

Designing European federalism

Sverker Gustavsson^{*}

Summary

■ Provided that we argue from a reformist, piecemeal constitutional engineering point of view, rather than look for an ideal design, our core value is democratic sustainability. What matters is our continuous problem-solving capacity and ability to improvise. That is so because we do not believe in any final solution. Popular government needs to be self-reinforcing. Otherwise, we will not be able to cope with unpredictable social and economic crises. What is then to be done in order to avoid a complete constitutional break-down comparable to the one that occurred in the interwar years? My answer is summarised in the form of three practical recommendations. The first is that suprastatism should remain provisional, marginal, predictable and revocable. The second is that the offensive intergovernmentalism introduced through the so-called open method of co-ordination must prevail. My third and decisive recommendation is that the substantive question of equity vs. efficiency should not be swept under the rug, but rather actively addressed. Is there a synergistic relationship between these two values, as social democrats tend to believe? Or shall it be looked upon as a trade-off relationship, as market liberals tend to believe? By simply posing that question in that way, and trying to answer it empirically, much could be done in order to secure the long-term sustainability of the established system of double asymmetry, i.e. of uneven de-nationalisation of formal procedures as well as of substantive public policies. ■

JEL classification: H 77, N 44, P51.

Key words: Comparative federalism, double asymmetry, democratic sustainability, piecemeal constitutional engineering.

** Sverker Gustavsson is Professor at the Department of Government, Uppsala University.*

Designing European federalism

Sverker Gustavsson*

Basically, there are two ways of posing the problem of European federal design. One approach that immediately suggests itself is to theorise from scratch a justification of an ideal construction. In the eyes of an exclusively normative theorist, the Union would be best either as a symmetrical federation or as a straightforward confederation. In neither case is any democratic deficit tolerable—any more than any built-in imbalance can be tolerated between the degree of commercial and monetary suprastatism on the one hand, and the degree of labour-market and social-policy suprastatism on the other. When reasoning from scratch, it may seem reasonable to conclude that competencies ought to be allocated in such a way that the degree of suprastatism—as measured by the criteria of majority vote, direct effect, and precedence for federal decisions—is matched by a corresponding degree of suprastatism with respect to electoral accountability. There should be no democratic deficit. In addition to the demand for procedural symmetry, an exclusively normative analysis points in the direction of a substantive symmetry as to social-policy and labour-market regulation. Ideally, suprastatal market- and monetary-regulatory competencies should be accompanied by a correspondingly symmetric allocation of suprastatal social-policy and labour-market competencies. As a consequence, a considerable part of the gross national product—five, ten, or twenty per cent, rather than the somewhat more than one per cent that now applies—will have to be redistributed across the federal territory according to class, region, and age. This must be done in order to compensate for the fact that the market- and monetary-regulatory powers are centralised and deliberately insulated from direct electoral control. Irrespective of whether our exclusively normative theorist prefers a perfect federation or a perfect confederation, he or she is calling for far-reaching change. Either way, the distance is

** I am grateful for valuable criticism from Kjell Goldmann and an anonymous referee in the present context as well as from my colleagues in other seminars where the draft has been discussed. The research has been undertaken within a project on reform strategies for the European Union, financed by the Bank of Sweden Tercentenary Foundation.*

great between the ideal union and the actual one. In principle, this double asymmetry—a democratic deficit in combination with the fact that market and social competencies are unevenly centralized—can be abolished either by re-nationalising the established supranational powers, or by centralising the corresponding civil, political, and social rights. But regardless of what kind of utopia our theorist advocates, he or she cannot abolish the established imbalances without taking a great risk when it comes to short- and medium-term consequences (Gustavsson, 2003, pp. 195 ff).

The other main approach, which I myself strongly prefer and recommend, is to take our point of departure in the actual Union and argue in terms of trial and error. This means that we foreswear any search for the ideal solution. Instead of reasoning from an exclusively normative point of view, we accept double asymmetry as it actually exists and ask ourselves if, why, and how it can and should be changed on the margin. Ideal normative solutions—a symmetrical federation or a full-fledged confederation—are thus to be regarded as of secondary importance. From a reformist point of view, we should “be aware that perfection, if at all attainable, is far distant” (Popper, 1945, p. 139). The need to improve institutions in order to avert disaster or prevent the total breakdown of political freedom and popular government is far more urgent. Democratic reformism means giving precedence to avoiding war, unemployment, poverty, and ecological disaster. The challenge is to succeed better in the 21st century than earlier generations of Europeans did in the period between 1919 and 1989. The question then is: what major strategy ought to be adopted for the future federal design of Europe, such that double asymmetry can be consolidated in such a way that it does not erode—but rather supports and reinforces—political freedom and popular government?

