

J.H.H. WEILER\_Cátedra Jean Monnet, Facultad de Derecho de la New York University (NYU)  
\_[161-174]

# On the Political and Legal DNA of the Union and the Current European Crisis



Reception date \_[27.05.2011]  
Acceptance date \_[27.05.2011]



## 1. EUROPE, THE CURRENT CIRCUMSTANCES

This is an interesting time to be reflecting on the European construct. Europe is at a nadir which one cannot remember for many decades and which, various brave or pompous or self-serving statements notwithstanding, the Treaty of Lisbon has not been able to redress. The surface manifestations of crisis are with us every day on the front pages: The Euro crisis and discord over Libya being the most current.

Beneath this surface, at the structural level, lurk more profound and long term signs of enduring challenge and even dysfunction and malaise.

First, internally, there is the persistent, chronic, troubling Democracy Deficit, which cannot be talked away. Then there is a deeper legitimacy crisis, whereby the citizens' growing indifference is turning to hostility and the ability of Europe to act as a political mobilizing force seems not only spent, but even reversed. Finally, on the world arena, Lisbon notwithstanding, there is the equally persistent, chronic and troubling failure of Europe to translate its economic might into hard political power and the enduring (and in my view irresponsible) abdication of a serious commitment to security, leaving the field as it has for decades to a weakened and less and less engaged America.

I hope, first, to link these enduring problems to the political and legal culture of Europe rather than to some Institutional failure. In turn, I wish to link that culture to some of the founding moments of the Union reflected in foundational documents. In what follows I will first elaborate somewhat on the three aspects of the European circumstance identified above, and then turn to an exploration of those early moments.

The manifestations of the so-called democracy deficit are persistent and no endless repetition of the powers of the European Parliament will remove them. In essence it is the inability of the Union to develop structures and processes which adequately replicate or, 'translate,' at the Union level even the imperfect habits of governmental control, parliamentary accountability and administrative responsibility that are practiced with different modalities in the various Member States. In essence, the two primordial features of any functioning democracy are missing – the grand principles of accountability and representation.

As regards accountability, even the basic condition of representative democracy that at election time the citizens '...can throw the scoundrels out' – that is replace the Government – does not operate in Europe. The form of European governance, governance without Government is, and will remain for considerable time, perhaps forever such that there is no "Government" to throw out. Dismissing the Commission by Parliament (or approving the appointment of the Commission President) is not quite the same, not even remotely so. Startlingly, political accountability of Europe is surprisingly weak. There have been some spectacular political failures of European governance. The embarrassing Copenhagen climate fiasco; the weak (at best) realization of the much touted Lisbon Agenda (aka Lisbon Strategy or Lisbon Process), the very story of the defunct "Constitution" to mention but three. It is hard to point in these instances to any measure of political accountability, of someone paying a political price as would be the case in national politics. In fact it is difficult to point to a single instance of accountability for political failure as distinct from personal accountability for misconduct in the annals of European integration. This is not, decidedly not, a story of corruption or malfeasance. My argument is that this failure is

rooted in the very structure of European governance. It is not designed for political accountability.

In similar vein, it is impossible to link in any meaningful way the results of elections to the European Parliament to the performance of the Political Groups within the preceding parliamentary session, in the way that is part of the mainstay of political accountability within the Member States. Structurally, dissatisfaction with "Europe" when it exists has no channel to affect, at the European level, the agents of European governance.

Likewise, at the most primitive level of democracy, there is simply no moment in the civic calendar of Europe where the citizen can influence directly the outcome of any policy choice facing the Community and Union in the way that citizens can when choosing between parties which offer sharply distinct programs at the national level. The political colour of the European Parliament only very weakly gets translated into the legislative and administrative output of the Union. The Political Deficit, to use the felicitous phrase of Renaud Dehousse is at the core of the Democracy Deficit. The Commission, by its self-understanding linked to its very ontology, cannot be 'partisan' in a right-left sense, neither can the Council, by virtue of the haphazard political nature of its composition. Democracy normally must have some meaningful mechanism for expression of voter preference predicated on choice among options, typically informed by stronger or weaker ideological orientation. That is an indispensable component of politics. Democracy without Politics is an oxymoron.

