagree on the exact referent of peoples. For my part, I have suggested this operative definition:<sup>26</sup> a democracy is defined as a union of peoples, understood both as states and as citizens, who govern together but not as one, and remain together by choice.

In view of the growing disconnect between the locus of political authority and the locus of political life in Europe, democratic theory is a theory of correspondence between transfers of competences upwards and the necessary plural anchoring of their exercise all the way down. Its utopian character rests with the idea that horizontal ties and struggles can help compensate for the relocation of authority upwards through its anchoring downwards and across. It does so in the hope that fostering greater equality between unequal demoi may support a social agenda fostering greater equality between unequal citizens. In this story, history and historical awareness defines how the peoples imagine themselves: *We are the sum of all the struggles that have come before us which we have no right to undo.*

### III. Un-Imagining Oneness: Constituting a Union between Peoples

Too many advocates of European integration seem prone to select among our past blueprints for peace those that can provide the EU with a spotless pedigree<sup>27</sup>—both the spotlessness of pure intentions but also that of simplicity, the simplicity of peace through oneness. As if the problem lay not in past designs *in theory* but in flawed

and Christian Joerges (eds), *The End of the Eurocrat's Dream: Adjusting to European Diversity* (CUP 2016) (including my own chapter with Max Watson, which applies democratic theory to EMU governance reform).

<sup>24</sup> For an overview of this argument see my recent *Braving the Waves?* (n 5).

<sup>25</sup> Catherine E De Vries, *Euroscepticism and the Future of European Integration* (OUP 2018).

<sup>26</sup> See *inter alia* Nicolaidis, 'European Democracy and Its Crisis' (n 22); Kalyps Nicolaidis, 'Democratic Theory and Europe's Institutional Architecture in Times of Crisis' in Simona Piattoni (ed), *The European Union: Democratic Principles and Institutional Architectures in Times of Crisis* (OUP 2015).

<sup>27</sup> The term is from Daniel Gordon, 'Codes of Honour' (2006) *German Law Journal* 137, 137.

peacemakers *in practice* and their momentary circumstances which kept them from ‘uniting’ the continent. But fortunately for our democratic intuitions, the story of ‘post-wars’ is more complicated than that.<sup>28</sup> It is a story full of ideas and practices which in the past have opened up a space between Europe as the land of unity, universal dominion, continental hegemony, and Europe as the land of anarchy, sovereignty, local autonomy.

The story of ‘post-war blueprints’ can also help retrieve what has been hidden—the recurrent patterns of denial at the core of our European myths, denial motivated by a mix of lack of self-reflexivity and uncomfortable familiarity. For if EU agiography relies on unsuccessful past post-wars, it also relies on a story of uniqueness and unprecedentedness which cannot afford to feature hints of recurring pasts with anything less than these spotless pedigrees. So we forget the many ways in which European ‘sovereigns’ have collaborated against their peoples as well as subjugated others in faraway lands; how kings and queens and their ‘hands’ colluded against nascent national democracy movements in the nineteenth and twentieth centuries, in Europe and elsewhere. And we tend to obfuscate the links with that past found both within and beyond European shores.

In short, the peoples of Europe largely accepted the narrative of the EU’s ‘virgin birth’ after the Second World War, better to cover up their illicit flirtation with its nation-states’ rich histories of domination and the continuities that may link us to their hegemonic pasts within and without.<sup>29</sup> Renan may have had a point that nations are forged in part through a collective ability to forget,<sup>30</sup> but the EU is not a nation and ‘reconciliation in diversity’ must rely on the mutual recognition of our disparate memories. Imagining the future starts with confronting the many ways in which we imagine our interconnected pasts.

Democratic theory seeks to channel a tentative intellectual loyalty to this reading of the past into an understanding which rests on a transnational version of radical pluralism.

In Ricoeur’s spirit, my own aim has not been to offer an off-the-shelf democratic theory for our times but to contribute to a plural and organic space, the result of multiple conversations, conceptual contestation, and confrontations between theory and reality. There can be many interpretations of democratic theory, just as there are countless variants of democratic theory. Concepts linked to democracy need to accommodate the plurality of democratic types themselves and of opinions about these types. The question of who the constituting demoi are—nations vs regions, cities, or transterritorial communities—is at the core of this pluralistic adventure.<sup>31</sup>

Indeed, democracy is conceivable without a demos if one understands democracy as a bundle of decision rules that we ascribe to all sorts of groups of humans and that we expect to permeate society at large and its basic units from clubs to political parties.

<sup>28</sup> For a discussion see for instance Justine Lacroix and Kalypso Nicolaidis (eds), *European Stories: Intellectual Debates on Europe in National Contexts* (OUP 2010).

<sup>29</sup> See in particular chapters by Hansen and Nicolaidis in Kalypso Nicolaidis, Berny Sèbe, and Gabrielle Maas (eds), *Echoes of Empire: Memory, Identity and Colonial Legacies* (Bloomsbury Publishing 2015).

<sup>30</sup> Ernest Renan, *Qu’est-ce qu’une nation?* (Calman Levy éditeur 1882).

<sup>31</sup> Joseph HH Weiler, ‘Europe: The Case Against the Case for Statehood’ (1998) 4 *European Law Journal* 43; Besson (n 22) 181–214; Cheneval, *The Government of the Peoples* (n 13); Bellamy (n 22).

<sup>32</sup> In contrast, the political notion of democracy differs because it is about politically binding decisions, where the 'people' is the group of citizens holding sovereignty *qua* state power, a superior political status.

In reality, demoi have never existed as self-sufficient, isolated entities. But this does not mean that they are irrelevant as units of democratic self-government or that popular sovereignty must now simply be reconstituted at a higher level. Fusing the demoi into ever larger sovereign units at ever higher levels of integration remains a certain Europeanist ideology which arguably helps to support the constitution of disembedded markets, with increasingly deleterious distributive consequences. A more demanding utopia is to sustain a stable order of multiple demoi exercising popular sovereignty together on the basis of certain fundamental rules which the sovereign demoi accept, provided they are revocable.

Crucially, it is this 'transnational' and horizontal nature of the relationship and the radical opening between demoi that gives European democracy a truly 'transformative'—as opposed to 'gradualist' or 'mimetic'—character.<sup>33</sup> A demoicrat pushes back against both those that argue that a democracy can only be conceived based on the sovereign closure of the demoi through hard border and demarcated membership, and those who by the same token wish for the incorporation of Europeans into a single demos.

