Chapter Seven

Overcoming the Myth of the Sovereign, Self-Governing People

David Thunder

Every society lives in the shadow of some narrative, story, or myth about itself. People do not look at social reality through a blank slate, but with the help of stories they have been told from an early age. Stories about how their society has come into being, how it is held together, what threatens its existence, and what breathes life and meaning into it. The ancient Athenians, for example, were brought up to believe that they lived in a democratic society in which free men governed their own affairs and did not live under the thumb of a tyrant. The ancient Romans were brought up to believe that their empire dominated the world, and that putting their life on the line for it brought glory, honour, and power to their society and to their kith and kin. Many medieval Europeans were brought up to believe that the Catholic Church was an authority that not only brought order and structure to public life, but also saved their souls.

The stories we tell ourselves about our society and way of life may be more or less beneficial or harmful, just or unjust, true or false. But there is no escaping them. We are interpretive and self-interpretive beings, and our self-interpretation is inevitably mediated through images and stories. My intention in this essay is to critically examine one such story which I take to be especially relevant to the notion of the self-governing people that sits at the heart of this edited volume, namely, the *myth of the sovereign, self-governing people*. The myth of the sovereign, self-governing people continues to exert a powerful influence over the collective imagination and self-understanding of Western societies, and by extension non-Western societies, many of which have appropriated this myth to legitimate their own governance structures. Above all, it is a myth that profoundly conditions how we theorize and

operationalize the notion of democracy or self-government. Indeed, it has become so dominant in the public culture of the West that it sometimes appears to be the *only* feasible way to conceptualize popular self-government.

It is my belief not only that there are other feasible ways to think about popular self-government, but that there are much *better* ways to do so. As long as we remain trapped within the confines of the myth of the sovereign, self-governing people as it has emerged in the context of the modern nation-state, our ability to imagine new and better possibilities will be severely hampered. The thesis I wish to defend here, albeit in a preliminary manner, is threefold. First, I argue that (i) if we go along with the myth of popular sovereignty, and accept that the governmental functions of a political community are comprehensive or nearly comprehensive in their scope, and are exercised by one agency on behalf of the whole people, then the ideal of popular self-government does as much to obscure as illuminate our understanding of governance processes in the real world. Second, I contend that (ii) the myth of the sovereign, self-governing people, besides constituting a misleading representation of social and political reality, has highly undesirable practical consequences as a political ideology; in particular, it suppreses or inhibits many forms of associative freedom that do not fit within the boundaries of the sovereigntist narrative. Third, I suggest that (iii) if we are willing to rethink self-government in a polycentric, consociational manner, and conceptualize the national community as united by a *shared commitment to basic norms of civility and justice* rather than by submission to a putatively "sovereign" government or State, then we can recover a more empirically workable and normatively attractive concept of the self-governing people.

In order to redeem these three claims, the argument will proceed in five steps: First, I provide a bit of historical background on the myth of the sovereign, self-governing people, and lay out some of its key elements. Second, I expose some of the empirical limitations of

this myth, in particular its reductively individualist social ontology, which vastly underestimates the complexity of the social fabric. Third, I argue that the myth of the sovereign, self-governing people is not merely a harmless fiction, but a story that damages our ability to appreciate and operationalize meaningful and purposive forms of human freedom. Finally, I defend an alternative story about the self-governing people, one more consistent with human freedom and flourishing, namely a conception of the self-governing people as *polycentric and consociational.*

1. The Myth of the Sovereign, Self-Governing People

The "people" has historically been understood both generically as the citizenry at large, and specifically as ordinary citizens who do not belong to the noble classes. However we conceive the exact extension of the concept, all societies that claim to rest the authority of political rule on the shoulders of "the people," or which claim that the "people" are self-governing, are confronted with the following problem: in any group larger than a few hundred individuals, and certainly in any group larger than a few thousand, purely democratic rule – rule in which each person has an equal say – becomes impractical. Not everyone can be heard equally at the same time, or even over the course of the same deliberative process, because if they were, the process would take too long and become dysfunctional. Similarly, not everyone can exercise the same measure of executive power, otherwise government would be divided among thousands or tens of thousands of hands, and no coherent governmental policy or decisions could be enacted. Some element of hierarchy – the rule of a few over the many – becomes inevitable in anything larger than a small and compact community.[i]

The inevitability of political hierarchy is clearly a problem for any society that claims to be democratic or that claims to embody the rule of the people. For how can the claim that the people can or ought to rule themselves be reconciled with the inevitable existence of a ruling

class or an elite group of political rulers? Historically, this paradox has been handled by the telling of a mythical story in which the "people" is personified in an imaginary collective actor, and at least notionally, handed the reins of power. The undeniable institutional fact that some citizens exercise rule over others is effectively softened, or fudged, by giving the "people" at large a corporate personality, portraying them as the masters or sources of political power. Thus, in ancient Athens, it was said that "the people" exercised ultimate authority over their rulers and even over their military leaders. Certain institutional devices were put in place that lent at least some credence to the myth of the *demos* as the primary source of political authority – including a popular assembly where a large number of citizens could debate legislation and public policy, as well as ostracize or execute political or military leaders deemed to have betrayed the public trust placed in them.[ii] In modern times, the French revolution was purportedly enacted by the French "people" as a whole, even though it was obviously engineered and led by a minority of them. Similarly, British parliamentarians used a populist rhetoric to justify their decisions, and went so far as to actively promote popular petitions so as to give the impression that their decisions were provoked by a groundswell of the "people."[1]

