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IS AMERICAN DEMOCRACY A MODEL? THE UNITED STATES IN EUROPEAN PERSPECTIVE*

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INTRODUCTION

Before discussing ‘America democracy’¹ it is advisable to define the meaning of the expression. Since the United States is the longest-lived constitutional democracy in the world, it is inevitably conditioned by its long history and by its specific institutional structure. In the United States, history and institutional development are closely intertwined, and with reciprocal influence between them. This helps to explain why, amongst other things, all attempts to export American democracy have failed (or largely so). Constitutions can be imitated, but history cannot be repeated. Moreover, American democracy is the outcome of such specific geographical and environmental conditions that it is difficult to imagine another national context displaying similar characteristics (Mezey 1989). In sum, “American politics is in part the product of quite a good luck, such as the fact that the nation possesses abundant natural resources and territory, enjoyed peace during its period of modernization, never had to overcome the class divisions of a feudal heritage, and had an expanding economy that could absorb and welcome successive waves of immigrants” (Polsby 1986: 11)

This said, it is well not to confuse recognition of (American) specificity with celebration of (American) exceptionalism. American democracy is unique, but so too are all the national democracies. “All nations are to some extent unique in one way or another. The idea of ‘exceptionalism’, as it has been used to describe American history and institutions, assumes not only that the United States has been unlike other nations, but that it is exceptional in the sense of being *exemplary*” (Bell 1989: 41). A claim not easily justifiable. In consequence we must free ourselves of the exceptionalist dogma and fix the basic criteria with which not only to define it but to compare it with other democracies (Fabbrini 1993). If all contemporary democracies are based on opposing views and contrasting interests, American democracy appears as the ‘antinomic’ democracy *par excellence*.

In fact, it started from a lack of centralizing authority and an abundance of dispersed powers.

¹I shall use the expressions ‘democracy in America’ or ‘American democracy’ in homage to the Tocquevillian tradition, although it would be more accurate, as well as more respectful to the multinational nature of the American continent, to speak of ‘democracy in the United States’ or ‘United States democracy’.

America has been an experiment on creating unity out of plurality. *Et pluribus unum* was, for her, not only a motto, but a necessity. I assume the American as a democracy distinguished by four constitutive antinomies: two of them societal in nature (which I define as follows: (i) *the maximum of market vs the minimum of state*, (ii) *a society of groups vs a nation of individuals*), the other two institutional (which I define as follows: (i) *separated government vs popular participation*, and (ii) *composite republic vs democratic empire*). These antinomies underline American political development, here interpreted as the development of American constitutional structure. It is these antinomies which represent my criteria for comparison.

An antimonic democracy is all but static. In fact, American democracy has been an ongoing democracy: a democracy, that is, punctuated by historic changes in the national interpretation of her principles. Which principles? The constitutional principles which reflected those antinomies and tried to order their development. Of course, *post-facto*, those principles appear to be connected by a continuity. *Ante-facto*, on the contrary, those very same principals are perceived as tools for introducing discontinuity. The America of the Philadelphia constitutional convention of 1787 and of the first ten amendments of 1789 reinterpreted the principles which arose from the anti-English revolution of 1776, thereafter consolidating herself in the first half of the nineteenth century. The America of the Civil War of 1861-1865 and of the XIII, XIV and XV amendments reinterpreted the principals of the previous constitutional revolutions, thereafter consolidating herself through the turn of the century. The America of the New Deal years 1933-1940 and of the Suprem Court sentences which followed reinterpreted the principles in question, thereafter consolidating herself through the end of the century.

“American history has been punctuated by successful exercises in *revolutionary reform* -in which protagonists struggled over basic question of principle that had ramifying implications for the conduct of large areas of American life” (Ackerman 1991: 19). Thus, American democracy is the outcome of a creative exercise in constitutional politics: an exercise which periodically brought together mass and élites in a dialogue at once conflictual and cooperative. More than everywhere else, democracy and constitution are synonymous in America. Assuming the American constitution is the body of accumulated interpretations of the principles celebrated in the Declaration of Indipendence and in the Preamble of the Philadelphia document, reinterpretation imposed by the

working of one or the other of her antinomies, then the inquiry about the latter is an investigation of the regulatory as well reflective capacity of the constitution. I will pursue that inquiry taking into consideration the comparable experience of European democracy, with the clarification that, by 'European democracy', I mean the democracy not only of the countries of western continental Europe but also that of Britain.

Of course, I know that the historical developments of the former differ from that of latter, not least because continental democratic experiences, unlike that of the Britain, are distinguished by a common statist matrix.² Nevertheless, this difference cannot be exaggerated, if it is true that "(i)n Britain the concept of the Crown replaces the continental European concept of the state" (Rose 1996: 74). Moreover, my concern here is on the constitutional structure of democracy, meaning the peculiar institutionalization of the constitutional principles realized in European countries. From this point of view, America and all (western) European countries differ unequivocally. All western European countries have developed a monist constitution, exactly based on British design: a constitution, that is, which does not distinguish between decisions of the people and decisions of their representatives. America, on the contrary, has a dualist constitution in which the two decisions are, not only distinguished, but hierarchically ordered (in the sense that the decisions of the representatives need to take place in the institutional context defined by the decisions of the people). Here, constitutional politics is a business involving We the People, there Us the Representatives (Ackerman 1991: 6-10). Thus, let me start to discuss the above antinomies, as they interacted with the constitution through the Civil War of the last century (1861-1865).

²Daalder (1995: 117) has recently well written, "(t)he English case...represented a happy deviation from the 'normal' pattern on the continent: a center forming early, but never becoming a locus of absolute power, a pluralist order evolving slowly, legitimacy remaining strong, and 'responsible government' and the 'rule of law' being a more shorthand description for political beliefs than any reference to an abstract state".