Besides being out of touch with claims to collective political representation on various levels of political integration in Europe and beyond, the binary alternative is analytically poor.

In short, the superior political status enjoyed by a group of citizens referred to as demos does not require that this demos act alone as a self-sufficient decision-making entity. Each demos has the sovereign prerogative to joint governmental action involving the use of state power with other peoples.<sup>34</sup> Demoicratic theory adopts a specific angle in investigating the old relationship between a people and sovereignty by asking how the two interrelated notions can lead to 'joint sovereignty'.

Two points need to be stressed here.

First, let there be no mistake, this is not some tepid compromise, a point between two more ambitious projects: the recovery of national sovereignty or the forging of a European sovereignty. It is not about 'splitting the difference' between these two mainstream political alternatives, but emerges from their respective contradictions and inadequacies. This third way is the most radical utopia, an EUtopia in the sense which Ricoeur invokes at the end of his essay to push back against Karl Mannheim's view that a mindset is utopian simply when it lacks congruence with the current state of things. For Ricoeur, what is at stake depends on a crucial distinction between utopia claimed by powerless groups and utopia denounced by groups threatened by it, the defenders of the status quo.<sup>35</sup> In this spirit, a Union-as-demoicracy is an open-ended process of transformation which seeks to accommodate the tensions inherent in the pursuit of radical mutual opening between separate peoples, who jointly seek to push bash

<sup>32</sup> See discussion in Cheneval and Nicolaidis, *The Social Construction of Democracy* (n 22) 235–60.

<sup>33</sup> Dahl (n 21); Bohman (n 13).

<sup>34</sup> Cheneval, *The Government of the Peoples* (n 13).

<sup>35</sup> *Ibid* 64.

against state capture by powerful interests.<sup>36</sup> Thus a democracy is empowering for the powerless. On the normative plane where ideal political forms are discussed, the democratic third way rests on the plausibility of lumping together its two alternative paradigms as part of the same cognitive straitjacket. Crucially, a third way may empirically borrow from both sides of the alternatives it opposes (eg a democracy like the EU combines intergovernmental and supranational institutions) but, contrary to a *via media*, it is normatively antithetical to both. As with every third way, the idea of democracy holds the promise of escape from the tyranny of dichotomies which still dominate EU debates.

Second, the concept of democracy is not wedded to the infamous *no-demos* thesis. The no-demos thesis, articulated by the German Constitutional Court in its 1993 Maastricht judgment introduced above, offered a simple connection between an empirical assumption (there is no such thing as a European demos) and a normative stance (since there is no European demos, integration must rely on domestic institutional mechanisms such as the Bundestag). It is somewhat ironic, since the Court considered the eventual emergence of a European demos a desirable prospect, that the no-demos thesis has been restated ever since as grounds for resisting European integration. Conversely, it was used as a foil by the European political mainstream of the early 2000s, and by those such as Joschka Fischer and Jürgen Habermas who argued that a European demos could and should be ‘forged’ as the foundation for formal constitutionalization of European integration. Ten years later, the prospect of fiscal union reignited the search for a European demos. The idea of democracy emerged in order to counter their arguments by appropriating *and* subverting the no-demos thesis.<sup>37</sup>

To simplify, there are two versions, or rather two poles, in the relationship between democratic theory and the question of an overarching European demos:

- *The strong version of democratic theory* accepts that the Court was right in its diagnosis: ‘If we define the demos as a political community that shares a purpose, and possesses the institutional infrastructure, of self-government, a single European demos does not exist.’<sup>38</sup> But it was wrong in the implications it drew—for a plurality of demoi there may be in the EU, but plurality is what peoples make of it. The EU can be democratically legitimated by a plural *pouvoir constituant* (if the topic is constitutional) or by multiple but connected national politics. Indeed, a single Euro-demos is not just implausible but undesirable if the EU polity is to

<sup>36</sup> Samuel Bagg, ‘Sortition as Anti-Corruption: Popular Oversight against Elite Capture’ (2022) *American Journal of Political Science*.

<sup>37</sup> As always, however, Habermas’ arguments have been subtle and evolving as reflected around the rich discussion around ‘*pouvoir constituant mixte*’ which he endorses and the idea that ‘pluralist constitutional subject’ ought to be conceived as the ‘totality of individual persons’ while each person is divided into two *personae*. See Jürgen Habermas, ‘Democracy in Europe: Why the Development of the EU into a Transnational Democracy Is Necessary and How It Is Possible’ (2015) 21 *European Law Journal* 546; Jürgen Habermas, ‘Citizen and State Equality in a Supranational Political Community: Degressive Proportionality and the *Pouvoir Constituant Mixte*’ (2017) 55 *Journal of Common Market Studies* 171; Markus Patberg, ‘Introduction: The EU’s *Pouvoir Constituant Mixte*—Exploring the Systematic Potential of an Innovative Category’ (2017) 55(2) *Journal of Common Market Studies* 165.

<sup>38</sup> Cheneval and Schimmelfennig (n 22).

- set aside the Schmittean temptation to define itself against ‘others’ outside Europe (Islam, the US, China, refugees/terrorists). In short, No-European-demos=> No European-level democracy, vs European Demos-in-the-making => European democracy, can be replaced by: Many European demoi=> European democracy.
- *The weak version of democratic theory*, on the other hand—which can be called the ‘demoi thesis’—recognizes the emergence of a thin European demos at EU level which might well become more significant over time. But this view asserts that such a weak demos is more often than not predicated on national or local bonds, as surveys continue to demonstrate.<sup>39</sup> There can very well be something like an incipient ‘we, Europeans’ characterized by common debates, transnational parties, practices, and mobilization, or some common sense of identification and belonging—a Europeanness all the more tangible when it is felt from outside Europe. The critical point here is that national demoi remain the dominant political unit where bargains are struck and compulsory solidarities institutionalized. And the critical question therefore remains: what does it mean to be a Europeanized demos?