The emergence of large and populous States in the modern era, with a more or less consolidated form of public administration and taxation, presented political rulers with a pressing need to legitimate a growing set of political, economic, and administrative powers over what were, at least initially, highly diverse societies with a range of different languages, cultures, social and economic classes, and ways of life. The challenge of governmental legitimation was viewed by monarchs, especially from the 17th century on, as the challenge of justifying their claim to rightfully exercise supreme or unrivalled political authority in an age still in the shadows of feudalism, with its competing and overlapping authorities, from church

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[1] On the uses of the notion of popular sovereignty to justify decisions of parliament and political leaders, see Morgan (1988).

and guild to prince and lord. Monarchs famously addressed this challenge of legitimacy by claiming a form of authority or just dominion over the social order that bore important structural similarities to the sovereignty of God Almighty, at least as it was widely understood in Christendom. Just as God was thought to exercise a sort of providential rule over the cosmos at large, the King claimed to exercise a vicarious sovereign authority over his realm.[iii]

The sovereign authority claimed by seventeenth and eighteenth century monarchs had three notable features that distinguished it from the authority of older kings, as well as the authority of local lords and bishops: (i) generality, (ii) finality, and (iii) territoriality.[iv] Together, these three features of regal soveignty were designed to pre-empt the claims of rival political actors, whether religious or temporal, to exercise independent prerogatives that escaped the jurisdiction of the king. The absolutist monarchs claimed the right to exercise a form of rule that was *general in scope* in the sense that it extended to social order *in general*, rather than restricting itself to a specific, narrowly circumscribed set of public functions. The rule of sovereign monarchs presumed to be *final* or supreme in the sense that it could not be legitimately revoked or reversed by a third party, not even by the Roman Catholic Church. Finally, the authority claimed by sovereign monarchs was *territorial* in the sense that its jurisdiction encompasses virtually all persons born in, and residing within, the geographic territory of the kingdom, rather than only those with special feudal ties to the King, as the feudal system had stipulated.

The democratic conception of public order as it emerged in 17th and 18th century Europe and America, entailed a transfer of the powers of absolutist monarchs into a democratically elected assembly of political representatives, constrained by a framework of constitutional norms. Whereas the absolutist monarchs of the 17th century claimed their monopoly over sovereign power to be derived from God Almighty, the parliamentary assemblies that displaced absolutism claimed their monopoly over sovereign power to be

derived from a grant of power from "the people," whether tacit or explicit, to oversee the common weal and above all to provide the social conditions under which citizens could safely pursue their projects, free from arbitrary intimidation or domination, whether by other citizens, public officials, or foreign powers.[v]

Although the precise meaning and history of popular sovereignty are contested, what seems undeniable is that one important element of the "social imaginary"[vi] of our era is the notion that "the people" as a whole, typically the people of a nation, somehow *authorize* a single body of rulers to oversee their common affairs, whether through an explicit grant of power or through some form of tacit consent. The emergence of the modern nation-state as we know it today would be unthinkable without some narrative of this sort. Roughly speaking, we could say that the narrative of the sovereign, self-governing people repudiates the claim advanced by absolutist monarchs to exercise sovereign authority in the name of God almighty, and instead stipulates that "the people," as the presumptive source of all legitimate political power, authorizes a body of representative rulers to rule *in their name* over a defined territory. On this democratized account of sovereign authority, only certain social organs are entitled to wield public power, namely the judicial, executive, and legislative branches of the State, and their right to do so depends on some form of popular endorsement, whether prospective (say, a constitutional convention, a referendum, or nomination of political representatives through a public election), or retrospective (say, re-election). Tacit consent has also been considered as a potential source of popular legitimation of public power, though this is understandably more controversial as it is obviously more speculative and abstract than express mechanisms of endorsement such as elections.

2. The Empirical Limitations of the Myth of the Sovereign, Self-Governing People

In the modern era, given the emergence of powerful administrative States with quasi-monopolies over public finances, the unique attribution of sovereign authority over temporal affairs to a particular institution ("the State") became more plausible, and has been taken for granted by many modern and contemporary political theorists. Nonetheless, the doctrine of State sovereignty is by no means the only game in town. There is certainly nothing either self-evidently right or logically inevitable about this way of conceptualizing political order. In many medieval societies, for example, public authority was dispersed across many different social actors, none of whom could plausibly claim to be an unrivalled social authority, certainly not in a "worldly" sense of possessing comprehensive authority on the ground.[vii] Numerous modern polities, including the United States, Germany, and Switzerland, are divided into federal units each of which enjoys a substantial degree of independent authority from the central government. The Hanseatic League, a medieval federation of independent cities in northwestern and central Europe, enjoyed considerable prosperity and peace between the 12th and 15th centuries. Such arrangements defy any effort to attribute supreme authority to any single territorial government over its citizenry.

Of course, if one viewed popular sovereignty as a useful and salutary myth, conducive to good governance and an active and engaged citizenry, then one might decide to stick with what works, rather than trying out something different. However, as I argue in this section, the myth of popular sovereignty profoundly distorts our understanding of the way in which our political institutions actually work; and as I argue in section 3, it is also a political ideology with harmful practical consequences. In this section, we shall examine some of the *empirical* limitations of this myth as a description of democratic politics.