The Societal Antinomies

The first pair of antinomies concern the societal nature of American democracy. The one opposing the market and the state has been object of vast research. Despite the neo-feudal model installed in the south by fugitive English aristocrats (fleeing the parliamentary revolution of 1688 known as the Glorious Revolution), the United States has been connoted much more sharply by the culture of those anti-aristocratic English fugitives who had landed around seventy years previously on the east coast. It was the latter culture that impressed itself on the entire subsequent socio-economic evolution of the colonies (first) and of the confederation and federation (later). As we know, this culture was accordingly defined as ‘naturally’ Lockean (Hartz, 1955), in the sense that it was able to assert a coherently contractualist view of American democracy. It was able to do so because neither group of fugitives was confronted by the political and social circumstances that have significantly and negatively conditioned the development of European democracy.

In fact, “(i)n sharp contrast to many European nations, the United States did not have a premodern polity characterized by monarchical absolutism, a locally entrenched standing army and bureaucracy, or recurrent mobilization for land warfare against equal competitors” (Skocpol 1992: 235), nor did she have to set up a social system in the presence of a shortage of resources to redistribute to a population in exponential growth. In the absence of effective institutional and social constraints inherited by a feudal past, the American colonies and then states could promote their own commercial activities, giving gradually rise to what *post-hoc* has been defined as a market system. It is not necessary to be in thrall to the exceptionalist myth to recognize that in America the market arose before the state; to recognize, in other words, that although economic freedom (of enterprise) may have been restricted by communitarian-religious constraints, it preceded the birth, and therefore guaranteed the growth, of political freedom (of speech and action). This is why “America began and continues as the most anti-statist, legalistic, and rights-oriented nation” (Lipset 1996: 20).

The market was the first institution able to impose order on social relations, or at any rate to rationalize their development. There were no other institutions (such as the state) at the time, and when they arose they suffered a shortfall of legitimacy compared with the market, in the sense that they laboured to acquire its authoritative capacity. Of course, the concrete construction of the

market, and therefore its development in the course of the first half of the last century (in the north especially), required constant intervention by the *states*, the driving force behind the construction of the necessary legal and material infrastructures of the young American democracy (Toinet 1989). Nevertheless, the market was able to preserve its independence from these infrastructures (because it was powerfully protected by a constitution that hampered the formation of a centralized state authority), and this is why the market has assumed a societal connotation (that is, it has gained recognition as the paramount source of individual freedom). In sum, still in the 19th century, “(t)he state did little and intrude less. By Max Weber’s familiar definition of the state as the agency that monopolizes violent means of coercion, America was virtual anarchy” (Wiebe 1995: 15). In European democracy, by contrast, it has been imposed (with the help of the state, and not in its despite) on the basis of a pre-eminently economic rationale. In short, in Europe the market has laboured to find justification as an institution of efficiency; in America it has not been obliged to justify itself because it was perceived to be, since the beginning, a ‘natural’ institution of freedom.

We may now turn to the second societal antinomy, the one connoted by the contrast between groups and individuals. When Jefferson managed to convince the political élite of his country to sweep the dust of religious conflict under the carpet (Matthews 1984), by means of that astute declaration of freedom of conscience that celebrated the rigid separation of state and church, at that moment, whether or not he was aware of it, he laid the basis for a modern pluralist society. For it is from the (recognized) pluralism of religious sects that the (encouraged) pluralism of social interests derives. America invented pluralism out of necessity because only recognition of the plurality of religious preferences in the country could save it from confessional disintegration. However, once religious pluralism had been ratified, recognition of the pluralism of social, economic and cultural interests inevitably followed (Dahl 1967).

It is indubitable that this religious origin of pluralism is a curious phenomenon indeed when set in the context of European democracies. And yet no European democracy originated as a country of emigrants prompted to leave their homelands by faith as well as socio-economic necessity (Lipset 1979). The pluralism of the groups that emerged from this historical circumstance (which was given

theoretical formalization in Madison's *Federalist Papers* no. 10³) would have an unusually (for the period) dynamic character. These groups displayed transitory forms of identification, not the permanent ones that came about in Europe (following her modernization's footsteps) with the formation of broad economic categories or inclusive social classes. The failure of the Articles of Confederation (1776-1787), with their attempt to institutionalize distinct (quasi-corporative) territorial belongings, testifies to America's initial impermeability to the temptations of permanent sub-entities (Wood 1969).

At the same time, without a past, America was more aware than the countries of Europe of the need to invent a present. Without a state, America was more aware than the countries of Europe of the need to invent a nation. It is difficult to establish with precision the degree of cultural awareness possessed by the American founding fathers (and I do not only refer to those who gathered in Philadelphia in the summer of 1787), yet one is obliged to stress the novelty of their undertaking: to create a nation based on a constitution and not already justified by the state (Bellamy 1996). A nation, that is, which recognized itself as such on the basis of a pact among individuals rather than on the basis of an accord or a compromise among institutional powers (as instead happened in Europe of the last century, with the compromise between monarchical and parliamentary powers).

