



Europe's political frontier

On ethics and depoliticization critique

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Over ethiek en depolitiseringskritiek

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Introduction

The investigation on these pages is an attempt to come to grips with depoliticization both as a philosophical concept and in terms of European politics. It is informed, in the first place, by my conviction that depoliticization requires a specific kind of critique in connection to what political philosophers have called 'the political'. Forging this connection is accompanied by the introduction of a new conceptual apparatus. In the second place, the need to understand depoliticization in these terms is not a free-floating, purely theoretical concern. The writing of this document was motivated by my own perplexity at the ambiguous presence of the European Union (EU) in the lives of people such as myself: European citizens. In addition to producing a need to reflect on its politics, 'Europe' also serves as a sounding board for the conceptual apparatus once it is developed. This is especially meaningful as the political form of the EU is as yet open-ended: as we will consider, it is characterized by a specific form of becoming that leaves behind some of the familiar static elements of nation states.

Moving in this manner from the present state of European politics to an account of depoliticization as a philosophical concept, and then back to Europe in order to apply its lessons, I confront throughout a further element that on my analysis makes this movement itself possible. Both in my approach to what I call depoliticization critique and in

my perplexity at 'Europe', a crucial role is played by a sense of loss. What has been lost in my view, both in the current theorizations of the political and in the current practice of European politics, is an engagement with ethics. This is not to say that I am advocating a return to a classic ethical framework such as deontology or utilitarianism. I do not want to argue for ethics as a casuistry of problems and solutions. But it is precisely ethics that is required, since we have to do more than theorizing on the political: we have to affirm it. The urgency of doing so can easily be pointed out on many political levels, but it is especially clear in the context of the EU, which harbors a tendency to view politics as a technical affair. Though this technical approach is often enabled by silent and silenced moral underpinnings, these are moral *in the wrong sense*, as I hope to show. It should thus be clear that the sense of loss I experience at the withdrawal of ethics in philosophical approaches to the political and the technical exercise of politics in the European Union is itself not only not nostalgic, but fundamentally ambiguous. On a conceptual note: this also means that I cannot draw the familiar contrast that various authors have made (in different ways) between 'ethical', 'moral' and 'normative' questions. I have therefore elected to use 'ethical' and 'moral' interchangeably.

Depoliticization, (the dismissal of) ethics and European politics stand for concerns that in my view all refer to each other and end up intersecting. This is clearly brought out by what can be called the Varoufakis episode. In the midst of the Greek debt crisis, Greece's then-finance minister attempted to politicize the discussion on European politics by invoking Immanuel Kant's categorical imperative: he was duly dismissed¹. This, again, does not mean that we should advocate for a return of deontology in response. But the episode is significant in a different sense. In this particular instance, the dismissal of ethics has depoliticizing effects. The dismissal of ethics can be a mode of depoliticization: in other words, it can be part of the problem rather than part of the solution. Therefore we can pose the more general question under which conditions the dismissal or admission of ethics into politics is (de)politicizing. From the vista offered by the Varoufakis episode, we can thus see how matters of European politics intersect with the problematic status of ethics in light of (de)politicization.

¹ Varoufakis 2015

The present investigation will reflect on exactly this intersection. The master problem that I confront is the relation between politics and ethics. This problem is contextualized in a double sense by the two focal points that I will use to approach ethics and politics: depoliticization critique on the one hand, and European politics on the other hand. Furthermore, I take a contrarian approach in arguing, in line with the sense of loss described above, that ethics is to be seen as part of the solution rather than part of the problem. My main question is therefore: What role can ethics play in the politicization of European politics?

I address this question in five chapters, all of which shed light on a particular aspect of the intersection between depoliticization critique, European politics and ethics. The different aspects each correspond to a specific element of the intersection. Taken individually, the chapters are therefore quite different in terms of the matters discussed and their points of orientation. In order to interrelate the different parts of the terrain and what is at stake in each of them, I now briefly introduce the subject matter of the five chapters in order. Following this section, the last part of the introduction is dedicated to reflection on the task I have set myself, as a practitioner of political philosophy in this day and age.

In order to begin to see the outlines of the investigation as a whole, its first step is to introduce the terminology of what I call depoliticization critique. Following and extending upon Carl Schmitt, I show the essentially contextualized nature of its terms. I introduce a distinction that will prove crucial to all the chapters that follow: that between localized and generalized depoliticization critique. The point of the distinction is to show how the localized variety of depoliticization critique can undercut itself. In order to avoid this, it needs to penetrate the ontological dimension: this characterizes generalized depoliticization critique. Even ontology needs to become resistible, in Bonnie Honig's term².

This notion of resistibility is then investigated in connection to the work of Jacques Rancière and Ernesto Laclau, which offer strong contemporary accounts of the political. I explicate their accounts centered on the concept of populism, which Laclau uses in a highly innovative way and which according to him is in certain respects very close to Rancière's approach. This concept of populism will also make a return in the final chapter. Finally, the initial survey of Rancière and Laclau

² Honig 1991, 108

allows us to swoop back and begin to consider the different reasons why ethics is usually seen as an ally of depoliticization in the work of those classed as post-foundational political philosophers. This account of the political cases against ethics rounds off **Chapter 1: Depoliticization and political ontology**. Its aim is to introduce the vocabulary of depoliticization critique and to acquire a conceptual platform from which to start analyzing European politics.

The second step is to set up camp in Europe. I use the conceptual apparatus and critical perspectives on ontology and ethics that were laid out in the first chapter in order to point out and analyze aspects of depoliticization in European politics. My point of entrance is Fritz Scharpf's distinction between input and output legitimacy, and his analysis of the EU's dependence on the latter³. The legitimacy of Europe cannot be sufficiently constructed on the basis of collective acts of will of European citizens (input), but must be based on the effective solution of communal problems (output). The centrality of output legitimacy points the whole institutional structure of European politics in a particular direction, namely away from pursuing positive integration (through the building of commitment) by political means and towards pursuing negative integration (through the removal of obstacles) by juridical means.

This in turn has consequences for the kind of politics that the EU can pursue, and hence for the role and character of its institutions. Consistent with this analysis, EU-style politics have been described as "policy without politics"⁴. In terms of European institutions, I focus on the historical importance and the political insulation of the European Court of Justice, which in light of the aforementioned juridical strategies is of great importance. A further aspect of depoliticization in European politics is represented by what I call Moral Fortress Europe. This concept refers to the moralization employed in order to depict the EU as a vehicle for the commitment to peace, human rights and the expulsion of populism; and what is more, as uniquely suited to fulfill all of these commitments. **Chapter 2: European politics and aspects of depoliticization** concludes with a consideration of the EU's narrative and self-description in light of the analyses on these fronts. At this point we

³ Scharpf 1999, 16-22

⁴ Schmidt 2006, 22-23; 157-162; cf. Habermas 2015, 5

possess a notion of depoliticization critique, including a critical consideration of ethics vis-à-vis politics, and we have applied this to European politics. This enables us to consider the relationship between ethics and politics more constructively.

With this construction work in mind, the investigation then proceeds to its third step, which is to catalogue and analyze direct relations between politics and ethics in terms of their (de)politicizing effects. I define a direct relation as one that does not require a specific procedure through which ethics is transformed into something suitable for political reflection. Ethics is brought to politics directly, so to speak: or *not* brought to it directly when ethics and politics are deemed to be wholly separate (without considering a specific procedure in a mediating role). Modern philosophy is used to develop and illustrate the accounts of various direct relations, and to show the salience of depoliticization critique before Schmitt. After all, references to this earlier tradition make the Varoufakis episode possible in the first place.

I introduce four direct relations: fixation, friction, isolation, immanence. In tracing the development through modern philosophy, Jean-Jacques Rousseau is introduced as a thinker of both openings and closures; the aforementioned Kant advances the narrative, at first following Rousseau's 'fixating' account but then allowing for a friction between ethics and politics, although on the final analysis the moral horizon itself cannot be contested. The incontestability of an absolute foundation, which makes the political *qua* political impossible, is what I call *fixation*: the first direct relation. Friedrich Nietzsche breaks down the account of givenness on which fixation depends, and moves on to defend an approach based on artistic self-fashioning. Max Weber takes on many of the basic schemes of Nietzsche's thought, and in that sense provides an advance on Kant with a consistent application of friction. The key idea of *friction*, the second direct relation, is that values are deemed important, but also in conflict with a given political reality into which they have to be implemented. Weber's analysis ends up becoming an account of powerlessness, and he is criticized sharply for this by Schmitt. I then consider the question whether ethics and politics should be connected to each other at all; the negative answer to this question is what I call *isolation*, the third direct relation. I show that isolation, too, has depoliticizing consequences. The fourth and final direct relation is

introduced by Schmitt himself: it is characterized by seeing the political as immanent to all life domains, in the sense that it is present in them as a possibility. I moreover show that Schmitt is committed to an affirmation (rather than description) of the political, and this involves him in what I call a moral-political circle. While the direct relation of *immanence* is promising in terms of avoiding depoliticization, it does not yet link up with a practical politics. **Chapter 3: *Problema Morale*: direct relations between politics and ethics** thus shows the usefulness but also the ultimate incompleteness of direct relations.

In view of this incompleteness, the fourth step is to consider two of the most influential accounts of indirect relations, in an attempt to either supplement or supplant the direct relations of the third chapter with the insights generated by indirect approaches. These are set apart through the interjection of a specific procedure in between ethics and politics, so that the former is brought to the latter indirectly. I first consider the work of Jürgen Habermas, whose work is explicitly involved with an attempt to reform European politics, and then analyze Rawlsian political liberalism in an attempt to address some of the shortcomings found in Habermas. I focus on the implications of Habermasian discourse theory on European politics. The indirect relation I use to summarize my analysis is called *anticipation*: it postulates not a first but a ‘final principle’ that all of politics, and in fact every act of communication in the case of Habermas, necessarily expresses. I argue that such anticipation is a mode of depoliticization. The work of John Rawls, which I consider in part through the prism of its updated version in the work of Jonathan Quong, complements Habermas in the sense that it does not postulate final principles, instead adopting “shallow foundations”⁵. However, this version of political liberalism also falls prey to depoliticization since it asks moral convictions to pass a specific test and neutralizes the remainders. The test is one of *generalization*, and it characterizes the second indirect relation I discuss. **Chapter 4: *Open-endedness and justification*: indirect relations between politics and ethics** concludes by noting that both indirect approaches under consideration are promising in important respects, but also raise the question whether and how their corresponding depoliticizing effects can be avoided.

⁵ Raz 1990, 8; Quong 2011, 225

Answering that question and journeying back to Europe comprises the final step and therefore the capstone of my investigation. We are at this point familiar with many depoliticizing traps into which politics and accounts of politics may fall. In order to avoid them, we have to look into the possibility of affirming the political while also politicizing consistently, that is, without falling prey to depoliticization. I develop a notion of polemical politics based on Schmitt's account of the polemical nature of political concepts, and show how this must be combined with the exclusion of the different forms of depoliticization that have been analyzed in previous chapters. This combination adds up to a further, and final, indirect relation that I call *political engagement*.

A paradox looms. In order to politicize consistently we have to shut out depoliticization: in other words, give an account of what is admitted and what is not admitted into politics. Is this not itself depoliticizing? The reason I can respond in the negative is that political engagement can have recourse to the direct relation of immanence and its moral-political circle. This shows the mutual need immanence and political engagement have of each other.

With this theoretical apparatus in hand, we can ask what the practical entailments of political engagement are for our purposes: in particular, how its use impacts the present state of European politics and possible suggestions for reform. I must emphasize that there is no single answer: there is no single form of politics that uniquely 'passes the test', and such a claim would in fact run headlong into the arguments of previous chapters. Instead, I pursue one approach that suggests itself from the preceding considerations and is moreover highly pertinent in the current political environment: Europopulism. I introduce it both as an example and a direction. This is the final point of **Chapter 5: Politicizing across the board**. Because Europopulism succeeds only under certain conditions, it rises above a mere indication: it shows in which ways politicization finds itself poised against mechanisms of depoliticization in European politics, it shows how (de)politicization itself *works* and what is needed to attain the politicization of European politics.

In this manner, the work of this investigation enters into myriad arenas of philosophical discourse from the perspective of a particular set of intersecting problems. Because they are viewed from this particular perspective, the arenas themselves are connected in this regard, however

different from and even opposed to each other they may at first appear. I hope the connections I suggest over the course of the argument will encourage others to formulate further perspectives that bring new light to the interconnections.

In terms of the outcome of this investigation, then, I have three main goals: addressing depoliticization as a philosophical concept, coming to grips with the phenomenon of European politics and addressing the ambiguous sense of loss concerning ethics. The reforming of rigidly compartmentalized philosophy ‘from within’ can be said to constitute a fourth goal to be attained in terms of our philosophical approach. I hope to have made a small contribution in this regard.

I have not yet explained why (de)politicization is so important to me. The arguments can stand on their own and in that sense do not require further explanation, but I nonetheless believe it is important to provide some kind of insight. In writing on the pitfalls of the political, I am not only responding to the conceptual materials I explicitly reference. A further layer of response, that in a literal sense goes beyond the letter of the present text, is that what constitutes the political and who has access to it are fundamental questions of our time. I am inspired by movements such as Black Lives Matter, and troubled by the effectiveness of interested parties engaged in spinning political issues so that what is really at stake in them is obscured. The need to bring out what is at stake here becomes the launching platform for a form of critique – depoliticization critique – that has been part and parcel of the tradition of political philosophy at least since modern times, but has not been explicitly and systematically conceptualized and confronted with the reality of depoliticization.

One of the immediate reasons for pursuing this investigation, as remarked, is a perplexity with the presence of Europe in the lives of its citizens. But the need for critique of this kind does not stop at the European borders, nor do I mean to suggest this. Because of Europe’s open-endedness, the technical approach that tends to prevail in its present politics, and its sheer importance, it does provide a crucial impetus to and a strong theoretical and practical test for depoliticization critique. Equally, however, there is more work yet to be done. That is why political engagement will continue to call us to action, and why theoretical inquiry into depoliticization (critique) is, in all matters political, an urgent matter: one which I now begin to address.

Chapter 1

Depoliticization and political ontology

As soon as we begin to inquire into depoliticization, we are confronted with a puzzle. For it is not clear that depoliticization has a unified or even unifiable meaning that can be applied across different contexts. Let us briefly consider two examples. First, we may say that an economic policy is ‘depoliticized’ when it is motivated by expert counsel rather than what we may think of as properly democratic processes. Second, we may say that terrorist attacks are ‘depoliticized’ when a politician casts them as ‘attacks on our values’ rather than moves and counters in a conflict between political groups⁶. We should first of all note that both examples involve taking a critical stance towards depoliticization; this is what I will call depoliticization critique, and its contours will come more clearly into view by the end of this chapter. For now, let us focus on the specifics of the two examples. The first example shows that depoliticization critique is centrally concerned with a notion of politics or ‘the political’, and that critical usage of the term can quickly lead to diagnoses of ‘unpolitical politics’. This will be the case when institutional politics is unable to do justice to what we regard as truly political. For instance, if real politics requires representative democracy, then a democracy that no longer centrally involves representation can be considered depoliticized in the sense that real politics has been removed

⁶ Schinkel 2015

from it. Politics, then, cannot be conceptually reduced to the realm of the state or even institutional politics in general. The example concerning ‘attacks on our values’ shows that depoliticization critique explores the historical and philosophical conditions of the situation ‘objectively’ confronting us, and more specifically enquires into the role of politics past, present, and future in the coming-to-be of the confrontation itself. It thus incites us to political action and resists passive spectator attitudes toward political reality. Depoliticization critique thus opposes claims that would cast terrorism, or economic policy for that matter, as an inevitable ‘force of nature’ that could not have been otherwise.

What we can surmise from these brief reflections is, first, the involvement of depoliticization critique with what Oliver Marchart calls political difference. Only such a difference at the center of politics allows depoliticization critique to keep open the possibility of making things political in the most fundamental sense, which I will later introduce under the heading of generalized depoliticization critique. Marchart defines political difference as the distinction between politics, understood as the attempts to ground society on a positive foundation, and the political, conceived as the absent ground of society⁷. Second, there seems to be a notion of engagement at work, or at least a normatively charged insistence that politics is not about passively reacting to established matters of fact.

But combining these two aspects of depoliticization critique leads to a problem. If we consider the field of concepts around political difference and attempt to combine it with normative attitudes like engagement, it becomes clear that theorists of political difference are uneasy with normativity. It is not hard to see why. Said theorists typically contrast a notion of politics as ‘derivative’ of other spheres (for instance, the social) with a notion of the political as a disruptive event that is necessarily fleeting in nature and impossible to capture in institutional form⁸. If the political is truly to be disruptive, however, then it cannot rely on pre-established categories: it must be autonomous, in some sense.

This should make clear that the rabbit-hole called depoliticization critique goes quite deep. The tension between politics and the political, combined with a deep suspicion of predetermined reality to which politics need only ‘respond’, leads to many new questions. For instance,

⁷ Marchart 2007, 12

⁸ E.g. Rancière 2010, 51-55; Wolin 1996, 31

reflecting on the proper site of politics simultaneously means reflecting on institutional politics, and from that will follow an evaluation of populism that forms in opposition to it. We could come to see populism as the pinnacle of politics in the true sense or as a form of anti-political mistrust; we will discuss this later on in the chapter as well as in the final chapter. The theoretical angle of depoliticization critique shows how such discussions are themselves instances of the master problem confronting this kind of thought: how should we conceive of the relation between ethics and politics? Is ethics a threat to the autonomy of politics, or do we need some notion of ethics to make sense of depoliticization critique? And how would we make sense of such a notion of ethics? Before delving that deeply, we have to do some preliminary excavation work.

1.1 Contextualizing depoliticization critique

Both examples of depoliticization critique that we have explored above – economic policy and terrorism – involve a notion of politics and what it should be able to do. What we mean when we criticize ‘depoliticization’ thus seems to depend essentially on the concept of politics or the political we employ in the process. Another way of saying this is that depoliticization and depoliticization critique are tied to a historical-philosophical context. It is perhaps all too easy to take our central concept at face value: depoliticization signifies a process whereby something is made non-political. This embryonic definition is a good start, but it is not clear what follows from it. We have stated that ‘depoliticization’ does not refer to political reality in a stable way, since the meaning of ‘depoliticization’ depends in no small way on the concept of politics or the political employed by the theorist in question. This in turn means that depoliticization critique is part of a historical back-and-forth between different positions on what one should consider politics, or political. We can thus expect depoliticization itself to display a degree of fluidity of its own.

The latter insight – that depoliticization, like all other political concepts, can only be made meaningful by reflecting on the political circumstances that inform its usage – is relatively recent in philosophical terms. One of the central developments in theoretical work on depo-

liticization is its formulation in the political writings of Carl Schmitt. Three aspects of his work are especially important: first, Schmitt's distinction between (institutional) politics and 'the political', which he describes as a potential antagonism that underlies every other sphere. Second, the essay in which he criticizes his times as 'the age of neutralization and depoliticization'. Third, his later work on what he calls 'the tyranny of values'. Since Schmitt's concept of the political furnishes us with the tools to understand his work as it applies to our investigation, it is in the political itself that we find the most suitable point of entry.

The concept of the political invoked by Schmitt is one of intense antagonism, or at least its possibility (see the later reference to Hobbes). It is not bounded by the state, as most modern accounts of politics had been. Schmitt himself only carried through the distinction between politics and the political in a preface to an Italian translation of his work written in 1972⁹. The implication of this late inclusion is that Schmitt's importance is not in introducing political difference, but in his conceptualization of the political as such. The concept of the political in Schmitt's work functions as a way of resisting liberalism and in particular its notion of the taming of human nature. From Hobbes to Montesquieu and beyond, the liberal tendency had been to devise an institutional environment in which the insecurities of human life could be taken away. The state is there to guarantee basic security for all, and the law is there to map out this security. For Schmitt, this is a mistaken form of political technology. He insists that human nature is and remains "problematic" and defined by the drive to conflict¹⁰.

Schmitt is here motivated by a sense that his time had moved beyond eternally secure foundations for human life. Indeed, his essay on depoliticization to which I will turn in a moment shows the temporary and imperfect nature of any such foundation. What assumes primacy amidst the "conflicts, 'crisis mentality', and loss of transcendence" in the beginning of the twentieth century is the certainty of death: and the threat of violent death is for Schmitt the hallmark of the political¹¹. The specificity of politics is rooted in the distinction between friend and enemy, which for Schmitt constitutes a distinction that is independent of the antitheses that define other domains and cannot be derived from

⁹ Marchart 2007, 42

¹⁰ Schmitt 2007a, 61; Viriasova 2016, 88; Mouffe 1999, 2

¹¹ Viriasova 2016, 89

the latter¹². Friend, enemy and the confrontation between them acquire their final meaning because of the “possibility of physical killing” that is present in them¹³. The centrality of death comes to the fore at precisely this point: the possibility of violent death is the fundamental and final concern of human life, so that the political is nothing other than “intensive life [*intensives Leben*]”¹⁴.