An important aspect of the legitimation of representative democracy, certainly in popular discourse and to a certain degree also in political philosophy, resides in the claim that it somehow translates "the will of the people" into the policies and laws of their

government.[viii] The original "sovereignty" or power of the people is thought to be somehow transferred into the institutions they endorse, initially through a founding moment such as a plebiscite or constitutional convention, later to through the periodic election by "the people" of suitable political representatives. If this transfer is indeed successful, then someone who is a member of "the people" that endorses the laws under which he lives should, in principles, see those laws as the product of his own will, rather than an imposition.

Upon closer examination, however, representative democracy cannot deliver on the promise of communicating the will of the people into the policies of government. The myth of the sovereign, self-governing people is betrayed by the impossibility of faithfully representing the aggregate interests of a large and complex population of citizens, as well as the unavoidably oligarchic nature of government in a large and extended population.

Let us first consider the problem of representation: state policies and laws are indeed the product, in part, of a popular vote. But it would be a mistake to infer from this form of popular endorsement that state bodies or state actors can faithfully represent, even in an approximate way, the interests and needs of a multitudinous body politic. Popular votes are nothing more than a tally of the votes of people with very different interests and ideologies, often belonging to very different communities and espousing very different values. One might admit, in the case of a very small group, such as a family or small village, that a majority could be thought to speak for "the will" of the whole group, at least in some metaphorical sense—an approximation to the individual wills of its members. However, in the case of a large, extended group of persons, participating in wildly different sorts of community and lifestyle, the motives, worldviews and circumstances of diverse individuals are simply too heterogeneous for us to consider a numerical majority of their votes to represent "the will" of the group, even as a sort of metaphorical approximation to their individual wills. In many instances, it would be as arbitrary as collecting a random poll of

citizens scattered across numerous nations and then inferring that a majority of the responses represented the collective will of the respondents.

The second problem with the construct of the self-governing people when projected onto a national collective, is that in any large and complex society, governing institutions are inevitably heavily shaped by elite actors such as political parties and lobby groups, who are interested in their own survival and advancement, at least as much as ensuring that the "will of the people" be honoured in public policy and law. Since it is logistically impossible to implicate any but a handful of ordinary citizens in the routine activities of governance, governance in a mass democracy invites, and indeed requires, the disproportionate input and deliberations of elite actors. Elite actors, however, whether elected or unelected, rarely coincide even approximately in their priorities and values with the heterogeneous population that elected the government. Those who stand for election certainly have an interest in presenting themselves as sharing the values and interests of their potential voters. But history shows that how they present themselves in a public election frequently diverges significantly from how they act once in office; not to mention the fact that de facto, the "movers and shakers" of large governments obviously extend far beyond elected representatives, to include financial investors, lobby groups, journalists, and consulting firms. For all of these reasons, the notion that a public vote generally involves a distillation of the "will of the people" into public policy and law is clearly false, and can only act as an ideological construct that conceals or rationalizes the incoherence and indeed unrealizability of popular sovereignty as a condition of political legitimacy.

To sum up, the notion of popular sovereignty is an ideological construct that conveys a highly misleading picture of social and political reality. In a large, diverse, and extended population in our era, the notion of a single collective will being captured in a majority of votes is implausible; additionally, even if one thought a popular vote could communicate a

collective will of the people, there is too much intervention of elite actors in the decisions of government to justify a reasonable expectation that the collective will of the people (assuming for the sake of argument that such an idea is coherent) will in fact be honoured or implemented in the day-to-day policies of government.

3. The Harm Inflicted by Popular Sovereignty on Associational Freedom

The myth of the sovereign, self-governing people is not only blind to the complex empirical structure of social order: it is also harmful for the practice of self-government. Once we accept the narrative of the sovereign, self-governing people, at least in its modern form, we are implicitly endorsing an individualist social ontology according to which self-government is an activity exercised by a unitary "*demo" of immense proportions*, composed of a mass of individual citizens. But this is a very incomplete picture of self-government. A more fine-grained, group-sensitive account of self-government would recognize that citizens often have a critical interest in participating in governance processes pertaining to a wide range of associations outside the official structures of democratically elected governments, not only to protect their generic economic and cultural interests, but in order to protect and advance the more or less specialized goods served by diverse associations. Thus, the value of self-government can only be fully understood if expressed not only in the governance of the *demos* at large, but also in the governance of a wide range of associations *beyond the official government of the demos*.

If one begins to scratch beneath the surface, one finds that social order is in fact governed by an extraordinarily diverse and wide-ranging array of institutions, norms, and governance structures, many of which are not creations of the state. Social order is generated by a rich array of interpersonal and intergroup cooperative schemes, whose complexity could not possibly be mastered, designed, or comprehensively regulated by any discrete individual or institution. The

source of social order, contrary to some popular wisdom and contrary to what is widely assumed by modern political philosophers, is not in fact the State, or at least not predominantly the State, but rather, a complex web of communities and institutions, some existing parallel to one another, and others overlapping, some enjoying close forms of cooperation, and others aggressively competing with each other for adherents; institutions and communities whose normative orders are sometimes partially codified, as in the laws of a municipality, but always configured by some shared understanding of group purposes and group life.