Thus the two most primordial norms of democracy, the principle of accountability and the principle of representation are compromised in the very structure and process of the Union.

The second manifestation of the current European circumstance evident in a continued slide in the legitimacy and mobilizing force of the European construct and its institutions. I pass over for now some of the uglier manifestations of European 'solidarity' both at governmental and popular level as regards the Euro-crisis or the near abandonment of Italy to deal with the influx of migrants from North Africa as if this was an Italian problem and not a problem for Europe as a whole. I look instead at two deeper and longer-term trends. The first is the extraordinary decline in voter participation in elections for the European Parliament. In Europe as a whole the rate of participation is below 45 per cent, with several countries, notably in the East, with a rate below 30 per cent. The correct comparison is, of course, with political elections to national parliaments where the numbers are considerably higher. What is striking about these figures is that the decline coincides with a continuous shift in powers to the European Parliament, which today is a veritable co-legislator with the Council. The more powers the European Parliament, supposedly the *Vox Populi*, has gained, the greater popular indifference to it seems to have developed.

No less consequential is a seemingly contagious spread of 'Anti-Europeanism' in national politics. What was once in the province of fringe parties on the far right and left has inched its way to more central political forces. The "Question of Europe" as a central issue in political discourse was for long regarded as an 'English disease.' There is a growing contagion in Member States in North and South, East and West, where political capital is to be made among non-fringe parties by anti-European advocacy. The spill-over effect of this phenomenon is the shift of mainstream parties in this direction as a way of countering the gains at their flanks. If we are surprised by this it is only because we seem to have air brushed out of our historical consciousness the rejection of the so-called European Constitution, an

understandable amnesia since it represented a defeat of the collective political class in Europe by the *vox populi*, albeit not speaking through, but instead giving a slap in the face to, the European Institutions.

The final feature of the current circumstance is a manifestation of an equally persistent and at times embarrassing European lack of both capacity and resolve (and a lack of resolve to have capacity) to defend and protect the values it professes to hold most dear. It is only the same propensity for amnesia which enables us to avoid this problem – to look in our collective mirror without at least some measure of shame. In the 1990s, in the heart of Europe, not even 500 kms from Rome, for the second time in the same century, Europe allowed that which one had vowed would never be allowed to happen again, something the European Construct was meant to guarantee would never happen again: The genocide (so qualified by the World Court) of a non-Christian religious minority. And then, when finally the endless talking came to an end and the resolve was found to prevent the Bosnian humanitarian catastrophe from repeating itself in Kosovo, Europe discovered that it did not possess the capacity to realize its resolve. Once again, the “cavalry” from across the Atlantic had to be called in. Europe alone could not plan, target, let alone execute, this relatively simple operation.

Bosnia points, in my eyes, to a deeper facet of the political failure. The Srebrenica incident where Dutch soldiers allowed worst atrocity of that war to take place without any attempt to intervene and put a stop to it. These could have been Italian or British soldiers or soldiers from any other of our Member States. And these immobile soldiers were, like all of us, firm believers in human rights, solidarity and all the other values we profess. Their values were in place but evidently they lacked the virtues necessary to vindicate such. They lacked the courage that is born from a conviction that some things, like preventing a mass slaughter of the innocent for the simple reason that they do not share your faith, is worth killing for and dying for. They were the product of a culture in which it would appear that nothing is worth dying for or killing for, and if it is, it should be others who do the dying and killing. If anyone wants to entertain the illusion that Kosovo was an aberration, we now have Libya with a repetition of at least part of the Kosovar pathology: without massive American military involvement, Europe, let us be clear, would have simply been unable to undertake any action in so-called *Mare Nostrum*.

It is not only a question of arms. All the Lisbon efforts to strengthen and give coherence to the international manifestation of European Union were showed up in their embarrassing poverty. Not only was it the expected absenteeism from the Libyan crisis management of the European Presidents and “Foreign Minister” with the usual Member State leaders taking front and back seat, but even at this intergovernmental level Europe was seen to be fragmented and fractured with the world treated to a divided vote among the very pillars of European integration within the Security Council.