In consequence, human life and politics are both defined in purely existential terms, where this existentialism signifies “*human existence, in its brute facti[c]ity*” as “an end in itself – the only value that remained, as it were”¹⁵. This signifies the irrelevance of traditional normative frameworks. The existential aspect of Schmitt’s description of politics stands on its own, and has to. This facet of the ‘absent ground’ accounts for the decisionism in his own theories, as well as later ones inspired by Schmitt’s innovations¹⁶. The feature of intensity commits Schmitt to defining politics as a ‘total’ concept. When artistic or economic disputes gain enough intensity, they are turned into political disputes; and the same is true of disputes in any of life’s domains. In that sense, politics underlies the totality of the spheres within which human activity unfolds so that every antithesis that defines these spheres (e.g. beautiful and ugly in aesthetics, good and evil in morality) can be politicized.

In summary, the hallmark of a political dispute is the distinction between friend and enemy. The enemy constitutes the experience of a negation of one’s own position, and for that reason has to be combated. This makes politics into a matter of experienced existential opposition of the most intense variety. As is the case in Hobbes, the antagonistic relation towards an enemy signifies the “ever-present possibility of combat”, rather than an actual state of war¹⁷. Still, Schmitt’s account makes clear that the stakes are potentially disastrously high.

Against this background we can certainly understand why European culture would want to depoliticize. Schmitt’s version of the political is a principle of potentially destructive conflict, without any other explanation for this conflict than that it is felt to be necessary. In his essay on depoliticization, Schmitt defines a long European history of ‘neutrality’.

¹² Schmitt 2007a, 26-27

¹³ Schmitt 2007a, 33

¹⁴ cited by Viriasova 2016, 92

¹⁵ Wolin 1990, 394 (emphasis in original)

¹⁶ Ibid.

¹⁷ Schmitt 2007a, 32; cf. *ibid.*, 28; cf. Hobbes 1994 [XIII], 74-79.

Successive generations of intellectuals tried to find neutral domains or spheres in order to stifle antagonism. These attempts were continually necessary, as the central sphere of one era was quickly turned into the latest cultural battleground. Schmitt sees theology, metaphysics, moral philosophy, economics and, finally, technology as the successive stages or phases of this development. He understands this succession in terms of internal dynamism which will necessarily reintroduce conflict¹⁸. For instance, while religion can function as a strategy for uniting people behind common doctrine, this strategy of neutralization seemed less promising after the dominating influence of religious warfare in the early modern age. A similar principle is at work in moral philosophy, which begins as an attempt to derive moral principles that will enable everyone to lead a life of virtue, but ends as an intellectual battle of arguments in the eighteenth century. The nineteenth century is the province of economics: through the politicization of society “from above”¹⁹, it seemed possible to steer society in a unitary direction. This, too, has proved to be an illusion.

[I]t belongs to the dialectic of such a development that one creates a new conflict area through the very shift of a central area. In this new area first considered to be a neutral area the opposition of men and interests unfolds itself immediately with new intensity (...) European humanity always wanders out of one conflict area into a neutral [area], and the neutral area always becomes immediately a conflict area again and it becomes necessary to search for a new neutral sphere. (Schmitt 2007b, 138)²⁰

Technology is Schmitt’s final stage because it promises to be “the most neutral” of the entire development²¹. While the process of neutralization as a whole is described in uniform terms as an unsuccessful ‘suppression’ of the political, it seems clear that the processes of de-politicization and (re)politicization that define the different historical steps are different in each case. Seeking neutral ground in metaphysics entails seeking comfort in the deep structure of reality itself; turning

¹⁸ Schmitt 2007b; McCormick 2005, 97-98

¹⁹ Greven 1999; see also Habermas 2017, 64-65.

²⁰ Translation my own: the same is true of all quotes from German, French and Dutch sources used below.

²¹ Schmitt 2007b

to economic science is an unmistakably less secure foundation. I therefore propose to interpret Schmitt as implying (rather than stating) the view that depoliticization occurs in historical stages, so that the concept should be seen as essentially contextualized. This is a promising starting point in theoretical terms. Religion, metaphysics, moral philosophy, and economics all provide perspectives that aim to transcend the state of unmitigated conflict by generating criteria about what is right and wrong, or scientifically accurate (depending on the phase). They are all, for a time, able to settle ongoing disputes and put out fires before they start; until they, themselves become controversial and the cycle repeats itself.

Since we are concerned with the relationship between depoliticization and ethics, let us pause and consider the ways in which Schmitt attempts to show the neutralizing and hence depoliticizing effects of morality. This is all the more necessary since the connection is somewhat counterintuitive. Is infusing morality into one's description of a situation not a way of raising the political stakes? Neutrality is attained through a technocratic management of the social, one might say: from that perspective, morality is almost on the other side of the spectrum²². We already saw how for Schmitt, the eighteenth century was characterized by the dominance of moral principles, which were supposed to lead to a life of virtue. This stems the tide of antagonism: in that sense moral philosophy amounted to an effective depoliticization. But according to Schmitt and others in the field of law, the constitutional state had put an end to the usefulness of unitary moral concepts like virtue [*Tugend*]²³. We can see this as part of the development of (political) technology as the new 'central area'.

That was not the end of morality, however. In Schmitt's later work, he analyzes the rise of value – a concept that had become increasingly popular as a response to what he calls the "crisis of nihilism"²⁴. Following Heidegger, Schmitt calls value "a positivist *Ersatz* of the metaphysical": that is to say, the philosophical reaction to the increasingly all-engulfing realm of the "value-free" causal mechanisms of natural science was to postulate a contrasting, subjective realm of value on the level of *Weltanschauung*²⁵. In the same way that metaphysics had once provided a fun-

²² This is the conceptual home of the Varoufakis episode: see Varoufakis 2015.

²³ Schmitt 2011, 9

²⁴ *ibid*, 37-38

²⁵ *ibid*, 38

damental orientation that secured man's status as a free and responsible being, values and hierarchies of values are formulated by the new 'philosophy of value' as a contrast point to the onslaught of natural science. According to Schmitt, values are not principles, premises or anything of that nature: values are points *[[Werte] sind eben Punkte]*²⁶. Schmitt's notion of *Punktualismus* is a sharp formulation of the 'sociological turn' Max Weber had advocated in his work: values do not function as abstract principles, but as perspectival "points of view" and, what is more, "points of attack" or fronts²⁷. While terms like 'point of view' suggest a benign pacifism, the immanent aggressiveness of the 'fronts' is in fact always in play. The attempt to derive objective values cannot overcome the 'punctual' status of values, so that objectivity is nothing but a new kind of *Selbstverpanzerung*²⁸. Schmitt here seems to be playing with words: *Selbstverpanzerung* signifies self-defense, in the sense of bolstering one's claim to superiority in the battle between competing values, but also carries the connotation of *Panzer* or tank. The tank is Schmitt's symbol for the return of the realm of value to the realm of natural science and the destructive technologies it has fostered. The search for objectivity in value no longer signifies the initially sought after departure from the factual realm; the 'objective' values rejoin that realm with terrible force.

According to Schmitt, this rejoining is unavoidable as soon as one becomes concrete and serious about implementation and application *[Durchsetzung und Geltendmachung]* of values²⁹. This is not merely because of the supposedly objective nature of values, but also, and mostly, because of the "tyranny" that accompanies this kind of value. This tyranny implies that what is contrary to value has no claim against what is right.

The higher value has the right and the duty to conquer [unterwerfen] the lower value, and value as such destroys what is contrary to value [Unwert]. (...) Following the logic of value [wertlogisch] it always has to follow that for the highest value [even] the highest price is not too high and must be paid. (Schmitt 2011, 48; 50)

²⁶ *ibid*, 42

²⁷ *ibid*, 41-43

²⁸ *ibid*, 46

²⁹ *ibid*, 47

That is why value, which started as a revolt against the onslaught of natural science, ends up driving a tank. The ‘ever-present possibility of combat’ against one’s enemy that Schmitt describes as the hallmark of the political shifts to the point of complete subversion, so that in the pursuit of value there are finally only “destroyers and destroyed”³⁰. This avoids being political because of the marriage between fact and value that is implied by the realization of value, which in fact destroys its original meaning and ancestry [*Herkunft*] as a concept of resistance and assimilates value completely to the natural-scientific onslaught it initially sought to provide an escape from. This is very close to Jacques Rancière’s later description of ethics as an “indistinct point of view” that speaks in the voice of George W. Bush. As the latter said in a later withdrawn statement, “only infinite justice is appropriate in the fight against the axis of evil.”³¹ Because this infinite justice, in its commitment to stomping out terror wherever it may appear, is “identified with the simple demand for the security of a factual community”³², infinite justice does not refer to antagonism or contestation but rather to both the self-destruction of value, in Schmitt’s sense, and the disappearing of politics.

Now that we have considered Schmitt’s concepts of the political and value as well as his contextualization of the very concept of depoliticization, we are in a position to turn away from Schmitt and ask questions in the present tense. What is depoliticization critique responding to right now? Current approaches to depoliticization and depoliticization critique can be understood along the lines of his historical analysis. Contemporary depoliticization critique centers on the idea that political processes are being subordinated to economic ones in such a way that they are thereby neutralized.

My proposal is that an important object of depoliticization critique today is the perceived *self-withdrawal of politics*, which has to be understood as itself a political move. This is a complication that is hard to reconcile with Schmitt’s conception of the political: depoliticization itself and the neutralization he associates with it is opposite to politics in an ideological sense, but in reality this very neutralization serves a political

³⁰ *ibid*, 52; see also Derrida 2005, 103.

³¹ Rancière 2007, 29

³² *ibid*, 34

function³³. We need to discuss the self-withdrawal of politics in order to make this clear. It has two main aspects: it is a response to a fear of the contingency (or in a different vocabulary, the risks) associated with politics, and it is a response to the global economic context that, according to critics like Pierre Bourdieu, itself a political creation. Let us consider these two aspects in order. First, when trying to analyze depoliticization critique in our current situation, we notice a distinct lack of the existential themes discussed by Schmitt. However, a striking commonality is the equation of politics and danger. Within contemporary institutional politics, (democratic) politics itself is regarded as something dangerous, given the stakes involved. The existence of objective economic forces changes the nature of political action, giving it a novel air of necessity. We then have the option of managing the economic forces in a scientifically appropriate way. Any alternative to 'optimal' management of economic forces requires that we ignore the data in front of us, and/or act in suboptimal ways: and we choose such ways at our peril. Gathering the relevant data is entrusted to political experts, for instance economic advisors. The experts' predictions continuously confront us with the potentially disastrous consequences of political action. And indeed, in any voting situation the electorate is already informed in advance that the economy will collapse if a certain candidate is elected, or if we decide to issue a 'No' to the European Union. The fact that the substance of these predictions can be vague and subject to variation does not weaken their suggestive power. As a result, any fundamental alternative is only conceivable in terms of a collapse of the entire system: an irresponsible response to an unbearable risk³⁴.

Second, we need to be aware that the context of this intrusion of economics into politics is a globalized economic world. In terms of depoliticization critique, globalization is described as a "descriptive and normative term" created by a paradoxical policy of depoliticization rather than economic inevitability³⁵. Bourdieu describes how such policy

³³ Schmitt comes close to such a conception when he says: "Yet it remains self-evident that liberalism's negation of state and the political, its neutralizations, depoliticizations, and declarations of freedom have likewise a certain political meaning, and in a concrete situation these are polemically directed against a specific state and its political power." (Schmitt 2007, 61) However, Leo Strauss correctly notes that for Schmitt, liberalism is "the negation of the political" (Strauss 2007, 99).

³⁴ Michelsen & Walter 2013, 12-15

³⁵ Bourdieu 2002, 38

measures can appear in the form of appeals to liberty, liberalism, deregulation, anti-bureaucracy, freedom of movement. In reality they have the perhaps unintended consequence of granting “economic determinisms” a “fatal stranglehold”³⁶. In other words, the forcing nature of economic forces is a political creation. Rancière adds that the political response to the “common condition” that was “posited” as global economic necessity during the nineties was limited to “consensus around solutions” that were seen to be imposed on all parties in the political spectrum³⁷. According to authors like Wolfgang Streeck, we now find ourselves in a *de facto* situation of post-democracy, since democratic processes are no longer able to make a difference. This entails a subjugation of what are traditionally considered political aspects of society to economic ones. The economic necessities that politics finds itself faced with means that the possibility of “discretionary spending” is ever-decreasing: political differences cannot be articulated as different budget priorities, because those have already been set by economic agendas. Voter turnouts in OECD-countries show a consistent downturn as the room for political action decreases³⁸. The case has been made that this downturn is caused by the perception that institutional politics has become relatively unimportant.

I call this strand of depoliticization critique ‘*self*-withdrawal’ to capture the emphasis authors like Bourdieu and Streeck place on the idea that depoliticization is a self-inflicted condition. It is not made by markets, but enacted by states, in the same way that globalization is not an unavoidable fate born of purely external circumstances but a result of policy. For instance: social policies are actively dismantled in the name of austerity³⁹. Conflicts within society are addressed by way of “simulation”, reviving precisely those narratives of the nation-state that have been outmoded by policy itself: “placebo politics”⁴⁰. This creates a shift of both the scope of politics and its connection to the affected citizens.

³⁶ *ibid.*

³⁷ Rancière 2004, 4

³⁸ Streeck & Schaefer 2013, 11-27

³⁹ Bourdieu 2002, 41; Streeck & Schaefer 2013. I am not committed to an *a priori* distinction between markets and states; the root of that distinction in terms of Bourdieu and Streeck & Schaefer is aimed at the underlying differentiation between ‘neutral’ matters of economic fact and political processes.

⁴⁰ Michelsen & Walter 2013, 11; cf. Bourdieu 2002, 40-41; Schmidt 2006, 2-3; Habermas 2015, 81

The reality of politics (though not the way it presents itself to the electorate) becomes increasingly international – that is, removed from local and even national concerns, abstract, and invisible⁴¹. If, in Ulrich Beck's term, we speak of institutional politics on the national level as a set of "zombie institutions", which are dead and yet still alive⁴², we should not neglect the self-inflicted aspects of this zombification, both in terms of its historical genesis and as an ongoing process. Thus, the reduction of the subject matter of politics to managing the economic forces that 'objectively' confront us, and the related processes of 'liberating' market forces and the enactment of such policies, define the self-withdrawal of politics.

We started out by noting that on a general conceptual level, depoliticization critique has two concerns. First, it involves a notion of politics or the political, so that critical usage of the term can quickly lead to diagnoses of 'unpolitical politics'. Second, it resists passive, spectator attitudes toward political reality. We notice that in connecting these concerns to the current context for depoliticization critique, which is rooted in the self-withdrawal of politics, there was no explicit definition of a concept of politics or the political, let alone an account of political difference or a distinction between institutional politics and politics as a force of change. What is being made use of, albeit implicitly, is a set of criteria for what counts as properly political. For Bourdieu it is clear that policies of depoliticization result in the hollowing out of important political tasks. Streeck likewise sees the subordination of institutional politics to economic processes as a sign of politics that is no longer able to make a difference. It is heavily implied that it *should* be able to make said difference, but the 'should' is never made explicit. Rancière decries the reduction of politics in the proper sense to consensual politics: this was made possible after politics was forced into a corner by the imposition of supposed economic necessities. On the analysis of these authors, this is not what politics should be confined to.

⁴¹ Bourdieu 2002, 41

⁴² Bauman 2000, 6–8

1.2 The ontological aspect of depoliticization critique

Self-withdrawal as described above depends on the kind of spectator attitude that is dismissed by depoliticization critique. The attitude itself is informed by a particular ontology, which is seen as objective and fixed. As Ernesto Laclau has put it, the political has increasingly been turned into a “superstructure, or a regional sector of the social, dominated and explained according to the objective laws of the latter”⁴³. For politics to make progress in this situation, the priority relations between the social and the political have to be inverted. The self-withdrawal of politics is informed by an ontology of economic determinism, and the underlying logic is both simple and elegant. Its first step is to provide a set of principles in the form of economic laws, which are presented as the (hidden) essence of politics. Second, it “locates this ground (the economic ‘base’) outside of, or beyond, the immediate realm of politics, the latter thus being turned into a ‘merely superstructural’ affair”⁴⁴. Reversing priority relations, as Laclau proposes, means politicizing ontology itself. This is what I call the ontological aspect of depoliticization critique. It is in relation to this aspect that the tension between depoliticization critique and normativity comes to the fore: this has consequences for the relationship between ethics and politics.

In order to address this tension, we first need to distinguish between localized and generalized depoliticization critique. This distinction is the offspring of Karl Mannheim’s work on ideology critique. Mannheim had distinguished between the particular concept of ideology on the one hand, and the total concept of ideology on the other hand. The former describes a particular kind of deceptive utterance that is interpreted as an expression of structural-ideological causes rather than as intentional deceit on the part of the one that makes it. The latter, the total concept of ideology, goes further: it not only unmasks particular utterances as having been produced by structural-ideological causes, but also, and more pointedly, reconstructs the underlying *Weltanschauung* as itself such a product⁴⁵. This in turn means that the particular concept of ideology “makes its analysis of ideas purely on a psychological level”, whereas the total concept of ideology looks at the ontological factors

⁴³ Laclau 1990, 160

⁴⁴ Marchart 2007, 12

⁴⁵ Mannheim 1979, 50

that influence such decisions⁴⁶. A final relevant implication is that the particular concept of ideology does not exclude the one who makes the deceptive utterance from a common frame of reference; but precisely this commonality is shattered when we extend ideology critique to the level of *Weltanschauung*. Once this level is reached, the skepticism that accompanies critique is “radical”, “thoroughgoing and devastating”⁴⁷. It signals the disappearance of common ground.

In terms of depoliticization critique, the first option is that it represents a localized concern, in which case it argues against the closure of politics in a particular way, and only in that particular way. This works the same way the other way around: if we want to ‘lift’ particular oppressive features of a given society, we may start to inquire what legitimizes that particular way of doing things. In some sense, this question in itself suggests that the oppressive feature has conditions of possibility that can be undone. Making things appear in this light is already a step towards making them the subject of political thought and action, since they are thereby moved into the realm of opinion⁴⁸. If the legitimation is found lacking, that may in itself constitute a good reason for reform – the very question of legitimation, at least if it is a real question, is in that sense a politicizing question. But, crucially, it remains perfectly possible to address this particular concern in a way that is fully legitimate, and indeed that any political question has a definite answer: that politics itself can be finally grounded.

The language of grounding immediately suggests a certain kind of foundationalism: in the same way that a house requires a foundation, the kind of building that can be constructed on a particular site depends on the foundation that is present. Political foundations may be hidden underground, but digging deep – the equivalent of careful armchair reflection – will allow us to discern the constraints it imposes on the political superstructure. Given the fact that the foundation is indeed constraining, what we build on top of it is no longer able to set its own laws. In other words, Laclau’s reversal cannot take place. This is again the matter of the autonomy of the political, surfacing together with an insistence on contingency. What is more, we may wish that houses stood forever so that we would never have to build another. With politics, on

⁴⁶ *ibid*, 51; 57

⁴⁷ *Ibid*, 57

⁴⁸ Arendt 1967, 297

the other hand, its unfinished quality means that there is always space to resist. Suggesting that politics could be closed off to the possibility of resistance can be seen as essentially oppressive: it is, at the very least, a clear case of depoliticization⁴⁹. There is, in other words, the potential for localized depoliticization critique to become a form of depoliticization itself. It asks critical questions of one aspect of society, while leaving open the possibility that questions of this nature can have a final answer. Localized depoliticization critique is uncritical of ontology and does not address the problem of a final closure of political space. Insofar as this indeed has depoliticizing effects, localized depoliticization critique is akin to what Herbert Marcuse calls protest against a background of repressive tolerance: one is allowed to speak up, but on the condition that the underlying system is not questioned⁵⁰. As with Mannheim's distinction between the particular and total concept of ideology, it is only with the second term of the distinction – generalized depoliticization critique – that we conceive of the ontological question.