Different social relations are governed by different normative orders, or clusters of social norms, customs, and rules of coordination. For example, schools, universities, small, medium and large businesses, networks of scientists, worker cooperatives, townships and municipalities, churches, guilds, philanthropic associations, residential associations, athletic associations, community centres, and debating clubs, are all governed by distinct normative orders. Social order is the natural consequences of associational activity in all its rich variety and cannot be planned or imposed systematically from the top down. Consequently, if we want to understand the sources of justice, civility, and social cohesion in a modern society, we must look beyond the traditional narrative of the sovereign state, imposing order from the top down through public law and administration, and begin to take seriously the fact that social order has many different sources that do not take their place within a neat hierarchy of institutions controlled by a single government.

The sovereigntist narrative, insofar as it implicitly downplays the standing of civil society organizations as independent platforms of freedom and flourishing, puts in jeopardy the entire social infrastructure of freedom. The authority to govern social life is widely dispersed across different institutions, and rightly so, since different institutions have the trust and confidence of different communities as instruments of community governance, and different institutions have institutional and cultural resources suited to the governance needs of different social

groups. But if we conceive the constituent power of the people as flowing uniquely from the general population of a nation, we end up vesting political sovereignty exclusively or predominantly in national governments – since what other government could a national *demos* legitimate? In doing so, we rob non-State institutions of the standing and resources to competently govern their own life, and simultaneously condemn national governments to incompetence and a very thin and precarious form of legitimacy.

Let me explain: any functional system of governance must embody a level of competence, knowledge, and flexibility suited to the complexity of the social reality that it is attempting to govern. The traditional model of the people's parliament, typically operating at a national level, tends to concentrate governmental expertise and know-how in the hands of a centralized administrative body, serving at the behest of parliament. Parliamentary democracy, at least on this model, is built on the assumption that the social and economic order of a large and complex society ought to be responsive to the initiatives of a centralized, general-purpose steering organ. But this is a normative assumption that is essentially a piece of wishful thinking, possibly informed by models of governance more appropriate for the ancient Greek city-states or by models of governance that may work in small rural towns.

One of the most extreme manifestations of this wishful thinking about the power of centralized institutions to bring order to complex societies is the city planning movement that dominated many large American cities such as Philadelphia, New York, and Chicago in the 1950s and 60s. Some of the reasons for the abysmal failure of centralized, top-down city planning are eloquently documented by the grassroots journalist and campaigner Jane Jacobs (1961/1992). Of particular note is her observation that city planners failed to respect the accumulated wisdom and ways of getting along that ordinary citizens had developed over many generations. City planners tended to view the inherently complicated and unpredictable patterns of architectural, economic, and social development in large cities as symptomatic of a

disorder that needed to be "tidied up" by experts. When confronted with the beneficial outcomes of relatively unplanned, bottom-up urban development, they viewed them as inexplicable anomalies because they could not be reconciled with the prevailing wisdom of architects and city planners of the time – namely that centralized, technocratic planning was the only way to bring order and progress to a large and complex society. Indeed, the paradigm of centralized planning and governance was so engrained in many people's minds that it took them a long time to recognize its catastrophic consequences: in particular, the creation of slum neighbourhoods and centers of delinquency on a scale that was scarcely imaginable before the city planners got to work.

Besides the deficit of competence associated with highly centralized forms of governance, there is also a deficit of legitimacy. For neither the regional nor national community has the moral standing to control or legitimate all forms of governance within its territorial jurisdiction. The standing of a person or group to legitimate any given governmental authority is determined by the degree to which such a person or group has a genuine, tangible stake in such a government's decisions. This stake may, of course, be based on something more than the material interests of the stakeholder – it may also derive, for example, from the stakeholder's interest in living in a just and well-ordered political community, or in having his or her cultural identity publicly expressed. However, the mere fact that I have an informed opinion about how some social group should, ideally, be organized, and that I share the same national territory as such a group, does not automatically give me standing to legitimate – or delegitimate – its governance structures.

For example, it would be quite absurd to assume that the citizenry of a national political community had the moral authority to unilaterally legitimate the governmental system of one of its cities, independently from the views of the citizenry of that city. Similarly, it would be rather bizarre to suggest that the population of a city at large had the standing to unilaterally

legitimate the internal governmental decisions of a trade guild or a university existing within its geographic jurisdiction. In a complex society, different governmental systems, whether in the domain of politics or in the domains of culture, economy, education, or industrial regulation, have different stakeholder groups. It is thus fitting and proper that different systems of governance be legitimated differentially by different social groups, rather than uniquely by a single overarching *demos*. For these reasons, it is not plausible to suggest that the legitimation of social and political authority in a large and complex society can be traced back to a single "people." Only under the sway of an artificially individualist social ontology are we liable to treat sources of legitimation outside the national *demos* as theoretically and practically inconsequential, or as deriving predominantly or exclusively from the national political community.

To sum up, the myth of the sovereign, self-governing people provides an ideological pretext for a political system in which a national government assumes the lion's share of public power and authority, a governmental arrangement that is utterly inadequate in a large and complex society, since a large and complex society is composed of diverse associations with diverse ends, which can only be adequately served by diverse systems of governance. A powerful and centralized government tasked with wide-ranging supervision of social, cultural, and economic activity – that is, the sort of government likely to be validated by an ideology of popular sovereignty – is condemned, under conditions of complexity, to governmental incompetence, and is very likely to have difficulty maintaining the loyalty and respect of citizens, as they witness the repeated failures of centralized governments to adapt to the needs of local communities.