Essentially two answers to that question can be given, on the basis of a broadly reformist conviction. According to the one, double asymmetry is good for the long-term sustainability of democracy, on account of its well-reasoned design. Double asymmetry means that market and monetary regulation is effectively insulated from the effects of public opinion and electoral politics. The mixed economy is a good solution to the problem of reconciling market economy with universal suffrage. This is one of two main historical innovations during the last hundred years. The other great achievement is the double asymmetry approach in the European Union. Thereby, the constitutional compromise of free trade at the European level and political

democracy in the member states is continuously reconciled and reinforced (Moravcsik, 2005, p. 376).

According to the other main answer, double asymmetry is not a historical success story—at least not a priori or by definition. If it is not to fatally erode political freedom and majority rule, double asymmetry must be handled with special care. According to this alternative view, which I share, we cannot take it for granted that double asymmetry is built on a rock and will last forever. We should not underestimate its potentially eroding effects on the post-1989 prospects all over Europe for political freedom and universal and equal suffrage. With the 20th century still fresh in memory, we should not consider it self-evident that we have learnt our lesson once and for all from the way things developed after 1919. Instead of taking the crucial point of democratic sustainability for granted, we should ask ourselves under what circumstances double asymmetry can contribute to the consolidation—rather than the erosion—of political freedom and popular government. What conditions are required if the preservation of double asymmetry is to be considered a better option for the 21st century than a full-fledged federalisation or a radical re-nationalisation?

To put this alternative reformist position in a broader perspective, I would like to start by mentioning how Andrew Moravcsik argues in favour of his more complacent notion. To him, double asymmetry is “the only distinctively new form of state organization to emerge and prosper since the rise of the democratic social welfare state at the turn of the twentieth century”. Recent events suggest, he argues, that it “may now have reached, through a characteristically incremental process, a stable political equilibrium”. He further concludes that, because of its historical novelty and path-breaking character, double asymmetry “is unlikely to be upset by major functional challenges, autonomous institutional evolution, or demands for democratic accountability” (Moravcsik, 2005, p. 376).

Double asymmetry represents something qualitatively new. That is indeed a striking observation, I agree. As a construction, the European Union displays an innovativeness comparable to that of the 20th century democratic welfare state. However, saying that something is historically new and path-breaking is not the same as saying that it represents a stable political equilibrium. Stability cannot simply be inferred from novelty. The idea that new institutions are ipso facto stable institutions is a most amazing notion. Edmund Burke would most certainly not have subscribed to that form of institutionalism.

However, it all depends on what evidence we have on the actual workings of double asymmetry as compared to its alternatives. Invoking novelty as a self-fulfilling prophecy is not enough. The Europe of the 20th century, after all, saw the appearance of many political ideas and structural arrangements which were certainly new, but which did not offer stable solutions for that.

In my view, the position taken by Andrew Moravcsik is far too complacent. It is based on two interrelated arguments. One is a prognosis that it is unlikely that the quest for democratic accountability and social citizenship at the European level will de-stabilise double asymmetry. The other is an evaluative statement: double asymmetry is normatively attractive. A system "...that preserves national democratic politics for those issues most salient in the minds of citizens, but delegates to more indirect democratic forms those issues that are of less concern, or on which there is an administrative or legal consensus" is to be admired and is actually admired (Moravcsik, 2005, p. 376). Owing to this combination of unlikelihood and normative attraction, Moravcsik is convinced that double asymmetry will stabilise European politics in the 21st century. Thanks to this brilliant political-theoretical achievement, he argues, political freedom and popular government will be more sustainable in the future than they were in the past.

As to historical prognosis, I think there is good reason to remain agnostic about the prospects for double asymmetry. There are also agency factors to consider. The chances for success also depend upon the evaluative half of Moravcsik's two-sided argument. To what extent and on what grounds will European citizens consider double asymmetry worth admiring? The answer to that question will also have a bearing on whether or not double asymmetry is actually sufficiently admired. In systems built on political freedom combined with universal and equal suffrage, the importance of intellectual credibility cannot be completely ignored.

The operative principle of double asymmetry is that the market is constitutionally privileged. It is not just that redistributive and legally binding social policies are supposed to be national while market and monetary regulation is federal. In addition, the supranational principle of free movement for goods, capital, services, and labour can be invoked in order to rule socially protective measures illegal in the cultural, social, labour-market, and environmental fields. This ordoliberal (Gerber, 1998, pp. 232 ff; Wegmann, 2002, pp. 241 ff; Joerges, 2003, pp.

