

AFTERWORD

MULTIPLE IDENTITIES

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In writing *Revolutionary Constitutions*, I wasn't aiming to provide innovative "solutions" to the EU's current crisis. I was trying to ask new questions – questions that could provoke a conversation permitting constitutionalists to frame more constructive proposals for reform over the coming decades. I hope that the dynamic conversation begun in this Symposium is a harbinger of further engagement with the issues raised by my "three pathways" approach.

To further encourage debate, these closing remarks invite my readers to reflect on a fundamental limitation of the "three pathways" framework. In response to this limitation, I will introduce a second perspective that can help compensate for that deficiency.

I will call it "multiple identities" analysis. I suggest that, in future work, it should complement the "three pathways" approach that served as the basis for this Symposium.

To see why supplementation is necessary, consider that the "pathways" framework focuses on crucial decisions made by governing elites operating in places like Brussels or Rome or Berlin, Washington or London or Tel Aviv. Different elites confront different problems, depending on the particular pathway -- revolutionary, establishmentarian or elitist -- which frames their efforts at political legitimation. Nevertheless, each pathway asks itself the same basic question: How do *elite* choices shape *mass* perceptions of the legitimacy of governmental authority?

In short: they all take a "top-down", not a "bottom-up", approach to the question of political legitimacy.

Here is where the "multiple identities" framework makes a distinctive contribution. This model takes a "bottom-up" approach and focuses on the perspectives of ordinary people for whom politics

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in Brussels or Rome is much less important than the daily challenges involved in earning a decent income and sustaining a successful family life. Nevertheless, though they are concentrating on day-to-day realities, there are non-obvious ways in which they link up their *personal* identities to the larger *political* concerns of the governing elite. It is precisely these linkages that the “multiple identities” model seeks to analyze.

To start with an autobiographical example: Since the 1980s, my wife and I have spent many months and years living in Berlin at one or another research institute. During these decades, we have witnessed a remarkable cultural transformation of the “bottom up” kind. With the rarest exceptions, Berlin restaurants no longer serve “German” food – except, of course, for Apfelstrudel! When you go out to dinner, you are greeted instead by a gracious Italian host offering a wide range of his nation’s dishes; and if you get tired of veal parmigiana, you go to a nearby Asian or Turkish competitor, whose menu gestures in the Germanic direction only when it comes to the choice of beer.

Like it or not, Berliners are cosmopolitans, not nationalists, where food is concerned. No “ultra-nationalist” political party could survive if it announced that it would force “alien” Italian chefs to leave the country and close their restaurants once the hard-right gains political power and repudiates German membership in the EU. Their nationalist followers would recoil at the prospect of so much sauerkraut in their future!

In contrast, citizens elsewhere in Europe reject dietary cosmopolitanism for a “multiple identities” approach. When Czechs or Spaniards sit down for dinner, they shift from regional to national to cosmopolitan cuisine on a day-to-day basis. This is a relatively new phenomenon. The typical consumer’s diet was far less cosmopolitan, and much more regional, seventy-five years ago when the Treaty of Rome first proclaimed the “four freedoms.” After two generations of exercising these freedoms, the citizens of Europe would act like horrified Berliners if extreme-nationalists broke up the Union and imposed tariffs on the import of “foreign foods” into their “sovereign” states -- requiring consumers to pay high prices to maintain their cosmopolitan/national/regional diet.

“We are what we eat,” as a sage once proclaimed at a moment of revelation. This is an exaggeration, but it emphasizes a fundamental

truth. Top-down efforts at legitimation operate in dynamic interaction with the multiple cultural identities expressed in the course of daily life.

Another sphere of great importance involves language use. With the tragic exception of the Roma, no significant Continental culture is currently the object of systematic persecution. The Italians continue to speak Italian around their dinner tables; the Poles, Polish. But everybody recognizes that they also must learn to speak English as their second language if they hope to maximize their economic opportunities. Even Parisians have grudgingly come to recognize that they are no longer speaking the *lingua franca* of the Western world.

To put the point in my own techno-jargon: the residents of the EU are *nationalist* when it comes to talking about regional matters, but *cosmopolitan* when talking with one another about Continental questions.

Once again, it is always possible for “ultranationalist” politicians to challenge the linguistic status quo. Suppose, for example, that Viktor Orban did not content himself with proclaiming Hungary an “illiberal democracy.” To ensure that citizens would not contaminate themselves with alien ideas, imagine that his government prohibited the use of English in all cross-border communications. Moreover, his spy agencies respond to Orban’s commands by blocking all English language messages on the internet – allowing only cross-border transmissions written in Russian, Turkish, and other suitably “illiberal” languages. Is there any doubt that this dramatic step would generate an overwhelming backlash from Orban’s “populist” supporters?

Nor would they be satisfied if their charismatic leader offered them a “compromise” which allowed them to use French and German, but continued to ban the use of EU-contaminated English. Even if his followers generally applauded Orban’s super-nationalist program, they would still rebel against his initiative since its “anti-liberal” rejection of linguistic cosmopolitanism posed a clear and present danger to their family’s economic future.