4. The Plural and Consociational **Republic as an Alternative to the Sovereign People**

Roughly, I take it that political governance involves forms of social coordination that are territorially defined, have a relatively wide-ranging scope in terms of their functions, and are backed up by significant economic, social, police, and/or legal sanctions. As such, political governance, though not the only form of social governance, is likely to have an especially far-reaching impact on the overall structure of a society and on a wide range of social outcomes. Its far-reaching influence upon social life, combined with its coercive character, explain why it has attracted so much philosophical scrutiny, and stands in special need of justification.

If we think of society as a collection of individual citizens whose governance needs are met by a single, overarching government, then the primary concern of a political government should be to protect the rights of individual citizens, ensure a fair and equitable distribution of public goods, uphold law and order, and regulate the economy. Simultaneously, the government should hold itself accountable to the citizenry at large, conceived as a unitary source of political legitimacy. If, on the other hand, we recognize that society, more than just a collection of individuals, is in fact a jungle of associations, many of which have their own more or less functional systems of internal governance, their own normative orders, and their own missions and purposes, then political governments are not just tasked with governing a collection of individuals, but governing a collection of more or less independent *associations*. One is not confronted with an anarchic collection of individuals, but with a living and breathing social ecology, constituted by a rich tapestry of diverse associations bound together by normative orders that service diverse associational goods. Consequently, both the design and policies of a political government must take care to coordinate social life in such a way as to respect the social ecology of freedom.

Of course, political governments have an important and necessary role to play in the coordination of social and economic life. However, setting aside situations of extremely advanced social decay bordering on anarchy, they are not the sole or predominant sources of

social order. They facilitate social order by cultivating the ecology of freedom, not usurping the functions of existing social groups. Political governments must therefore tread carefully, and not allow their governmental ambitions to threaten the institutional integrity of the self-governing associations that exist within their territorial jurisdiction. The diversity of the human good requires a diversity of normative orders and concomitantly, a diversity of systems of social governance. The normative orders upheld by political governments coexist alongside many others, from schools and universities to churches, guilds, and a vast spectrum of other cultural, economic, and professional associations. Political rulers must ensure that the normative order of the political community does not homogenize associational life or put an end to associational autonomy, since this would be fatal for the social infrastructure of free and flourishing communities.

The question is, what sort of political system could honour the complex and plural nature of social order, and secure the rightful autonomy of civil, religious, and economic associations? The type of system most adequate to such a task would have to be (a) consociational; and (b) polycentric or decentralized, in its structures of governance as well as in its methods of political legitimation. In the short space of this chapter, it is impossible to offer an exhaustive treatment of these matters. However, we can at least review some of the central features of such a system.

Let us start with the term, "consociational." A consociational theory of governance conceives the social fabric as composed of a rich tapestry of diverse associations or societies (*societas*), each with its own purpose, end, or mission, as well as an internal governance structure tailored to its own mission. What makes a consociational account of political order distinctive is that rather than conceiving the body politic as a single, more or less uniform *demos* represented by a single people's parliament, with generalized control over the political life of an entire region or nation, it conceives the body politic as a complex and intricate "community of communities," an elaborate social fabric composed of a wide range of diverse

associations, both territorial (e.g. towns, boroughs, municipalities, regional communities, national communities) and non-territorial (e.g. universities, schools, businesses, economic cooperatives, civil society organizations, neighbourhood associations, artistic associations, museums, etc.). Whereas the standard picture of the sovereign state conceives its constituents as freestanding individual citizens, the consociational account of political order conceives the sources of political legitimacy and decision-making not only as individuals, but as corporate stakeholders, each with its own distinctive mission and values.

One of the central ideas behind the consociational approach is well expressed by the 17th century German jurist Johannes Althusius (1614/1995), when he said:

> Politics is the art of associating (consociandi) men for the purpose of establishing, cultivating, and conserving social life among them [...] The subject matter of politics is therefore association (consociatio), in which the symbotici [those living together] pledge themselves each to the other, by explicit or tacit agreement, to mutual communication of whatever is useful and necessary for the harmonious exercise of social life (17).

Although there are many aspects of Althusius's political philosophy that I would not accept, especially his apparent faith in the natural emergence of a harmonious social order and his corresponding neglect of the potential for inter-associational conflict, neverthelesss, the idea that society is built on inter-associational and not only interpersonal pacts is extremely useful for a theory of political order that wishes to get beyond the limits of an individualist social ontology. Extending this simple idea, a consociational republic could be formed by allowing citizens to opt in and out of a wide range of associations, each with its own functionally limited authority, and allowing these associations, in turn, to enter into mutual pacts with each other, including pacts that delegate limited grants of authority to super-associations entrusted with coordinating the common affairs of many different associations.[ix]

This would translate into informal horizontal cooperation between civil society groups, but also into the formal political and social structures of a *confederation*, as "an organization which consists of a number of parties or groups united in an alliance or league."[x]

Confederations, which are traditionally built from the bottom up, may be political structures (i.e. frameworks for the distribution of political power) or socio-economic structures (i.e. frameworks for the distribution of authority and power within civil society and economic organizations). The logic of confederal governance can be gleaned from its etymology, *con* (together) and *foedus* (league, treaty), which suggests a complex and multi-lateral partnership, with power dispersed across the members, rather than a consolidated union with power concentrated at the top.