“(T)he parts that make up the United States...are individual men and women. The United States is an association of citizens. Its ‘anonymity’ consists in the fact that these citizens don’t transfer their collective name to the association. It never happened that a group of people called Americans came together to form a political society called America. The people are Americans only by virtue of having come together (...) If the manyness of America is cultural, its oneness is political” (Walzer 1996: 27 and 29). Thus in America, from the very beginning of the new republican experience, a dual-faced society was created which in Europe was the outcome of a laborious process. On the one hand there was the society of individuals, without which it would have been impossible to conceive

³Madison writes (now in Beard 1964: 70): “The latent causes of faction are...sown in the nature of man; and we see them every where brought into different degrees of activity, according to the different circumstances of civil society. A zeal for different opinions concerning religion, government, and many other points (...) But the most common and durable source of factions has been the various and unequal distribution of property.”

the idea of the constitutional pact (an idea summed up by the ‘We the people’ with which the Preamble of the Constitution begins), on the other the society of groups was given the task of guaranteeing the social equilibrium on which the individual-oriented constitutional pact rested.

In short, America was the first country (and still today, I believe, it is the only one) which was not only born as a nation without a state but managed to keep the two separate (when the state finally took shape) interposing the constitution between them. Thus in America the nation has a constitutional basis; that is, one that is neither statist nor identitarian. Under the aegis of the constitution the country’s national diversities have been able to live together, and so too have its numerous religious sects and its contrasting socio-economic interests. Anchored in the constitution, the nationalities present in America have had to democratize their respective identitarian claims lest they self-exclude themselves from the republican pact. In this sense, the American and the European experiences differ radically. For America, the nation has never been a daily plebiscite (as in Europe) but a constitutional accord to be daily verified; an accord among different national individuals and not an agreement among different nationalities. In short, “the United States is not a literal ‘nation of nationalities’ or a ‘social union of social unions’” (Walzer 1996: 27), but simply a nation of individuals with different nationalities.

The institutional antinomies

The second pair of antinomies concern the institutional nature of American democracy. I start from the one opposing separation of governmental power with its electoral legitimacy. Contrary to what is widely believed, a system of separated government was created in America, not a presidential system (Neustadt 1990; Fabbrini 1998). It was the principle of the institutional separation of powers that was celebrated at Philadelphia, not that of their centralization in the president. A system “the chief distinctive feature of which is not a strong president but a strong Congress” (Polsby 1997: 176). From this point of view, the constitution of the United States continues to be the only authentically liberal constitution among the consolidated democracies. Of course, given that the Philadelphia constitutional convention was made necessary by the failure of

the previous constitution,⁴ the practical liberalism with which the new constitution was imbued had to distance itself to some extent from the theoretical liberalism of its inspirers (Locke and Montesquieu in particular). This was a practical liberalism that might be more appropriately defined as Madisonian, for it was precisely James Madison that sought to conjugate the fear of power with the necessity of its use (Dahl 1956).

America therefore inaugurated a system of government which, because influenced by Tudor England, proved to be very distinct from the system that was going to be institutionalized in Europe (and in the same post-Tudor England). While Europe was laboriously seeking to bring the king into parliament, America decided to exclude her king (the president) from parliament. Whereas the former strove to unify power, the latter strove to divide it. "Thus America perpetuated a fusion of functions and a division of power, while Europe developed a differentiation of functions and a centralization of power" (Huntington 1968: 110). However, this operational separation of powers (operational, that is, by virtue of the principle of checks and balances introduced by Madison - Ostrom 1987) had from the outset to come to terms with an historical experience that fitted ill with the reasons adduced to justify it. In short, constitutional liberalism had very soon found itself forced to adapt to electoral democracy.

Indeed, the ink on the constitution was hardly dry when Congress set about dividing itself into (two) caucuses (or what today we would term parliamentary parties) with distinct programmes and (more importantly) which were politically hostile to each other. The constitution therefore had just the time to settle down that the wind of the electorate blew in through its windows. So, although liberal America had established herself on the principle of the fear of power - also, and perhaps principally, power sustained by the majority -, she could not gainsay her principles by evading the necessity for a democratic (or better, popular) legitimization of that power. Thus America was the first country to introduce universal suffrage (i.e. male and white) and therefore the first to create a modern party system as the indispensable means to substantiate the recognized electoral right. If, in America, "(n)ineteenth century democratic politics revolved around elections ... (and) each

⁴The one known as the Articles of Confederation which regulated the country between 1776 and 1787.

election reenacted the levelling of authority and renewed each voter's share of sovereign power" (Wiebe 1995: 66), on the contrary "(t)he typical pre-1914 European government was a *constitutional oligarchy*. Government acted according to the rule of law, but the power to make and administer the law was in the hands of relatively few" (Rose 1996: 25, italics in the text). Whence derived in America, on the one hand the insistent endeavour to preserve the constitutional limits on power, and on the other the equally insistent pressure towards the latter's electoral legitimation (Morone 1990).

I now turn to the second antinomy, the one opposing the composite republic with the democratic empire. American democracy was the first federal democracy in the world. In America, federalism was born from a rooted anti-majoritarian and anti-centralist prejudice. The enduring ambiguity that characterized the (confederalist) theory of the pre-eminence of the right of states over the right of the state can only be explained in the light of the deep-seated (federalist) theory of the diffusion of state power. After all, as Sbragia (1992: 260) remind us, "(i)t is usually forgotten that until after the Civil War popular usage referred to the United States in the plural. 'The United States are' rather than 'the United States is' was the common formulation". In sum, it was the Civil War of the last century which waged to resolve that ambiguity. But not definitively. If the shift (from the plural to the singular) highlighted the national character progressively acquired by American democracy, nevertheless its compound (institutionally and territorially) nature barred the way to any attempt of centralization.