186 ff) allocation of competencies is supposed to support the long-term survival of the market. That kind of liberalism presupposes a strong, partly insulated state in order to achieve competition. Merely granting authority to national governments and parliaments would be flawed, ordoliberal theorists argue, because those being regulated are powerful enough to subvert the objectives of the regulators in favour of their own interests. In order to become and remain dominating and primary, competition law should be enforced by creating and maintaining independent institutions under which it would flourish. According to this interpretation of 20th century European history—particularly Weimar history:

“...competition tended to collapse, because enterprises preferred private (that is contractual) regulation of business activities rather than competition, and because they were frequently able to acquire such levels of economic power that they could eliminate competition” (Gerber 1998, p. 250).

However, competition is not the only aspect to consider. Double asymmetry should also—and primarily, according to democratic reformism—contribute to the sustainability of political freedom and popular rule. What can be done to ensure that the operative principle is not more paralysing than necessary on the political problem-solving capacity of the member states? The idea is to limit the extent to which political freedom and popular rule can actually be exploited in a manner negative to the economic development of the member states. It should not be limited so much, however, as to undermine the long-term sustainability of political freedom and democracy. On the contrary, the point is supposed to be that limiting the member states’ freedom of action will serve to reinforce popular belief in the self-same political freedom and democracy. Delegating competition and monetary legislation beyond democratic reach is supposed to be more legitimising than the alternative of the electorates of every single member state being able to reform their own social and economic policies (Joerges, 2003, pp. 193 ff).

Against this historical background (and provided we want to further reinforce rather than undermine popular belief in political freedom and majority rule), the underlying operative principle of double asymmetry must be re-interpreted and given a more precise meaning. At the very least, I argue, it cannot be taken for granted that the option of insulated competition and monetary policies is better than a system of democratic control. In my view, what is effective from the

point of view of democratic self-reinforcement must remain an open empirical question (Gustavsson, 2006).

One of the most elaborated versions of this less complacent reformist position can be found in the work of Fritz Scharpf. He calls for an overall European arrangement compatible both with the demands for member-state autonomy and the advantages of acting together in a binding way. The problem-solving capacities at federal and national levels should not be used, Scharpf argues, in such a way that they paralyse each other; rather, they ought to be combined and used in an enabling fashion (Scharpf, 1994, 1999). The attitude of the member states should be union-respecting (*gemeinschaftsverträglich*). As a corollary, federal actors should look positively on the ability of the member states to take care of their own problems (*autonomieschonend*). Their policies should protect and try to develop democracy in the member states.

“By such a re-interpretation—based on restraint and neutrality instead of activism—the commission and the court can contribute to a more effective multi-level policy development. In that way, the total problem-solving capacity at *both* the federal and the national level can be used in a better way to strengthen the position of Europe in the overall global competition” (Scharpf, 2003, p. 249, author’s translation).

Such a re-interpretation of the historically given, ordoliberal construction of economic integration has in fact taken place—in the years following the ratification of the Treaty of Maastricht in 1993. But what are the political requisites for turning a monetary union unaccompanied by fiscal union into a success, and thus avoiding not only a fiscal union but also authoritarian measures and complete failure? Double asymmetry must be judged a high-risk project. Scharpf urges reformists to try, against the historically given background, to hinder the further growth of the suprapstate, while at the same time trying to preserve and develop democratic rule inside the member states.

Such a risk-taking can only be justified, I argue, if three conditions are met. If we wish to avoid a constitutional breakdown, we must give these conditions special attention. In the period since the Treaty of Maastricht was ratified in 1993, European politicians have sought to meet the challenge posed by double asymmetry by acting in accordance with three implicit practical recommendations. I have started to uncover these three recommendations in earlier publications (espe-

cially so in Gustavsson, 2002, pp. 111 ff). Here, I will try to take my analysis one step further.

1. Suprastatism must remain provisional

The first condition for being successful when it comes to politically legitimising double asymmetry, concerns the way the suprastatal but electorally unaccountable arrangement is working in the first pillar. This set-up regulates the centralised powers over the market and currency. How can this element of suprastatism be reconciled with electoral accountability within the member states? By suprastatism I mean the particular combination of majority voting, direct effect, and precedence for federal law that distinguishes a federal form of government from a confederal one. By accountability I refer to a system in which it is possible to replace the holders of political office through general elections founded on universal suffrage and political freedom, thereby achieving an alternate set of policies and office-holders.