Because a democratic theory prism starts with our individual embeddedness in national or local communities as separate demoi and with the primacy of the state, the term democracy can sadly be misunderstood as a label for a sovereignist’s take on ‘We the peoples of Europe.’ At the same time, because a democratic prism does not end with essentially self-serving demoi, stressing instead the importance of internalizing shared responsibilities over time, defenders of democracy often find themselves uneasily lumped with ‘federalists’ under a generic ‘pro-EU’ label. This is why, while the idea of democracy owes much to the ‘post-national’ constellation, it parts with its more Euro-patriotic and anti-national expressions.<sup>40</sup> This may be why, as the most cogent early expression of this philosophy, Weiler’s position in *The Transformation* was not framed as a third way but rather in opposition to the unreconstructed integrationist or traditional federal camp, the mainstream of the constitutional vision of the EU.

#### IV. Imagining the Third Way: A Fragile Equilibrium

In this journey of imagining the peoples doing the imagining, the way in which we conceive a third way for Europe takes on added relief. Weiler’s *Transformation* not only analyses at length the ‘equilibrium’ reached in the EU though the dance between voice and exit, politics and law, over time, but crucially explains why the preservation of the equilibrium is so important—a take refined in his subsequent work.<sup>41</sup> By

<sup>39</sup> Agustín José Menéndez, ‘The European Democratic Challenge: The Forging of a Supranational *Volonté Générale*’ (2009) 15 *European Law Journal* 277; Tanja A Börzel and Thomas Risse, ‘Governance Without a State: Can It Work?’ (2010) 4(2) *Regulation & Governance* 113.

<sup>40</sup> Jürgen Habermas, ‘The European Nation-State: On the Past and Future of Sovereignty and Citizenship’ (1998) 10 *Public Culture* 397. For a discussion see Lacroix and Nicolaidis (n 28).

<sup>41</sup> Joseph HH Weiler, *The Constitution of Europe: ‘Do the New Clothes Have an Emperor?’ and Other Essays on European Integration* (CUP 1999).

offering an explicit normative benchmark for his explanatory analysis, Weiler makes visible the eminently *critical* and political in his vision. The point of the story is not only that the EU manages to move from one version of the equilibrium to the next (after all, you can be on the Pareto frontier with hugely unfair distributional consequences, the status quo can be stable but undesirable—this is what revolutions are made of). In short, for Weiler, this is not any old equilibrium, there is something at stake in *this* equilibrium—a vision, an idea, an ‘ideal-type’. The walker on a rope in the air needs to stare at a fixed point in order to maintain his balance. The normative benchmark on the horizon may or not be intended by European actors, or it may even be the common vector of various criss-crossing intentions, but it is read by the scholar as *what is to be preserved by the equilibrium*. Weiler’s semantics was to defend his own ideal types of ‘community’ against the mainstream commitment to ‘unity’—two alternative promised land for rival ideological clans in Europe.

I believe it is fair to read Weiler’s ‘community model’ as a democratic third way. To quote:

The alternative—community—vision also rejects the classical model of international law which celebrates statal sovereignty, independence, and autonomy and sees international legal regulation providing a ‘neutral’ arena for states to prosecute their own (‘national’) goals premised on power and self-interest. The community vision is, instead, premised on limiting, or sharing, sovereignty in a select albeit growing number of fields, on recognizing, and even celebrating, the reality of interdependence, and on counterpoising to the exclusivist ethos of statal autonomy a notion of a community of states and peoples sharing values and aspirations.

I understand the community ideal-type as a third way, first of all because, as Joseph Weiler argues, ‘it would be more than ironic if a polity with its political process set up to counter the excesses of statism ended up coming round full circle and transforming itself into a (super) state’. Such mimetism between the two alternatives to ‘Community’—sovereignty/national statism and unity/EU statism—is likely pregnant with the same dangers associated with the nationalism and power politics of yesteryear, this time at the regional level. And therefore, this third way is transformative and needs to be analysed as a new political form requiring new concepts and insights. Later, and inter alia, Joseph Weiler does just this when introducing the concept of ‘constitutional tolerance’ in a 2001 book, *The Federal Vision*,<sup>42</sup> whose overall thrust is to flesh out the features of federal projects as federal unions which have not been captured by the exigencies of federal states.

However, when we invoke the long history of federal constructs to ground our imagining of connected peoples in Europe, our attempts at generalization must avail themselves to a much longer time horizon encompassing the many changing ‘post-war blueprints’ mentioned above. In short, the quest for this apparently unique and threatened equilibrium in today’s EU is not new to intellectual history. Weiler’s analysis of a polity with enduring normative appeal yet inherent potential instability has

<sup>42</sup> Nicolaidis and Howse, *The Federal Vision* (n 19).



deeper political and historical roots, and such a pedigree can still underpin the normative authority of European law and politics today. That it appears so ‘unique’ in the case of the EU is simply a testimony to its nature as an equilibrium which has never had the chance to endure before in history in a democratically grounded way, but has been imagined again and again by political thinkers. How often has paradise been lost before it was ever gained . . .

Given that the political idea of Europe was born and reborn from post-war imaginaries over the past eight hundred years, European thinkers oscillated first between the two poles (or lands) of continental unity and ‘national’ sovereignty, then progressively inventing a third way to be defined separately to accommodate diversity.<sup>43</sup> Indeed, unity and progress parted way just before the Enlightenment, when the idea of ‘a united Europe’ tended to be advocated as a way to *resist* change under the Christian banner, against the growing desire for strict state independence from imperial or papal power. ‘State sovereignty’, however precarious, was an infinitely more novel idea at the time than the unity of Dante or Dubois—with variants on a proto-third way debated by Bodin, Grotius, and Althusius culminating in the peace of Westphalia.

In this context, ‘the third way’ became a prominent theme every time the political debate in Europe moved from a core concern about substantive progress—historically contingent ideas on the best way to secure a shared public good, be it peace, prosperity, morality, or the good life which seemed to call for either more Europe or more nation/state—to a second debate which built on the first at a higher level of complexity. In this second debate, some thinkers thought to demarcate themselves from either side of the first debate, coming up instead with political designs which neither reified nor denied state sovereignty in order to tease out the conditions for upholding ‘unity in diversity’, thus leaving questions of substantive progress in the background in order to privilege the question of pluralism *per se*.