After all, a democracy is defined as "compound" when it is based on "(a) federal system of government...characterized by equilibrating structures that enable people to search out resolution in commonly defined realms of choice bounded by the limits of multiple veto points" (Ostrom 1987: 23). On the contrary, in Europe of last century, there were not effective veto points in the road towards a centralized state (Rokkan 1970). In fact, from 1815 to 1918, all European politics was not only about the creation of new states coterminous with a particular nationality (Rose 1996: 84), but it was also about the creation of a strong central government all-powerful. A centralization imposed, sometimes by necessity (that is by the the national élites' need to preserve the territorial sovereignty of the state from the appetites of powerful neighbours) and sometimes by conviction (that is by the national élites' will to imitate what it was then considered the successful model, the French one).

From its beginnings, however, the American compound republic had to reckon with the logic of the state of large territorial size (or better, a state not prevented from becoming such). Indeed, it was long thought, following Madison,⁵ that large size was the antidote to the illness (despotism) typical of small size, and that federalism in turn was the antidote to the illness (the expansionist instinct or spirit of power) suffered by states of large territorial dimensions (and *a fortiori* those of continental extension). And thus it was that America expanded territorially for more than a century and yet remained composite. And in this case too, an equilibrium at once fragile and stable was established, through the constitution, between the centralizing tendencies of a country with evident expansionist potential and the anti-centralizing tendencies of a democracy born from evident federalist need.

Of course, the balance between the America of innocence and the America of the empire could only be a delicate one, such was the cultural difference between the one and the other. Nevertheless, the balance proved to be surprisingly stable for a good part of the last century till the Civil war, and this was due to the balanced arrangement (constitutionally protected) of the social and cultural forces associated with each of the two Americas. When the logic of the great continental state came to predominate, any minor mishap sufficed to galvanize the forces of innocent America or the interests of isolationist America. In the same way, when the logic of the great immaculate democracy seemingly triumphed, its institutions and economy soon spawned the interests and cultures of anti-isolationist America concerned to make the world safe, if not for democracy, then certainly for the market.

⁵Who wrote as follows in the *Federalist Papers* no. 10 (now in Beard 1964: 74): “Extend the sphere, and you take a greater variety of parties and interests; you make it less probable that a majority of the whole will have a common motive to invade the rights of other citizens; or if such a common motive exists, it will be more difficult for all who feel it to discover their own strength, and to act in unison with each other”.

Antinomies and Change

If those just described were the antinomic foundations of American democracy as they became established up to and through the Civil War of the last century, then it is worth investigating how they reacted to the changes that subsequently came about in that democracy.

I begin with the first antinomy, the one relative to the relationships between state and market. With the formation of the great corporations in the second half of the last century, the market lost its role as the natural arena of societal interchange. The place of Jefferson's yeomen was taken by the great capitalists - great because they proved themselves able to gain monopoly of crucial production sectors. The challenge raised by the monopolistic reorganization of the market could not be countered by the minimal state. And yet it was a challenge that had to be neutralized if the market was to be preserved as the source of social mobility via economic competition. This prompted, with the New Deal years of the 1930s, a radical reinterpretation of constitutional principles, in order to make possible the creation of a federal state endowed both with increasingly broad regulatory powers and with an increasingly tight administrative organization. A federal state, nevertheless, which had already acquired some of those regulatory powers since the 1880s, and some of those administrative capacities since the turn of the century (Skowronek 1982).

Of course, the market has never (entirely) accepted such intervention by the state, which it deems a threat to its self-regulatory capacity. "To a greater degree than businesspeople in many other capitalist nations, U.S. capitalists... 'distrust their state'" (Skocpol 1992: 242). And this notwithstanding the fact that the American federal state has always motivated its intervention as necessary to revitalize, and not to substitute, the market's productive capacity (Stettner 1993). Of course, this regulatory intervention of the state has met growing difficulties approaching the end of the current century of globalism. Today, in fact, the relationships between state and market can no longer be defined solely in domestic terms, since they are powerfully influenced by the process of economic globalization.

Let me now consider the second antinomy, that between groups and individuals. Partly as a result of federal centralization, but mainly as the outcome of the functional complexity of industrial society, the pluralism of groups has also come to assume - with the New Deal years of the 1930s -

an oligopolistic configuration. Public policies have been increasingly conditioned by great organized interests, in accordance with the pattern which has been called “liberalism of interest groups” (Lowi 1979). In short, the individualistic basis of liberalism has been progressively eroded, with repercussions on the cultural identity itself of the country. Individual interests have been able to achieve recognition for themselves only by becoming an organized group, for only by organizing themselves could they influence on a stable basis the formation and the outcome of national public policies. Nonetheless, this organization has never acquired the neo-corporatist features of some post-war European countries, centered on social encompassing and peak-organized interest associations.

Once the identity of the functional group lost its temporary and instrumental character (in pursuit of a specific public policy objective) and acquired a permanent one, the conditions were created for transformation of the identity itself of the cultural group, in the sense that the ‘melting pot’ (where the ingredients are blended) was gradually superseded by the ‘salad bowl’ where they retain, on the contrary, their original features); the single-coloured nation was gradually replaced by the rainbow-hued nation (Lind 1995). Whence derived the ineluctable erosion of the constitutional bases themselves of American identity. Indeed, at the end of the twentieth century, the America of the hyphen (which joined - subordinating it - original national identity to subsequently acquired American identity) is now proving (for the first time) less attractive than the America without a hyphen, the America of distinct and separate identities. “It is very much like the dissidence of Protestant dissent in the early years of the Reformation, with many sects dividing and subdividing and many prophets and would-be prophets all talking at once” (Walzer 1997: 96). Of course, it is obviously difficult to reconcile a cultural America of permanently separated group identities with the creed of the constitutional America of the pre-eminence of individuals. And, above all, once permanently organized groups succeed in controlling the policy-making process, then public policies tend to preserve the good of their interests and values, also when it does not clearly coincide with the public good (or some innovations are required to meet the interests and values of excluded

individuals)⁶.