All federal elements in a political structure face the problem of how to reconcile suprastatism and electoral accountability. How can decision-making be carried out on a suprastatal basis while maintaining the accountability of office-holders, i.e., ensuring that leaders can be replaced and policies changed through elections? The most common solution to the problem is to strike a balance between the one-state-one-vote principle, on the one hand, and the one-citizen-one-vote principle, on the other. This is most commonly accomplished through a two-chamber system, in which the states are equally, or at least close to equally, represented in the one chamber and the citizens equally represented in the other. Not only Canada and the US. have overcome the challenge in this way, but also Austria, Germany, Spain, and Switzerland.

A significant and interesting exception to this general rule is the system of double asymmetry found in the European Union. The member states of the Union are electoral democracies. Governance within the first pillar, however, diverges from the usual pattern whereby suprastatism and accountability are combined. Decision-making within the framework of this pillar, namely, is suprastatal in character; at the same time, however, it is beyond the reach of a decisive collective judgement and review. The argument most frequently adduced in defence of the EU's constitutional asymmetry is the one set forth in the 1993 verdict of the German constitutional court. The

question facing the court was whether the law of accession to the treaty on European Union—which the Bundestag had passed by a large majority in December 1992—could be reconciled with the demands for democratic accountability enshrined within the German basic law. Not until the court had answered that question in the affirmative could the Maastricht Treaty be ratified. The court argued as follows: the suprastatism established within the first pillar of the union treaty is provisional. Sovereignities are delegated rather than surrendered. Such a delegation of sovereignities is acceptable, according to the court, as long as the criteria of the German constitution are upheld. According to these criteria, the use of common competencies must be marginal in relation to the functioning of German democracy as a whole, and the uses to which said competencies are put at the European level must be predictable. The delegation of sovereignty must also be revocable; that is, the German authorities must retain the prerogative to re-assume the powers delegated if the criteria of marginality and predictability are not met. The Court considered these three criteria to have been met, and thus concluded that the ratification of the Treaty was consistent with the demands for democratic accountability laid down in the German constitution (Gustavsson, 1998, pp. 67 ff).

The position of the German Constitutional Court has, in fact, been widely embraced in an effort to rescue double asymmetry. One of the most elaborated versions hereof can be found in the just-mentioned work of Scharpf (1994), wherein he calls for an overall European arrangement compatible both with the demands for autonomy by the member states and with the advantages arising from collective action associated with provisional suprastatism. As a reformist, Scharpf argues that we should try to consolidate democracy in the member states by implementing substantive policies that serve to increase legitimacy. If our purpose is to defend the principle of democratic governance in Europe, we must proceed on the basis of a realistic picture of the political options facing us—in view of the completion of the internal market in combination with double asymmetry. In practise, this involves a heavy reliance on technocratic rules and practises, for these help keep first-pillar issues below the threshold of visibility. By this means, many sensitive issues which are democratically provocative—e.g., family-related legislation, demands for fiscal redistribution via Brussels—can be deliberately avoided (Scharpf, 1999, pp. 29 ff).

2. Offensive intergovernmentalism must prevail

As a corollary to the recommendation that suprastatism should remain provisional, a corresponding condition is important and has recently been much stressed by reformist European politicians. That is to say, the three additional pillars—the second (foreign policy), the third (justice and home affairs), and what I call the fourth (social policy)—are of a different kind from the first. The manner in which these commonly conceived but formally national issues are handled must be legitimised within each distinct national electorate. Offensive intergovernmentalism seems to be the only proper method for avoiding the centralisation of additional legal and fiscal powers in the absence of any corresponding centralisation of electoral accountability. It is offensive, as compared with the defensive safeguarding of external and internal sovereignty in defence and police matters. To quote the conclusions of the Presidency of the Lisbon Council in March 2000, “a new open method of co-ordination” has been applied in addition to the already established method of suprastatist regulation of the market and the currency.

Where the challenge of economic globalisation is concerned, effective measures are not just achieved through suprastatism (as in the first pillar), but also through co-ordination (in the informal fourth pillar). This involves the use of concerted action, comparison, and benchmarking, with “the strategic goal for the next decade”. Then it should:

“...become the most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth with more and better jobs and greater social cohesion” (Lisbon European Council, 23 and 24 March 2000. Presidency Conclusions, para. 5).

As the Presidency explained further on in the document (Lisbon European Council, 23 and 24 March 2000 Presidency Conclusions, para. 37.)