Kant was arguably the first to articulate such a third way explicitly, evolving throughout his life to become—I would argue—the first true ‘demoicrat’.<sup>44</sup> As is well known, the Königsberg philosopher sought to ground the injunction that no State would be permitted to intervene by force in the constitution or government of another through three possible conceptions of Europe *at peace*: (1) a region of interconnected but autonomous ‘republican’ (democratic) states; (2) a ‘federal union’ of such states; or (3) a single ‘united state’. Kant gives reasons to support all three conceptions, but while the last may have looked rationally ‘ideal’, it would in fact be ‘the graveyard of freedom’. And while the first would maximize the autonomy of individual states, it would make it impossible to hold them accountable for legal obligations towards each other’s citizens. So in the end, Kant argues for his middle ground, a Federation of Free States against ‘unity’—the latter being a dangerous form of cosmopolitanism liable to lead to the conflation of national characters through the absorption of one state by another, and (in a more power-free version of the same injunction) to an undesirable merging of nation-states into a new polity.

<sup>43</sup> Lacroix and Nicolaïdis (n 28).

<sup>44</sup> I thank Turkuler Isiksel for this formulation. On strategies of appropriation in the EU, see Nicolaïdis, *Kant’s Mantle* (n 7).

The third way-like character of the federal body Kant envisaged is apparent in his concern with a European-wide construct that is to forego ‘any of the power of a state’ but merely hold the power ‘to preserve and secure the freedom of *each state in itself* along with that of the other confederated states’. Of course, Kant did not have to grapple with the operational question of what kind of central power truly ‘preserves the freedom of each state’. Doesn’t any such ‘power’ involve the forsaking of sovereignty (voice) on the part of the constituent states? Kant was well aware of the tension between the tendency for each state on one hand ‘to see its own majesty precisely in *not* having to submit to any external legal constraint’, and on the other hand ‘to desire . . . to *extend* its power, increase its range of domination’, including through cooperation with other states. It is such awareness that led him to his three-tier structure of law (state, international, cosmopolitan law) on which we can build the operationalization of a third way today. And it is this awareness that led him to remain highly circumspect regarding the imperial risks that an over-extensive interpretation of cosmopolitan rights (beyond ‘hospitality’) may involve when considering Europe’s colonial presence in the rest of the world.<sup>45</sup>

It can be argued, therefore, that Kant was all the while struggling to define and refine his own version of a *third way* for *perpetual peace* in Europe between absolute state sovereignty and the absolute transcendence of such sovereignty. Of course, to claim Kant as the spiritual father of the European third way hinges on a particular reading of his intellectual development.<sup>46</sup> But, while there is considerable scholarly controversy on the nature of Kant’s cosmopolitanism, the relevance of Kantian thought to the democratic constellation is clear. Arguably, EU institutions approximate this twin Kantian political imperative not only because they combine supranational and intergovernmental institutions but because they do so with special concern for mitigating power asymmetries. When scholars argue that such a third way is not institutionally possible and that democracy will either ground a specific way of practising intergovernmentalism or a specific form of federalism, they tend to wrongly take the unstable character of the required equilibrium as proof of its impossibility.<sup>47</sup>

To be sure, we do not have to rely on the philosophical search of past centuries for an ideal form of international social life at a time where we have come to accept the greatly contingent and constantly to-be-redefined nature of political bonds. But this search is nevertheless part of the story of the EU’s and the rest of the world’s attempt to institutionalize bonds of peace short of unity.

What kind of semantics best captures the nature of the bond in question? Here I schematically defend the democratic preference for contrasting *unity* with *union* instead of *community*.<sup>48</sup> To some extent, we can think of the labels ‘Community’ and ‘Union’ as broadly interchangeable in their contrast with ‘Unity’. Why prefer ‘Union’?

<sup>45</sup> Turkuler Isiksel, ‘Cosmopolitanism and International Economic Institutions’ (2020) 82(1) *The Journal of Politics* 211; Nicolaidis, *Kant’s Mantle* (n 7).

<sup>46</sup> Andrew Hurrell, ‘Kant and the Kantian Paradigm in International Relations’ (1990) 16(3) *Review of International Studies* 183.

<sup>47</sup> Miriam Ronzoni, ‘The European Union as a Democracy: Really a Third Way?’ (2017) 16(2) *European Journal of Political Theory* 210.

<sup>48</sup> See Kalypso Nicolaidis, ‘Perils of Unity, Promise of Union’ in Miguel Poiars Maduro and Marlene Wind (eds), *The Transformation of Europe—Twenty-Five Years On* (CUP 2017).

I have argued that while Union can mean all things to all people, it is a better term for a host of good and bad reasons. We could start with the communitarian and organic connotations that have tainted the term ‘Community’<sup>49</sup>—even if we would like to believe that terms and ideas should not be held hostage to their misuse at one point in history. We can also point to the use of ‘Union’ in the federal context and the useful contrast between federal union and federal state. And of course, in the end, we can stress the desirability of yielding to prevailing practices—that is, if we consider that the move from European *Community* to European *Union* has managed to retain the ‘community spirit’. But perhaps most important is the (subjective) sense that ‘union’ connotes a coming together while staying other, the continued autonomy and agency of the parts not only in spite of the togetherness but perhaps most importantly as a precondition for sustainable togetherness.

Crucially, this understanding of Union depends on stripping it from its teleological connotation—the idea that a Union needs to have a *telos*, an end that is radically different from its beginning, and what else than the move from separate *demoi* to the merger into oneness? Yet, as Neil Walker argues in this volume, the EU has been more successful as a “teleocracy” (an association committed to the pursuit of specific ends) than of a “nomocracy” (an association defined by commitment to a general framework of living in common). Such an incremental approximation of the common European Good may be key to the EU’s supranational constitutional imaginary but has also fed the populist fears discussed above among European publics.<sup>50</sup>

To be sure, human beings do not happily give up on teleology. Beings that have lost and yearned for union, at one point simultaneously male and female, have stirred the human imagination and peopled our myths and religions since our beginnings. After the original sin, Adam, the first hermaphrodite and a self-sufficient being like his creator, is divided into two imperfect sexes incapable of reproducing on their own. As told to us by Plato, each half of the primitive androgyn, split into two by Zeus, will forever be looking for his or her other half to become one again. How not to see our human unions and accompanying vows (‘if anything but death parts me from you’) as imperfect second bests, pale approximations of the original unity? We must of course guard against anthropomorphizing nations and states, phenomena without feelings or yearnings. But we cannot ignore the human beings who stir them.