The intended sense of generalization can be summarized through the concept of resistibility, a notion which has been seen as the key to Hannah Arendt's work⁵¹. To put it simply, there must not be a final word in politics. Allowing a final word, for instance by allowing truth to have a normative pull on 'action in concert', would reduce the political to a social domain and put everything back into joint. This is exactly the opposite of what post-foundationalists, Schmitt and Arendt included, mean to achieve. Their goal is not a negative gainsaying of the possibility of foundation, but instead a proliferation of political sites and subjectivities, not only in the interest of freedom but also to do justice to the situation of mankind after the collapse of absolute foundations. This is combined with the insight that positing an absolute foundation is a political move, part of the struggle for hegemony. Hegemony is here understood as the process through which a particular set of relationships comes to occupy the place of the universal⁵². In other words, what has historically been understood as universal or necessary comes to be seen as the result of a struggle for discursive power. Universalities and necessities

⁴⁹ In the third chapter I will refine the standard term 'foundationalism' and replace it with 'fixation'.

⁵⁰ Marcuse 1969

⁵¹ Honig 1991, 108

⁵² Laclau 2005, 115

only exist in the sense that some particularities and contingencies are accepted, for political reasons, as being of a higher order.

The notion of resistibility thus entails a politicization of ontology itself: this is where we enter the level of generalized depoliticization critique. Post-foundationalists have to insist that there is no system that can do justice to mankind without remainder, because to exist as a human is in part to exceed system. The basis for this insistence can be traced back to Kant, but becomes much more forceful in Nietzsche, who sees systematic morality as a self-punishing and self-denying exercise⁵³. He develops an alternative account of *virtù*, which “responds artistically to the self’s contingency by disciplining it” not as dictated by any systematic morality but “according to the style and taste dictated by each particular, individual self”⁵⁴. As Bonnie Honig notes, the question whether the self as such is contingent and system-exceeding cannot be decided at a general level. On a more particular level we can, and she does, locate remainders of politics in foundationalist political theories that either do not fit the political system or have to be repressed in order to fit⁵⁵.

Generalized depoliticization critique uses such accounts of human subjectivity and political order to expose the foundationalist ontology on which the closure of politics relies. Adopting the perspective of *virtù* does, however, commit one to a contrasting ontological attitude, or, in Honig’s phrase: an ontological counterwager. In the vocabulary of political difference, we could say that this wager is informed by the experience of difference between the multiple contingent grounds proposed by foundationalist theories and the absence of the final ground, which is present in its absence. This difference motivates the notion of the political, as opposed to politics, espoused by post-foundational theorists. We are now in a position to specify the critical point of depoliticization critique in an ontological sense. The critic of depoliticization makes the point that politics is not properly or authentically political insofar as political conflicts are foreclosed by a posited ontological foundation⁵⁶.

The underlying distinction between political and unpolitical politics absorbs much of the tradition of political philosophy, considered from

⁵³ Nietzsche 2009, 46-91. Kant’s part in this development will be investigated in the third chapter.

⁵⁴ Honig 1993, 67

⁵⁵ Ibid, 5-6

⁵⁶ Vollrath 1995, 48

the point of view of French and German post-war intellectuals. What they add to the tradition is the quest for the conditions of possibility of a certain mode of political philosophy – foundationalism – and its subversion under the aspect of the Heidegger-inspired perspective of ‘groundlessness’⁵⁷. Oliver Marchart demonstrates that the absent ground of the social is in fact not a reversal of the orders constructed on a political foundation. That philosophical strategy is consigned to history, together with the bankrupt mode of philosophizing that he associates with foundationalism. There are three elements to a political philosophy which operates based on the notion of the impossibility of closure: a rejection of foundationalism, the development of a post-foundationalist politics, and the associated suspicion of ethics. The combination of these elements is particularly clear from the perspectives of Jacques Rancière and Ernesto Laclau, which is why their political theories offer a promising start point to explore what it means to deny the possibility of political closure. In them, we can find more decidedly political versions of what we have termed an insistence on resistibility, and we will have occasion to return to their work in later chapters.

1.3 From *police* to populism

In order to understand in what sense there is space for the political, we should understand what defines institutional politics and to what extent there is a political difference between that kind of politics and a notion of the political that focuses on resistibility. Rancière sees the sphere of institutional politics as one where reifications of the social are enshrined. It follows that the political, as a non-reified interruption of what he calls *police*, can only be thought of as an event that breaks into the prevailing order of society. There is thus in Rancière’s work an insistence on non-finality: every order is resistible. In Laclau, this idea is used in an analysis of populism that goes beyond its standard dismissal as the ‘evil twin’ of real politics. According to Laclau, politics cannot be about merely reproducing existing conditions: rather, it is about the formulation of claims that cannot be met by the existing institutional order. As we will see, the populist is uniquely equipped to challenge said

⁵⁷ Marchart 2007, 12-34

order by forging new connections between the shared meanings that are at stake in politics. Thus, populism becomes the name for the rejection of *police*.

In order to better understand how these terms are related, we need to consider the circumstances against which Rancière's political work revolted. These circumstances can be framed in terms of two historical-contextual aspects⁵⁸. First, the triumphalist announcement of the end of history, where our ideological evolution is said to have culminated in liberal democracy – in particular the work of Francis Fukuyama, the “conspicuous American”⁵⁹. In a sense, the ideas of the end of history and the end of politics are part of the same impulse: namely to liberate politics from its inherently threatening character. Rancière traces the legacy of this impulse to classical philosophy, so that philosophy becomes a project to eradicate politics. At the far end of this project, the knot is tied even more intimately. Now that politics has declared itself triumphant in getting rid of its philosophical agitators, philosophy is finally successful in saving politics from itself. Strategies that are used to get rid of politics focus on reducing the social to the political, or vice versa⁶⁰. The declared success of such strategies provides the second context within which Rancière operates. He critiques the substitution of political and emancipatory discourse for a political philosophy that reflects on the ethical matter of how best to live together.

Rancière's diagnosis is that the very division between the social and the political is continually in the process of disappearing, so that the only political task that remains is managing the social in a way that maximizes the well-being of the collective body. Rancière here reverses the promise of classical Marxism: in particular, the Saint-Simonian hope that politics could eventually be abolished, so that only ‘the administration of things’ would remain. In the post-Marxism of Rancière, the Marxist dream of the ‘withering away of the state’ in classless society is now the unofficial motto of everyday (non-)politics; and it does not inspire hope, but its opposite. Institutional politics and the order that is safeguarded by it is what he calls *police*, the political form that does away with the political by insisting on a stable order that is definitive of society. It is composed of elements that are undeniably part of society. This

⁵⁸ cf. Davis 2010, 99–100

⁵⁹ Rancière 1995, 3

⁶⁰ *ibid*, 11

excludes the ‘supplement’ of society, the “part of those who do not take part” [*la part des sans-parts*]⁶¹. For Rancière, democracy and therefore true politics is only possible as a violent reaction that disrupts the unity and order of *police*. Rancière thus describes the inability of institutional politics to ‘capture’ all of society, and the fleeting intrusion (in the mode of an “accident”⁶²) of the political into the given order of things. What is generally designated as the political sphere thus calls for a “dividing line” between *police* and the political [*politique*]⁶³.

A historical example is in order here. The women of the French Revolution were not regarded by any other group in society as capable of political speech or action. In Rancière’s description of events, Olympe de Gouges challenged this manner of drawing the line between the political (men) and the non-political (women) by stating “if women were entitled to go the scaffold, then they were also entitled to go to the assembly”⁶⁴. Here we can see the various elements in action. *Police* logic presents society as an unproblematic whole and becomes exclusionary through its claim that all of society is ‘countable’; politics here occurs from without society, from a point that cannot be located on the current political map and for that reason problematizes the political parameter, since the women of the French Revolution are after all part of society. The claim that is factually put forward by Olympe de Gouges thus shatters the existing order, but it is only a temporary escape from *police* logic. For a society that allows women the right to go to the assembly (i.e. the right to vote) and draws the line slightly beyond will find itself in what is formally the same position. It again defines itself in a unified fashion, albeit a slightly different unity – having recognized past errors – but it still encircles itself on the political map, and because of this it is encircled by political others from within itself.

In summary, the basic figure of Rancière’s analysis of politics consists of an oversimplified unit (*police*) that cannot see how its internal difference is co-constitutive of the society it aims to describe to the exclusion of that difference. It should be clear that the political is defined by acting-out of said difference from the paradoxical position of being both within and without society. We have already started to

⁶¹ Rancière 2010, 12

⁶² Rancière 2004, 6

⁶³ *ibid*

⁶⁴ Rancière 2010, 69

consider Rancière's ideas on depoliticization. Consensus is the modern mode of reducing politics to *police*; and "the extreme limit of the logic of consensus" is the "dissolution of all political differences and juridical distinctions into the indistinct and totalising domain of ethics (...), an effective depoliticization"⁶⁵.

For Rancière, "governments and experts" have for a long time practiced the art of maintaining the balance between the different elements within society, thus avoiding the "democratic factuality" of an internally divided society that can never be 'whole'⁶⁶. But the imbalance has its revenge: Rancière cites the rise of parties of the extreme right, who reject the "oligarchic consensus", but also the French and Dutch 'No' during the referendum about ratification of the proposed constitution for the European Union. Rancière's analysis continues: "a majority of voters (...) judged that the question was a real question, not a matter calling for the simple adherence of the population, but a matter of popular sovereignty and therefore a question to which one could respond no as well as yes"; and this surprised the analysts all the more since experts had spelled out in advance that adherence would be in everyone's best interests⁶⁷. These operations of consensus and 'maintaining the balance' wrongfully assume an "objectivation of the problems and part of the community"⁶⁸.

The deeper problem with consensual politics is that it is centered around a fixed set of reference points that is the locus of negotiations and compromises by the various parties. Consensual politics thus closes off the political space by only allowing the existence of well-defined groups that together have to produce an outcome. According to Rancière, politics should instead be construed as an event characterized by the rupture of the existing order. Under a paradoxical description, politics erupts at the heart of the social but also from a point outside its bounds. Rancière poses a dividing line between the event or moment of politics and the reduction of politics to the quest for consensus. The latter process ultimately collapses into the management of the social – a securing of conditions under which peaceful cohabitation is possible. For Rancière, as we have seen, this is precisely what is not at stake in politics.

⁶⁵ Rancière 2004, 7-8

⁶⁶ Rancière 2007a, 78; Rancière 1995, 95

⁶⁷ Rancière 2007b, 79

⁶⁸ Rancière 2004, 7

Ernesto Laclau makes a similar point. He claims that there is not a distinction between ‘two kinds’ of politics. Rather, there is one kind: the antagonistic relationship created by the performative forging of a chain of equivalences, animated by a particular demand that cannot be fulfilled within the existing institutional system⁶⁹. This is what he calls populism, and he does not use the term with the disdain that is mostly attached to it. Rancière prepares the way by analyzing the dismissal of populism as a principled rejection of dissent *tout court*. When a disruption of consensus occurs – for example, the failure of the referendum on the European Constitution – the experts have a ready made explanation: “if science did not impress its legitimacy on the people, it is because the people is ignorant. If progress does not progress, it is because of the backward”⁷⁰. Through the mediation of the term ‘populism’, any kind of dissent is grouped in with the same negative connotation of ignorance and backwardness.

More specifically put, according to Rancière the general disdain for populism means the concept is both able to hide and demonstrate the disparity between expert legitimacy and popular legitimacy. ‘Populism’ suggests that although the present mob is not able to constitute a political actor, there is a people out there in virtue of which the political system as a whole is legitimated. Using the term disdainfully is an example of localized depoliticization critique. The typical criticism quickly points out the ‘emptiness’ of the concepts worn on the populist’s sleeve: the ‘freedom’ of a Freedom Party, for example. Imagine a sarcastic undertone: what does this freedom consist in, exactly? Likewise, the passionate, sometimes frenzied nature of the ‘party mob’ is seen as a threat. In both respects, populism appears to be the evil twin of politics, but not real politics. However, such a description presupposes an account of politics as the primary organization of political energies and demands, and sees populism as its subversion. What it actually signifies, Rancière would add, is the unmasking of every dissensual people as unworthy and so, in the final instance, it stands for the “intense wish of the oligarch” to govern without people, without politics⁷¹. The line separating politics from non-politics is effectively drawn around the prevailing consensus, automatically condemning the demand for alternatives as something

⁶⁹ Laclau 2005, 155

⁷⁰ Rancière 2007a, 79

⁷¹ *ibid*, 80

like Jeroen Dijsselbloem's 'ideological tales'. Localized depoliticization critique, as we have seen, can have ironically depoliticizing effects.

Laclau adds something to this initial discussion. He shows the historical roots of populism's dismissal in theories of mass psychology: from that field arises the idea that the general people constitute a threat to real politics. According to Laclau, it is actually populism itself that should be seen as the prime mover of politics. We need to master some concepts in order to understand how this works.

First, there is the concept of discourse. Not confined to linguistic utterances in the classical sense of the word, this concept describes anything that is essentially relational and concerned with meaning. This includes acts such as a populist politician formulating his ideal of the people. The reason 'discourse' is still an apt name is that discourse has a linguistic structure in the sense of De Saussure. Individual terms have no positive signification – there is nothing about the word 'tree' itself that makes it refer to a tree rather than the number three, say; likewise for a concept like freedom. Instead, an individual word forms a complex whole with all the other words in the language, and the meaning of each word is secured through the differential relations binding all the words together. Laclau extends this analysis of language to the realm of meaning as such⁷².

Second, whereas discourse enables us to understand in what sense politics could be a battle over *meanings*, we need the concept of hegemony to grasp why it would be a *battle* over meanings. There are some complicated steps to follow here. The differential relations that constitute the complex of meaning do not allow us to refer to that complex itself, since an internal difference would still be formulated in terms of the complex itself without being able to name its limits. In other words, what is required is the external difference of something other. This cannot simply be another difference in the sense of the internal differential relations; it has to be an excluded element. It is only this element that gives a certain unity to that complex. Vis-à-vis the excluded element, all differential relations suddenly take on an equivalential relationship: they are equivalent to each other qua rejecting the excluded identity, and this jeopardizes their own particular identity. This in turn means that the totality of the complex of meaning is a failed totality, but still a necessary one. "Impossible, because the tension between equivalence

⁷² Laclau 2005, 68

and difference is ultimately insurmountable; necessary, because without some kind of closure, however precarious it might be, there would be no signification and no identity”⁷³. Hegemony, a concept taken from Antonio Gramsci, denotes the political claim that one string of relations embodies the totality. It is a particularity occupying the space of universality, but contingently so⁷⁴. That is to say, there is no ‘really deserving party’ in politics, only the struggle over what being deserving would and does consist in. In populist terms, it is a *plebs* claiming for itself the position of *populus*⁷⁵.

Because the description of both politics and populism is highly formal, it is possible to draw far-reaching conclusions on the basis of this short description. First of all, because the struggle between difference and equivalence defines antagonism as such, all antagonism and every unfulfilled demand is political. This is a justifiable conclusion since, for Laclau, any unfulfilled demand constitutes a break in relation to the differential status quo, or what Rancière would call *police*. Second, the nature of such a break is never a singular demand, but one that is overdetermined by equivalential logics⁷⁶. For instance, when I insist on a pay rise to feed my family, my insistence ‘carries with it’ notions of justice that affect other domains as well. This equivalence does not pre-exist my claiming it as a unity (the unemployed should have benefits, to feed their own families). It is in fact ‘named’ and constituted as an equivalential chain by my act of insisting on the pay rise: the equivalence is performative. Because this very same dynamic is what defines populism, Laclau concludes that “political subjects are always, in one way or another, popular subjects”: in the very gesture of equivalence, we are constructing a people that does not yet exist⁷⁷.

In the final step of our analysis, Laclau emphasizes that we are not dealing with two kinds of politics: populism is the only politics, in the sense explained above. Any other supposed kind of politics “simply involves the death of politics and its reabsorption by the sedimented forms of the social. This distinction coincides, to a large extent, with the one proposed by Rancière between *la police* and *le peuple* (...)”⁷⁸.

⁷³ *ibid*, 70

⁷⁴ *ibid*, 115

⁷⁵ *ibid*, 94

⁷⁶ *ibid*, 230-231

⁷⁷ *ibid* 231; 154

⁷⁸ *ibid*, 155

In more general terms, Laclau's political thought dances around the topic of providing closure for politics once and for all; this kind of closure, as we saw above, is considered both impossible and necessary. This tension is an important historical starting point for political difference and can be traced back to post-war France, to a group of theories that can be called a 'Heideggerianism of the Left'⁷⁹. These theories focus on the same double aspect. On the one hand they theorize a weakening of the ontological status of ground or foundation, which had been important in Heidegger's work, as we have seen. In other words: there is no certain first principle that can help us to grasp the world fully and in a final sense. This is then politicized as the impossibility of a final grounding of politics: there is no one principle or set of principles that can finalize politics. *Police* is not the final word of politics; totality can never really be attained. On the other hand, these theories insist on the necessity of responding to the "dubious if not despicable" politics of Heidegger himself. In other words, totality remains necessary: even though it is not possible to get politics right in a definitive sense, we still have to try. This should remind us of Carl Schmitt's essay on historical depoliticizations that function through the temporary installation of a neutral sphere, and Schmitt's own insistence on the necessity to move on to another sphere once the initial neutrality is compromised. It is, on the one hand, impossible to ground politics completely – to assign it to a neutral domain where its dangers can be forever contained – and yet there is the continued necessity of developing alternatives.

Rancière and Laclau both feel compelled to split politics from within: politics as "a particular social system, a certain form of action" is contrasted with the political as "the *principle* of autonomy of politics, or the *moment* of institution of society"⁸⁰. The distinction is only solidified further by the fact that both Rancière and Laclau deny the predicate 'political' to what is standardly called 'politics'. Their refusal to grant political existence to institutional politics does pose the question how that kind of (non-)politics relates to the political, if at all.

In theories of political difference, there needs to be an interplay between politics and the political, yet they never really come into contact. How can this be? On the level of concepts, the solution is to see politics as the attempt to provide a political ground. It is now established that it

⁷⁹ Marchart 2007, 2; Janicaud 2001, 291-300

⁸⁰ Marchart 2007, 7

is impossible to get it right in any final sense. On the level of everyday politics this implies that no one political party, or coalition of parties, can do justice to all aspects of society – for this would presuppose a final grounding of politics in terms of which one could get it right. But this absent ground is not simply left out: its absence is felt and experienced. This results in a tension or play between the different poles of political difference. The experience of difference sometimes comes to the fore as *the political*. Precisely because it is impossible to get it right, the political can only express itself as an event; that is to say, as a moment, as something that is necessarily fleeting. What is more, it happens on the interior of *police*, which complicates the tidiness of political difference. We will return to this point later. For now, we should note that politics is doomed to crystallize itself as another social system, form of action, etc. and it will still not have the final answer.

Rather than being depressed by the impossibility of getting it right and finally laying politics to rest, these theorists see the spaces that exist *in between* the different attempts to get it right, and the political spaces that are untouched by hegemonic politics, as sites of freedom and political action. If it is not possible to get it right, then resistance of some form is not a defect, but a necessity. Rather than the straightjacket of a perfectly just system that one simply has to abide by, blaming oneself for every misstep in the process, we are set free to address the injustices that we see at work in the world. This ties back in with our question concerning the problematic status of ethics. Why is it that for Schmitt, as we have seen, morality represents a stage in European culture that we left behind a long time ago; how does his notion of the political relate to ethics? More generally, why do theorists of political difference put so little faith in ethics?

1.4 The political cases against ethics

A first spokesperson for the camp of political difference is Chantal Mouffe. Her analysis takes as its context the blurring of the left/right frontier, for instance in Tony Blair's Labour Party (in the Netherlands, we may recall Wim Kok 'shaking off his ideological feathers'), and the subsequent rise of populist parties. Mouffe combines the first term of her analysis, the blurring of the distinction between left and right, with

the disappearance of the adversarial mode of politics. The Schmittian influence in both Mouffe and Laclau is that they see politics as fundamentally agonistic: it necessitates drawing a line between allies and adversaries (a softened version of Schmitt's 'friends and enemies')⁸¹. According to Mouffe, present political discussion is shaped by two factors: the misguided insistence that the adversarial mode of politics has been overcome, and the need to dismiss right-wing populism all the same. The latter cannot be engaged politically without contradicting the first factor. Right-wing populists can thus not appear as adversaries to be fought politically: instead, they are cast as the 'extreme right' and grouped in with evil. This is where moral categories enter into politics⁸².

For Mouffe, casting populism in moral terms has a few different functions ("added bonuses"): for instance, creating an identity for the 'morally upright' liberal democrats, and mobilizing their passions⁸³. But, more importantly, it also constitutes a perversity. It is for Mouffe, following Flahaut, a "puritanism of good feeling" that allows mainstream institutional politics to describe itself as essentially moral, while casting evil outside themselves and rediscovering some form of heroism⁸⁴: where really there is none, we might add.