- Implementation of the strategic goal will be facilitated by applying a new open method of co-ordination as the means of spreading best practice and achieving greater convergence towards the main EU goals. This method, which is designed to help member states to reform their own policies, involves:
- fixing guidelines for the Union combined with specific timetables for achieving the goals which they set in the short, medium and long terms;

- establishing, where appropriate, quantitative and qualitative indicators and benchmarks against the best in the world and tailored to the needs of different member states and sectors as a means of comparing best practice;
- translating these federal guidelines into national and regional policies by setting specific targets and adopting measures, taking into account national and regional differences;
- periodic monitoring, evaluation and peer review organised as mutual learning processes.

In the social-policy area, the open method of co-ordination is thus used to further legitimise double asymmetry by means of policy convergence—achieved through benchmarking, policy transfer, and lesson-drawing. It is not only, the governments argue, in reference to inflation, budget deficits, and public debt that policy failure should be concretely defined. It is just as important—from the standpoint of electoral accountability, democratic visibility, labour-market flexibility, and the fight against social exclusion—to achieve job creation and a stable public-sector infrastructure, with good schools, child care, family allowances, and pensions.

3. Substantive controversy should be recognised, not swept under the rug

Our European politicians seem to accept the restrictions of provisionality, marginality, predictability, and revocability as formulated by the German constitutional court in 1993. Thus, they imagine no better constitutional option than sticking to democratic accountability within each single country. This has a practical consequence—and one not in line with the more complacent type of reformism.

If the member states, namely, are to surrender national powers to a democratically unreachable market and monetary union, then the result should serve—by way of compensation—to vitalise rather than to marginalise the system of nationwide political parties, interest groups, and open debate. Otherwise, national political life within the system of double asymmetry will be faced—in zones and periods of recession and deflation—with a very hard choice. A breakdown of nationwide political parties and trade unions would force the member states to choose between fiscal union on the one hand, and the revocation of political rights and free elections on the other (in order to prevent social unrest and the rise of populist political parties). If double asymmetry is to work, even as a fiscal union is avoided and basic hu-

man rights are maintained, then the member states will need more rather than less debate on the practical conclusions to be drawn from economic globalisation.

National political parties, popular movements, and public opinion will have to stress the importance of second-, third-, and fourth-pillar issues. These matters are not marginal, in the sense that term was used by the German constitutional court in 1993. It is because of their presumed marginality, it bears recalling, that the powers regulating a unified market and a single currency have been centralised without a corresponding growth in democratic accountability at the European level. For double asymmetry to work in practise, citizens must know that the bulk of powers are still within democratic reach inside each member state.

Let us presume that our politicians succeed in persuading citizens that first-pillar issues are relatively unimportant. Assuming that this can be done, it does not seem altogether impossible that national democracies will be vitalised to such an extent as to enable them to manage a system of double asymmetry. However, this requires far greater reformist insight than has hitherto characterised those agitating in favour of the status quo. Over the last decade, double asymmetry has all too often been presented in a simple-minded format, according to which reluctant and misinformed fellow-citizens are magisterially informed about the historical necessity of yielding to the inevitable.

It is a common mistake to underestimate the analytical capacities of ordinary citizens. I think it is particularly important to avoid making this error when deliberating on the historical sustainability of political freedom and majority rule within a system of double asymmetry. Despite what more complacent reformist theorists are ideologically inclined to believe, citizens ever since the French and American revolutions have learnt to emphasise the importance of free will, choice, and—which is especially important in this context—rational argument and learning from experience. Supposedly, an openly rationalist and reformist basic attitude to politics will remain and prosper. In that case, widespread public concern about the practical implications of rationalism and reformism will keep reminding us that the absence of such core elements renders the idea of political freedom and majority rule meaningless. If there is no choice, why should governments be accountable to national electorates?

In my view, the debate (admirably well described in Norman, 2005) in the three years from 2002 to 2005 on a new basic treaty for the European Union was largely misdirected. It is not just that ratification failed as a consequence of the referenda in France and the Netherlands. More important is why it failed. I think it was because the focus of public debate during this period was so narrowly constitutional. People argued as if federalism were entirely a question of how to allocate formal competencies. The question of substantive policy choices in a system of double asymmetry was deliberately avoided. Given how close to hand substantive policy choices lie, I think that was a mistake on part of the Commission, the European Parliament, and the governments of the member states. It is not necessary to be a particularly well-informed European citizen to suspect that important policy choices were being discussed discretely in powerful circles, even as citizens seeking information on the new treaty were being presented with purely procedural questions. Cynical remarks to the effect that the new treaty was being portrayed as very important at the same time as it was said to make little difference point in the direction of a different kind of debate.