A theory of consociational governance is not just a set of principles governing institutional design, but a set of assumptions about the task of governance that need to be reflected in the mindsets of rulers and citizens. In particular, a consociational system, because it relies on multilateral collaborative ties between institutions and communities, requires that rulers make a good faith effort, where possible, to conciliate their own governance decisions with those of other governing bodies, whether those governing bodies are part of an official government apparatus, or are somehow embedded in civil society organizations. In addition to this collaborative and multi-lateral approach, it is in the interests of rulers, if they wish to be effective at their job, to leverage rather than usurp the role of community leaders, popular wisdom, and voluntary exchange in solving the coordination problems they confront.

The forms of authority available in a consociational system of governance, to the extent that they are not absolute or general-purpose, would be very different from the authority of a sovereign State as traditionally conceived. Authority in a consociational political system would be structured *polycentrically* – that is, dispersed across multiple centres, none of which exercises supreme or absolute control over the whole social fabric. That said, to the extent that associational authority remains final and nongainsayable *within its own limited domain*, it could be considered "sovereign" in a limited or localized sense, analogous, for example, to the limited sovereignty of a medieval guild or university over its own affairs.[xi] A plurality of

independent jurisdictions could coexist within the same geographic territory, and would be expected to respect each other's independence (just as the courts and parliaments are currently expected to defer to each other's proper jurisdiction). Some of these jurisdictions would be both geographic and functional – for example the jurisdiction of a municipality or district court. Others would be almost exclusively functional – for example, the jurisdiction of an international trade association, or the jurisdiction of the Catholic church with respect to the spiritual and ecclesiastical questions that fall within its orbit.

These independent associations could not operate in a normative vacuum. They would have to share a common civic culture and submit to certain common rules in order to cohabit the same social space. Furthermore, they would have to develop enforcement mechanisms for dealing with infractions of or disputes over commonly accepted rules, that could work in the absence of a sovereign state. Such mechanisms might include, among other things, federal and municipal judicial systems with limited jurisdictions, voluntary arbitration courts, and non-legal penalties such as loss of reputation for violating community norms. Furthermore, they would have to find a way to protect their own jurisdictional boundaries from possible incursions by neighbouring authorities, whether through political strategies, appeals to public opinion, or recourse to recognized mechanisms of legal arbitration. But some exercises of authority would remain contested even after all available legal and political channels for settling the stand-off have been exhausted. And because no single authority could claim absolute sovereignty over all other actors within a given territory, there would inevitably be an element of uncertainty and contestation, and the outer limits of social authorities could not be settled for once and for all.[xii]

Notwithstanding this indeterminacy, there is no reason to assume *a priori* that a nonsovereign, consociational political order would be infeasible. Indeed, social and political coordination already occurs extensively at the transnational level and in private organizations

without recourse to a sovereign regulator (Stringham (2015); Rosenau and Czempiel (1992); Dietz (2014); Scott (2014)). Social coordination can be achieved in many contexts through reliance on custom, informal social norms, contract law, and forms of arbitration that derive their authority from social and professional prestige, independently from any sovereign imprimatur.

Finally, the consociational conception of political and social order, at least as I envisage it, would accept a particular normative vision of how associations ought to operate in order to benefit their members and surrounding communities. A sound social organization, on this view, ought to be (a) genuinely *participatory* in the sense that implicated parties have meaningful input into the organization's development and decisions; (b) genuinely *self-governing* in the sense that the organization can make binding collective decisions on issues affecting its members that are not constantly second-guessed or manipulated by third parties; (c) *welfare-enhancing*, in the sense that the organization is responsive to the needs and interests of stakeholders and affected parties both inside and outside the organization; and (d) *public-spirited*, in the sense of being disposed toward voluntary collaboration with neighbouring organizations, when such collaboration can serve a wider or more encompassing public interest.

The self-governing and participatory character of organizations that make up the warp and woof of a consociational republic serve a dual function: on the one hand, they make it more likely that the governmental process, whether locally, regionally, or nationally, will actually track the real interests and needs of citizens, by putting in place channels of communication and decision-making, whether at the local, regional, or national levels, that are open to the perspectives of affected parties. On the other hand, they make it more likely that citizens will enjoy meaningful opportunities to shape the social order they inhabit –

which, from a republican perspective, has its own intrinsic value as a critical dimension of rational self-direction.

Finally, to conclude this discussion of consociational governance, let us address its implications for the four questions which have been posed in the introduction of this book. First, *who claims to govern in the name or person of the 'people'*? It is impossible to answer this in abstraction from particular political systems. However, the critical focus of this essay has been the system of the (putatively) sovereign nation-state. Public officials of national states frequently claim a special right to govern in the name of the "people" at large, the "people" of the nation. However, if my argument goes through, then this claim is greatly exaggerated: at most, the public officials of a national government have a partial and heavily qualified claim to rule in the name of a national people. In fact, it would probably be more accurate to say that they have a claim to rule in the name of the *peoples and associations* encompassed by the boundaries of the nation, and even that claim would have to be limited to areas of governance which such peoples and associations could have good reason to entrust to a national government.