So the idea of a Union of European peoples must depart radically from this yearning for oneness *in the end* not only in the name of plurality but also as an escape from the dangers of teleology. The actual political project of European integration has always played cat-and-mouse with teleology. On the one hand, most self-avowed pro-Europeans have long offered their ‘federal’ *telos*—whatever this may mean—under the label ‘United States of Europe.’ Moreover, in their story, the EU’s founding fathers cunningly hid such ‘ends’ under the disguise of small-steps functionalism, thus bolstering teleology with its twin sister, intentionality. Indeed, Europe’s economic constitution appears as an open-ended agenda for limitless integration. On the other hand,

<sup>49</sup> Much abused by the likes of Pétain: see Antonin Cohen, *De Vichy à la Communauté européenne* (Presses Universitaires de France 2016).

<sup>50</sup> Neil Walker, ‘The European Public Good and European Public Goods’ University of Edinburgh School of Law Research Paper No 2020/20 and chapter in this volume.

we can take the tautological flavour of functionalism (which continues to some extent to drive the EU's) at face value, which defines precisely an a-teleological process of continuous approximation, a project of progressive opening, of borders and then more. Even the idea of 'ever closer union' can be read as an asymptotic notion which relies on never stating—and even less attaining—some ultimate fixed political construct: in other words, a process of ongoing transformation.

In this light, Weiler's more recent warning against the kind of political messianism which has inspired European political elites from the beginning (he refers here to the messianic bible the 1950 Schuman Declaration) comes into full relief. Today's great danger is that this messianic drive, which early on served the process of integration well with a *telos* of integration compatible with both *Union* and *Unity*, has now come to embrace 'Unity by stealth', an end which justifies overlooking obstacles in the way, including the strong wave of resistance emanating from European publics. And yet the difficulty is this: public discourse seems to require teleological language, statements on 'what this is all about'. Can this be done by extolling purpose and process and explaining that there is no other horizon than the democratic sustaining of a process of togetherness without some new grand and shining political construct in sight?

Crucially in the contemporary twist to this story, the idea of Union implies that of choice. Unity and secession are incompatible. Community is ambiguous—one is usually born in a Community but joins a Union. European states had no choice but to be born rubbing against each other at the tip of Asia, but they were free to join the Union which they created together. More importantly, they are, or should be, free to leave it, if their individual demos so decide in a democratic fashion. For Weiler, the spiritual meaning of Europe's *Sonderweg* as 'constitutional tolerance' is to make integration an autonomous and endlessly renewed voluntary act of subordination to the European other.<sup>51</sup> Internalizing mutual constraint is thus an act of emancipation if it be understood as a version of 'federal liberty' or indeed the choice for mutual recognition.<sup>52</sup> In prosperous democracies at least, an overwhelming majority of citizens, however unhappy, do not choose to vote with their feet and leave their country. But they can. Similarly, most Europeans would not choose for their state of origin to leave the EU even when a majority might be unhappy about its policies. And while the sentiment may vary across nationalities, the EU remains the default option. Under such conditions—which may change—the theoretical right of exit which is part of the constitutional matrix of the EU contributes to its strength, not its weakness, as proponents of *Unity* would have it.<sup>53</sup> This is also why the EU needs to make up for the relatively perfunctory nature of the freedom to leave, as exemplified by the Brexit process, through tricks like opt-outs and differentiated integration.

One may argue that choice is not always a good thing. 'This nothing good or bad, but thinking makes it so', said the Bard. Indeed, most citizens of affluent states seem to suffer from the pathologies of choice, a state of permanent unhappiness brought

<sup>51</sup> See inter alia Joseph HH Weiler, 'Federalism and Constitutionalism: Europe's *Sonderweg*' in Nicolaidis and Howse, *The Federal Vision* (n 19).

<sup>52</sup> Kalypto Nicolaidis, 'Mutual Recognition: Promise and Denial, from Sapiens to Brexit' *Current Legal Problems* (December 2017).

<sup>53</sup> See Nicolaidis, *In Praise of Ambivalence* (n 17).

about by the sense that some other option might have been better than that chosen. And among peoples, it could also be argued that commitment may become more profound, humility more warranted, within a no-alternative irreversible Union. Perhaps. But at what price?

In sum, 'we, the peoples' is a utopian motto, calling as it does for the un-imagining of a teleological yearning for oneness which inhabits both ends of the EU ideological spectrum, those who equate European constitutionalization with the progressive emergence of a single demos, and those who hang on to their integrity of self-contained national peoples engaged in cooperation with each other short of self-reflective praxis of reconstitution as connected peoples. We can do better than forever opposing these two visions. We can re-imagine the ethos, status, and praxis of intertwined, mutually reconstituted peoples of Europe. This re-imagining has been conducted by countless EU scholars, themselves interdependent, many of whom are represented in this volume.

But the challenge is great. If identifying a 'demos' at whatever scale is no longer the grail of transnational democracy, we can find alternative imaginations of the intertwined quality of the peoples of Europe. An ever closer union between distinctly democratic peoples is hard for its peoples to imagine as democratically legitimate when it expresses itself as a new politics pitting peoples vs peoples. We now turn to more desirable alternatives.

## V. Constitutionalizing Horizontality: Varieties of 'Peoples-across-Borders'

Who then are the 'peoples' who are meant to exercise their popular sovereignty jointly in a democracy? Do these peoples purely and simply correspond to the boundaries of Europe's nation-states?<sup>54</sup> And what do we mean by popular sovereignty if it is to be something that is exercised in an interconnected way?

Defining the people is a perilous intellectual and political exercise. As a French philosopher once quipped, one could say that the people according to the left is ultimately defined by the rights that it has come to exercise, while the people according to the right is defined by its personality.