## **2. EUROPE AS POLITICAL ‘MESSIANISM’**

The critique of the democracy deficit of the Union has itself been subjected to two types of critique itself. The first has simply contested the reality of the democracy deficit by essentially claiming that wrong criteria have been applied to the Union. The lines of debate are well known. For what it is worth, I have staked my position above. But I am more interested in the second type of critique which implicitly is based on the distinction between

democracy and legitimacy. Since the Union, not being a State, cannot replicate or adequately translate the habits and practices of Statal democratic governance, its legitimacy may be found elsewhere.

In analyzing the legitimacy (and mobilizing force) of the European Union, in particular against the background of its persistent democracy deficit, political and social science has long used the distinction between process legitimacy and outcome legitimacy (aka input/output, process/result etc). The legitimacy of the Union more generally and the Commission more specifically, even if suffering from deficiencies in the state democratic sense, are said to rest on the results achieved – in the economic, social and, ultimately, political realms. The idea harkens back to the most classic functionalist and neo-functionalist theories.

I do not want to take issue with the implied normativity of this position, a latter day *Panem et circenses* approach to democracy, which at some level at least could be considered quite troubling. It is with its empirical reality that I want to take some issue. I do not think that outcome legitimacy explains all or perhaps even most of the mobilizing force of the European construct. Instead, I would argue, that at the conceptual level there is a third type of legitimation which, in my view, played for a long time a much larger role than is currently acknowledged. In fact, in my view, it has been decisive to the legitimacy of Europe and to the positive response of both the political class and citizens at large. I will also argue that it is a key to a crucial element in the Union's political culture. It is a legitimacy rooted in the '*politically messianic*'.

In political 'messianism', the justification for action and its mobilizing force, derive not from process, as in classical democracy, or from result and success, but from the ideal pursued, the destiny to be achieved, the 'Promised Land' waiting at the end of the road. Indeed, in messianic visions the end always trumps the means.

Mark Mazower, in his brilliant and original history and historiography of 20th-century Europe,<sup>1</sup> insightfully shows how the Europe of monarchs and emperors which entered World War I was often rooted in a political messianic narrative in various states (in Germany, and Italy, and Russia and even Britain and France). It then oscillated after the War towards new democratic orders, that is to process legitimacy, which then oscillated back into new forms of political messianism in fascism and communism. At the tale is usually told, after World War II Europe of the West, was said to oscillate back to democracy and process legitimacy. It is here that I want to point to an interesting quirk, not often noted.

On the one hand, the Western states, which were later to become the member states of the European Union, became resolutely democratic, their patriotism rooted in their new constitutional values, narratives of glory abandoned and even ridiculed, and messianic notions of the State losing all appeal. Famously, former empires, once defended with repression and blood, were now abandoned with zeal.

And yet, their common venture, European integration, was in my reading a political messianic venture *par excellence*, the messianic becoming a central features of its original and enduring political culture. The mobilizing force and principle legitimating feature was the vision offered, the dream dreamt, the promise of a better future. It is this feature which explains not only the persistent mobilizing force (especially among elites and youth) but also key structural and institutional choices made. It will also give more depth to explanations of the current circumstance of Europe.

### 3. THE SCHUMAN DECLARATION AS A MANIFESTO OF POLITICAL MESSIANISM

The Schuman declaration is somewhat akin to Europe's "Declaration of Independence" in its combination of vision and blueprint. Notably, much of its text found its way into the preamble of the Treaty of Paris, the substance of which was informed by its ideas. It is interesting to re-read the declaration through the conceptual prism of political messianism. The hallmarks are easily detected as we would expect in its constitutive, magisterial document. It is manifest in what is in the Declaration and, no less importantly, in what is not therein. *Nota bene*: European integration is nothing like its European messianic predecessors – that of monarchies and empire and later fascism and communism. It is liberal and noble, but politically messianic it is nonetheless.