Such an alternative and substantive debate is easily found—but not as a debate on the treaty; rather, as a debate on globalisation and the reform of European social models. This was the title of an illustrative paper presented by the economist André Sapir at an informal meeting of the finance ministers in Manchester in September 2005, three months after the referenda in France and the Netherlands. He took his point of departure in a very informative division of the social and economic models found among the 15 old member states: continental, Nordic, Mediterranean, and Anglo-Saxon. His idea was that four clusters can be found among the 15, each forming a largely but not wholly contiguous geographical area. In the continental cluster he found Belgium, France, Germany, and Luxemburg. In the Nordic cluster he found not just Denmark, Finland, and Sweden, but also Austria and the Netherlands. In the Mediterranean cluster he found Greece, Italy, and Spain. In the Anglo-Saxon cluster, finally, he found Ireland and the UK—and Portugal as well.

Empirically, Sapir discovered that a division based on efficiency and equity yielded this fourfold classification. The Nordic countries were high on both, while the Mediterranean countries were low on both. The Anglo-Saxon countries, for their part, were high on efficiency and low on equity. The continental countries, conversely, were

high on equity but low on efficiency. I shall not go into detail here on how the basic notions of efficiency and equity were defined. Let it suffice to say that efficiency was measured in terms of the employment rate, equity in terms of social protection and the poverty rate. Far more interesting in the present context are the policy implications Sapir is suggesting. What might follow from his fourfold description of social protection and labour-market regulation in the member states?

Basically, two readings can be made of this fourfold classification. One is to suggest that there is a trade-off between efficiency and equity. Such a reading does not, however, accord with the empirical evidence. Neither the Nordic nor the Mediterranean countries, namely, face any need to relinquish something of value in order to achieve a decent compromise. Nordics enjoy a position, with a social model that delivers both efficiency and equity, whereas Mediterraneans live in a social system that delivers neither efficiency nor equity. Only the Anglo-Saxon and continental countries seem to actively face any need to balance efficiency and equity. Anglo-Saxons have an efficient but inequitable social model, while continentals enjoy far more equity but far less efficiency (Sapir, 2005, pp. 5 f).

Given this pattern, Sapir argues, it is not fruitful to debate policy choices in terms of a trade-off between efficiency and equity at the European level. A more productive reading of the fourfold table would be to think in terms of sustainability. Overall global tendencies indicate, he avers, that models:

“...that are not efficient, and have the wrong incentives to work, are simply not sustainable in the face of growing strains on public finances coming from globalisation, technological change and population ageing.” (Sapir, 2005, p. 5).

The data suggest that both Nordic and Anglo-Saxon models are sustainable, while Continental and Mediterranean models are not and must be reformed in the direction of greater efficiency by reducing disincentives to work and grow. In addition, and most importantly, there is:

“...no reason a priori to assume that such reform must go hand-in-hand with changes in terms of equity. It is perfectly possible for the Continental model to become more like the Nordic one and for the Mediterranean model to become more like the Anglo-Saxon model. Nonetheless, one cannot reject the possibility that a reform toward greater efficiency may also unleash a change toward more or less equity” (Sapir, 2005, p. 6).

This underlines the importance of my third main recommendation as to the long-term sustainability of the historically chosen solution. Substantive controversy should be intensified, not swept under the rug. Double asymmetry limits the role of democratic choice and electoral accountability at the federal level. The problem now at hand, in view of increasing economic competition from India and China, is how actively to combine efficiency and equity. This can be done either in accordance with the market-liberal formula of trading one of these two values against the other. Or it can be done in accordance with the social-democratic formula, whereby the two values are seen as mutually supportive and synergistic. Irrespective of which position one takes, this is the problem to be discussed openly and not suppressed. Do we achieve more efficiency, as the market liberals believe, if we cannot trust our established models of social protection and labour legislation? Or is it the other way round—i.e., the better we are socially protected, the more risks ordinary citizens can be expected to take?

Completing the single market involves the supranational deregulation of services and labour relations. In addition, Sapir writes:

“...a two-handed approach, combining product and capital market reform at the EU level with labour market and social policy reform at the national level would be superior to a strategy seeking to reform national labour market and social policies alone, especially for the countries of the eurozone” (Sapir, 2005, p. 7).

Combining these two lines of reform pressure in a double strategy would almost certainly prove very mobilising among ordinary citizens as well as among political elites. That would be the best way, I think, to make double asymmetry the subject of public questioning—and thus make the historical solution more sustainable. Why is this so?