In the opening of this chapter, our people's chorus invites us to consider various connotations of peoplehood each suggesting a different democratic story, different meanings which in turn underpin in different ways the idea of joint popular sovereignty: *We the people, the demos, the masses, mob, plebians, citizenry, the publics, crowds, multitude* . . . Indeed, 'We the people' has always been a shorthand for many faces—our best candidate for *demos* as a 'community of citizens' that may legitimize political authority. Philosophers have long debated who then may count for such a community and how we know when we have one. We all know that the *demos* in fifth-century BC Athens referred to all Athenians, sure, but excluded women, slaves, and foreigners. Democracy

<sup>54</sup> Besson (n 22); Kalypso Nicolaidis, 'The Idea of European Democracy' in Kalypso Nicolaidis and Pavlos Eleftheriadis (eds), *Philosophical Foundations of the European Union* (OUP 2012), Étienne Balibar, 'How Can the Aporia of the "European People" be Resolved?' (2013) 181 *Radical Philosophy* 13.

has always been a game between inclusionary and exclusionary approaches to citizenship. To be sure, the Greeks—ancient and modern—have at least three other terms for ‘people’, namely *ethnos*, *laos*, and *plethos*, which each speak to different ways in which the community may be circumscribed.<sup>55</sup> There are those who will defend the most organic understanding of people as ‘nation’ or *ethnos*, or groups unified by a lineage, a culture, a history, and often a language, which together provide them with a sense of common identity against what makes them different from those around them. In this sense of the world, a democracy to organize peaceful coexistence may be restricted to basic ‘live and let live’ aims.

Many of us will argue that this ethnic definition is not useful for our purpose, either descriptively or normatively, as essentializing imagined or constructed commonalities generally serves exclusionary politics. Others, however, may point to the emancipatory virtues of localism and of ‘people on the ground’ who, like the Scots or the Basques, derive pride and integrity from their ethnic specificities. For sure, there are many more self-identified ‘ethnies’ on the European continent than there are constituted *demoi*, and they currently hardly count in the shaping of its continental order. We must contend with the prospect that at least part of some of these groups may eventually come to demand some kind of more explicit recognition from across Europe. In this context, a democratic lens will be about the conditions under which the reciprocal nature of recognition is played out among the conflicting claims of different self-identified groups.

In a different key, the Greeks’ *laos*, while indicating nothing but a military unit in Homeric epics, survived in modern Greek from the times of the anti-Ottoman revolution, referring to the people as ‘a collective ideality, with a mission or a destiny.’<sup>56</sup> This may be the sense most prone to being shaped by struggle and hardship, an ideal which may inspire ‘resistance to’ rather than partaking in the kind of community of destiny wished for by the EU mainstream. And yet, it may also be that a sense of positive destiny can come to encompass destiny in Europe or through Europe as a continuation of one’s national heroic story.<sup>57</sup>

But in the modern era, peoples are above all *publics*—ranging from the ideal of publicness as sharing a common political space, or *Res-publica*, to the more passive *public* opinion as a whisperer of *public* interest. Concerns with publics underpin not only state action but inter-state cooperation aimed at reining in private and corporate interests, ‘after decades of neoliberal policies where state failures and public irrationalities were systematically pointed out and the superiority of private management consistently affirmed’, as ‘public authority and public intervention again appear as the inescapable solution to the most daunting issues of our times, particularly at the EU level.’<sup>58</sup> We note however the minimal role played by publics in this renewed assertion of public goods, including transnational public goods (that *cannot be left to the public’s whims*). As Vauchez wryly notes, while pseudo-notions of the public interest do in

<sup>55</sup> Balibar (n 54).

<sup>56</sup> *Ibid.*

<sup>57</sup> Lacroix and Nicolaidis (n 28).

<sup>58</sup> Antoine Vauchez, ‘In Search of Europe’s Phantom Public: “Public-ness” and the European Union’ (2020) 21(1) *German Law Journal* 46.

fact, blossom today, such as corporate social responsibility or *pro bono publico*, these ersatz public interests generate increasing scepticism among generations of citizens, who continue to see the profits made by a private sector feeding on public services across Europe and with the EU's benediction.

What transborder politics follows from these assertions? Let us come back to the simplest political definition of a people as a group within which most members accept to bow to majority decisions on the assumption that they could be that majority some day and that today's majority will respect their rights. In doing so, we find ideas of peoples organized along a spectrum. On one end of the spectrum, there are those who argue that democracy is a certain kind of procedure, a method for reaching collective decisions among very big groups of people while minimizing violence and maximizing consensus among the greatest number. Here, 'the people' is defined by those who vote, or rather a group—the group which feels that it is legitimate to be ruled by the casting of a vote, a procedure generally governed, in representative democracy, by a majority logic.

At the other end of the spectrum are those who believe that we must think harder about the very substance of democracy and must capture its more disruptive aspect—that which allows groups, any group, to contest a given social order, whereby social orders always and by definition are based on a basic divide between those who are in charge and those who aren't. The real question here is not who is authorized to govern and how this happens, but who can disrupt those who govern, and how.

To drastically simplify, we can divide this spectrum into three core conceptions of 'people' and thus jointly sovereign peoples, namely constitutional, electoral, and social:

*Constitutional.* The first conception of the 'people'—and for some constitutional theorists the only true and legitimate one in a democracy—is that of the people who meet as *constitution makers*. Political theorists refer to the *pouvoir constituant*, or constituent power (the preamble of the Federal Constitution: 'the German people, in the exercise of their constituent power, have adopted this Basic Law'). This is the core meaning of 'people' most thoroughly discussed in the federalist papers and arguably the only meaning contemplated by the US founders when asking who is the sovereign in their new republic, or in other words the original fountain of all authority. In contrast, since the EU was established by governments as constituted powers, it can never rely for its popular legitimacy on an original moment when the people fought and spoke—Rosenvallon's 'the people as event'. And yet, the idea of constituent power or dual constituent power can arguably stand at the core of its legitimacy.<sup>59</sup> Can 'the peoples as event' be entrenched in the European constitutional imagination? This could have happened by channelling the energies of 'exit' into radical reconstitution, as our chorus suggests, but this moment has probably been lost.