The messianic feature is notable in both its rhetoric and substance. Note, first, the language used – ceremonial and "sermonial" with plenty of pathos (and bathos).

*World peace cannot be safeguarded without the making of creative efforts proportionate to the dangers which threaten it...*

*The contribution which an organised and living Europe can bring to civilization is indispensable ...*

*...a first step in the federation of Europe [which] will change the destinies of those regions which have long been devoted to the manufacture of munitions of war...*

*[A]ny war between France and Germany becomes not merely unthinkable, but materially impossible.*

*This production will be offered to the world as a whole without distinction or exception...*

*[I]t may be the leaven from which may grow a wider and deeper community between countries long opposed to one another by sanguinary divisions.*

It is grand, inspiring, Churchillian one might even say with a tad of irony. Some old habits, such as the White Man's Burden and the missionary tradition, die hard:

*With increased resources Europe will be able to pursue the achievement of one of its essential tasks, namely, the development of the African continent.*

But it is not just the rhetoric. The substance itself is messianic: A compelling vision which has animated generations of European idealists where the 'ever closer union among the people of Europe', with peace and prosperity an icing on the cake, constituting the beckoning promised land.

It is worth exploring further the mobilizing force of this new plan for Europe. At the level of the surface language it is its straight forward pragmatic objective of consolidating peace and reconstructing European prosperity. But there is much more within the deep structure of the Plan.

Peace, at all times an attractive desideratum, would have had its appeal in purely utilitarian terms. But it is readily apparent that in the historical context in which the Schumann Plan was put forward the notion of peace as an ideal probes a far deeper stratum than simple Swords into Ploughshares, Sitting under ones' Vines and Fig Trees, Lambs and Wolves — the classic Biblical metaphor for peace. The dilemma posed was an acute example of the alleged tension between Grace and Justice which has taxed philosophers and

theologians through the ages — from William of Ockham (pre-modern), Friedrich Nietzsche (modernist) and the repugnant but profound Martin Heidegger (post-modern).

These were, after all, the early 50s with the horrors of War still fresh in the mind and, in particular, the memory of the unspeakable savagery of German occupation. It would take many years for the hatred in countries such as The Netherlands, Denmark or France to subside fully. The idea, then, in 1950, of a Community of Equals as providing the structural underpinning for long term peace among yesteryears enemies, represented more than the wise counsel of experienced statesmen.

It managed to tap into the two civilizational pillars of Europe: The Enlightenment and the heritage of the French Revolution and the European Christian tradition.

Liberty was already achieved with the defeat of Nazi Germany – and Germans (like their Austrian bretheren-in-crime) embraced with zeal the notion that they, too, were liberated from National Socialism. But here was a Project, encapsulated in the Schuman Declaration, which added to the transnational level both Equality and Fraternity. The Versailles version of Peace was to take yesteryear’s enemy, diminish him and keep his neck firmly under one’s heel. Here, instead was a vision in which yesteryear’s enemy was regarded as an equal – Germany was to be treated as a full and equal partner in the venture – and engaged in a fraternal inter-dependent lock that, indeed, the thought of resolving future disputes would become unthinkable. This was, in fact, the project of the enlightenment taken to the international level as the misogynist Kant himself had dreamt. To embrace the Schuman Plan was to tap into one of the most powerful idealistic seams in Europe’s civilizational mines.

The Schuman Plan was also a call for forgiveness, a challenge to overcome an understandable hatred. In that particular historical context the Schumannian notion of Peace resonated with, was evocative of, the distinct teaching, imagery and values of the Christian call for forgiving one’s enemies, for Love, for Grace – values so recently consecrated in their wholesale breach. The Schuman plan was in this sense, evocative of both Confession and Expiation, an redolent with the Christian belief in the power of repentance and renewal and the ultimate goodness of humankind. This evocation is not particularly astonishing given the personal backgrounds of the Founding Fathers — Adenauer, De Gaspari, Schumann, Monnet himself – all seriously committed Catholics.