Also the third antinomy concerning the relationship between government and parties has undergone significant changes. Under the pressure exerted by changes in the environment, as well as by the processes of democratization set in train by dissatisfied publics, separated government was translated into presidential government; or better, separated government with congressional primacy, as it had been throughout the last century, became, with the new century and definitively after the crash of 1929, separated government with presidential primacy (Fabbrini 1994a). However, although congressional government had looked with favour on the growth of modern party organizations, this was not the case of presidential government. Indeed, “the Democratic party became during the late 1930s the party to end all parties. Under Roosevelt’s leadership, it was dedicated to a program that eventually lessened the importance of the two-party system and established a modern executive as the principal focus of representative government in the United States” (Milkis 1993: 5).

But when there is no institutional incentive for the fusion of powers, it is unlikely that institutionally cohesive parties will form, because parties tend to adapt to the features of the institutional system and not vice-versa (Avril 1985). In fact, the ascent of the presidency, without the simultaneous descent of the Congress (whose prerogatives continued to be guaranteed by the constitutional system of separation of powers), gave rise to a different hierarchization of decision-making between the two governmental institutions, not to a rearrangement of the government around the president. In sum, there are political and institutional reasons of why the American parties of the presidential era have progressively weakened: it could not have been otherwise in a system of government that has grown even more separated.⁷

⁶As Lowi (1971: 52-53 and 54) wrote: “Conservatism is literally sown in the nature of organization itself. In this sense, we can say that formed groups are inherently conservative regardless of the nature of the goals of the organization or the predispositions of its members. (In sum) our system is uniquely designed for maintenance”.

⁷More separated than in the congressional period, when the separation was less marked for the simple reason that the presidency was still not sufficiently institutionalized to compete effectively with the much more institutionalized Congress. In short, in the presidential period (initiated by F. D. Roosevelt in the 1930s), separation grew more accentuated because both

Of course, weak parties are bound to become even weaker, in the sense that they are unable to raise effective resistance against pressures for their further weakening: as happened with the reform of the system of presidential candidate selection introduced by the Democrats in 1972 and then also adopted by the Republicans (Polsby 1983). In its turn, this weakening of the parties further reduced the weight of partisan loyalties in the electorate. Thus, first gradually and then rapidly, there ensued that phenomenon of 'ticket splitting' (Fiorina 1992) which led, after 1968, to the quasi-institutionalization of a full-blown regime of 'divided government' (Ginsberg and Shefter 1990). Controlled by opposed party majorities, the two separated institutions were incentivised to transform an ordinary partisan conflict into an extraordinary institutional conflict. The outcome was a drift towards stalemate in the decision-making process, which rousing rhetoric by the president and silent offers of coalitional cooperation by Congress attempted to resolve. A context which, although it eventually brought to a decision⁸, complicates nevertheless the identification of those who are responsible for it, because it further wipes out that already opaque distinction between government and opposition allowed by the system of separation of powers.

I turn finally to the changes that have occurred in the fourth antinomy, the one relative to the relationships between states and the state. First rapid industrial growth, and then America's international ascendancy, subjected the institutional structure of the compound republic to powerful pressures. If the New Deal had begun the nationalization process of American politics, the Cold War accelerated its internationalization. Power was increasingly transferred from the states to the state, without, however, this transfer finding justification in a coherent culture of the state. Indeed, in the last 50 years, "(t)here was virtually no serious political science inquiry into whether the changes in constitutional doctrine, governmental structure, and policy commitments constituted a regime change" (Lowi 1992: 5). Thus the America of the imperial state became forced to live together with anti-state America of the states, the America of overarching power with the America of the small

institutions of government were able to use their institutional resources to the full (Mezey 1989).

⁸In fact, that drift did not prevent the approval of several important bills when solid consensus formed, among legislators and the president, concerning the solution of an (electorally) important issue (Mayhew 1991).

county.

In short, nationalization and internationalization imposed themselves without being able to pervade the logic that drove the institutional system: “all politics is local” was the oft-repeated dictum of Tip O’Neill, the popular Democrat speaker of the House in the early 1980s. An exaggeration, of course, but one nevertheless justified by the enduring influence of Congress (that is, of local and state interests) on national policies. Which also gave rise to the see-saw motion of the relationship between states and the state: the ascent of the latter has never been definitive; indeed today we witness, due to contingent factors as well, its descent to the advantage of the former.⁹ Although a pendulum seems to drive the relations between the two institutional powers, nevertheless the nature of those relations appears to be continually challenged.

In some ways, post Second World War European democracies registered analogous changes, although their antinomies were activated by pressures coming exactly from the opposite side than the one operative in America. In Europe it has been the market to challenge the regulatory primacy of the state, especially on the wake of the growing economic and monetary integration of the continent. In Europe, it has been a culture of individual rights which called in question a policy making process designed to serve exclusively groups or collective interests. In Europe, it has been the emergence of strong governmental leaderships which tried to reduce the control of the government by the parties. In Europe, it has been the explosion of regional political identities which pressured for the creation of national compound polities. In fact, it is a decade now that a discussion on the ‘Americanization of European politics’ is taking place in many European public opinions: an argument as implausible as the reverse, that of the ‘Europeanization of American politics’ (Fabbrini 1994b). The analogy between the two democracies is in the nature of the antinomies, not in the strategies for dealing with them. In fact, the historical-institutional differences between America and Europe, as they are reflected and ordered in the respective constitutions, tend to promote dissimilar solutions to similar problems.