The problem here is not that politics is being replaced by morality. For, as we have seen, there is still an adversarial relationship, even though it is immediately disavowed. This adversarial characteristic is, for Mouffe and others, the hallmark of politics. Instead, we see that politics is being played out "in the moral register"⁸⁵. This means that political distinctions are expressed using the vocabulary of morality. Mouffe notes that "no agonistic debate is possible" with a moral enemy: such enemies can only be eradicated. One strategy is to classify one's adversaries as a "moral disease", which means that "one should not even try to provide an explanation for their emergence and success"⁸⁶. Recall, at this point, the framing of terrorism as an 'attack on our values' that we have already considered. In that depoliticized account, the terrorists are 'just there' as objective nuisances to the system – jealous of our freedom

⁸¹ Mouffe 1999

⁸² Mouffe 2005, 72-74

⁸³ *ibid*, 73

⁸⁴ *ibid*, 74-75

⁸⁵ *ibid*, 75

⁸⁶ *ibid*, 76. Compare Nietzsche 2009, 38: "What they [moralists] hate, that is not the enemy, no! they call it "injustice" and "godlessness".

perhaps, but never as part of a system of exchange that involves our own political actions as well. This is where Mouffe's analysis becomes relevant for our purposes: the moralization of the adversary means that our relationship with them is depoliticized. Mouffe likens this dynamic to the building of a "*cordon sanitaire*"⁸⁷, which correctly describes the simultaneity of two processes. First, the shutting out of the adversary, which is no longer granted the dignity of even being an adversary, but is evil and as such irredeemably other – compare Schmitt's notion of the tyranny of values, which we have already discussed. Second, the unification and justification of the disparate field of allies. Both are processes of reification.

What does this analysis show about the relationship between morality and politics? To be sure, it brings out a potentially dangerous implication of bringing morality too close to politics. But the argument for politics itself, for restoring the adversarial mode of politics to prominence, still needs to be addressed. So far we have only considered Mouffe's account, but hers is not the final word on political difference vis-à-vis morality. She argues, in a nutshell, that morality potentially stifles the kind of antagonism she values in politics. But what if ethics is part of contemporary politics in a more fundamental sense, in such a way that it is in fact detrimental to politics?

We now return to Rancière's notion of consensus and the way he connects it to ethics. We know that Rancière's conception of politics is a break-in from the outside, although in reality society's supplement was already within society. This paradox is informed by the fact that those who claim political subjectivity are both part of society and not part of society. Affirming the paradoxical nature of politics means insisting that society is in the final instance countable: that all elements of society can be represented. It is this denial of the internal difference of society to itself that Rancière calls *police*.

For Rancière, most of what is presently called politics is not deserving of that name, because it is in the final instance part of *police* logic. It is a status quo that only gives voice to some. To reduce politics to the management of the social is to destroy politics itself, and the most popular method of reduction is consensus. The problem with consensual politics is that it is centrally concerned with a fixed set of reference points that is the locus of negotiations and compromises by the various

⁸⁷ ibid

parties. Consensual politics thus closes off political space by only allowing the existence of well-defined groups that together have to produce an outcome. Recall that for Rancière there is a connection to ethics here: “the extreme limit of the logic of consensus” is the “dissolution of all political differences and juridical distinctions into the indistinct and totalizing domain of ethics”⁸⁸.

The best way to flesh out this connection is to consider Rancière’s dismissal of what he calls the ethical turn of politics. Like Mouffe, Rancière does not think that political categories are being swapped out for moral ones. Indeed, Rancière differentiates between the ethical and the moral, stating that morality reflected a “distinction between fact and [moral] law, what is and what ought to be”. Ethics, on the other hand, is “an indistinct sphere” where not only that distinction between fact and law is dissolved, but also the specificity of political practices⁸⁹. This is the same as the kind of value that drives a tank, as described by Schmitt. In Rancière’s conception, ethics stands for the non-separation of fact and law that reduces the possible scope of justice to what is already the case, which amounts to a strategy of complete depoliticization. Ethics is therefore the polar opposite of politics. Ethics pulls together and stifles what politics takes apart and sets in motion. Rancière underscores this by claiming: “(...) “[I]t is not their ethos, their “way of being,” that disposes individuals to democracy [i.e. politics] but a break with this ethos (...)”⁹⁰.

But this leads to a further question: how is morality different from ethics, as Rancière defines the two? Rancière maps the concept out in quite a specific way. “The division of violence, morality, and right has a name. It is called politics. Politics is not, as is often said, the opposite of morals. It is its division”⁹¹. For Rancière, ‘morality’ or ‘morals’ already implies a “separation of law and fact”, but in a specific way that is opposed to other ways of opposing right to fact.

Politics is in a sense the name of generation of these distinctions or divisions, but referring back to our earlier example it is important to add that politics necessarily involves an element of performance. It was not

⁸⁸ Rancière 2004, 7-8

⁸⁹ Rancière 2007b, 28

⁹⁰ Rancière 1999, 101

⁹¹ Rancière 2007b, 28

Olympe de Gouges' abstract right to vote that makes her an example of politics, but her performative *claim* to have the rights she did not have⁹².

What we have seen thus far is that Rancière's counter to the 'ethical turn' and the indistinction it represents is an insistence on keeping things separate. This is true in a more general sense of his work on the relationships between politics and concepts belonging to other domains. Rancière offers a rather sweeping account of philosophy in the post-utopian age (i.e. after the official collapse of Marxism).

From this point on, a philosophy and a practice of harmonious agreement between fact and law were established. Philosophically, the loudly proclaimed return to Kant and to the primacy of law as the basis for morality was mirrored by a more or less diffuse, if not rampant, Aristotelianism: an idea of distributive justice, or the fair distribution of the shares proper to each, tends toward a state of equilibrium that makes the legal subject and the empirical subject one and the same. (Rancière 1992, 252)

Here we once again see how the 'moral' distinction between fact and norm collapses into an 'ethical' perspective of indistinctness. For Rancière, this is not only the fault that characterizes contemporary political philosophy – it is not hard to recognize Rawls in the quote above – but also of its modern and even classical predecessors. It is of course true that political philosophy has often been phrased in terms of an "anthropological invariant" such as the unique *logos* of man, from which we can then deduce the shape that our life in common, our politics, should take⁹³. This is also true of theory-building premises like sociability, which postulates a "political virtue native to the human animal" from which everything political straightforwardly follows⁹⁴. In those cases, ontology takes precedence over politics and forces it to comply. Rancière insists that to be human is always to exceed system: and this

⁹² [I call] this transformation of the interpretive schemes of our experience (...)the ethical turn. The essential aspect in this process is certainly not the virtuous return to the norms of morality. It is, on the contrary, the abolition of the division that the very word 'morals' used to imply. Morality implied the separation of law and fact. (...) The abolition of this division has one privileged name: it is called consensus. (Rancière 2007b, 31)

⁹³ Rancière 2004, 4

⁹⁴ *ibid*, 6

includes ontological schemes of the Aristotelian/Rawlsian kind. His strategy, which is a central feature of post-foundationalism in general, is to reverse the priority relations between the ontology of the social and the political by politicizing that ontology itself. As Rancière himself puts it: “politics is possible because no social order is based on nature”⁹⁵.

As it stands, we have advanced towards a more complete formulation of depoliticization critique as a philosophical concept. We are aware of its ontological aspects and the tensions with ethics these potentially produce. Let us recapitulate, starting off with the tensions between ethics and politics. First, we have to resist the moralization of politics, which according to Mouffe is the process of establishing a *cordon sanitaire* that gives identity to the moralizing group and projects their enemies as a moral disease, thus depoliticizing the relationship between ‘in-group’ and ‘out-group’. In other words, moralization entails a reification of self-other relationships. Second, Rancière urges us to resist ethics conceived as a domain of indistinction, that assimilates norm to fact and reduces politics to *police* as the final limit of consensual non-politics. Assimilation of this kind entails a reification of part of the political community, and also of ethics itself, which is completely reduced to empirical fact. Third and finally, we have to resist a moral grounding or moral finality of politics, which consists in a circle drawn between features of the human condition and the ends that are deduced from these features: for instance, a drive towards sociability as the grounding and peaceful co-existence as the finality of politics. This tension between the ontological aspect of depoliticization critique and ethics entails a reification of the connection between human nature and politics, and finally of politics itself. It is also derived from Rancière’s work.

We are also in a position to answer the question that has provided our first point of orientation. What is depoliticization critique? We need to start off by distinguishing between its localized and generalized varieties. In its localized variety, depoliticization critique is unable to invert the priority relation between ontology and politics, and can for that reason have depoliticizing effects. In its generalized variety, it politicizes ontology itself, drawing on the distinction between politics and the political and insisting that politics is beyond foundation in any final sense. This is the ontological aspect of depoliticization critique. Politics requires a foundation and attempts to provide one, but doing so

⁹⁵ Rancière 2010, 16; cf. Laclau 1990, 160

in any final sense is ontologically impossible, and that is precisely what accounts for the possibility of the political. As we have seen, 'authentic' politics is redefined in adversarial terms. The impossibility of closure means that we are called to fill the gaps politically. It also means that depoliticization never succeeds in a final sense: ontologically speaking, it never occurs. Yet this does not mean that it is not efficacious on the level of claims. I will expand on this point in the chapters that follow.

In order to answer the question what role (if any) ethics can play in the re-politicization of Europe we need to shift focus from the formulation of depoliticization as a philosophical concept to that concept's context of application. The aim of the next chapter will be to explore how depoliticization functions in the present institutional expression of European politics: the European Union.

Chapter 2

European politics and aspects of depoliticization

The European Union (henceforth: EU) is quite clear about its identity. On its own website, we find that it is a “unique economic and political union” between its member states. The fact that economic union is mentioned first reflects the fact that it grew out of the European Economic Community (EEC), which was established in 1958. The rationale behind the EEC is presented as follows: the first cooperative steps after the Second World War were to “foster economic cooperation: the idea being that countries that trade with one another become economically interdependent and so more likely to avoid conflict”⁹⁶. Since the days of the EEC, a “huge single market has been created”, which “continues to develop towards its full potential”⁹⁷. In the section that begins immediately after this slightly ominous description of an ever-expanding single market, we find that “what began as a purely economic union has evolved into an organization spanning policy areas”⁹⁸. This is why the name was changed to EU.

The language that is used in these short self-descriptions tells us something about the development the EU sees itself as having underwent. There are roughly two steps. First, the *creation* of a single mar-

⁹⁶ Goals and Values of the EU (n.d.)

⁹⁷ *ibid*

⁹⁸ *ibid*

ket, which is described actively and can only be understood in political terms, since it was European policy to ‘foster economic cooperation’. (This refers to the initial cooperation between ‘the Six’: Belgium, Germany, France, Italy, Luxembourg and the Netherlands.) Second, the *evolution* of the original, purely economic union (that is: a web of policies designed to impact specifically economic relations between European states) into a political union. The implication being that a process was set in motion shortly after the Second World War that, without further active intervention, culminated in an ‘organization spanning policy areas’ by virtue of its own internal logic. No reasons for this shift are presented: it reads like a contingent development of iterative stages, which may well have been otherwise.

Of course, the political union is not just a neutral presence: it has two principles of government and a list of accomplishments. The EU’s principles of government are: first, that it is “based on the rule of law” in the sense that “everything it does is founded on treaties, voluntarily and democratically agreed [*sic*] by its member states”; second, that it is “governed by the principle of representative democracy, with citizens represented directly at Union level in the European Parliament and member states represented in the European Council and the Council of the EU”⁹⁹. Note the importance of the EU’s commitment to democracy: it is held to be important to the EU’s being ‘based on’ the rule of law, and ‘the principle of representative democracy’ is held to be equally important. Democracy even makes a third appearance in a section entitled ‘Transparent and democratic institutions’. We are there assured that “[t]he enlarged EU remains focused on making its governing institutions more transparent and democratic”. Examples of concrete action are presented: “More powers have been given to the directly elected European Parliament, while national parliaments play a greater role, working alongside the European institutions. In turn, European citizens have an ever-increasing number of channels for taking part in the political process”¹⁰⁰. We will look into this final claim later on.

What does the EU see as its accomplishments? We can again divide this into economic and political successes: politically speaking, “the EU has delivered more than half a century of peace [and] stability (...)”. It is noted that “in 2012, the EU received the Nobel Peace Prize for

⁹⁹ *ibid*

¹⁰⁰ *ibid*

advancing the causes of peace, reconciliation, democracy and human rights in Europe¹⁰¹. Economically speaking, the EU “helped raise living standards and launched a single European currency”, while “[t]hanks to the abolition of border controls between EU countries, people can live freely throughout most of the continent” and it “has become much easier to “live, work and travel abroad in Europe”¹⁰².

This self-description is thus structured narratively as a historical process that moves seamlessly from the establishment of the common market to the Nobel Peace Prize: from the economic achievements of the EU, which in turn are made possible by its ‘peace-delivering’ function, to the politics of peace and free movement. This natural, or, more precisely, naturalized movement is presented with such swiftness that it manages to encompass three main elements of depoliticization that we discussed in the first chapter. The mantra ‘peace and prosperity’ represents the conjoinment of the EU’s self-description, as a *created* market which continues to *evolve* into an ever closer political Union, with a selection of policies that are presented as providing the best possible outcomes. This conjoinment marks the first element of depoliticization: the moral finality of politics. Both peace and prosperity are understood in terms of the output of the political process, and we are asked to accept its legitimacy on these terms¹⁰³. The institutional structure of the EU as such has the features of a decentred polity, which does not have the internal consistency required to produce legitimacy by any other means¹⁰⁴. This leads many critics to diagnose a democratic deficit, which signals a disconnect between the legitimacy requirements of a nation-state and the way in which the EU both impacts those requirements and stands in need of legitimation itself¹⁰⁵.

Second, European politics depoliticizes insofar as it is involved in moralization. One sure sign of the latter is the EU’s commitment to what economists since Jan Tinbergen have called negative integration. The concept refers to the removal (hence ‘negative’) of barriers to the expansion of economic space across national borders¹⁰⁶. This commitment is so fundamental that it has become an issue of identity – “only

¹⁰¹ *ibid*

¹⁰² *ibid*

¹⁰³ Scharpf 1999, 20-29

¹⁰⁴ *ibid*, 19-20

¹⁰⁵ Schmidt 2006, 5

¹⁰⁶ Scharpf 1999, 49

he who gives in to the determinism of negative integration is a good European”¹⁰⁷. In the wake of declining faith in Europe’s institutional arrangement, European Council president Donald Tusk urges European heads of state to “renew [their] declaration of faith” in this project of integration¹⁰⁸. In a further step, the European identity that is thus established turns out to be fully exclusionary: the peaceful interior of Europe is violently closed off and likewise enclosed by and through violence, both from a spatial-territorial and a historical perspective¹⁰⁹. Repressing the violence at its borders and its limits allows the EU to maintain Mouffe’s ‘puritanism of good feeling’ for itself in a *cordon sanitaire* of ‘peace, reconciliation, democracy and human rights’¹¹⁰ – and, as Tusk insists, this excludes “submission to populist arguments”¹¹¹. In my term, this is Moral Fortress Europe.

Lastly, seeking the moral grounding of European politics means asking what is presupposed by the moral finality of peace and prosperity and the means by which the EU claims to strive for their perfection. Since, as we have seen, democracy and the rule of law are the official means, it follows that European citizens or public and the European treaties are the ‘official inputs’ to which one has to remain faithful. Both in terms of the EU’s management of interest groups and in terms of its official focus on consensus, these elements represent the reduction of politics to *police* that defines ethics in Rancière’s sense.

Before any of those matters can be addressed, however, we have to ask a crucial question. What *is* the EU? Its self-description as a political and economic union between its member states already suggests that the EU is not a state in the sense that its member states are. But if that is the case, what is implied by the ‘political’ nature of its union?

In order to answer that question, I turn to Vivian A. Schmidt, an international relations scholar who holds Boston’s Jean Monnet Chair of European Integration. Her work combines the virtues of empirical work with a focus on ‘polity’: in particular, she offers “theoretical insights into the democratic implications of the EU’s international organizational form, the interactions between EU and national institutions,

¹⁰⁷ Michelsen & Walter 2013, 336–337

¹⁰⁸ Tusk 2017

¹⁰⁹ Brunkhorst 2014, 14–18

¹¹⁰ See Michelsen & Walter 2013, 338

¹¹¹ Tusk 2017

and the role of ideas and discourse in democratic adjustment”¹¹². This framework suits our investigation, since we are interested in depoliticization both in terms of the EU’s own institutional framework and in terms of the EU’s effectiveness on the politics of its member-states – this interest is theoretically driven in both cases.

According to Schmidt, the oft-cited democratic deficit is not simply a matter of the EU falling short of political ideals. “[T]he real problem for member-states is not so much that their democratic practices have changed [as a result of the EU’s influence] as that their national ideas and discourse about democracy have not”¹¹³. In other words: that the EU does not function as if it were just another national polity is not in itself a problem. What is experienced as the democratic deficit is, rather, the result of what we might call a failure of expectation management in the context of national politics. This may seem like an outlandish thesis, but it is close to what we have examined under the header of self-withdrawal and, in particular, the decreasing importance of nationally based political institutions. Schmidt also sees that, in part as a result of political developments connected to the EU, national politics has increasingly failed to deliver on its promises. On Schmidt’s analysis, this is not so much due to a ‘construction fault’ of the EU, but in the first place the result of the *content* of the promises made by national politicians.

The first part of this argument is a redefinition of the EU itself. Schmidt calls it a “regional state” to emphasize both the ‘state-like’ character of the EU and to introduce a discursive alternative to the notion of the nation-state¹¹⁴. There are two characteristics that differentiate the regional state from the nation-state. First, a nation-state has a certain finality, as she puts it:

[nation-states are] characterized in principle by indivisible sovereignty, fixed boundaries, coherent identity, established government, and cohesive democracy. By contrast, the EU has no such finality but, rather, is better conceptualized as in a constant process of becoming. What it is becoming, moreover, is not a nation-state but, rather, a regional state, given shared sovereignty, variable boundaries, composite identity, highly com-

¹¹² Schmidt 2006, ix

¹¹³ *ibid*

¹¹⁴ *ibid*, 9

pound governance, and fragmented democracy split between government by and of the people at the national level, and governance, for and with the people at the EU level. Legitimacy, in this context, is naturally in question when the EU is compared to the nation-state. It need not be if we rethink legitimacy in terms of a regional state. (Schmidt 2006, 9)

Schmidt adds that legitimacy problems persist in the national context, and that the national and European political levels can be characterized as ‘politics without policy’ on the national and ‘policy without politics’ on the European level. Differently put: the EU is of an entirely different nature than the nation-state and is thus not necessarily subject to the same legitimacy concerns that would be valid at the national level. However, “EU-related changes in national governance practices, challenges to national ideas about democracy, and the lack of discourses that sufficiently legitimate the changes” lead to a relatively powerless national politics that is afraid to admit its powerlessness to its constituency¹¹⁵. This fear in turn explains the lack of legitimizing discourse.

This contrast between nation-state and EU presupposes a certain conceptual flexibility. For instance, we cannot assume that sovereignty is by its nature rigid, indivisible, and beholden to the nation-state, as most ‘realists’ in international relations theory would define it. It ‘does sovereignty differently’. In terms of democratic theory, it is also clear that there is a difference between the nation-state model and the EU, but it is not necessarily clear what follows from this.

If democratic legitimacy in a nation-state is predicated on a country’s indivisible sovereignty within a fixed set of boundaries with a coherent national identity enabling the expression of a collective will, then the EU is clearly very far from achieving nation-state legitimacy. But this does not mean that the EU lacks democratic legitimacy. (Schmidt 2006, 20)

In what follows, we will focus on the EU’s “different ways with different emphases”¹¹⁶. One crucial distinction in the literature on legitimacy is that between input and output legitimacy; or, to put it in Abraham

¹¹⁵ *ibid*

¹¹⁶ *ibid*, 20

Lincoln's phrase, democratic government is government "by the people, of the people [input] and *for* the people [output]". In the EU context, we can add government *with* the people in the form of interest groups and NGOs¹¹⁷. The institutional make-up of the EU, which is geared toward output legitimacy, has the additional effect of pursuing integration through negative means – e.g. taking away barriers to free trade – rather than positive ones – e.g. extending political competences. This tendency is only further ingrained by the historically strong position of the European Court of Justice. The EU's institutional mechanisms thus produce two effects that are characteristic of European politics: first, the effect of securing output legitimacy rather than input legitimacy; second, the effect of pursuing negative integration by juridical means rather than positive integration by political means. Underlying these considerations, as we will also show, is depoliticization through the postulation of a moral finality of politics (defined in terms of peace and prosperity) based, in the final analysis, on what Giandomenico Majone calls *fait accompli* politics.