Let me sum up my argument on the necessity for an intensified substantive debate by trying to resolve this paradox. Why would a broad questioning of the double strategy—or pincer movement, if one prefers—recommended by Sapir strengthen rather than weaken the legitimacy of double asymmetry, and thus increase its sustainability? The answer to this question depends, I think, on whether those advocating the double strategy for reshaping the substantive content of European federalism present their preferred outcome according to

the public-relations principle of TINA—there is no alternative—or instead as one policy option among others.

André Sapir does not openly raise the question of political framing. However, the very fact that he distinguishes four alternatives and argues that just two of these—the Anglo-Saxon and the Nordic—are sustainable because they are efficient (Sapir, 2005, p. 5 f) points in the direction of a non-TINA approach. In the face of accelerating competition from India and China, Europe must indeed become more efficient. It should be considered an open question, however, which of the two approaches provides the most sustainable political method for achieving and maintaining high productivity in the long run. Is it the more equitable Nordic formula, or the less equitable Anglo-Saxon one?

According to a recent and most impressive contribution to the literature on comparative federalism (Filippov et al., 2004, pp. 177 ff), the most important factor behind sustainability is not constitutional in a legal or fiscal sense. Federal arrangements in different parts of the world, for example, display a considerable variation in terms of the symmetrical or asymmetrical allocation of competencies. The crucial factor, these authors convincingly argue, is political—in the sense of a multi-level public understanding and controversy. This factor manifests itself in the actual existence of vertically coherent debates, parties, and organisations. The better connected and held together controversial issues and their corresponding social and economic forces are at the federal, national, regional, and local levels, the more can be expected in terms of sustainability. Russia and the European Union are the problematic cases here. More hope can be attached to the expectation that federalism in Australia, Canada, Germany and India will remain self-sustaining (Filippov et al., 2004, pp. 299 ff).

Translated into the present debate of how to design European federalism without risking a relapse into what happened after 1919, a comparative analysis stressing the need for a multi-level enlightened understanding points in the direction of what I would call the classical socio-economic controversy. It implies that the emergence of a vertically coherent political debate and controversy on the fundamental issues of efficiency and equity is far more urgent than deliberating on the legal and fiscal technicalities of double asymmetry. According to the classical analysis, the legitimising multi-level controversy must be substantive rather than procedural. What market liberals and social

democrats ought to be openly discussing is not so much whether there is a built-in bias, but how that built-in bias should be treated.

According to a classical social democratic argument (Schumpeter, 1942; Polanyi, 1944), a compromise must be struck between, on the one hand, the one-man-one-vote principle and, on the other, the one-share-one-vote principle. Efficiency is necessary if citizens are to be socially protected and allowed to vote and form organisations. Therefore, economic functions must be embedded in a system of civil, political, and social human rights. But according to the classical market-liberal analysis—the prefixes “ordo-” and “neo-” do not make much difference here—it is the other way round. Equity is something to be striven for only to the extent that it increases efficiency.

From a strictly market-liberal point of view, the question then arises of whether double asymmetry entrenches powerful special interests at the expense of the longer-term interests of a more diffuse citizenry. Looked at in this way, double asymmetry “is not a policy designed to be neutral, but a policy designed to counteract pre-existing biases in national policy. If we consider its function as providing a forum to offset the national underrepresentation of diffuse interests”, double asymmetry may, in fact, be legitimate in terms of its actual effects (Moravcsik and Sangiovanni, 2003, p. 134).

In contrast, a European social democrat arguing in an equally strict fashion might answer that the public interest cannot be ascertained on an *a priori* basis, but rather by reference to the empirical evidence. What reason is there to think that underprivileged citizens in a dog-eat-dog society are more productive than their counterparts living in greater security in a more equitable society? Is there not reason, in fact, to believe that not just rich people but also ordinary citizens become more flexible and willing to take risks when they are socially protected? And what reason is there to conclude that universal suffrage based on political freedom does not reveal the true preferences of voters?

The more our European debates at both national and federal levels are focused, in a vertically coherent way, on the substantive issue of what lies in the public interest, the more hope there is for the sustainability of the double asymmetry constituting the established European federal design. Social democrats can actively contribute by constantly questioning whether the outcomes of the system as a whole are really synergistic in terms of efficiency and equity. Likewise, market liberals can actively contribute by constantly urging the need to protect ordi-

nary citizens from their own preferences. By their lights, namely, a constitutionally privileged compensatory mechanism favouring efficiency at the expense of equity is badly needed.