⁹One cannot rule out that intractable macroeconomic, macrosocial and macropolitical problems have obliged the federal state to resort to the well-known strategy of blame avoidance, transferring the task of solving them to the states (and also, therefore, blame for their probable failure to do so).

A Model or a Method?

If my argument is plausible, and granted that an 'American model' exists (Beyme 1987), the latter is nevertheless a model founded on unequivocal antinomies (of course, formally, an antinomic model is a contradiction in terms, given that models necessarily consist of internally coherent and closed-ended patterns; empirically, however, it is a common reality). If one bears in mind this historically grounded antinomic nature of the American model, it becomes easier to understand why it has in most cases dramatically failed when it has been exported. Accordingly, more than imitating (or worse importing) the American model, it is much more useful (for non-Americans) to investigate how these antinomies have been dealt with. In short, we should concern ourselves less with an American *model* than with an American *method* to resolve these antinomies, given that they are not unique to American democracy as we have seen. Of course, by a 'method' I mean the specific tools (of political culture) with which to create the categories of thought (translatable, therefore, into political and institutional choices) necessary to (attempt to) conciliate the antinomies in question.

So what has been the American method to handle the societal antinomies? I begin with the antinomy between states and market. Although there is no lack in America, either today or in the past, of proponents of a zero sum solution, America's history displays a predominantly competitive approach to the antinomy. America has never undertaken the statization of the market, although frequent attempts have been made to marketize the state. The American approach, inaugurated in the 1880s and then confirmed by developments in the 1930s to 1960s, has been to transform the state into the regulator of the market, not into its replacement as in Europe; a regulation justified by empirical reasons, since if left to itself the market tends to generate oligopolies which suffocate competition. Hence the market must be regulated to save it from itself, that is to make it a competitive institution (Brinkley 1995).

Nor with reference to the antinomy between groups and individuals has there been any lack of proponents of a zero sum solution, whether the one involving the complete corporativization of national policies or the one involving the re-assertion of their uniquely individualistic character. Yet

American history shows the emergence of a very different approach seeking to counterbalance the power of groups with individual leaderships (of the president and sometimes of leading institutional members of Congress). Presidential leadership in particular has provided (disorganized) outsiders with their principal resource against (organized) insiders (Shklar 1991). Thanks to the progressive democratization of his electoral investiture, the president has become the guarantor of the nation. In sum, “(a) people’s champion, preferably one in the White House, was as significant to advancing the cause of ordinary people as absolute monarchs had once been to opposing it” (Kazin 1995: 24). Of course, the importance of individual leadership is a structural feature of American democracy, if it is true that “(i)n America the individual rather than the state is the foundation of political authority. (And in fact) (t)he study of American government emphasizes the political behavior of individuals, whether voters, members of Congress, or the president” (Rose 1996: 74).

What has been the American method to deal with the institutional antinomies? Once again the proponents of a zero sum solution abound. However, as regards the antinomy between government and parties, those who advocate a government without parties have been much more numerous than those defending the importance of a government of parties. Yet, with the presidential era, the inevitable approach has been to deal with the antinomy, not only by individualizing the responsibility of those in power (president and members of Congress), but also by subordinating party cohesion to institutional independence. This, of course, has reinvigorated the competition between the two governmental institutions, Congress and the presidency, more than between the two rival parties: let’s say, freeing Madison from Jefferson.¹⁰⁰ In short, members of Congress have tended to vote considering more the interests of their electoral districts than those of their party caucus or of their president. Because it is in the district, not in the party, that s/he needs to gain the re-election. “In most democratic countries, the fate of most politicians depends, not primarily on their own

¹⁰⁰Hudson (1996: 38) writes: “(t)he separation-of-powers structure erected formidable barriers in the way of forming a coherent governing majority in the United States (...) The key to uniting the branches was the political party, and the first practitioner of the method was the third U.S. president, Thomas Jefferson”. But then he adds (ibid.: 39): “(a)lthough the Jeffersonian model is the the historical strategy for successful democratic politics in the United States, it does not overcome completely the antimajoritarian bias of the separation of powers”. In fact, the parties in the government are more and more unable to bridge the distance between the branches.

endeavors, but on the fate -locally, regionally or nationally - of their party. If their party does well in an election, so do they. (...) (In the United States, on the contrary) (t)he candidate's party is a background factor. It is the candidate himself who is in the foreground" (King 1997: 37 and 39).

If it is plausible to say that in America, today, "office seeking is candidate centered...(that is) candidates are autonomous and individually responsible for their own fates" (Aldrich 1995: 161), then, consequently, it is also plausible to affirm that, in America, (party) responsibility has been growingly interpreted as, primarily, (individual) accountability, thus entrusting the identification of the latter through the process of reciprocal checks and balances between institutions, more than through the process of mutual control between the party in government and the party in opposition (Fabbrini 1995). Hence, in the case of the antinomy between states and state there have been many fewer proponents of a return to the pre-eminence of states compared with those who envisage the centralization of the federalist state. Here too, however, the prevalent solution has been a much more pragmatic one: the formation of a federal set-up with competition between states and state (Dye 1990). In both antinomies, the constitution plays a strategic role in setting the boundaries within which the competition (between the Congress and the presidency and between the federal center and the states) has to take place.

Seen from this perspective, the American method seems highly useful to Europeans as far as resolution of the societal antinomies are concerned, but much less so as regards resolution of the institutional ones. Europe can and must learn a great deal from the culture of competition and leadership, precisely because it has been traditionally suspicious of the former and has ambiguously eschewed the latter. Europe has feared competition, because of its capacity to upset established social equilibria. Europe has downplayed individual and emphasized collective (*i.e.* party) role, because in its predominant political religious and communitarian movements (*i.e.*, the christian-democratic and social-democratic parties) society has been perceived as a sum of groups of belongings more than a sum of independent individuals. In fact, traditionally, her party leaders have tried to confirm existing social identities, more than to mobilize dispersed electors.