2.1 The primacy of output legitimacy

It is often claimed that EU policy lacks legitimacy. For instance, the underlying concern associated with its so-called democratic deficit is that only democracy confers the kind of legitimacy that is required in order to justify the exercise of power by a political actor. We have seen that Vivien A. Schmidt accepts the idea that the EU, on conventional ideas of how legitimacy should be understood, lacks the legitimacy of a nation-state. But, she argues, this does not mean that the EU lacks democratic legitimacy¹¹⁸. An important part of her argument is relinquishing nation-state requirements. Since we are operating with a notion of the political in the tradition of Carl Schmitt (no relation), which likewise divorces political concepts from their usual state context, this kind of approach is important to our purposes. But this is not simply a matter of internal coherence. Contemporary EU research has to come to terms with the reality of 'governance' in a way that does not reduce the concept to the national level, since decision-making that 'binds' or compels citizens has

¹¹⁷ *ibid*, 25-31

¹¹⁸ *ibid*, 20

extended beyond national borders¹¹⁹. Schmidt's point is that it is all too easy to argue that the EU falls short of nation-state requirements; as a regional state, it should be evaluated by different criteria. This means, for one thing, that the concept of legitimacy has to be considered from a conceptual angle that does not automatically place it within the fixed borders of a nation-state. How should we then conceive of it? The work of Fritz Scharpf gives us the conceptual tools to evaluate the EU's legitimacy by making a highly general distinction between input and output legitimacy. Scharpf goes on to describe the EU's legitimacy in terms of that distinction.

In order for an exercise of power to be legitimated, it needs to be interpreted as an expression of collective self-determination. What is required for such self-determination is in itself a complex, controversial and value-laden [*wertbehaftet*] matter¹²⁰. In the history of normative political theory, two "different, but complementary perspectives" have been formulated: the input-oriented and the output-oriented perspective. This roughly reflects Lincoln's famous triplet: government needs to be of the people, by the people (input) and for the people (output). If we adopt the input-oriented perspective, political decisions are legitimate when they reflect the will of the people: that is, if they can be derived from the authentic preferences of members of the community. On the other hand, if we adopt the output-oriented perspective, political decisions are legitimate when they promote the common good of the community. The two perspectives are mostly used in complementary fashion. However, they can be analytically distinguished and, what is more, they rest on highly different conditions. Even more importantly, they are different in that they imply different diagnoses of the democratic legitimacy of power in Europe¹²¹.

As Scharpf notes, in traditional accounts of legitimacy, the emphasis on input legitimacy is often traced back to Rousseau, and output legitimacy to the Federalist papers or, as Schmidt claims, Montesquieu¹²². In Rousseau, as we will consider in the next chapter, the general will functions simultaneously as the full agreement of all with all, in the sense of the authentic preferences of members of the community, and as the

¹¹⁹ Jachtenfuchs & Kohler-Koch 2013, 14

¹²⁰ Scharpf 1999, 16

¹²¹ *ibid*

¹²² *ibid*, 16n; Schmidt 2006, 21

securing of the common good [*bien publique*]. However, it is clear that the general will qua will indeed has a legitimizing function that is based on what is willed by the community itself. The problem of consequent authors on legitimacy has been that Rousseau's strategy of postulating a universal will of the community, that stands over and above particular wills, was no longer available. In contemporary democratic theory, a consensus between particular wills has to be achieved. Because this cannot always be achieved when interests diverge, the justification of majority rule has to be viewed as the central problem of input-oriented theories of democratic legitimacy¹²³. We have to justify the fact that individual wills are overridden¹²⁴. This requires an additional, non-formal condition: the trust of the minority in the majority, which presupposes that the community is perceived as a unity¹²⁵. That presupposes a process through which a community is constituted and shaped on various levels: communication, memory and experience¹²⁶. On the level of the nation-state, where collective identities are more or less secure, such considerations are purely 'academic'. For the EU, however, this is completely different: the EU, being "far removed from a strong collective identity" as a result of the "historical, linguistic, cultural, ethnic and institutional differences between the member states", cannot assume the 'perceived unity' of the community – in Max Weber's terms, there is no *Gemeinsamkeitsglauben*¹²⁷.

This means that there is no democratic justification of majority rule in European politics. The 'binding' nature of majority decisions in the Council of the EU, where national heads of government convene on the European level, therefore cannot be said to constitute a legitimate decision from the point of view of member states that are in the majority. Assuming that perspective, there is no fundamental distinction between the majority's right to decide and the imposed rule of external parties¹²⁸. European input legitimacy can only be secured to the extent that a Europe-wide political process of communication and opinion-formation can be established. Currently, that process does not exist¹²⁹. If we can-

¹²³ Scharpf 1999, 17

¹²⁴ Kielmansegg 2013, 58; see also Habermas 2012, 21 and Brunkhorst 2014, 93-94

¹²⁵ Scharpf 1999, 18

¹²⁶ Kielmansegg 2013

¹²⁷ *ibid*, 18-19

¹²⁸ Kielmansegg 2013, 57

¹²⁹ Schmidt 2006, 36-45; see also Kielmansegg 2013, 60 and Bourdieu 2002, 39.

not bring about such a European ‘public space’, legitimate European decision-making would require the unanimous agreement of democratically legitimated national governments in the Council of the EU¹³⁰. Under present conditions, this seems an almost impossible threshold. For that reason, Scharpf urges us to turn to output legitimacy as the more promising avenue for the discovery of ‘European legitimacy’. This means looking for legitimacy in terms of an “efficient but not very democratic Europe”¹³¹.

By its nature, input legitimacy is quite unitary in force: there is one kind of self-determination that is legitimate, namely that which corresponds to the authentic preferences of members of the community. By contrast, output legitimacy allows a higher number of legitimizing mechanisms. This also means that output legitimacy requires more conditions to be in place and is more limited in its scope¹³²; namely, it provides legitimacy only to the extent that a precise set of conditions is being met.

Legitimacy in this sense is derived from the capacity of solving problems that are in need of collective solutions. Such problems cannot be solved by either individual action or the market, or even on the level of civil society. Output legitimacy is attained when there is a sizable and durable inventory [*Bestand*] of public interests in this sense¹³³. Output legitimacy has no recourse to notions of solidarity or duty derived from the practice of living together.

Instead, this kind of legitimacy is founded on two potentially contradictory goals: first, preventing abuse of public power and second, facilitating effective solutions to problems¹³⁴.

Legitimacy is thus within reach for political units, whose weak identity would not allow any ‘organismic’ interpretation. What is more, those political units are no longer reliant exclusively, or even primarily, on the loyalty of their members. In principle, output-oriented legitimacy allows for the unproblematic coexistence of multiple, hierarchically ordered or overlapping, collective identities, the scope of which is defined through certain

¹³⁰ Scharpf 1999, 20

¹³¹ Brunkhorst 2014, 98

¹³² Scharpf 1999, 20

¹³³ *ibid*

¹³⁴ *ibid*, 22

categories of problems, and the organisation of which cannot lay claim to either territorial or functional criteria. (Scharpf 1999, 20)

This means that the EU can be defined, without conceptual scruples, as a political unit that is suitable to address collective solving of problems plaguing the community as such. As Scharpf says: “So far, so good”¹³⁵. He then prepares the way for Schmidt by saying that the EU is mostly evaluated with reference to the input- and output-oriented legitimacy of the nation-state. In the democratic nation-state, they exist side by side and “mutually strengthen, supplement and replace each other”¹³⁶. Because of the EU’s difficulties with input legitimacy, the fact that it is compared to nation-states results in its beings rejected as insufficiently legitimate. The fact is that the EU is for the most part confined to output legitimacy. This “allows a relatively high tolerance for weak collective identities, while also demanding higher institutional requirements” and putting limits on what can be legitimated¹³⁷. We have already touched upon the fact that the finer points on input legitimacy remain a purely ‘academic’ concern in the context of the nation-state, where collective identities are sufficiently fixed for this kind of legitimacy to be attained as a matter of course. In the context of the EU, the supposedly fundamental democratic deficit remains an ‘academic’ concern so long as “European politics takes its course as if legitimacy did not matter”¹³⁸.

This can seem like an overly one-sided statement when we consider the fact that there are European elections. Does their existence not demonstrate some concern with legitimacy? We can only answer in the affirmative, but immediately have need of the distinction between input and output legitimacy. In a general sense, output legitimacy is secured through general, free and equal elections that are not so much involved with representing the people (input), but rather with securing institutional and pragmatic concerns (output), in two main ways¹³⁹. First, elections secure the orientation of government agents with respect to the public interest. Second, elections are the only available way to

¹³⁵ Scharpf 1999, 21

¹³⁶ *ibid*

¹³⁷ *ibid*

¹³⁸ *ibid*

¹³⁹ *ibid*, 23

approach the ideal of national citizens' equality. Next to the elections themselves, this presupposes that they are embedded in societal and political structures and practices: for instance, 'checks and balances', competitive political parties, and credible mass media¹⁴⁰. Elections thus do not function as a tool to evaluate policy in terms of the will of the people: it appears that they do not have to.

In a way, this is a privilege Europe has inherited from its postwar period of foundation, when it was still an elite project that took place outside of the public eye. The removed status of this project was justified by 'Europhoric' national discourses that presented European integration as having "little negative effects on national sovereignty", and "with little mention of any deep-seated challenges to traditional democracy"¹⁴¹. This resulted in a description of European integration as a matter of "a political-moral dignity, that made it nearly immune to objections"¹⁴². Even today, some analysts describe a "toxic pressure to conform" to the historically prevalent direction of European politics, which means that only those who give in to "the determinism of negative integration" are good Europeans¹⁴³. In terms of citizens' willingness to let European politics go about its way outside of the public eye, however, the so-called permissive consensus that characterized earlier phases of European integration has been transformed into a constraining dissensus¹⁴⁴.

Arguably, this transformation is due to the effects of European integration itself. Simply put, because of the lack of European *Gemeinsamkeitsglauben*, there are no theoretical grounds to legitimate majority decisions on the European level. Further integration also implies an extension of the competencies of the EU. This increases the likelihood of measures that are experienced by citizens as impositions on the part of 'Brussels', especially in conditions where individual member states' capacity to act is ever-decreasing¹⁴⁵. Such conditions likewise result from the integration process.

Factors that are not strictly tied to integration also have an important role to play in the shift from permissive consensus to the present mood of Euroscepticism: an example is economic growth. So long as

¹⁴⁰ *ibid*

¹⁴¹ Michelsen & Walter, 334; Schmidt 2006, 37

¹⁴² Kielmansegg 2013, 50

¹⁴³ Michelsen & Walter 2013, 336-337

¹⁴⁴ Hooghe & Marks, 2009; cf. Habermas 2015, 3-4

¹⁴⁵ Kielmansegg 2013, 50-51

Europe could be perceived as a “community of winners” in an economic sense, the project of European integration, which was seen as an important contributor to economic success, was less likely to come under question than in the period since the economic crisis¹⁴⁶. However, this should not be taken to suggest that European prosperity was on the up and up before that period. Compared to the United States of America, “after the phase of very rapid catch-up (...) in the immediate post-war period, convergence in the levels of *per capita* income stopped at the beginning of the 1980s and has remained unchanged since”; “and during the 1990s growth of EU [GDP] was disappointing both in absolute terms and by comparison with the US¹⁴⁷”.

Notwithstanding such relatively disappointing economic performances, one could mount an argument to the effect that external factors like crises are more directly important to understanding the shift away from permissive consensus than European integration itself. For instance, one commentator has claimed that the EU has remained relatively invisible to most citizens, since the application of law is left to the member states¹⁴⁸. However, especially in terms of the decreasing capacity to act on the part of member states, it seems that citizens are quite aware of and in fact distraught at, for instance, the primacy of EU law over national law and the effects of this primacy. In that sense, as is emphasized in the academic literature, the shift to constraining dissensus amounts to a politicization of European integration¹⁴⁹.

Let us summarize our present findings. A common assumption of authors on depoliticization, whether in theoretical terms or applied to the EU, is that democracy is a strong requirement for anything to be rightly called ‘political’. We do not share this assumption. As we saw in the first chapter, authors like Rancière dispute the equivocation of democracy with politics, at least if democracy is defined in terms of a political system¹⁵⁰. After all, political difference requires the non-identity of the ‘ontic’ political institutions and the ‘ontological’ notion of the political, which can only occur as a disruption of the order represented by *police*. Another way of saying this is that society can never finally be grounded. As a result, the claim that democracy conceived as

¹⁴⁶ Habermas 2015, 77; Michelsen & Walter, 334–335; see also Majone 2014, 82

¹⁴⁷ Majone 2014, 4

¹⁴⁸ Kielmansegg 2013, 51; see also Majone 2014, 80–81

¹⁴⁹ Hooghe & Marks 2009; Majone 2014, 83

¹⁵⁰ Rancière 1999, 99

a political system could secure the political has to be contradicted, since it is itself a form of depoliticization. European politics is plagued by an alternative depoliticization, which is likewise motivated by the belief that the correct political system could ground politics once and for all. European politics is pulled away from democracy, whether conceived as a form of disruption or as a political system, by three main factors. First, as we have discussed, there does not seem to be a unified will that could be represented by democratic means (recall the difficulties surrounding input legitimacy in Europe). Second, while European elections serve a function within the EU, that function is not to represent the will of the people but to secure favourable circumstances to reach its goals, i.e. formulating answers to communal problems and avoiding power abuses. Third, these goals themselves tend to lead away from democracy, since output legitimacy favours an alternative style of policy-making; even the far-removed political structure of an independent expertocracy, given certain conditions. This is where we re-encounter the self-withdrawal of politics. In order to make this clear, we will now consider the way politics is situated within the European framework.

2.2 European policy without politics

One way of expressing the contrast between national politics and politics at the European level is via symmetry. Vivien A. Schmidt says of the national level that it is home to “politics without policy”, whereas the European level displays “policy without politics”¹⁵¹. This is a philosophically rich contrast, especially from the perspective of our interest in depoliticization – an interest Schmidt does not particularly share. The contrast as she perceives it revolves around the ‘agonistic’ shaping of political decisions on the one hand (politics), and the ability to exercise practical effects on the other hand (policy). On her analysis national politics offers a kind of simulation, which we have already referred to as placebo politics. In the European context, this means a lack of discourse on the lessened capacities of individual states as a direct result of EU influence – we will have more to say on this later – and an unwillingness or inability to admit to this fact. The system of party politics that remains in place is thus ‘political’ in Schmidt’s sense, but can barely result

¹⁵¹ Schmidt 2006, 22–23; 157–162; cf. Habermas 2015, 5

in an alteration of practice; politics without policy. On the other side of the symmetry, the EU is able to exercise practical influence, by which means it is able to constrain its member states. But this influence is not the result of the democratic legitimacy that is proper to nation-states. That is hardly surprising, since the EU is a regional state; but with this democratic component the 'agonistic' part of the equation has likewise dropped out entirely.

In order to explore what this means, we should start by observing that the European Treaties function in similar ways as a constitution would in nation-states¹⁵². It lays out the terms on which government is to be conducted and constrains the actions of both the member states and the EU as such. The execution of the terms that are laid down in the treaties is mostly the prerogative of the member states themselves¹⁵³, but the decisions as to what kind of policy is to be employed 'in the spirit of the Treaties' takes place on a different level. In legal terms, the Treaties are necessarily incomplete contracts: this means that the parties to the contracts cannot foresee in advance all the contingencies that could impact their contractual performance, and are unable or unwilling to oblige themselves to a particular course of action¹⁵⁴. "The founding fathers of the EU" responded to this essential incompleteness by delegating the task of filling in "the gaps in the Rome Treaty" to the European Court of Justice (ECJ) and the European Commission¹⁵⁵. With the addition of the European Central Bank, we have a trio of central supranational EU institutions. Because of the great historical importance of the ECJ, which will become clear in what follows, I will focus on its role when describing the EU's 'policy without politics'.

As a first step, let us consider the ways in which decisions by the above-mentioned institutions can be corrected. Provided that such decisions are supported by the Treaties, there is only one procedure in place that could overturn such a decision externally (of course, the ECJ itself can in a sense 'correct' earlier verdicts: I ignore this since it does not address the political role of the ECJ as such). What is required is a change to the treaties themselves, which would require the unanimous consent of and ratification by all member states: an almost impossibly

¹⁵² Weiler 1982; Majone 2014, 151

¹⁵³ Kielmansegg 2013

¹⁵⁴ Majone 2014, 105

¹⁵⁵ *ibid.*, 10; cf. Falter 2017, 542

high hurdle¹⁵⁶. Because there is no majoritarian corrective in the usual sense, the formal independence of the supranational European institutions is much more secure than would be possible in any national constitution. The ECJ proved able to integrate conflict both functionally and normatively, unlocking considerable emancipatory potential, such as union-wide anti-discrimination laws. Integration of this kind was possible because a new position had been created from which to legislate, increasingly independent from national conventions and orthodoxies as the justice system stabilizes itself on a transnational level. However, this also means that the juridical system gradually becomes shut off from societal and democratic legitimacy precisely to the extent that it has become transnational¹⁵⁷. Jürgen Habermas, speaking more generally of tendencies plaguing European policy, calls this uncoupling of momentous political orientations and will-formation on the part of the citizens a “trend towards self-immunization”, by which European policy makes itself “increasingly unassailable”¹⁵⁸.

European politics and output legitimacy are thus even more tightly woven together than we have considered so far. We have previously studied the fact that there is no *Gemeinsamkeitsglauben* (common feeling of community) in Europe as such to grant input legitimacy to European politics. But, starting from the other end of the political chain, EU institutions – we have considered the ECJ as an example – have also positioned themselves in such a way that they are removed from any democratic public, whether non-existent European public or perfectly extant national publics. To make things worse, these publics are simultaneously directed away from European politics by their national leaders, so that the cleavage between Europe and its peoples is mutually reinforced¹⁵⁹. The combination of these factors amply demonstrates that the legitimacy of European political decision-making is fully dependent on the effectiveness with which it achieves agreed-upon goals. It follows that European politics risks its legitimacy when it tries to resolve controversial questions. It simply does not have the mandate to enter into conflictual spheres: as we have already discussed, output legitimacy can draw on a wider variety of legitimizing mechanisms than input le-

¹⁵⁶ Scharpf 1999, 30

¹⁵⁷ Brunkhorst 2014, 101-105; cf. Scharpf 1999, 30

¹⁵⁸ Habermas 2015, 100

¹⁵⁹ *ibid.*, 101; Schmidt 2006, 9

gitimacy, but is by the same token dependent on more factors being in place, so that its scope is limited.

Adding the general concern of diminished scope to what we know about the EU's avenues for procuring legitimacy yields a far-reaching conclusion. By its nature, European politics can process [*bearbeiten*] a smaller bandwidth of problems, and can only invoke a smaller selection of political options in order to solve said problems in comparison to the nation-state¹⁶⁰. To put it even more critically, in the words of Scharpf: the effectiveness and hence the legitimacy of European politics "depends on its ability to avoid political opposition, by either remaining under the threshold of political perceptibility or limiting itself to conflict-minimizing solutions"¹⁶¹. Where strategies of this kind are not available because political decisions of one kind or another are unavoidable, there is no opportunity for European legitimacy to establish itself.

In such cases, European politics has to rely for its legitimacy on the collaboration of national governments and their means of securing legitimacy¹⁶². It already seems clear that the 'forces' emanating from these institutional conditions could have a decisive influence on the kinds of decisions that are taken in the EU.

Let us briefly recapitulate. We have pursued a series of arguments that showed the tight connection between European politics and output legitimacy. There is no unified European public that could constitute a basis for input legitimacy; and supranational European institutions like the ECJ have positioned themselves over and above the kind of control mechanism that we are familiar with in the context of national politics. Creating output legitimacy is thus the only available route. In the past, when integration was not yet seen as a political process, there was no potential for political problems to make themselves felt. As we have seen, this was associated with both the moral-political dignity of the project of European integration itself and the status of the European community as a community of winners, mostly in an economic sense. Ironically, it was mostly the result of European integration and its consequences that the permissive consensus that initially surrounded the project became politicized and turned into what is today called a constraining dissensus.

¹⁶⁰ Scharpf 1999, 30

¹⁶¹ *ibid*

¹⁶² *ibid*, 30; 32

But we are not yet in a position to oversee the present situation in its entirety. The legitimacy of European politics is not dependent on the input of a European or national public, but rather on its effectiveness in attaining agreed-upon goals. Simply put: peace and prosperity. This limitation means that European politics risks its legitimacy when it tries to resolve controversial questions¹⁶³. In turn, this has consequences for 'Europe's' capacity to address particular kinds of problems. It has to steer clear of controversy and avoid political opposition. Opposition can be avoided via two routes: either by remaining under the threshold of political perceptibility or by limiting itself on conflict-minimizing solutions. Both routes give additional impetus to the importance of juridical decisions relative to political ones, since juridical decisions only affect the case at hand – at least for the time being. However, because of the supremacy of European law and the doctrine of direct effect, to which we will return at a later point, the jurisprudential effect of individual ECJ-decisions is of a general nature and in that sense wide in scope and far-reaching in its consequences¹⁶⁴. The politically almost invisible power of the ECJ perhaps also explains the high degree to which European politics, in comparison to national politics, is result of judicial *Rechtsfortbildung*¹⁶⁵. Fritz Scharpf claims that this near-invisibility "has so far primarily been used to expand the prohibitions stemming from negative integration against measures of national politics that could hinder free trade¹⁶⁶.