This most fundamental *constitutional* meaning of people bears a straightforward implication as we contemplate joint cross-border popular sovereignty. Here legitimacy requires retaining the integrity of the component peoples of the EU as constituent

<sup>59</sup> Most recently Markus Patberg, *Constituent Power in the European Union* (OUP 2020). For a different take, see, *inter alia*, Isabell Lorey, 'Constituent Power of the Multitude' (2019) 15(1) *Journal of International Political Theory* 119.

powers, each with a veto on fundamental constitutional EU decisions, or EU primary law. This is where we find the strongest tradeoff between legitimacy and efficiency, and the eternal temptation to do away with a constituent power veto which freezes the status quo in European politics. But it seems pretty clear that, at least on this dimension, European peoples are deeply attached to their constitutional veto, for rather contrasting reasons as members of small or big states. In the former they fear being swamped by the power of their bigger counterparts, while in the latter they suffer from acute Gulliver syndrome and a sense that their own constituent power is watered down by that of their smaller counterparts.<sup>60</sup>

*Electoral.* The second conception of the ‘people’ is more routine or mundane, and refers to those who form a government, or the people as *law maker* of normal politics in representative democracy. Here, ‘the people,’ or rather the many groups and individuals which constitute it, will want many different things, and no election result will yield an unambiguous ‘general will.’ If, as per Hamilton, you privilege the first conception of peoples, then once the constitution is approved the demos switches from subject to object of politics. This dualist conception tells us that the people exist both as the sovereign, whose ultimate authority cannot be transferred, and as elector, whose day-to-day authority is constantly delegated. But who is it delegated to in the EU context? Can this ongoing delegation process make room for reconnecting the peoples horizontally through a creative political praxis of mutual recognition through deliberation? Obviously the complex set of institutions which constitute the EU are meant to do justice to this second meaning of European peoples as electors. But deepening European democracy through the horizontal logic calls for balancing of the individual people’s majority logics with the emergence of alternative transnational majorities which may empower the opposition within various member states.

This is where, in the end, democratic interdependence comes into its own. Some of us have argued that the very meaning of ‘representation’ needs to be re-imagined by putting centre stage ‘democracy by lottery’ across borders which brings citizens from different countries together to deliberate and decide alongside the electoral logic—a topic of vast importance today in the EU in the wake of the conference on the future of Europe.<sup>61</sup> Which brings us to the last conception of ‘people’.

*Social.* Last but not least, the more we move away from formal conceptions of democracy the more we see the peoples as those who emerge in the margins, who claim their share in the community and ask for the community to change in order to include them. As our optimistic chorus dares to hope: *In that world, we all know that democracy is not just about election but is a way of life. We reclaim our right to politics and to disagree intensely but with civility in the public sphere within and across our countries.*

<sup>60</sup> Simone Bunse, Paul Magnette, and Kalypso Nicolaïdis, ‘Big versus Small: Shared Leadership in the EU and Power Politics in the Convention’ in Derek Beach and Colette Mazzucelli (eds), *Leadership in the Big Bangs of European Integration* (Palgrave Macmillan 2006); Paul Magnette and Kalypso Nicolaïdis, ‘Coping with the Lilliput Syndrome: Large vs. Small Member States in the European Convention’ (2005) 11 *European Public Law* 85; Diana Panke, *Small States in the European Union: Coping with Structural Disadvantages* (Ashgate 2010).

<sup>61</sup> Alberto Alemanno and Kalypso Nicolaïdis, ‘Citizen Power Europe: The Making of a European Citizens’ Assembly’ in Alberto Alemanno and Pierre Sellal, *The Groundwork of European Power* (Revue Européenne du Droit 2022) 3.



We are closer here to the *pléthos*—or later the pejorative *plebe*—referring to the people as the ‘masses’ of the population as opposed to the elites. Here we require a socio-political perspective on the ‘folk’ or ‘people of the people’ concerned with inequalities, precarity, and disempowerment—that is, often, the poor, or ‘at least those who are not the privileged in rank or fortune.’ We can start with Machiavelli’s great insight that the essence of politics does not reside in universal value systems but in the constitutive role that political struggle engenders, or what we would call today sub-terrestrial national or transnational politics. This sense is certainly relevant to a democratic spirit which aspires to bring democracy in Europe ‘all the way down’ through horizontal cross border networks aspiring to be as inclusive as possible—even if only through narratives of inclusive patriotism. Hence the importance of deliberative and participatory processes where organized civil society proactively support an inclusiveness agenda to bring in decision-making processes those least responsible for and most vulnerable to today’s transition, in Europe and beyond.

Part of the challenge facing democracy in Europe today is to figure out how these three versions of peoples-across-borders can coexist under the umbrella of transnational agonistic democracy.<sup>62</sup> It seems in fact that European ‘public opinion’ is actually attuned to democratic reality of the EU and the utopian character of the pursuit of democracy to its ultimate logic, namely empowering meaningful horizontal connection across borders.<sup>63</sup>

## VI. Reimagining Sustainability: Immortal Peoples, Mortal Planet

The final way to reimagine European peoples explored here calls for an even more radical change in Europe’s constitutional imaginary, reflecting the EU’s ultimate *raison d’être*, namely the necessary pivot from the politics of space to the politics of time. In other words, we need to be able to truly and effectively imagine connecting the *demoi* of today with the *demoi* of tomorrow.

After all, with or without diamonds, political peace always hopes to be forever. Perpetual peace, eternal truths, infinite horizon ... our utopian aspiration for lasting political as much as architectural constructs will always be cut short. But today more than ever, we need to ask how to translate this utopia in a new politics that operationalizes equal respect *over* time, and not only synchronistically.

Many have analysed the ways in which, in Europe and beyond, we are plagued by short-termism and emergency politics as governments act under emergency powers responding to markets wedded to short-term returns.<sup>64</sup> If so, what better way to justify anew the process of European integration than to proclaim loud and clear the EU’s commitment to long-term goals irrespective of short-term expediency. I have argued in the past that the EU is best placed to institutionalize the idea of sustainability, the

<sup>62</sup> Chantal Mouffe, ‘Deliberative Democracy or Agonistic Pluralism’ (1999) 66 *Social Research* 745.

<sup>63</sup> Achim Hurrelmann, ‘Demoi-cratic Citizenship in Europe: An Impossible Ideal?’ (2015) 22(1) *Journal of European Public Policy* 19.