Second, *what scope and kind of authority is being claimed?* Typically, the public officials of national states claim an extremely wide scope of authority to govern – over areas as diverse as policing and war powers, public finance, taxation, commerce, culture, education, welfare, and healthcare provision, and significantly, in ways that are non-consensual and exclusionary of other forms of governance. The question this naturally raises is: how, if at all, can such powers be justified or legitimated? If the only realistic alternative to a state with extensive regulatory and taxing powers was something bordering on anarchy, then those powers might be justified as the only way to bring about an acceptable public order. If, however, a wide range of non-state associations, whether political (e.g. municipalities) or non-political (e.g. trade associations) could coordinate many aspects of social order just as effectively, if not more

effectively, then a state with sweeping regulatory powers, then the extensive governmental powers of the modern state cannot be automatically assumed as a natural correlate of public order. On the contrary, they must be defended philosophically and legitimated politically. Consociationalism insists that this legitimation must come from a range of corporate actors and possibly even "peoples" or *demoi* that cohabit the territory of the State, and not just from a single, undifferentiated *demos* of citizens, such as what is famously depicted on the frontispiece of Hobbes's *Leviathan*. Otherwise we open the door to the tyranny of the majority, which has no particular reason to either understand or empathize with the special needs and requirements of the communities and associations that together constitute the social fabric of the polity at large.

Third, *who is held to part of the 'people'?* If we are speaking of a national people, then we typically count all naturalized or born citizens as members of such a "people." The logic of inclusion is that anyone with a long-term stake in the destiny and welfare of the nation ought to be incorporated into the "people." But on the consociational approach, the social fabric is actually far more complex than anything that could be translated into the customs and rights of a single collective, such as a national "people." The social fabric is not merely composed of individuals, but of groups of many different sizes and types. Individuals should be able, in principle, to maintain a plurality of political allegiances and identities simultaneously. One may be a part of a neighbourhood, university, church, city, region, and national people simultaneously. Each of these memberships will bring with it its own peculiar emotional resonance, rights, and obligations. In this way, membership in the people of a nation is highly mediated and must be carefully balanced against the legitimate claims of other political identities.

Finally, *what kind of 'people' is held to be able or worthy of 'self-governing' in the first place*? What gives any given group of persons a right to incorporate into a self-governing body?

First, their consent, at least where practicable. Where explicit consent is not practicable – say, in the case of geographic associations such as municipalities, into which many people may be born or to which people may migrate for pragmatic reasons that have little to do with the manner in which the municipality is governed politically, then the electoral consent of a significant majority, combined with a right to migrate to another association may be the best basis one can hope for, for legitimating the boundaries of a self-governing association. Second, an association may be held to be worthy of self-governing when its shared purposes are lawful and do not pose any serious threat to the public weal. Third, an association may deserve not just the permission to incorporate as a self-governing entity, but *special protection and support*, if it serves a vital and widely recognized public function such as healthcare or education, does so competently, and enjoys some reasonable level of acceptance in the community it serves.

The notion that the "people" of a nation – those inhabiting a territory with a broadly shared culture or history – automatically have a right to govern their collective affairs must be carefully qualified, even if there is more than a grain of truth to it. As long as we understand the governmental powers of a people – let us say, for argument's sake, that we have in mind the people of a nation – to be legitimated *consociationally*, that is, by a wide range of different collective stakeholders, and not just by a mass of individuals – then the people's rights of self-government are not the product of some mysterious entity, "the people," that could be discovered metaphysically or constructed through majoritarian procedures, but rather, of a series of relationships or pacts between different associations and communities to act together, for certain purposes, *as if* they were a single people. It is that shared will, mediated through pacts concluded by credible representatives of corporate stakeholders, rather than some pre-existing metaphysical reality, that gives the complex social group that we denominate the "people," its standing to govern itself.

There are clearly advantages if such pacts are concluded within a broadly shared cultural space such as the territory of a more or less culturally cohesive nation-state, as this facilitates shared symbolism and shared understandings of public order and legitimacy. Thus, it may well be that inter-associational pacts end up endorsing a confederated national polity. If, on the other hand, those claiming to represent the "people" assert the "people's" prerogatives independently from the joint will of its constituent associations, or impose such prerogatives on a purely majoritarian or oligarchic basis, then the collective we call "the people," along with those who claim to represent it, may well forfeit the trust of citizens and civil society organizations, and indeed their own political legitimacy.

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Consociational republicanism, with its bottom-up and pluralist approach to social and political order, has the potential to break the monopoly of states and political parties over public authority, power, and economic resources, unleash the energy and initiatives of a wide range of social and political actors, and permit the functions of social governance to be assumed voluntarily by those actors with the most relevant motivation, knowledge, and skills. However, it is not without its difficulties: First, the consociational approach can only work if the population in question has the type of education and mentality that can support a high level of voluntary negotiation and cooperation and a widely entrenched commitment to constitutionalism. Second, once one renounces unilateral control over the body politic, organizational jurisdictions will multiply and often overlap. In such an environment, potentially destructive "turf wars" of various sorts are bound to crop up. Last but not least, there is the danger of hyper-privatization – a process through which citizens retreat into

private organizations and lose touch with the idea of a *res publica*, a "public thing," or a

shared, public good.