America's economic dynamism and social integration derive from her twofold adherence to the principles of competition and leadership. The social legitimization that these two principles continue to enjoy may explain the marked social mobility of America (Huntington 1981), but also her

economic unfairness. A paradox, from a European perspective, if it is true that “(t)he United States in the 1990s is socially, though not economically, a more egalitarian place than it was fifty or sixty years ago” (Walzer 1997: 96). Not so, from an American perspective, because “(t)he American commitment to equality of opportunity implies that achievement should reflect ability (and) justifies higher differentials in reward...” (Lipset 1996: 72). In any case, considering the capacity of the American system to integrate millions of immigrants in both economic and public policy systems, it is plausible to assert that competition and leadership have checked each other. In sum, “the American emphasis on competitive individualism seems to have paid off” (Ibid: 58)

Of course, Europe has also much to learn from the culture of institutional competition. In the case of competition between governmental institutions (legislature and executive), because of Europe’s rigidly partitist tradition, with its emphasis on collective partisanship rather than on individual political accountability. In the case of competition between state institutions (the center and the peripheries), because of Europe’s rigidly statist heritage, with its emphasis on hierarchical relations and paternalistic attitudes. However, these latter two cultures are not enough (on their own) to deal realistically with the problems of governing contemporary European democracies. Indeed, the institutional logic of these democracies requires: (a) that responsibility passes through the distinction between political options rather than institutional branches, although that distinction has been recently altered by the emergence of political leaderships obliged to overcome party boundaries in order to deal with a growing individualistic-oriented society; (b) that competition among central and peripheral institutions should be attuned to the necessity of their cooperation, although this cooperation has been recently jeopardized by the explosion of territorial interests expressing to the center their conflictual claims.

In sum, first, European democracies (all of them with fusion of powers¹¹) continue to be organized along party lines, so that it would be questionable to advocate the introduction of a

¹¹As I have argued elsewhere (Fabbrini 1995), even the genuinely semi-presidential systems (like that of France of the Fifth Republic and, to a lesser extent, Finland) belong to the family of fused power systems, in that the executive cannot govern unless it has the confidence (albeit implicit) of the legislature. Of course, those systems which envisage the popular election of the president of the republic with solely powers of guarantee, not of government (e.g. those of Austria, Ireland, Iceland and Portugal), cannot be regarded as semi-presidential.

democracy of leaders or candidates *against* the parties in the absence of an institutional separation of powers (which can limit their room of manoeuvring). And, second, European democracies (all of them of state derivation) continue to be directed by the center through his extensive administrative apparatuses, so that it would be unrealistic to advocate the introduction of a democracy which set the peripheries *against* the centre. This also in the cases of not-centralized European countries.¹²² In fact, in Germany, where the state was demolished by a dramatic military defeat, the federal system had nevertheless to be based on cooperation between *Länder* and *Bund*. The same applies to Belgium, where a federalist reform of the state was introduced in 1993. Also to Austria, where the power of the *Bund* vis-à-vis the *Länder* is unequivocally overwhelming. And also to Spain, where recognition of regional autonomies by the new democratic constitution of 1978 was coupled with recognition, not abolition, of the center's prerogatives. After all, European federalisms come from a process of disintegration of once-unitary states, in which the center tried to retain as much as possible of its previous powers; whereas American federalism comes from a process of integration of once-independent colonies, in which the latter tried to retain as much as possible of their previous powers (Sbragia 1992).

A Conclusion

America has shown that there is an operational link between freedom and change. If America is the homeland of modern constitutionalism, it is so because it has been able to preserve its spirit as well as its form. America has been able to preserve the spirit of its constitution because it has been willing to change it. Not coincidentally, constitutional politics - that is, the politics of constitutional change - was born in America, given that the constitution was amended (with the famous ten Bill of Rights amendments) just two years after its approval. And when the amending process showed to be difficult to pursue, then (as it happened since the New Deal) the amendment took the form of a Supreme Court sentence. This is why America had one constitution (or better two,

¹²²A still interesting discussion on the need to distinguish between non-centralization and decentralization, is in Elazar (1976).

being the first The Articles of Confederations), but several constitutional regimes. Precisely because it is the homeland of constitutional change (whether through amendments or judicial sentences), America cannot be conceived as a model to imitate.

Europe, by contrast, has often found herself in the condition to replace one constitution with another, in order both to protect the incumbent regime or to move from an old to a new constitutional regime. Since 1789, France has had 15 constitutions, but only five republics. Probably, this was so also because the American constitution is a frame of government, which “delineates the basic structure, institutions and procedures of the polity...(and) declares certain rights to be basic and provides means for their protection in civil society... (while) European constitutional codes tend to be far more rigid and require precise and deliberate formal textual change to be tuned or adopted” (Elazar 1985: 233 and 234). A rigidity certainly due to the fact that “(m)ost European countries are governed under the Roman or the civil law, in which legal principles are regarded as comprehensive and fixed” (Rose 1996: 80), where this does not apply for common law countries like America (and Britain).

Still, the difference between America and Europe seems to call for a deeper divergence in political culture. If both have recognized the contrasts, both inevitable and irresolvable, that lie at the basis of modern democracy, nevertheless they followed historically an opposite method in order to deal with their own antinomies. Since 1787 American political culture has sought a positive sum solution to the antinomies that sprang from the republican experience. This contrasts with European political culture, which since the revolutionaries’ decision to cut Louis XVI’s head in 1792, has preferred zero sum solution to the contradictions that obstruct the growth of democracy. And it is perhaps here, in its suspicion of zero sum solutions and in its quest for positive sum empirical solutions, that resides the democratic feature of American political culture. By contrast, it is in its ideological search for zero sum solutions and in its suspicion of bargained positive sum solutions that resides the democratic feature of European political culture. In short, the distance between America and Europe is the stretch of ocean that divides perfectibility from perfection.