<sup>64</sup> Jonathan White, *Politics of Last Resort: Governing by Emergency in the European Union* (OUP 2019).

idea that we must act together for the long term, and that a peace project such as ours can best justify short-term sacrifices for long-term goals. Sustaining our polity as the guardian of the long term for its citizens, a means to an end, should be the new core motive for the European project.<sup>65</sup> I have suggested that such a vision should be labelled 'sustainable integration', which is most fundamentally about turning the ecological sustainability gestalt into a broader philosophy of transnational governance for the EU.<sup>66</sup>

This is also an agenda that requires widening the conceptual toolbox of political science to critical social theory and anthropology in order to better apprehend the EU's social grounding. Sustainable integration is altogether a practice, an ethos, and a state of mind. As a governing idea of integration it calls for pursuing fairer rather than faster or deeper integration, through processes that are politically acceptable across generations. I define sustainable integration in the EU as the *durable ability to sustain cooperation within the Union in spite of the heterogeneity of its population and of their national political arrangements*. In other words, sustainable integration calls for embracing the complexity of the task thanks to the simplicity of the vision.<sup>67</sup>

The core idea of sustainable integration is to turn the EU's democratic awkwardness into an asset: because it is a sum of governments which cannot be collectively kicked out, the EU ought to be about democracy-with-foresight, partially shielded from the short-term ups and downs of electoral politics, yet solidly grounded on participatory networks and attuned to the overwhelming desire of the public to confront future threats for the sake of our children and grandchildren. To atone for its current shortcomings in collective accountability, the EU must become accountable to those who are not represented today.

The prospect of interconnected peoples connected with their future themselves connected 'collective selves' is bound to affect the EU's prevailing constitutional imagination.

In this vein, it is ever less possible to consider the transborder connections between the peoples of Europe in isolation. As Ian Manners and others discussed under the banner of 'planetary politics', citizens around the world have increasingly had to face the challenge of living in Tomorrowland as a boundary-less praxis, where questions of pollution, biodiversity, and climate change can be addressed in a liberal sense by accelerating the transition to future technology today, no matter the costs of consumption.<sup>68</sup>

<sup>65</sup> On the big picture, see Yuval Noah Harari, *Sapiens: A Brief History of Humankind* (Penguin Random House 2014).

<sup>66</sup> This was my conclusion as we attempted to draw the early lessons from the euro crisis in a European Council wiseman group chaired by Felipe Gonzales. See Kalypso Nicolaidis, 'EU 2.0? Towards Sustainable Integration' (*Open Democracy*, 12 July 2010); Kalypso Nicolaidis, 'Sustainable Integration: Towards EU 2.0?' (2010) 48 *The Journal of Common Market Studies* 21. On the wise-man group process see also Kalypso Nicolaidis, 'Project Europe 2030: Reflection and Revival' (*Open Democracy*, 11 May 2010); Kalypso Nicolaidis, 'Sustainable Integration in a Democratic Polity: A New (Or Not So New) Ambition for the European Union after Brexit' in Uta Staiger (ed), *Brexit and Beyond* (CUP 2017).

<sup>67</sup> On complexity and the EU, see for instance Daniel Innerarity, 'What Kind of Deficit? Problems of Legitimacy in the European Union' (2014) 17(3) *European Journal of Social Theory* 307; Giuseppe Martinico, 'The Asymmetric Bet of Europe' (*Verfassungsblog*, 12 March 2017).

<sup>68</sup> Ian James Manners, 'Tomorrowland: Critical Social Theory of Planetary Politics', Paper presented at the ISA Annual Convention 2018, San Francisco, United States.

Increasingly globalized localities—or glocalities—constitute the building blocks of democracy. Planetary politics is giving rise to reimagining forms of democracy around such ‘glocalities’, a trend accelerated most recently by the Covid crisis, a pandemic that has galvanized new forms of civic activism as a powerful catalyst for global civil society where intertemporal ties can even override regional ones.<sup>69</sup> Whatever we may think of the ‘wisdom of the multitude’, it is hard to deny the irresistible sense that humanity is creating a global ‘anthrope-scene’ where potential redemption in the age of the Anthropocene is to be debated through a new kind of connectedness. This new frontier is likely to be affected by new technologies and new forms of ‘digital citizenship’ enabled by such technologies. As we learn to debate radical uncertainty and ask how to invest in collective resilience, we may be starting to lay the foundation of the kind of ‘democracy with foresight’ which a mature EU could bring about. If the pandemic has not spelled the end for contestation, it has changed the way we may imagine it and reinvent the act of being a crowd across time and space, as vividly conveyed by social-distanced crowds of protesters. And while online activism is not new, this time around it has allowed us to visualize our shared human aspirations to democratic freedom.<sup>70</sup> To be sure, for speech acts and virtual worlds to foster social transformation, something else has to happen which has to do with keeping alive the idea of democracy as a palimpsest of past and future struggles in past and future ‘otherlands’. Democracy depends in part on whether and how forms of power are appropriated by the multitude of ordinary citizens against elite entrenchment. So we are back to where we started, and the call to move beyond technopolism.

## VII. Conclusion

It may not be possible to maintain a system of governance without any sort of utopia. In exploring some of the many meanings of peoplehood in the EU as democracy in the making, this chapter has probed one dimension of our constitutional imaginary, namely the meaning of ‘peoples’. In doing so, I have put forth the idea that we ought to build an anti-teleological utopia of democracy in the EU in order for it to better become the guardian of the long term, but a long term constantly to be reinvented. Such a utopia runs against two countering ideological commitments, namely sovereignty and Euro-nationalism, which in Ricoeur’s sense both offer much simpler languages to ground political authority in the oneness of a single people.

If, as Ricoeur argued, utopia simply ensures that our horizon of aspiration does not simply fuse with our experience, we need a narrative to expunge its most totalizing tendencies. A democratic narrative may well be able to do so, given the greatly unforeseeable dynamics that may be unleashed by genuine deep connection between peoples across borders. What if we could envisage the advent of a third democratic transformation à la Robert Dahl, as transnational, transgenerational, and translational

<sup>69</sup> See Nicolaidis (n 4); Richard Youngs, ‘Coronavirus as a Catalyst for Global Civil Society’ *Carnegie Europe* (7 December 2020).

<sup>70</sup> Nicolaidis (n 4); Thomas Carothers and Richard Youngs, *The Complexities of Global Protests* (Carnegie Endowment for International Peace 2015).

democracy? More radically, what if imagining ourselves intertwined with other demoi in the present served as a stepping stone for connecting with other demoi in the future? Undoubtedly, to constitutionalize such a transnational and transtemporal utopia, drawing on what links us to 'others' across space and time, will call for radical leaps of political imagination as interconnected peoples proclaim with increased forcefulness: *we have imagined ourselves into being!*