The distinction between positive and negative integration refers to two ways in which integration can be accomplished: respectively, the (positive) establishment of new, common rules and procedures and the (negative) removal of pre-established, particular rules and procedures. Because of the institutional pressures we have described thus far, there is a fundamental asymmetry between positive and negative integration in European politics. This results in a one-sided tendency to pursue negative integration, which has important consequences.

Approached from the perspective of positive integration, European politics is a near impossibility because of the complexity of institutional actors involved. The capacities of political actors are undermined by ex-

¹⁶³ *ibid*, 30

¹⁶⁴ *ibid*, 31; Burley & Mattli 1993; Alter 1996

¹⁶⁵ Weiler 1982

¹⁶⁶ Scharpf 1999, 31; 53

tremely high consensus barriers: a legislative act of positive integration requires the unanimous consent of the European Council as well as the consent of the Council of the EU and the European Parliament¹⁶⁷. Instigating political action is thus practically unfeasible. On the other hand, the ‘merely reactive’ ECJ can take direct action against any national regulation that potentially affects ‘competitiveness’ or is in violation of the Treaties¹⁶⁸. Historically, ECJ verdicts have often had a normative [*normsetzende*] function which was made possible by, and has in turn strengthened, Europe’s lasting commitment to the priority of community law over national law¹⁶⁹.

The pressure to integrate, seeking the point of least resistance, thus naturally exercised itself on the ECJ, while there was no counterbalancing possibility to achieve integration through positive means. Recall that negative integration is concerned with the abolition of national regulation, working against perceived treaty violations and in favour of economic competition. The absence of feasible alternative routes to integration has meant that “interventionist politics and the interests they serve” are systematically put at a disadvantage¹⁷⁰. This asymmetry in feasibility is due to the underlying institutional asymmetry between supranational European justice and intergovernmental European politics¹⁷¹. Taken together, we can conclude that the institutional-processual elements of European politics have a clear tendency to favour liberalization.

How should we explain this tendency? It should now be clear that European integration is not a neutral phenomenon, but pushes us in a certain political direction. In a sense, this political element is present in the very foundation of the EU, so that its practice is a faithful reflection of its political mandates. In that spirit, Scharpf mentions the disparity in the kind of language used in the Treaties to describe negative integration: it is described in much clearer terms compared to its positive counterpart and is subject to fewer exceptions¹⁷². However, this disparity appears to reflect rather than explain the dynamics we have described in the last few sections. One important factor that we have so far described

¹⁶⁷ Michelsen & Walter 2013, 335–336; cf. Scharpf 1999, 31; 53

¹⁶⁸ Michelsen & Walter, 335–336

¹⁶⁹ *ibid.*, 335

¹⁷⁰ Scharpf 1999, 52

¹⁷¹ Weiler 1982

¹⁷² Scharpf 1999, 52–54

on a surface level is the role of European law and the ECJ, in particular the ‘supremacy’ of EU law: let us go into such matters further.

From our surface description, we have been able to see the ‘underhanded’ way in which the ECJ is able to push through negative integration from a position that is above and beyond the level of national politics. This minimizes the political risk and opposition that has to be confronted by the EU at large, precisely because of the unique position of the ECJ (both with respect to its being removed from democratic publics and with respect to its extensive practical capacities). The evasion of political risk and opposition by conducting politics through ‘non-political’ means¹⁷³ allows the EU to safeguard its sole basis of legitimacy, namely the output legitimacy that is secured by addressing (only) agreed-upon community priorities along the lines of peace and prosperity. It is forced into this position by its inability to rely on other channels of legitimacy; roughly put, because of the lack of a European public sphere that would be able to generate a community that remembers, experiences and communicates at the European level¹⁷⁴.

Once we accept these constraining conditions on the contents of European politics, there are two abstract choices: strive for European integration only insofar as this process can be supported by means of input legitimacy (for instance, by democratic means), or put all of Europe’s cards on the route of output legitimacy; and, as we have seen, the latter must result in the prevalence of ‘non-political’ supranational institutions like the ECJ and a one-sided tendency towards negative integration. We find ourselves in a regional state that has clearly made the second choice. Integration is better than leaving the countries of Europe to their own devices. But why? We will have to delve into what Giandomenico Majone has called ‘*fait accompli* politics’ as the foundation of the initial permissive consensus with which Europe was regarded. ‘More Europe’ was and is often still seen as a political necessity; an idea that is increasingly the topic of politicized debate. But in order to understand that debate fully, we have to go more deeply into the relationship between EU law, national constitutions and politics.

¹⁷³ Scharpf 2009

¹⁷⁴ Kielmansegg 2013

2.3 Establishing the status of European law

During the period of the EU's foundation, no decisions were made on how to adjudicate between contradictory commitments between EU law and national law. Which set of rules should be prioritized? Usually, the state itself decides how to accord with international law: if other state parties find it to be in violation, it can be tried before an international court (indirect effect). This would have been the role of the European Commission and the member states in the EU (then EEC) *anno* 1960¹⁷⁵. There were disadvantages to this 'classical' way of settling affairs, notably the time and resources required for the Commission's pronouncements¹⁷⁶. But without clear political directives, it was difficult to envisage an alternative solution. In 1963, one such solution did emerge: it was an ECJ verdict on a private firm's case against the Dutch taxation agency, a couple of pages long.

Legal and political analyses of the European Union have tended to diverge. For instance, general moods concerning the fate of European unification during the rule of De Gaulle in France are not at all in accordance with the huge legal steps towards integration that were made during the same period – not even “the framers of the Treaties” could have envisaged the supranational nature of these steps¹⁷⁷. According to Joseph Weiler, this divergence tracks a perceived distinction between, on the one hand, the input-oriented interactions between political actors in terms of policy decision-making, and, on the other hand, the output of that process in terms of policy, norms, and law¹⁷⁸. Weiler was among the first to point out that this distinction rests on a misunderstanding of the role of law in the EU's political processes.

The first clue that legal and political processes in Europe intertwine to a high degree was to be found in “self-executing measures”, at first limited to the steel and coal sectors¹⁷⁹. Greatly extending this principle in the above-mentioned court case, the firm Van Gend & Loos claimed that its having to pay more Dutch taxes for its imports of plastics as a result of national political decisions was a violation of the Treaty, directly invoking article 12 of the EEC Treaty. This article reads:

¹⁷⁵ Van Middelaar 2009, 49; Scharpf 1999, 55

¹⁷⁶ Van Middelaar 2009, 49

¹⁷⁷ Weiler 1982, 40

¹⁷⁸ *ibid*, 41

¹⁷⁹ Weiler 1982, 42

Within the scope of application of this Treaty, and without prejudice to any special provisions contained therein, any discrimination on grounds of nationality shall be prohibited.
(Treaty Establishing the European Union 2002)

In its verdict, the ECJ judged that Van Gend & Loos was being discriminated against on the grounds of its being a Dutch firm. The implication, which was the subject of legal elaboration during the decade after the verdict, was that European citizens held rights qua European citizens, and that these rights could be invoked against the member states themselves and against other European citizens [*inter se*]¹⁸⁰. Because of this implication, Van Gend & Loos is often seen as a ‘ground-breaking decision’ in European law; simultaneously, however, analysts emphasize that there was nothing in the verdict that was not an inference from the Treaty itself. It seems paradoxical that an application of a rule is also a reinvention of the fundamental text; but “this paradox touches the heart of the matter”¹⁸¹. Let us look further into this.

For the member states who had obliged themselves to act in accordance with the Treaty, it was highly unattractive to allow their citizens to be able to meet them in court, invoking a higher authority¹⁸². There were two factors that ended up pushing the ESJ in the opposite direction. First, the fact that the Treaty had been ratified by the legislative powers of the member states. Given that the Treaty itself assumed direct effect within the member states themselves, it was clear that the clauses of the Treaty should take precedence over the earlier national acts of legislation¹⁸³. Second, the highly general logic of the Treaty text itself, as evidenced by Article 12 above, allowed the ECJ to interpret the “spirit, the general scheme and the wording of these provisions”¹⁸⁴. Directly after this invocation, it is stated that:

The objective of the EEC Treaty, which is to establish a Common Market, the functioning of which is of direct concern to interested parties in the Community, implies that this Treaty is more than an agreement which merely creates mutual

¹⁸⁰ Weiler 1991, 2413-2414

¹⁸¹ Van Middelaar 2009, 50

¹⁸² *ibid*

¹⁸³ Scharpf 1999, 55

¹⁸⁴ ECJ, 1963

obligations between the contracting states. *This view is confirmed by the preamble to the Treaty which refers not only to governments but to peoples. (...) In addition the task assigned to the Court of Justice under Article 177, the object of which is to secure uniform interpretation of the Treaty by national courts and tribunals, confirms that the states have acknowledged that Community law has an authority which can be invoked by their nationals before those courts and tribunals. The conclusion to be drawn from this is that the Community constitutes a new legal order of international law for the benefit of which the states have limited their sovereign rights, albeit within limited fields, and the subjects of which comprise **not only** Member States but also their nationals. Independently of the legislation of Member States, Community law therefore not only imposes obligations on individuals but is also intended to confer upon them rights which become part of their legal heritage. These rights arise not only where they are expressly granted by the Treaty, but also by reason of obligations which the Treaty imposes in a clearly defined way upon individuals as well as upon the Member States and upon the institutions of the Community. (European Court of Justice 1964, emphases added)*

Thus, in a few sentences, the ECJ creates a new legal order¹⁸⁵. The conclusion that is mostly attached to Van Gend & Loos is the doctrine of direct effect, which is of course an important legal development, creating a direct link between international law and national citizens. Apart from that, the equivalence of national citizens and nationally based companies was established in one fell swoop. Arguably, however, the real importance of the legal order now called into existence is the diminished role of the states that results from it. In the verdict, the implicit will of the states (which, as discussed, would not have wanted to be held to account by a higher authority) and even their explicit will, given the protest by three of the founders during the court case, was contrasted with the spirit of the Treaty. "Almost in passing, the [ECJ] became the spokesperson for the spirit of the foundation"¹⁸⁶. Although

¹⁸⁵ Van Middelaar 2009, 51

¹⁸⁶ *ibid*, 51-52

this practically establishes the supremacy of EU law at the same time as its direct effect, the ECJ left the former to be resolved later.

For the sake of clarity, we should add that the ECJ actively ascribed the role of spokesperson to itself, in retroactive and performative fashion. Recall the way in which Jacques Rancière described French revolutionary Olympe de Gouges: she laid claim to a right she did not have¹⁸⁷. While hers was a political claim since it extended the assembly so that it would include women, the ECJ presents a more complicated case. Van Gend & Loos presents the dawn of a new legal subject, the European citizen-company, that could not have been heard before: this is similar to the role of women in De Gouges' times. However, this is a decision taken by 'activist judges' rather than the European citizens themselves¹⁸⁸. In that sense, the implications of the court case are not so much a performative claim of citizenship rights, but the abstract ascription of the same rights to a diffuse group that has not yet appeared sufficiently unified to stake such a claim in its own right. To the extent that the implications of the ECJ's verdict have placed the really existing (national) peoples of Europe at a further remove, this verdict must constitute an extension of *police* logic. After all, does the removed status of the ECJ not, in Rancière's strong phrase, reflect the "oligarch's intense wish": to rule without the people, without politics¹⁸⁹?

So far, we are aware that the EU is characterized by a fundamental asymmetry between the institutional conditions of positive integration and those of negative integration, in a way that strongly favors the latter. We have also seen that the Dutch private firm Van Gend & Loos, through a case brought before the European Court of Justice (ECJ) in 1963, provided an important impetus to the ECJ's own ability to interpret the law and hence to determine the political direction of the EU as a whole. In the Van Gend & Loos case, the ECJ's verdict established that the EU Treaties enjoyed direct effect in all member states and that this meant that a supranational European legal order had been created as part of the 'spirit' of the Treaties. As Luuk van Middelaar notes, the ECJ could have moved on to establish the related matter of the supremacy of European law over national law in one fell swoop, but since the Dutch constitution already established that international law held

¹⁸⁷ Rancière 2010, 69

¹⁸⁸ Alter 1996

¹⁸⁹ Rancière 2007a, 80

priority over national law, this was not deemed to be necessary¹⁹⁰. A little over a year later, the case Costa/ENEL, this time pitting an Italian consumer against the Italian national electricity company, created the additional performative effect in relation to the European legal order required to ascertain its supremacy over national law. The key sentence is:

By creating a Community of unlimited duration, having its own institutions, its own personality, its own legal capacity and capacity of representation on the international plane and, more particularly, real powers stemming from a limitation of sovereignty or a transfer of powers from the States to the Community, the Member States have limited their sovereign rights, albeit within limited fields, and have thus created a body of law which binds both their nationals and themselves. (European Court of Justice, Judgment of 15.7.1964 — Case 6/64)

Stemming from the nature of Article 12, which we cited above, European law pertaining to competitiveness gained a new constitutional status. This created practical problems on the level of national competitive law. After all, how could treaties that were ratified by national parliaments take precedence over constitutions, which in most cases could not be changed by the parliaments in the same fashion? (Owing to perpetuity clauses, for instance¹⁹¹.) The response from national courts was to accept this precedence as the new practice¹⁹². The political significance of this shift is clear: the ECJ enjoys a de facto monopoly when it comes to the interpretation of EU law, and it has the competency to reject national law that is at odds with the laws of the community [*gemeinschaftswidrig*]¹⁹³.

¹⁹⁰ Van Middelaar 2009, 52

¹⁹¹ Scharpf 1999, 52-56; Majone 2014, 100

¹⁹² Weiler 1982, 44-45; Weiler 1992; Burley & Mattli 1993

¹⁹³ Scharpf 1999, 57. Scharpf mentions a further case, Cassis de Dijon, which makes clear that the ECJ decides whether a national product description is 'reasonable' and that national decrees on product quality are to be seen as inferior to communal ones: every product that is legally allowed in one of its member states, should be importable without further complications. "Thus, through the juridical order, the freedom to buy and sell had gained constitutional precedence over the political discretion of a democratically legitimated legislative" (ibid, 58).

Because the ECJ has thus given itself the interpretative competence to define and enact the spirit of the Treaties in a way that is not subject to direct democratic control, either on the European or the national level, the process of European integration attained a high degree of autonomy and, consequently, a lot of momentum. Given the wish to push integration forward and the fundamental asymmetry between positive and negative integration, it is no surprise that negative integration has been the main beneficiary of supranational European justice¹⁹⁴. The Treaty of Rome already contained the explicit obligation to reduce and finally abolish internal tolls and restrictions on internal trade, so that negative integration could be implemented without great political upheaval and was backed up by the European Commission and ECJ's joint effort to uphold the Treaty¹⁹⁵.

In effect, the pressure to integrate through the ECJ has meant a 'declaration of war' on mixed economic orders. Like the effect of European politics on national citizens, it was European integration itself that has fleshed out the full implications of the autonomous position of the ECJ and the EU's commitment to negative integration. The member states are each involved in national regulation designed to provide relief from competition for certain goods, services, and infrastructural functions in the name of common interest, *service public*, or *Daseinsvorsorge*¹⁹⁶. The scope of this domain greatly varies between the different countries, but education, basic research, health care, pensions and agricultural policy are examples of domains that have historically been felt to belong outside of the competitive sphere. But this competition-free domain provides an exception from the norm of a single, competitiveness-oriented internal market, so that the scope of competitive law has been expanded to areas that "could influence global competitiveness"; and this includes the core domains of national parliaments, like "social policy" and "education"¹⁹⁷.

It seems plausible to say, with Scharpf, that the privileged status of these domains could never have been successfully assailed within the national politics of any member state¹⁹⁸. But through the near invisibility of individual decisions of the ECJ, which we have touched upon in

¹⁹⁴ *ibid*, 53

¹⁹⁵ *ibid*

¹⁹⁶ *ibid*, 60

¹⁹⁷ Habermas 2011, viii

¹⁹⁸ Scharpf 1999, 61-62

a previous post, a certain logic has been established that pushes the EU and its member states in the direction of seeing these exceptions as little more than obstacles standing in the way of further European integration. This logic has its roots in the 'constitutionalized' status of negative integration, which has expanded from Article 12 of the Treaty to the ECJ's performatively produced interpretative monopoly of the Treaty. Any institutional difference between member states can be argued to constitute a competitive imbalance¹⁹⁹; hence, an almost limitless liberalization becomes possible. Because of the pressure to pursue integration and the impossibility of doing this via positive means, there is a real pressure on national governments to treat all domains as equal, in the sense of being equally suitable for competition.

We have now encountered the pressure to further European integration a number of times. It is because of this pressure that the ECJ, being the point of least (political) resistance, is caught up in the logic of negative integration. Without this driving force, the whole process that we have described has little meaning. This should lead us to ask: why is integration so important?

2.4 *Fait accompli* politics

We have reflected at some length on the way politics is situated within the EU, focusing on the European Court of Justice (ECJ) and its 'underhanded' way of furthering negative integration from a position that is above and beyond the reach of national politics and publics. This minimizes the political risk and opposition that has to be confronted by the EU at large, precisely because of the unique position of the ECJ (both with respect to its being removed from democratic publics and with respect to its extensive practical capacities). The evasion of political risk and opposition by conducting politics through 'non-political' means²⁰⁰ allows the EU to safeguard its sole basis of legitimacy, namely the output legitimacy that is secured by addressing (only) agreed-upon community problems. It is forced into this position by its inability to rely on other channels of legitimacy; roughly put, it does not have access to input legitimacy because of the lack of a European public sphere that

¹⁹⁹ *ibid*, 62

²⁰⁰ Scharpf 2009

is able to generate a community that remembers, experiences and communicates at the European level²⁰¹. The alternative, as we have already analyzed at length, is a one-sided tendency towards negative integration made possible by and reflected in the prevalence of ‘non-political’ supranational institutions like the ECJ. But, given the lack of legitimating resources in terms of input, why pursue integration at all, especially given the reservations we may currently have about the EU’s achievements when it comes to prosperity? In order to begin to understand this, let us delve into what Giandomenico Majone has called ‘*fait accompli* politics’ as the foundation of the initial permissive consensus with which Europe was regarded. ‘More Europe’ was and is often still seen as a political necessity, as we have said, but let us ask how this has worked historically.

From the very start of the European project, it has been characterized by the pushing forward of ambitious goals without much concern for either feasibility or popular support²⁰². Pascal Lamy, former European Commissioner and erstwhile lieutenant of Commission President Jacques Delors puts it in no uncertain terms:

Europe was built in a Saint-Simonian way from the beginning, this was Monnet’s approach: The people weren’t ready to agree about integration, so you had to get on without telling them too much about what was happening. (cited in Majone 2014, 49)

In our first chapter, we referred to Saint-Simon in the context of Jacques Rancière’s diagnosis of contemporary political culture, which the latter sees as ever at risk of absorbing the political into the realm of the social. Saint-Simon had affirmed this kind of absorption and made it into an expression of hope. Saint-Simon strives for an age where politics is no longer necessary: in an ideal state, only the ‘administration of things’ would remain. As evidenced by Lamy’s quote, the political end-goal is made immune from politics itself; and by the same token the European project is reduced to striving towards a horizon that is firmly fixed in place. In today’s context, the felt necessity to move towards ‘an ever closer Union’ can be captured in terms of the so-called ‘bicycle theory’ of European integration: “integration must keep moving forward,

²⁰¹ Kielmansegg 2013

²⁰² Majone 2014, 49

especially in times of crisis, for the bicycle (that the EU is seen to be) not to fall²⁰³. We already know which direction European politics is headed into: more integration is always the answer, which cannot itself be put up for discussion. In this sense, it is an already established fact (*fait accompli*) and will necessarily develop itself in a particular direction. From the perspective of the EU's development, this necessity has been produced by a political culture of "total optimism"; the latter being a historical term. Majone takes it from Geoffrey Parker's description of the Spanish King Philip II, who was so convinced that providence was on his side that he refused to account for the possibility of failure²⁰⁴. In similar fashion, Europe has never wished to consider the idea of a 'failure state', ignoring concerns of feasibility when it came to its policies and not providing an 'exit strategy' for member states until as late as 2009, in the Lisbon Treaty²⁰⁵.