These sorts of difficulties might be tackled by an effective educational system with a

high level of buy-in from local associations; institutional structures that favour a high degree

of local participation in political as well as non-political associations; and an effective

partnership between public and private arbitration courts for peacefully adjudicating

interjurisdictional disputes. In any case, the bottom-up, consociational model of governance

proposed in this essay already finds some echoes in political systems such as the Swiss

confederation, the Dominion of Canada, and the United States of America,[xiii] and has the

signal advantage that it grapples very seriously with the problem of governance under

conditions of social and cultural complexity, in ways that its more centralized and

individualistic counterpart, the model of the sovereign state, does not.

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[i] This point is aptly expressed by Vincent Ostrom (1991) in his volume of essays on American federalism: "There is a problem in organizing all deliberative groups: a cabal of a very few may have perverse tendencies, while serious asymmetries arise in the deliberation of large assemblies. Human beings are hard-wired so that only one speaker can be heard and understood at a time. Beyond a very small threshold, deliberative bodies depend upon someone to preside and exercise control over an agenda and maintain ordered deliberations. All democratic assemblies are…subject to strong oligarchical tendencies that increase with size" (205). Elsewhere, this oligarchic tendency has been described by Michels (2013) as an "iron law of oligarchy."

[ii] Melissa Lane (2016) offers an illuminating treatment of analogues of popular sovereignty in ancient Greek democracy. Even if the concept of popular sovereignty as we have inherited has its own unique historical roots and philosophical-theological connotations, the general idea of political rule being validated by a mythical *demos*, which is vitally important to the notion of the sovereign, self-governing people, is clearly present in many conceptions of democratic rule, including that of ancient Athens.

[iii] One striking example is the self-description of King James I, who is reported to have said to the English Parliament on 21st March 1609, "The state of monarchy is the supremest thing upon earth; for kings are not only God's lieutenants upon earth, and sit upon God's throne, but even by God himself they are called gods […] Kings are justly called gods, for that they exercise a manner or resemblance of divine power upon earth" (Wootton (2003).

[iv] For discussions of the concept of sovereignty and its historical development, see inter alia Grimm (2015), Laski (1916), Jackson (2007), and King (2013).

[v] Morgan (1988) offers an excellent account of this transfer, mainly in the context of Britain and the United States.

[vi] I borrow this term from Charles Taylor (2004). In his account, a "social imaginary" is "that largely unstructured and inarticulate understanding of our whole situation, within which particular features of our world show up for us in the sense they have" (25), which "incorporates a sense of the normal expectations we have of each other, the kind of common understanding that enables us to carry out the collective practices that make up our social life" (24).

[vii] Of course, the Holy Roman Emperor did claim a sort of divinely ordained authority over the Empire, but it was obvious that this authority was not comprehensive in scope when it came to temporal affairs – the Holy Roman Empire was a complex web of independent institutions and rulers rather than a single polity ruled from top to bottom by a single ruling institution. The complex and messy character of political order in the age of feudalism are addressed in much greater detail by Gierke (1900/2014) and Althoff (2004), among others.

[viii] It is true that contemporary pluralist thinkers such as Mouffe and Laclau (1985) and Iris Young (2000), are critical of this myth of a collective will as a gross and harmful elision of social conflict. However, it remains an extremely powerful ingredient of the social imaginary, as reflected in phrases such as "the people have spoken," which are often considered as putting the legitimacy of a political outcome beyond dispute. Furthermore, it is difficult to make sense of the legitimating power attributed to democratic elections without recourse to some conception of a collective will of the people at large.

[ix] There have been numerous historical efforts to imagine and apply polycentric, decentralized models of governance, including efforts by political economists to show how governmental competition and fiscal decentralization can make governments more efficient and responsive to citizens' needs, e.g. Ostrom (2015), McGinnis (1999), Hirschman (1970), Tiebout (1956), Oates (1999), Buchanan (1996); defenses by political and legal theorists of associative and legal pluralism, e.g. Teubner (2012), Muñiz-Fraticelli (2014), Levy (2015); and attempts by political philosophers to develop a sound theoretical articulation and defense of "bottom-up," federated or confederal accounts of political order, e.g. Ostrom (1991), Elazar (1987).

[x] Oxford Dictionaries: https://en.oxforddictionaries.com/definition/confederation. Last accessed 10 September 2019.

[xi] This, at least, is how medieval sovereignty is depicted in Grimm (2015), even though Grimm acknowledges that the terminology of sovereignty, if used at all by medievals, tends to be attributed absolutely to God rather than to limited spheres of authority. One philosophical account of this limited conception of sovereignty, which trades heavily on the contrast with divine sovereignty, is the Calvinist theory of "sphere sovereignty" developed by Kuyper (2012).

[xii] The view that a plausible version of legal and associative pluralism entails the rejection of a single authoritative mechanism for resolving social disputes across the board, is shared by numerous pluralists, including Levy (2015) and Muñiz-Fraticelli (2014).

[xiii] The precise degree to which the Swiss and American models embody consociational principles is debateable. I would certainly not claim that they are faithful embodiments of the consociational republic, in part because it is not clear to what extent the State and local governments in either system recognize the independent standing and rights of *nonpolitical* associations such as universities, churches, and economic cooperatives. But I leave a critical assessment of modern political federations to other authors, since the point of this essay is not to analyze existing political systems, but to offer a critique of the standard picture of the self-governing people and showcase the leading principles of an alternative approach.