The mobilizing force, especially among elites, the Political Classes who felt more directly responsible for the calamities of which Europe was just exiting, is not surprising given the remarkable subterranean appeal to the two most potent visions of the idyllic “Kingdom” — the humanist and religious combined in one Project.<sup>2</sup>

It is the messianic model which explains (in part) why for so long the Union could operate without a veritable commitment to the principles it demanded of its aspiring members – democracy and human rights. Aspirant States had to become members of the European Convention of Human Rights, but the Union itself did not. They had to prove their democratic credentials, but the Union itself did not – two anomalies which hardly raised eyebrows.

Note however, that its messianic features are reflected not only in the flowery rhetoric. In its original and unedited version the declaration is quite elaborate in operational detail. But you will find neither the word democracy, nor human rights. It’s a ‘Lets-Just-Do-It’ type of programme animated by great idealism (and a goodly measure of good old state interest, as a whole generation of historians such as Alan Milward and Charles Maier among others have



demonstrated). The European double helix has from its inception been Commission and Council: an international (supposedly) a-political transnational administration/executive (the Commission) collaborating not, as we habitually say, with the member states (Council) but with the governments, the executive branch of the member states, which for years and years had a forum that escaped in day-to-day matters the scrutiny of any parliament, European or national. Democracy is simply not part of the original vision of European integration.

This observation is hardly shocking or even radical. Is it altogether fanciful to tell the narrative of Europe as one in which 'doers and believers' (notably the most original of its institutions, the Commission, coupled with an empowered executive branch of the member states in the guise of the Council and COREPER), an elitist (if well-paid) vanguard, were the self-appointed leaders from whom grudgingly, over decades, power had to be arrested by the European Parliament? And even the European Parliament has been a strange *vox populi*. For hasn't it been, for most of its life, a champion of European integration, so that to the extent that, inevitably, when the Union created fears (only natural in such a radical transformation of European politics) the European Parliament did not feel the place citizens would go to express those fears and concerns?

#### 4. LAW AND THE RULE OF LAW

The horrors of WWII but also of the six years leading to it within Germany provoked a conceptual reconsideration of the ideal of the rule of law. One may take as an example the degradation and dispossession of the Jews within Germany in the first eight years of the regime prior to their deportation and mass murder. There were of course violent and lawless episodes such as Krystalnacht in 1938 which saw the burning and looting of most synagogues and in which the government was complicit by commission (incitement and encouragement) and omission (failure to prosecute the perpetrators.) But what is striking is the exceptional nature of this episode. For the most part, degradation and dispossession were orderly, systematic, following a legal and, hence, lawful path. The exclusion of Jews from public life was effected by the infamous Nuremberg Law of 1935 which contained elaborate legal definitions and mechanisms. The disposal of Jewish property followed a similar path of legality. Similar legal structures, including courts and judicial procedures were put in place to enforce even the most invidious features of the regime. Enemies, real and imagined, were not hunted down by clandestine death squads or simply "disappeared." They were arrested, tried and then, lawfully, executed. The quiet chilling horror of legalized and bureaucratized discrimination, humiliation and death is captured by a marvelous book, *One Life*, by Tom Lampert<sup>3</sup> which presents some episodes captured through extrapolation from official files and the strength of which is the very absence of blood and gore. In effect the process was achieved through, and with full respect for, the "rule of law."

It is this reality which, already in the context of the Nuremberg Trials, provoked a conceptual reassessment. Since the rule of law was considered as one of the assets of liberal democracies, one could not grace German practice in those years with that appellation. Put differently, one had to move away from a formalist entirely positivist (even Kelsenian) notion of the rule of law and replace it with one which would, for example, incorporate the source and procedure of authority and authorship of the legal rules and procedures, as essential components into an understanding of the rule of law. A legal regime not validated in

democratic practices and not respecting human rights would not qualify as a manifestation of the rule of law.