Majone correctly analyzes that this approach to European integration implies that "the success of a collective decision is determined by the decision-makers themselves; by the fact that they agreed on the decision" rather than on actual results, so that the possibility of failure is excluded *a priori*²⁰⁶. In this sense, the EU is anything but technocratic, since a technical approach to politics would work in the exactly opposite direction, focusing on analyses of (conditions of) feasibility and letting policy flow directly from them²⁰⁷. *Pace* Majone, however, we should be equally careful to avoid saying that we have described a European "emphasis on the process of decision-making rather than the actual results"²⁰⁸. The input-oriented perspective of the *process* by which certain policies are agreed upon does not make a dramatic return, as is suggested by the idea that the process of decision-making is emphasized: far from it, in fact. Instead, emphasis is put on the perceived need for any decision that will show that decisions are being made – 'problems are being solved!' – which is precisely output-oriented in nature.

In the third chapter we will see that Jean-Jacques Rousseau revolutionized traditional belief in providence by making it about mankind's ability to perfect itself over historical time. Parker's Philip II was still a

²⁰³ *ibid*, 59

²⁰⁴ *ibid*

²⁰⁵ *ibid*, 62-66

²⁰⁶ *ibid*, 59

²⁰⁷ *ibid*

²⁰⁸ *ibid*

believer in a more straightforwardly divine guarantee that the world is, on the final analysis, good. Both of these beliefs about the direction that politics (and the world more generally) is headed into are ontologically motivated. This is also the case for Europe's political culture of total optimism, but there is an additional, more opportunistic-political motive in play.

We have discussed at length how institutions like the ECJ stand in a position over and above the conventional control mechanisms that would attach to them in the context of a nation-state. This in fact provides politicians with an incentive to pay lip-service to optimism, since their interests can be furthered without the pressure from opposition parties that would arise 'at home'; and, what is more, with superior legal status²⁰⁹. Such optimism about Europe can thus be cynically exploited in ways that are far removed from the peoples of Europe, and this is in itself an argument against what Jürgen Habermas calls the "self-immunization" of the European institutions²¹⁰. Such self-interested lip-service, while difficult to trace, would to some degree explain the moralistic fervour with which the "determinism of negative integration" is, as already referred to above, made into a matter of principle and (European) identity²¹¹. We can here recall Bourdieu's critique of European institutions, claiming that they practice a *policy of depoliticization* using the vocabularies of freedom, liberty and liberalism. Rather than liberating Europe, such policies grants "economic determinisms a fatal stranglehold" by revoking national regulations: in other words, by pursuing integration by negative means. What is worse, the idea of a "truly European Europe" ends up functioning as a decoy that enshrines this depoliticization rather than counteracting it²¹².

As if to confirm this suspicion, there is a glaring example of exploitation on the level of national politics, namely in the context of fiscal policies, where the EU has not managed to gain relevant competencies – or, to the extent that it has managed, its competencies are being negated by stalling tactics. A Special Committee was set up by the European Parliament, partially in response to leaked data of financial misconduct (e.g. LuxLeaks and the so-called Panama Papers). In its report, the

²⁰⁹ *ibid*, 60

²¹⁰ Habermas 2015, 100

²¹¹ Michelsen & Walter 2013, 336–337

²¹² Bourdieu 2002, 31; 38–41

Committee notes a “pattern of systematic obstruction” on the part of certain member states when it comes to combating tax evasion²¹³. According to Ewald Engelen, this “shows love for the European Union in a new light”: the idea of a Union that would protect us from the power of the markets is “either extremely naive or very cunning”²¹⁴. According to Engelen, this exactly is what the EU was designed for: backroom ‘politics’ far removed from the view of “press, public and parliament”²¹⁵.

More in keeping with Philip II, there is an ontological component to the belief in ‘European perfectibility’, which unlike the dark dealings around tax evasion can be addressed as an argument. The ontology I have in mind involves the idea that the nation-state is no longer viable²¹⁶; a position that has been defended in many different contexts by the very same Habermas we mentioned above. But, while Habermas may count as an optimist in some senses and we will have occasion to disagree with him in later chapters, he is not among those who uncritically use the idea of the deceased nation-state to give *carte blanche* to European politics. Where that argument does occur, it can be found either implicit in academic sources or loudly proclaimed in official EU-documents. An example of the latter is the following, which was part of a Declaration issued by the leaders of 27 member states and of the European Council, the European Parliament and the European Commission:

Unity is both a necessity and our free choice. Taken individually, we would be side-lined by global dynamics. Standing together is our best chance to influence them, and to defend our common interests and values. We will act together, (...) while moving in the same direction, as we have done in the past, in line with the Treaties (...). Our Union is undivided and indivisible. (Rome Declaration 2017)

It is clear that ‘unity’, ‘standing together’ and ‘act[ing] together’ function as the opposite of being ‘side-lined’ by global dynamics in the event that member states (one presumes that this is the ‘we’ that would be sidelined) are ‘taken individually’, and that unity entails ‘moving in

²¹³ Kofod & Theurer 2016, 27

²¹⁴ Engelen 2016; cf. Bourdieu 2002

²¹⁵ Engelen 2016

²¹⁶ Majone 2014, 60

the same direction, as we have done in the past'. This is only reinforced when the leaders state that "Europe's future lies in our own hands" and that "the European Union is the best instrument to achieve our objectives"²¹⁷.

Apparently in the same spirit, Habermas states that "[o]ur era is marked by a growing mismatch between a world society that is becoming increasingly interdependent at the systemic level and a world of states that remains fragmented". Said states are the sole agents capable of "taking effective action based on democratic decisions", but they are overruled by the "accelerated digital communication" characteristic of globalized markets, so that "there is a need for steering that single nation-states are increasingly unable to meet"²¹⁸. Similar phrases appear in many places where Habermas has commented on the present and future of the European project. In order to meet this challenge, Habermas continues, we need a legal innovation: and its contours have already emerged. In the European project, international (i.e. European) law has become constitutionalized. Not only the composition of the medium of law changes, claims Habermas, but even more importantly, the element of decisionism that was an element of the exercise of power and political authority becomes rationalized, domesticated²¹⁹. No longer is it possible to wage war as a sovereign nation at one's own discretion. Habermas mentions that Carl Schmitt correctly considered this change to be "a sea change in international law"²²⁰.

Habermas proceeds to make an important distinction, however: one that is not present in official EU-documents like the one cited above. "[T]he improvement in the organizational functions that is being achieved" by and in European politics "could be described as a trend towards the *rationalization* of the exercise of political power in the international arena (...)"²²¹. But this does not by itself present the full picture:

[W]e cannot qualify this trend as a civilizing process as long as international organizations only exercise their mandate on the basis of international treaties, hence in forms of law, but not

²¹⁷ Rome Declaration 2017

²¹⁸ Habermas 2015, 29-30

²¹⁹ *ibid*, 52-55

²²⁰ *ibid*, 54

²²¹ *ibid*, 56

yet in accordance with democratically generated law – that is, legitimately. (Habermas 2015, 56, emphases in the original)

Habermas emphasizes that increasingly global market forces cannot be resisted by a “world society fragmented along national lines” and that the only response that seems feasible – failing a truly cosmopolitan perspective – is a “democratic version of the European Union”²²². This is presented as an express alternative to the mode of “further integration on the model of executive federalism” that has been pursued²²³. This once again refers to the distance of European institutional decisions taking place at a distance from any publics, real or imagined. With our analysis of the institutional pressures that characterizes the EU in mind, we have supplied an explanation for this distance and the perceived necessity of integration, which is justified by referring to the output legitimacy provided by peace and prosperity. One needs to emphasize the one-sided dependence of European politics on output legitimacy in order to understand why Habermas is trying to bring about a new kind of solidarity between the peoples of Europe²²⁴. We will discuss his proposal in the fourth chapter.

We can now take preliminary stock of the ways in which aspects of depoliticization are characteristic of European politics. We have covered the moral finality of peace and prosperity; since these can only be achieved via the route of European integration, as the self-description of the EU and its ensuing narrative shows, further integration is the *conditio sine qua non* of European politics. Lacking the resources to pursue this end via conventional democratic means, it has used the permissive consensus enabled by the initial moral and political dignity that was attached to the European project in the immediate post-war period to extend its competences based on criteria of output legitimacy, which has resulted in an institutional asymmetry between measures of positive and negative integration, to the near exclusion of the former. The European extension of competences happened in a gradual process of self-immunization partaken in by key European institutions, among which we have discussed the ECJ. In a reversal of Olympe de Gouges’ performative claim to have the rights she did not have, as portrayed by

²²² *ibid*, 85; cf. Habermas 2012, 58–70

²²³ Habermas 2015, 13; 76–77; 87; Habermas 2012, 7–11.

²²⁴ Habermas 2015, 3–29

Jacques Rancière, the ECJ performatively and retro-actively provided itself with the monopoly on the interpretation of the European Treaties, which it subsequently declared had to be considered supreme in comparison to national law. Like the initial Treaties themselves, this status was ratified by the national courts. In this way, a perfect circle was formed between the text of the Treaty and the ECJ: the spirit of the Treaties, as the founding principle of the EU itself, found its voice and spoke with authority.

In its newly acquired position of power, the ECJ then proved to favor negative integration, further strengthening the existing imbalances. This is symptomatic of the ways in which supranational European governance has been systematically removed from the reach of democratic publics, whether 'European' or strictly national in nature. In that dynamic, political success is the brute fact of continued decision-making rather than the involvement of citizens or the successful furthering of their interests. Because there are no control mechanisms of the kind one is accustomed to finding in nation-states, there are incentives for national politicians to use 'Europe' as a foil for unity against the force of the markets, while secretly striking deals behind closed doors and withholding information. We should thus not be uncritical of the familiar narrative that the age of the nation-state has come and gone. Whether that narrative can succeed as part of an argument for 'ever closer political union' depends on the ways in which today's European politics can be reformed as more than a rationalization: we will later take Habermas up on his insistence that a democratic version of the EU is in fact possible.

But perhaps we have not yet touched on the most important achievement of European politics to date. Is the achievement of peace on a war-torn continent not a significant moral achievement? In the sections that follow, we will zoom in on the figure of moralization and the uses it is put to in European politics.

2.5 Moral Fortress Europe

We have briefly considered how the initial permissive consensus was ended in part because the self-perception of the European Union as a 'community of winners' became increasingly less tenable. This is espe-

cially true in times of economic crisis, but we saw Majone claim that after rapid catch-up with the United States in the immediate postwar period Europe was unable to keep up²²⁵. However, in the parlance of European politics itself, the EU has surely ‘delivered’ a half-century of peace and stability. We have to make the counterpoint that the increasing irrelevance of Europe’s internal borders has been offset by the arguably equal and assuredly opposite reaction of shutting out those who do not belong. Morocco’s request to become a member state was rebuked (Morocco isn’t Europe), while Spain’s holdings in North Africa were recognised without second thought (Spain is Europe)²²⁶. There is no map of the EU that features the Dutch municipalities [*gemeenten*] in the Caribbean, and France showed that while Algeria was French whether the Algerians liked it or not, a horrible war could be fought on ‘French’ soil with many ‘French’ victims without blemishing the European record²²⁷. The Algerian war ended in 1962, one year before the Van Gend & Loos case. That this part of European history can be unproblematically ignored shows that “not even a sizeable war fought inside the community itself has been able to impinge on the notion of European integration as a symbol of peace, and that its promotion of European identity has served as an antidote to war”²²⁸.

But even if we limit ourselves to continental Europe, the causal element that is implied by the idea of the ‘deliverance’ of peace is problematic. Majone denounces it as a “cryptofederalist myth”²²⁹. A first element of this mythological element is the historical frame of the postwar period itself:

[T]he European Community arrived a bit late in history for its widely proclaimed mission, which was to avert further wars between the major Western European nations; even without the Community the time for such wars was past after the two exhausting world wars of the first half of the twentieth century. (Hirschman 1981, cited in Majone 2009, 87 and Majone 2014, 82)

²²⁵ Majone 2014, 4

²²⁶ Brunkhorst 2014, 14; Bhambra 2009

²²⁷ Brunkhorst 2014, 14-15

²²⁸ Hansen 2002, 488

²²⁹ Majone 2009, 87

According to Majone's analysis, European society itself carried a strong anti-war orientation, which allows us to explain Winston Churchill's defeat at the 1945 election because of his reputation as a 'man of war'²³⁰. There is a general reluctance of European nations to engage in war, even in Europe's own backyard: both the Yugoslav crisis, which began with an assertion of European 'problem ownership' ("This is the hour of the Europeans, not the hour of the Americans!"), and the Kosovo crisis displayed the EU's "inability to ensure peace and respect for basic human rights even in areas of clear European interest"²³¹. Though Hirschman presents the "ironic conjecture" that perhaps the true function of the European community has been to give voice to suppressed minorities *within* states on the European continent, these examples show how difficult it is to make even this case.

We cannot mention human rights in this context without reminding ourselves that they are part of the EU's self-description. It is all the more grueling that some of its actions can be described under the heading of "state hypocrisy"²³². During the fiftieth anniversary of the Universal Declaration of Human Rights, a committee of 'sages' was convened as part of an initiative to create a 'Human Rights Agenda for the New Millennium'. After an early draft was presented in 1997, European Commission representatives "strongly objected", although the eventual report would be based on "official, published and widely available materials"²³³. It was clearly not the intention to come clean about areas of improvement in European human rights practice. The purpose behind the human rights agenda at the time was to "present a rosy European picture, to link aid and trade to Western human rights priorities" and to provide European representatives in international bodies with ammunition when they were criticized for applying double standards to human rights abuses in China and the Soviet Union (which were loudly decried, though in the case of China trade relations were usually not at issue) on the one hand, and human rights abuses 'at home' on the other hand²³⁴. The eventual report was cleansed of the names of individual offending member states, instead offering the general criticism that "the

²³⁰ *ibid*, 87

²³¹ Majone 2014, 83; see Majone 2009, 87-90

²³² Douzinas 2000, 122-128

²³³ *ibid*, 125

²³⁴ *ibid*

strong rhetoric of the European Union [concerning its core values and human rights] is not matched by the reality”²³⁵.

The above shows the EU’s track record when it comes to matters of war, peace and human rights. The Cold War was a decor in which existing antagonisms between East and West could give rise to the extreme kind of depoliticization that allows one to present oneself and one’s history in terms of a striving for peace, while at the same time engaging in (post)colonial warfare on a large scale. The current non-engagement with this same history shows the necessity of questioning simplifying and depoliticizing narratives of peace and prosperity, which present Europe as occupying, almost as a matter of necessity, a moral high ground. The rhetoric of human rights has served the EU well in this regard. Let us therefore concern ourselves in more detail with the EU’s current human rights practice and inquire into the reality of Moral Fortress Europe, bastion of human rights.

The year 2016 provided a graphic demarcation point when it comes to the EU’s border and immigration policies, sealing itself tight in the face of a potential influx of refugees as a result of, most notably, the Syrian civil war. The EU’s response has been described as a “politics of death”²³⁶. The Human Rights Watch report classifies the so-called refugee crisis as one of the “significant strategic challenges” faced by the EU, alongside the Brexit vote, terrorist attacks and “rising support for populist anti-immigration parties”²³⁷. It notes that “EU governments and institutions responded (...) in ways that often undercut or set aside core values and rights protections rather than working consistently together to defend them”²³⁸. Populism constitutes a challenge of its own, and we will discuss it in the terms set out in the first chapter. Let us first briefly go into the challenges concerned more directly with human rights. When it came to the refugee crisis, the concern reflected by EU policy was national security and cultural identity, which was reflected in partial border closure in the Eastern parts of Europe and heightened border controls by Austria, France and Switzerland²³⁹. 2016 was the deadliest year on record for crossing the Mediterranean Sea, with estimates putting the number of victims over five thousand. In June of

²³⁵ Alston 1999, 921

²³⁶ Schinkel 2016

²³⁷ HRW 2017, 257

²³⁸ *ibid*

²³⁹ *ibid*, 257-258

2016, the EU signed a “problematic” deal with Turkey, offering payment for every refugee Turkey would take in from Greece²⁴⁰. This involves the EU not only with a questionable deal offering money to a party willing to ‘import’ refugees, but also makes the complaints about populism less credible. The most recent innovation in terms of immigration policy does little to dispel the idea of Moral Fortress Europe:

Turning back to migration: the Commission is today proposing to further strengthen the European Border and Coast Guard to better protect our external borders with an additional 10,000 European border guards by 2020. (Juncker, 2018)

Europe is thus closed off from its own history and has reinstated its internal borders externally. But it also attempts to consolidate a certain political ethos, while expelling its evil twin in the same gesture. Or, if as we have seen European Council president Donald Tusk put it, we must not submit to populist arguments²⁴¹. In Laclau’s affirmative analysis, populism becomes the name for the rejection of *police*: it is the forging of a chain of equivalences that cannot be absorbed by existing institutions. But the usual view of populism casts it as a simplistic or cynical distortion of ‘real’ politics. As we have discussed, this usual view is a form of localized depoliticization critique, which itself produces depoliticizing effects: while viewing part of the political landscape as improperly political, it does not question the underlying ontology and leaves open the possibility of foundationalism. For Rancière, dismissing populism on principle suggests that there is still a people out there that has concerns worth taking seriously (just not this people), in reality the dismissal simultaneously masks and reveals complete and unwavering allegiance to the status quo²⁴².

This is certainly reflected in the White paper on the future of Europe. In its discussion of the drivers of European future, right after a picture of people celebrating the fall of the Berlin Wall and a graphic showing the twenty-five most peaceful countries in the world by ‘state of peace’ (Europe: high to very high), we are introduced to what is called

²⁴⁰ *ibid*, 258

²⁴¹ Tusk 2017

²⁴² Rancière 2007a, 79

the ‘questioning of trust and legitimacy’. Exceedingly dark language is employed there.

The various changes affecting the world and the real sense of insecurity felt by many have given rise to a growing disaffection with mainstream politics and institutions at all levels. This often manifests itself through indifference and mistrust towards the action of public authorities. And it also creates a vacuum too easily filled by populist and nationalist rhetoric. (European Commission 2017, 27)

This is the only mention of populism in the White paper. Immediately following this paragraph, there are references to “blaming Brussels”, “lack of ownership for joined decisions” and “the habit of finger-pointing at others”: we are informed that these strategies have already “proved damaging” and that “Europeans are not immune to these stark images of disunity”²⁴³. The implications are clear: the *fait accompli* politics of European integration and ‘unity’ are reinforced, and populism is a form of rhetoric that fills a ‘vacuum’ left behind by a growing disaffection of citizens with ‘mainstream’ (non-populist) politics and institutions.

Having considered institutional pressures and blockages in the previous sections, we are now in a position to add a further element to our preliminary analysis of aspects of depoliticization in European politics. By moralizing its commitment to peace, human rights and the expulsion of populism, the EU has created a version of Mouffe’s *cordon sanitaire*. Within it, the European project alone counts as providing a well-intentioned and morally upright future for the continent. We may speculate that populism has displaced the ‘threat from the East’ as a countervailing danger that requires the EU to remain committed to its goals. What is clearly visible, though, is the simultaneity of the two moments that characterize the *cordon sanitaire*: the shutting out of the populist, warlike, anti-human rights adversary, which does not need to be argued against, but is obviously heinous and unwanted. We need only remind ourselves of this from time to time. Second, the unification and justification of the disparate field of allies: the EU needs to exist to counteract them and to lead by example. It should be clear that this

²⁴³ European Commission 2017, 27

completely depoliticizes the identity of the other (as ‘evil’), as well as one’s own identity (as ‘good’), and the relation between the two.

But there is a further option still. Perhaps the EU has managed to develop an alternative to submitting to populist arguments, which simultaneously takes the people into account in a serious way, thus addressing the concerns of input legitimacy with which we started our investigation. This would then come in the form of what Vivien A. Schmidt has termed, in an extension of the already invoked ‘of the people, by the people, for the people’, government *with* the people.

2.6 Governance with the people

The European Commission’s White paper on governance is considered to be an important part of the legitimizing strategy favoured by the commission: as a first preparatory step before the constitutional negotiations, it outlines the Commission’s outlook on the normative principles that should guide European governance in the years to come – what is more, a version of that outlook that has not yet been affected by compromise and negotiation, as in the later stages of the constitutional process²⁴⁴.