But where does political culture come from? It comes from history and institutions, as they are reciprocally connected through the constitutional structure of the country. Historically, for America power was a problem, while for Europe it was a solution. The constitutional structures of the two

democracies reflected, and then developed, this different preoccupation. “The idea of checks and balances influenced the authors of the U.S. constitution, which guards against the abuse -or even the use- of power. However, in Europe the idea did not take so strong a hold. Unchecked authority has been justified by arguments drawn from such very different principles as absolute monarchy, parliamentary democracy, or social democracy” (Rose 1996: 78). From here derive the dualist constitution of America which, distinguishing between the decisions of the people and those of their representatives, enlarges the number of actors involved in the constitutional change, slackening consequently the path of the latter but not its impact, but freeing the constitutional principles from an identification with the constitutional views of the incumbent power-holders.

And from here derives, too, the monist constitution of European countries which, collapsing the decisions of the people and those of their representatives, reduces the number of actors involved in the constitutional change, fastening consequently the path of the latter, but so imprisoning the constitutional principals within the constitutional view of the incumbent power-holders. A monism which connotes all European countries, majoritarian and consensual, insular and continental. Starting, probably, from Britain. In fact, “(s)o far as the monist is concerned, the British design captures the essence of democracy” (Ackerman 1991: 8), a design America did not adopt (or failed to adopt). In sum, whereas “the British Constitution is essentially a *political* constitution, one whose operation depends upon the strenght of political factors and whose interpretation depends upon the will of its political leaders” (Bogdanor 1988: 71, italics in the text), Americans, on the contrary, “(r)ather than granting a power monopoly to a single, popularly elected House of Representatives, (...) tolerate a great deal of insubordination from branches whose electoral connection is suspect or nonexistent. While the Senate gets its share of lumps, the principal obiect is the Supreme Court. Whoever gave Nine Old Lawyers authority to overrule the judgements of democratically elected politicians?” (Ibd.)

Precisely because it was born in sequence with a liberalism (which had the time to introduce its institutional and conceptual innovations), the American culture of democracy (prompted by the latter) was forced to grow within a sufficiently established liberal institutional and intellectual context, a context which made difficult to conceive of perfect governments, even less ‘angelic’

governors.¹³³ The separation between People and Power (that is between principles and power-holders), and the diffusion of latter, have incentivized the search for pragmatic compromises among a plurality of actors and institutions. Nobody can claim to have the (constitutional) truth. The “city on the hill”, if it exists, is not ‘down here’ but ‘up there’. And in any case appeals to it serve as a populist antidote to the possible elitist degeneration of the liberal-pluralist feature of the constitution.¹⁴ “Through populism, Americans have been able to protest social and economic inequalities without calling the entire system into question” (Kazin 1995: 2).

By contrast, the European culture of democracy, precisely because it arose in simultaneousness with a liberalism (which it ended to fear democracy because it wanted to overcome its procedural perspective), inevitably asserted (in opposition to liberalism) that perfect governments and angelic governors are possible. The “city on the hill” is down here, although only very few may see it. In fact, the parliamentary and centralized institutions thus created, once legitimated as embodiment of people’s sovereignty, could authorized the power-holders to claim the (constitutional) truth. Deprived of an effective liberal antidote, European democratic movements have traditionally looked suspiciously to every thing could hamper the historical march toward the “hill”, starting from the individuals, that is from individual rights and choices; with the effect of producing a society more protected (for the groups) than the American, but also less open (for the individuals) than the latter.

In conclusion, if it is true that continuity is given to a social community not by contingent solutions proposed for its conflicts but by the principles that sustain the search for those solutions, one may suggest that it has been America’s constitution that, institutionalizing liberal principles, has enabled her to conduct a pragmatic search for democratic solutions. By contrast, the experimentalism of this search has been contrasted in Europe, due to the weakness of

¹³After all, ““If men were angels, no government would be necessary”, as Madison wrote in the Federalist Papers no. 51 (now in Beard 1964: 225). For a critique of Madison’s (presumed) ‘heartlessness’ see Matthews (1995).

¹⁴American populism has its roots in that ‘We the People’ with which the 1787 Constitution begins. Since the onset of republicanism it was legitimated as a current of thought which served to redress the defects of liberalism. In contrast to European populism (think to the European experience between the two world wars), it has never carried an anti-political or indeed anti-democratic message, limiting itself to assert an excluded people’s will against the included elites.

institutionalization of the liberal premises of her democratic constitution. Given that values live through institutions, it is worth considering the argument stressing that the different degree of institutionalization of liberal principles in America and Europe may explain why, whereas America during periods of social unrest has been able to regulate discontent by relying on consensus about basic liberal values, Europe has been unable to benefit from an equivalent shared heritage with which to regulate her own discontent.

In sum for Europe, studying the American 'method', requires a self-interrogation on the liberal rationale underlying its democratic institutions. That is, European democracy needs to make a step back, in order to clarify its own liberal premises, in order to strengthen positively the liberal institutions and practices of her constitution. On the contrary, for America, reflecting on its 'method' from a European perspective, requires a self-interrogation on the democratic expectation added to her liberal institutions. That is, America needs to make a step forward, in order to neutralize the negative economic consequences produced by those liberal premises, when they are left alone.

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