We may return now to the analysis of the Schuman Declaration and the early foundations of European integration. We have already noted the conspicuous lexical and substantive absence of democracy and human rights from the original rhetoric and structures. Equally conspicuous is the heavy reliance on law and legal institutions. The Treaty of Paris – with its explicit reference to supranationalism — represents a radical and unprecedented exercise in the legalization of a transnational regime, far exceeding the already innovation of the ECHR. It involves institutions of governance, of transnational administration, of adjudication and enforcement. The political project of European integration was to be realized by an economic program (Coal and Steel Community, European Economic Community) effectuated through and by the rule of law. Over the years one has celebrated that audacious and fateful choice. Notably, giving such centrality to a judicial organ, enabled the European Court of Justice and the law it administered, to play in later years, years of political stagnation, the decisive role it played in the construction of European integration.

Electing to place such pronounced reliance on the law and legal institutions for the achievement of their political and economic project was not only an audacious but also a prudentially wise choice. Transnational legality helps prevent free riding and provides stability and continuity to any *acquis* even in periods of political instability and wavering commitment. Famously, once the constitutional revolution was effectuated through the introduction of direct effect, transnational legality harnessed individuals, pursuing their personal interests as a powerful agent of compliance by Member States with their Treaty obligations.

But, inevitably, it also meant an account of the principle of the rule of law which was old school: formalist, self-referential and self-legitimizing. Why should I obey? Either — because it is “The Law” or because it is in the service of the self-legitimizing messianic dream. Indeed, I would argue, that political messianic projects by their very nature go hand in hand with a formalist, self-referential concept of the rule of law.

It should not need saying that here, too, it is not my intention to argue any substantive similarity with the national socialist regime. The European integration project is as noble as national socialism was vile. But I am arguing that the European construct represents an interesting structural and conceptual continuity.

## 5. DEFENDING VALUES

The second story, brief and rude, is usually considered a historical curiosity, but it, too, had a profound effect on the political culture of the Union and European Integration. I refer to the saga of the European Defence Community. A Treaty was actually signed in May 1952 but failed, by a relatively small number of votes, to be ratified in the French Parliament in May 1954 and the project was abandoned.

What is most striking about this historical event is that the governments were actually able to agree among themselves on a treaty concerning this most hallowed of “sovereign” core. It made huge sense. Quite apart from the fact that, history notwithstanding, a war among the partners of the Union was an unreal possibility, this would be a very symbolic and concrete step to make it unthinkable. But even more importantly, in the face of an external threat, and the ambiguity of American patronage, this project which at one and the same

time brought about considerable savings whilst at the same time enhancing the defense capabilities of Europe jointly and severally.

My contention is that this ‘childhood’ trauma has had profound effects, not just material but principally political and cultural. It became part of European faith that defense, security and military matters had to be kept separate from the European construct – in a ‘it is not politically feasible, it is not politically desirable’ unholy alliance of arguments. It has bred amazing pathologies, not least wasteful replications of the defense efforts of the Member States coupled with a total reliance on American force. If America has become the ‘policeman of the world’, it is in part because Europe allowed it to become so – since when in trouble Europe itself would call not its own police but 911. Paradoxically, the failure to cooperate has also weakened each state individually, since the magnitude of expense simply removed certain projects from national agendas.

Even worse, Europe failed to develop, slowly and painfully, the habits of cooperation, consensus-building, etc. in this field which remained outside the European construct. Like its democratization, it had to graft alien bodies – European Political Cooperation, Third Pillar, Common Defense and Security, et cetera.

Worst of all, it developed a whole new rationalization which was grafted on to the original political messianic project – the ‘civilian power’ – in a questionable attempt to justify the failure of its own early project. Here there has been a veritable spill over also into national politics. Reasonable people can debate the extent of any existential threat to Europe. But there can be no debate that at times, unless one is a pacifist (a comfortable luxury when your friendly neighbour is not), the only way to prevent the worst kind of trampling on the most hallowed values might require decisive use of force. The consequences of this failure are to be found in the graveyards of Bosnia, Darfur and elsewhere.

## 6. END GAME

The political messianic and its concomitant corollary in a central but formal conception of the rule of law were offered not only for the sake of conceptual clarification but also as an explanation of the formidable success of European integration. They produced a culture of praxis, achievement, ever expanding agendas. Given the noble dimensions of European integration one ought to see and acknowledge their virtuous facets.