Multiplicity is even more important when analyzing the sources of intergenerational conflict. Europeans between 18 and 35 are among the most educated people in the world. Vastly increased numbers attend university as they prepare themselves to take advantage of the

socio-economic opportunities available on a Continent-wide basis. Moreover, when they attend their national or regional universities, students increasingly engage in courses of study which recognize that they no longer restrict their career aspirations to the countries in which they were born. Indeed, many participate in cross-border exchanges like the Erasmus program. Once again, the traditionally nationalist university system is becoming nationalist/cosmopolitan.

In contrast, older generations living in the same countries have more limited educations and more modest trans-border expectations. Although they may well applaud their children's "success" in finding a wonderful job thousands of miles away from home, their admiration is tempered by the loss of day-to-day contact with loved ones that previously sustained the meaning of their lives.

Parents may try, of course, to conceal their bitter sense of loss when their grown-up children return home for an occasional visit; they may also appreciate their generosity in sending money back home. Nevertheless, when given the choice on election day, it is hardly surprising that they cast their secret ballots in a way that repudiates their children's cosmopolitan vision in favor of nationalist political movements.

This is, alas, one of the indisputable factors behind the intense political polarization dividing the British people as they struggle over their relationship to the European Union. Over the past three years, the nationalist/cosmopolitans under the age of 35 have overwhelmingly voted to Remain while the nationalist/nationalists over-65 have closed ranks behind Brexit. These high-visibility political struggles have channeled different bottom-up experiences in ways that have dramatically escalated intergenerational polarization and alienation.

Which leads to my final point. While the "multiple identities" approach sheds important and distinctive light on current crises, it can only serve as a supplement, not a substitute, for "three pathways" analysis.

Brexit serves as a case in point. Even if one views the nationalist arguments for Leave sympathetically, Brexit is likely to have disastrous long-term consequences for the overwhelming majority of Britons. While the UK would be a major player with Germany and France if it remained in the EU, it will be in a weak bargaining position if it leaves and tries to induce Brussels to provide British businesses

with privileged commercial access to the 450 million citizens remaining within the Union.

What is more, the UK's departure will require the country to surrender the great gains Britons have-obtained by speaking English as their native language. This linguistic privilege not only gave London an immense advantage over Frankfurt as a financial center, but it helped British industry play a central role in the EU's increasingly integrated system of production.

At the same time, it is very unlikely that these great costs will be out-weighed by the benefits that a sovereign Britain will gain in international trade negotiations. Even assuming that Scotland and Northern Ireland remain within the United Kingdom, Westminster will only represent 60 million people – smaller than the population of Japan or Russia. Even these larger countries will play a minor role in shaping the future of world trade. The big decisions will be made by the EU and USA, for the West; and India and China, for the rising East. Britain will be a third-rate power maneuvering for advantage from the sidelines.

Nevertheless, despite Brexit's devastating long-term impact on the economic future of most Britons, Boris Johnson will claim a "popular mandate" to leave the EU on the basis of his triumph at the recent parliamentary election. Yet Johnson's victory is entirely a result of Britain's "first-past-the-post" electoral system – as a scrutiny of the actual vote count reveals.

The Conservatives gained a decisive 35 seat majority in the Commons, but they won only 46% of the vote -- even when the supporters of their coalition partners are included. In contrast, the political parties opposing a quick Brexit gained the support of 52% of the electorate. Looking at the raw numbers, more than two million people favored Remain over Leave.

This raw vote count may well be deceiving. Some pro-business Conservatives wanted to Remain, but voted for Johnson because Corbyn-style Socialism seemed even worse than Brexit. Similarly, some traditional unionists stuck with Labour even though they favored Johnson's break with Europe.

Only one thing is clear: a "bottom-up" emphasis on Brexit's likely impact on daily life cannot be the key factor explaining Johnson's political success in dramatically reasserting British sovereignty.

Here is where my “top-down” perspective plays a key role. In accounting for Johnson’s fateful step despite the 50-50 split amongst the British people. As I suggest in *Revolutionary Constitutions*, a crucial element in the Brexit story is the “establishmentarian” predicaments generated by David Cameron’s decision to call for a referendum by “We the People of Great Britain.” It is this appeal to direct democracy which generated the next three years of crisis as governing elites in Westminster tried and failed to reestablish their accustomed role as the authoritative representatives of the popular will.

If my account of the tensions between the model of establishment parliamentarianism and the practice of populist referenda is valid, this not only illuminates the dynamics of political polarization in Great Britain. It also provokes further reflections on the role of referenda in other countries which have embraced elitist models of legitimacy. Most obviously, what are the similarities and differences between David Cameron’s use of a referendum on Brexit and the ongoing struggle in Spain over the legitimacy of a popular referendum on Catalan independence?

I will take up this question at greater length in my next volume, *Elitist Constitutions*. But I haven’t finished writing this book, and there is no need for you to wait until I complete the final draft. To the contrary, I would profit immensely from learning your views.

The same is true when it comes to the “bottom-up” issues sketched by my “multiple identities” model. I enthusiastically invite fellow members of the international juristic community to address the complex relationships between “bottom up” mixes of nationalism/cosmopolitanism and the variety of “top down” efforts to sustain Enlightenment constitutionalism at this moment of grave crisis.

Don’t hesitate to send me your thoughts - whether they are written in English, French, German, Italian, Portuguese, or Spanish. Perhaps predictably, I can’t read Russian or Turkish.