Over the longer pull, it is critical that conflicts of interests and ideas be openly discussed and transparently mediated. Social and economic controversy has a centralising and thereby integrating impact. This basic finding has turned out to be as important for the federalisation of politics (Marks, 2004) as for its nationalisation (Caramani, 2005). In the case of the European Union, the problem is that the progress of de-nationalisation is uneven—and not just from a procedural but also from a substantive point of view. Nevertheless, from the point of view of democratic reformism, I see no feasible alternative to supporting double asymmetry, to the extent that it can strengthen political freedom and popular democracy in the member states. Most importantly however, it should be noticed that is only through rational discussion that a system of guardianship—with its insulation of decision-making from the allegedly de-stabilising impact of public opinion and electoral favour—can be defended. Only thus can popular government be vitalised, and brought into a trajectory of long-term sustainable democratic self-reinforcement.

Historically, popular government and political freedom were strengthened as a result of the two world wars and the Cold War. As a consequence, future generations will probably not accept the 'TINA' presumption—according to which “there is no alternative”—as easily as former generations did. Increasingly, citizens will take it for granted that they must be free to form their own opinions, and they will insist that the political system should offer them various alternatives among which to choose. In the 21st century, this means that elected representatives and an informed public opinion will not be able to avoid bringing the substantive issue of equity vs. efficiency into the open. At that point, we will all have to realize that uneven de-nationalisation was neither established by God nor by Nature. We will have to look upon double asymmetry as something stemming from conscious political action. Furthermore, we are going to want to hold our representatives accountable. More and more, the issue is going to be “which boundaries are built and removed, by whom and for what purpose” (Bartolini, 2005, p. 412).

References

- Bartolini, S. (2005), *Restructuring Europe*, Oxford University Press.
- Caramani, D. (2005), The formation of national party systems in Europe, *Scandinavian Political Studies* 28, 295-322.
- Filippov, M., Ordeshook, P.C. and Shvetsova, O. (2004), *Designing Federalism*, Cambridge University Press.
- Gerber, D.J. (1998), *Law and Competition in Twentieth Century Europe*, Clarendon Press, Oxford.
- Gustavsson, S. (1998), Defending the democratic deficit, in A. Weale and M. Nentwich (eds.), *Political Theory and the European Union*, Routledge, London.
- Gustavsson, S. (2002), What makes a European monetary union without a parallel fiscal union politically sustainable?, in S. Dosenrode (ed.), *Political Aspects of the Economic and Monetary Union*, Ashgate, Aldershot.
- Gustavsson, S. (2003), Double asymmetry and its alternatives, in J. Hallenberg, B. Nygren and A. Robertson (eds.), *Transitions: In Honour of Kjell Goldmann*, Department of Political Science, Stockholm University, Stockholm.
- Gustavsson, S. (2006), What makes popular government self-reinforcing?, *Scandinavian Political Studies* 29, 65-74.
- Joerges, C. (2003), Recht, Wirtschaft und Politik im Prozess der Konstitutionalisierung Europas, in M. Jachtenfuchs and B. Kohler-Koch, (eds.), *Europäische Integration*, 2nd Edition, Leske + Budrich, Opladen.
- Lisbon European Council (2000), Presidency Conclusions, 23 and 24 March 2000 (http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/ec/00100-r1.en0.htm).
- Marks, G. (2004), Conclusion: European integration and political conflict, in G. Marks and M.R. Steenhagen (eds.), *European Integration and Political Conflict*, Cambridge University Press.
- Moravcsik, A. (2005), The European constitutional compromise and the neofunctionalist legacy, *Journal of European Public Policy* 12, 349-386.
- Moravcsik, A. and Sangiovanni, A. (2003), On democracy and “public interest” in the European integration, in R. Mayntz and W. Streeck (eds.), *Die Reformierbarkeit der Demokratie*, Campus Verlag, Frankfurt am Main.
- Norman, P. (2005), *The Accidental Constitution*, 2nd Edition, Eurocomment, Brussels.
- Popper, K. (1945), *The Open Society and its Enemies*, Routledge, London.
- Sapir, A. (2005), *Globalisation and the Reform of European Social Models*, Bruegel Policy Brief 2005/01, Brussels (www.bruegel.org).

- Scharpf, F.W. (1994), Optionen des Föderalismus in Deutschland und Europa, Campus Verlag, Frankfurt am Main.
- Scharpf, F.W. (1999), Regieren in Europa: effektiv und demokratisch?, Campus Verlag, Frankfurt.
- Scharpf, F.W. (2003), Politische Optionen im vollendeten Binnenmarkt, in M. Jachtenfuchs and B. Kohler-Koch, (eds.), Europäische Integration, 2nd Edition, Leske + Budrich, Opladen.
- Wegmann, M. (2002), Früher Neoliberalismus und Europäische Integration, Nomos Verlagsgesellschaft, Baden-Baden.