But that is only part of the story. They also explain some of the story of decline in European legitimacy and mobilizing pull which is so obvious in the current circumstance. Part of the very phenomenology of political messianism is that it always collapses as a mechanism for mobilization and legitimation. It obviously collapses when the messianic project fails. When the revolution does not come.

But interestingly, and more germane to the narrative of European Integration, even when successful it sows its seeds of collapse. At one level the collapse is inevitable, part of the very phenomenology of messianic project. Reality is always more complicated, challenging, banal and ultimately less satisfying than the dream which preceded it. The result is not only absence of mobilization and legitimation, but actual rancor. The original Promised Land, Canaan, was a very different proposition, challenging and hostile, to the dream which preceded it. Independent India, or Kenya, or even the USA were very different to the dreams which preceded them and their like. Individually this is the story of many a marriage and love affair. Just as paradise becomes such, only when lost, The land itself, always falls short of the

promise. It is part of the ontology of the messianic. The emblematic manifestation of this in the context of European integration is the difference between the 868 inspiring words of the Schumann dream and the 154,183 very real words of the (defunct) European Constitution.

But in the case of Europe, there are additional contingent factors which the collapse of the messianic narrative as a mobilizing and legitimizing factor. At one level Europe is a victim of its own success. The passage of time coupled with the consolidation of peace, the internalization of the alternative inter-state discourse which Europe presented, has been so successful that to new generations of Europeans, both the pragmatic and idealist appeal of the Schuman vision seem simply incomprehensible. The reality against which their appeal was so powerful – the age old enmity between France and Germany and all that — is no longer a living memory, a live civilizational wire, a wonderful state of affairs in some considerable measure also owed to the European constructs.

At another level, much has changed in societal mores. Europe in large part has become a post-Christian society, and the profound commitment to the individual and his or her rights, relentlessly (and in many respects laudably) placing the individual in the center of political attention, has contributed to the emergence of the self-centered individuals. Social mobilization in Europe is at strongest when the direct interest of the individual or at stake and at their weakest when it requires tending to the needs of the other, as the recent Euro crisis, immigrant crisis and other such instances will readily attest. So part of the explanation of the loss of mobilizing force of the Schuman Vision is in the fact that what it offers either seems irrelevant or does not appeal to the very different idealistic sensibility of contemporary European society.

The result is that if political messianism is not rapidly anchored in the legitimation that comes from popular ownership, it rapidly becomes alienating and, like the Golem, turns on its creators.

Democracy was not part of the original DNA of European Integration. It still feels like a foreign implant. With the collapse of its original political messianism, the alienation we are now witnessing is only to be expected. And the formal rule of law only serves to augment the alienation. There are no easy fixes to these problems. That is the nature of problems which are not rooted in institutional arrangements but are a reflection of what has become part of a deep-seated political and legal culture.

## Notes

---

- 1 Mark Mazower, *Dark Continent –Europe’s Twentieth Century* (London: Allen Lane, 1998)
- 2 One should add that the transnational reach of the Schuman plan served, as one would expect, a powerful internal interest the discussion of which even today meets with resistance. The challenge of “fraternity” and the need for forgiveness, love and grace was even more pressing internally than internationally. For each one of the original Member States was seriously compromised internally. In post war Germany, to put it bluntly, neither State nor society could function if all those complicit in National Socialism were to be excluded. In the other five, though ostensibly and in real sense victims of German aggression, important social forces became complicit and were morally compromised. This was obviously true of fascist Italy and Vichy France. But even the little Luxembourg contributed one of the most criminally notorious units to the German army and Belgium distinguished itself as the country with the highest number of indigenous volunteers to the occupying German forces. The betrayal of Anna Frank and her family by their good Dutch neighbors was not an exception but emblematic of Dutch society and government who tidily handed over their entire Jewish citizenry for deportation and death. If one were to forgive and embrace the external enemy, turn one’s back to the past and put one’s faith in a better future, how much more so, how much easier, to do the same within one’s own nation, society even family.
- 3 T. Lampert, *One Life*, Houghton Mifflin Harcourt 2004