The White paper starts out by listing five principles that are taken to represent the basis of good governance: openness, participation, accountability, effectiveness and coherence. The first two stand out. Openness is understood as the requirement that “the European institutions should attach more importance to transparency and communication in their decision-making”, while participation means that “citizens must be more systematically involved in the drafting and implementation of policies”²⁴⁵. The changes proposed in light of these principles have a strong ring to them. For instance: “Policies should no longer be decided at the top. The legitimacy of the EU now lies with the participation of its citizens.”²⁴⁶ This reads like an implicit criticism of what we have described as the ‘Saint-Simonian’ aspects of European integration. We saw Lamy describe these same aspects under the heading of ‘Monnet’s approach’, and Myrto Tsakatika likewise describe attempts to secure

²⁴⁴ Tsakatika 2005, 195

²⁴⁵ European Commission 2001

²⁴⁶ *ibid*

legitimacy by bringing about peace and prosperity through European integration as “the Monnet plan”²⁴⁷. She sees the White paper as wavering between Monnet and Maastricht, where the latter represents the moment at which the societal criticisms facing this mode of legitimacy began to have European repercussions²⁴⁸. It seems questionable, however, if such a shift occurs in the White paper. For it conceives of citizen participation along the lines of non-governmental organisations (NGOs) and civil society. In other words, increased participation does not concern individual citizens: instead, it entails an invitation to NGOs to ‘think about’ specific problem definitions that have been determined in advance²⁴⁹. Said NGOs, and the executives that select them, “mostly account for their status as representing a section of the population by reference to a notion of the common good defined in essentialist terms” or by reference to a large number of donors and members²⁵⁰. The invited groups are “well-equipped” [*gut ausgestattet*] and large organizations²⁵¹. This seems closer to an extension of the self-immunizing trends we have described in previous sections than an alleviation of them. I offer two reasons in support of this claim. First, the notion of the common good that enters into this specific participatory practice is not the result of will-formation by the full relevant community of citizens, so that ‘the participation of European citizens’ is not only not secured, but feigned in a posture of compromise. It is the same old output legitimacy trying on the clothes of its input-oriented brother: “optimizing output through the mediation” of carefully selected networks and expert groups²⁵². Once again, the underlying mechanisms are not being put up for discussion. Second, because the problem definitions have been determined in advance, Rancière’s worst fears are confirmed. The mode of consensus, in his sense of the term, can do no more than reduce politics to *police*, as we have seen, thus accounting for “an effective depoliticization”²⁵³.

In these two ways, European participatory governance constitutes a disappearance of the *demos* from the political process. Participation in this restricted sense optimizes output and facilitates implementation,

²⁴⁷ Tsakatika 2005, 197

²⁴⁸ *ibid*, 200-204

²⁴⁹ Michelsen & Walter 2013, 79

²⁵⁰ *ibid*

²⁵¹ *ibid*, 80; see also Greven 2007, 236

²⁵² Michelsen & Walter 2013, 80

²⁵³ Rancière 2004, 7-8

since ‘civil society’ is already on board. The chosen representatives will in turn internalize a form of good, uncontroversial behaviour that will allow them to maintain their insider position and the associated competitive advantages²⁵⁴. Contingency and agonism are thus forced out of politics: “A suppression [*Ausblendung*] of conflicting opinions and interests”, the substitution of “administrative modes of operation” and their dialogical embellishments instead of political action²⁵⁵.

Theda Skocpol describes such depoliticization of civil society, albeit in an American context, as the most important symptom of the transformation of membership society to management society. Institutions along the lines of active government for her is crucial to building the conditions for a public sphere that allows for the construction of collective identities: if we recall, this was the initial problem that confronted European attempts to attain input legitimacy. Skocpol describes the withdrawal of voluntary federations with many members, tightly integrated in their respective communities: they have been superseded by professionally managed NGOs²⁵⁶. This professional management and the shift from membership to management more broadly means that activists no longer learn the political handiwork involved with trying to gain followers regionally for one’s position: the “organizational skills” and “capacities for representative majoritarian leadership, as well as politically relevant personal political capacities”²⁵⁷. The voluntary association is, in Schlesinger’s phrase, a “school for democracy”²⁵⁸. As Michelsen and Walter comment, only by involving oneself in this kind of political work does it become apparent that the pragmatic procedures of everyday politics are not the result of a dark conspiracy by a circle of elites: an insight that, according to them, has been forgotten by today’s morally inspired but insipid ‘slacktivists’²⁵⁹.

This analysis adds another feature to the double bind of Europe’s non-existing European public sphere: in the very attempt to involve citizens, it ‘involves’ them in a way that continues to steer towards output rather than input legitimacy. By so doing, European politics only exacerbates the distance between civil society as a whole and political institutions. It

²⁵⁴ Michelsen & Walter 2013, 80

²⁵⁵ *ibid.*, 80–81

²⁵⁶ *cf. ibid.*, 89–90

²⁵⁷ Skocpol 2004, 100; 104

²⁵⁸ *ibid.*, 106

²⁵⁹ Michelsen & Walter 2013, 90

thus represents continually re-emphasizes the replacement of politics by administration, which leaves behind at most a “diminished democracy”²⁶⁰.

This provides the last puzzle piece in our search for aspects of depoliticization in European politics. The strategy of the European Commission as summarized in the White paper on governance only feigns participation. It puts the *demos* at a further remove in two ways: first, by forming it in its own image – well-equipped NGOs that claim to defend the public good or simply enjoy great (financial) backing – and second, by restricting its access to pre-defined problem definitions in the mode of what Rancière calls consensus. Because this consensus effects a certain kind of discipline, which is interiorized by the participants, civil society insofar as it is allowed to have a semblance of political activity becomes depoliticized: politics is turned into administration and *police*. This serves to deepen the disconnect between citizens and political institutions, since there are no channels through which to approach said institutions in a political manner. This in turn means that citizens are left without avenues to acquire crucial political skills and see politics as the ‘distant other’ to which they have no access. Since there is more than a kernel of truth in that description of affairs, the necessity of opting for output-oriented means of acquiring legitimacy continually reinforces itself by actively impeding alternative means. This allows us to fully appreciate the extent to which European politics is characterized by depoliticization. In the following section, I reformulate said aspects in order to bring out the internal logic that is common to them.

2.7 European politics: aspects of depoliticization

The most fundamental kind of depoliticization affecting European politics is provided by Europe’s historical momentum. From Monnet onwards, the goal of European unity itself was thought to legitimate the process of integration. At the time, promises were made that national sovereignty would not be impacted. Given the historical frame of the immediate postwar period, what could be better than a European project striving for unification? This continues to be an important ‘driver’ of the European present and into its future. The fact of peace, which is of course of enormous importance, is taken to justify the present course.

²⁶⁰ Skocpol 2004

But as we have seen, this does not even qualify as a *post hoc*-fallacy: the budding European community can itself be regarded as the product of the spirit of peace or rather the exhaustion with war that was sweeping the continent. And even its peacemaking qualities, however motivated, cannot be taken for granted in view of the wars conducted both within and by the community itself, as in the Algerian war, and in its backyard, as in the Yugoslav and Kosovo crises.

That is the initial two-step of European integration: from being worthy of pursuing almost for its own sake (without much regard for results) to being officially justified by reference to peace, and then prosperity. As we have seen, prosperity, too, is increasingly becoming problematic as a legitimating resource in the wake of the economic crises, though there are arguments to show that the EU was unable to keep track with global economic progress already from the eighties onwards. But on the process of European integration went, inspired by the lofty goals of peace and prosperity, or perhaps other ones. As it progressed, it increasingly stood in need of legitimation. Once it began relating to national constitutions and affecting the lives of citizens, it could no longer be carried by a central group of elites alone, without needing to justify what was happening. We have discussed the options open to the community as a dilemma: input legitimacy versus output legitimacy. Because input legitimacy requires a sufficiently unified underlying will of the people (*Gemeinsamkeitsglauben*) and this was and remains altogether absent on the European level, the alternative path was chosen. Output legitimacy is about effective problem solving and so the European community set about creating institutions that could meet this challenge. Because the problems concerned need to be agreed upon by the community as a whole, however, there is a limitation on the scope of what can be discussed. Notably, as Fritz Scharpf has shown, pursuing conflict-minimizing solutions or avoiding political perceptibility becomes an important strategy to avoid putting too much strain on the EU's legitimizing resources. This strategy has in turn shaped the political direction of the EU itself. Decisions of positive integration would have to be taken via political channels, and this has proven to be a very difficult matter because of the 'consensus barriers' involved. However, decisions of negative integration could be pursued via juridical means. Together with the European Commission, the ECJ's task has been to 'fill in the gaps' that were left in the Treaty. The ECJ pursued integration

by removing national regulation that was thought to hinder a competitive single market – and since individual juridical decisions were nearly invisible, it could do so without much political upheaval.

In so doing, the ECJ had to clear up the relationship between EU law and national constitutions. A year after the end of the Algerian war, it concluded that it was possible for individuals (and corporations-as-individuals) to bring member states before the European court on the grounds that the latter had violated EU law. In treating the claimant's case at all, the ECJ made it the case that one could sue sovereign states based on EU law. In its verdict, the ECJ accordingly stated that based on the spirit of the Treaties, a new legal order had been created at the time of founding: thus making itself the spokesperson for the spirit of the Treaties and making it the case that foundation had in fact entailed the subsumption of national legal orders under the new, European one. This was later clarified to entail the supremacy of European law over national law. The vantage point thus created was almost completely immunized from the influence of national and European citizens alike. This meant that the ECJ itself and the policies of negative integration that it favoured were, as Jürgen Habermas expresses it, increasingly unassailable. We may here trace a displacement of the initial political-moral dignity of the project of European integration to the institutional-juridical level: democratic publics cannot be involved in this kind of technical matter, after all.

This dignity can today be reinforced by three concrete arguments, all of which are effective depoliticizations: ontological, rights-based and moral-political. First, the ontological argument is that in globalized times, nation-states cannot accomplish much on their own. Alone, they even risk becoming soulless puppets dancing to the tune of global market forces. Unification is thus necessary. Applying this argument to the present state of the EU is questionable, as the European Parliament found when its Special Committee reported that some member states displayed a pattern of systematic obstruction on the matter of combating tax evasion. Its concrete policies of negative integration would seem to be a 'policy of depoliticization' rather than a way of taking matters into one's own hands. From an even more general perspective, it seems that choosing the *form* of law and using this form to rationalize international politics, as the EU is attempting to do, does not yet mean that the *substance* of concrete laws is legitimate. This is again a variation on

a Habermasian theme. Second, the rights-based argument is that the EU is a force for good through its championing of human rights. As we have seen, historically speaking the community's rhetoric has not matched its practice, which was a hard point to accept in the context of the Cold War. In the present, too, European practice has shown a willingness to let refugees drown and to respond to their arrival mostly with concern for national consequences: for instance by attempting to barter with Turkey. This leads to the third and final argument: the moral-political argument. Europe is thought to provide a safeguard for political dignity, which is already problematic in view of the deal with Turkey, as well as a safeguard against populist arguments: European Council president Donald Tusk insists that we should not submit to them, and populism in general is presented as a danger. This dismissive view of populism is a form of localized depoliticization critique, which itself has depoliticizing effects. Europe's alternative has been to initiate the right kind of participation (populism being the wrong kind). The practice of European governance, following this proposed alternative to the letter, has involved NGOs that are thought to represent the general population based on a notion of the common good, or based on high numbers of donors and members. These parties are invited to 'think about' pre-defined problem definitions. This mode of participation depoliticizes the political process because only a select few, i.e. those selected by the executives, gain access, and representation is taken for granted and reified. Further, it depoliticizes politics itself by reducing it to consensus around pre-established parameters. Finally, it depoliticizes civil society by transforming membership society into management society.

The simple narrative and self-description of European politics as delivering peace and prosperity while striving for a containment of market forces, a championing of human rights and a politics of participation without populism thus proves to be impossible to sustain in this form. The background assumption of unproblematic European integration either as an end in itself or to further the elements of this narrative is likewise to be rejected. This leaves us with the question how the elements of depoliticization that characterize European politics are to be combated. In the first chapter, we showed that there is a potential tension between the ontological aspect of depoliticization critique and ethics or normativity. At the same time, depoliticization critique itself has to be conceived not only as the withdrawal of ontological ground on

which to found the political without remainder, but also as the appeal to fill the resulting gap by other means. In my attempt to provide an answer to the overall problematic of depoliticization and to its presence in European politics in particular, my overall strategy will be to make the tense relations between ontology, ethics and politics productive. The first step in this strategy is to ask why ethics has gradually been turned into a target for depoliticization critique, and whether this move was itself unproblematic. Answering that question will be the objective of the next chapter.

Chapter 3

Problema Morale: direct relations between politics and ethics

In the two previous chapters we have explored depoliticization as a philosophical concept and the ways in which European politics can be meaningfully described in its terms. We know that depoliticization critique, taken to its limits, is an ontological category – we have called this generalized depoliticization critique. That perspective allows us to view the relationship between ethics and politics as problematic. Politics is ‘closed off’ by what Jacques Rancière terms *police* logic, or made derivative of an ontological foundation. Ethical concepts can serve both of these functions: by formulating universal norms that subordinate particular differences to higher-level principles (*police* logic), and by intervening in political decisions by imposing criteria that forcibly bring about a certain outcome, thereby nullifying the element of decision.

We can already begin to see that these depoliticizing effects are in fact related: both postulate an underlying reality that constrains politics by determining which directions are open to it and which are not. But it is currently unclear whether ethics necessarily has such effects or whether there are specific conditions that determine whether ethics depoliticizes or politicizes. In this chapter, I develop an account of the interrelations between ethics and politics seen through the frame of depoliticization critique. This extends to a consideration of the particular historical (con)texts in which the formation of those relationships has

taken place²⁶¹. With that in view, I will survey a development within modern political philosophy that illustrates the interrelations and places them in relation to each other. The aim of the account and the philosophical-historical illustrations I provide is to glance beyond the automatic assumption that ethics is a completely depoliticizing domain, so that we open ourselves up to the possibility of a more constructively developed interrelation. The first step in this construction work is to ask critical questions of the hostility that ethics is subject to from the point of view of contemporary depoliticization critique. Such hostility is itself a form of depoliticization critique: it declares that only politics that has been purged of ethics can be considered truly political. As we know from our first chapter, however, depoliticization critique can itself have depoliticizing effects; for instance when the critique is localized and does not question the underlying ontology of what is being criticized. The Varoufakis episode introduced in the Introduction suffices to illustrate this point. To recall: Greece's finance minister attempted to politicize the discussion on European politics precisely by invoking Immanuel Kant's categorical imperative, perhaps the finest achievement of modern ethics, and was duly dismissed²⁶². Since that particular dismissal has depoliticizing effects, we can pose the more general question whether some account of ethics should be readmitted. The dismissal of ethics can be a mode of depoliticization: in other words, it can be part of the problem rather than part of the solution. I want to bring out four different interrelations between politics and ethics: fixation, friction, isolation and immanence. These four have in common that they are what I call direct relations: that is to say that they bring ethics to politics in unmediated form. The next chapter will consider indirect relations, which focus on the mediating role of procedure.

We will begin by analyzing fixation. I use this concept to capture the complete vanishing point of the political *qua* political, which is mostly denoted by the critical use of terms like foundationalism or a lack of autonomy. What fixation can add to such terms is an account of the specific relationship between what is taken as given and the imputed political. This relationship shows itself in three main ways, all of which are interrelated. First, the given is taken as logically prior to politics: in fact, it is directly available. Second, the given is deemed to be a legit-

²⁶¹ cf. Tully 2008, 17; 34-35

²⁶² Varoufakis 2015

imate determinant of politics (and not the other way around). Finally, third, the given is understood to place an absolute constraint on politics.

The political thought of Jean-Jacques Rousseau serves as an illustration of the pitfalls of fixation, but simultaneously shows us ways to overcome it. This is all the more pertinent since Rousseau in many respects has the aforementioned Kant on his heels. In terms of his worth as the starting point of our investigation, Rousseau represents a break within an earlier tradition. He operates both as part of and at a distance from the social contract tradition. The social contract itself already suggests a form of withdrawing ontology: rather than metaphysical criteria that preempt all politics, like Plato's vision of the soul-city, the social contract invokes consent. This is political to the extent that such consent can be withheld and contested²⁶³. However, in the social contract tradition before Rousseau this is typically not the case. Earlier social contract theorists offer a way to derive political system from empirical human nature. Rousseau's version of the social contract is important for our purposes since it is instead a political wager: he makes no claim about a definitive human nature from which politics need only be derived.

I will also show that Rousseau is not only a citizen of Geneva but a true European – and today's European Union echoes Rousseau in several ways, as we will consider. In the end, Rousseau relapses and invokes a form of universality that closes off political space. This happens through the intervention of the universal common good under the name of the general will, at least on the reading I will offer in this chapter.

From Rousseau we move to Kant. In my analysis, the contemporary front against ethics ironically stems from a tradition of latent depoliticization critique which begins not with a dismissal of ethics, but with an insistence on its importance to politics. Kant makes a crucial move in this direction by distinguishing between a depoliticized politics of technical problems (*Staatsklugheit*) and the *Staatsweisheit* of the true statesman, the moral politician²⁶⁴. The terms of this distinction allow us to describe the process of development that occurred between Kant and Carl Schmitt, the usual starting point for those interested in depoliticization, in a continuous manner. Kant himself is prone to fixation in some of his writings: here he echoes Rousseau, himself invoking a general will that closes off politics. In the first appendix to *On Perpetual Peace*, Kant

²⁶³ cf. Habermas 2017, 63–64

²⁶⁴ Kant 2010, 44–45

develops a more ambiguous approach that provides the means to escape depoliticization to a large extent, as we will see. However, the overall horizon of the moral law is still taken as an immediate given.

The writings of Friedrich Nietzsche and Max Weber provide the instances of transformation that connect the moral philosophy of Kant to its near opposite in Schmitt. Nietzsche unmask the mythical givens of Kant as bloodied illusions, while also, on my reading, bringing a new kind of ethics into play, which in fact animates his thought on the subject of Europe. However, the ethics that Nietzsche affirms is purely individual. In later authors, this means that subjectively held values are opposed to an objective world in a dualist fashion. Weber is both subject to this dualism himself, as Schmitt later notes, and a keen analyst of the resulting condition. He shows that a figure like Kant's moral politician involves himself with "diabolical forces"²⁶⁵ and presents an advance on the ambiguities of Kant's later work. For Weber, it is not possible to overcome the paradoxes of politics definitively: what is required is a hero to address what we will call, with Maurice Merleau-Ponty, the curse of politics²⁶⁶. This will be the appropriate time to analyze friction, the second of my four direct relations between politics and ethics.

Fixation gives us the image of a one-way relation between the absolute force of what is 'given' and a thereby impossible politics. Friction puts in its place an image of tension and mutual negotiation processes that are moreover permanent in character. For instance, technical and moral considerations will continually suggest different political directions, but no such consideration can ever be declared the winner in a final sense.

When friction expresses a direct relation between politics and ethics and a hero is needed to overcome it, this can seem like rather a loose bond. After all, what is heroic is in a sense impossible, so that powerlessness and hence depoliticization must result. It thus becomes necessary to ask whether politics and ethics should be thought of as (potentially) interconnected in the first place. The negative answer to this question is expressed by isolation, the third direct relation between politics and ethics. I will argue that isolation, in two of its varieties, has depoliticizing effects.

²⁶⁵ Weber 2012, 78

²⁶⁶ Merleau-Ponty 1969, xxxiv-xxxv

The fourth and final direct relation between politics and ethics, immanence, once again sees a shift in the account of the ‘distance’ between morality and politics. In fixation there is no such distance whatsoever; in isolation it is infinitely wide; in friction it is there to be bridged, but only a hero can expect to make it to the other side. Immanence could be described as a removal of this gap by political means. Compared to fixation, immanence moves in exactly the opposite direction. Whereas fixation starts off from a given external to politics and sees the former completely engulfing the latter, immanence starts out from politics and selects its commitments from other domains on a political basis.

Schmitt is the author who illustrates immanence, and the help of Rancière and Mouffe is enlisted to provide a fuller account. My discussion of Schmitt in this context is limited to his *Concept of the Political*²⁶⁷, where he provides an account of the political as an intensified form of a domain of life. Another way of putting this is that the political infuses itself with the concerns belonging to various domains (e.g. aesthetics, economics, morality), transforming those very concerns in the process. It is always present within said domains as the possibility of antagonism. This wards off depoliticization.

Direct rel. politics-ethics	Definition
<i>Fixation</i>	Politics is derived from an ontological/normative domain; there is no political
<i>Friction</i>	Politics needs ethics, but political reality resists ethics; a hero is needed
<i>Isolation</i>	Politics is completely separate from ethics
<i>Immanence</i>	The political exists within ethics and other life domains as (the possibility of) antagonism

As we explore the four direct relations, the conditions that allowed the reversal that occurred between Kant and Schmitt to take place will gradually come into view. That will in turn shed light on the question whether ethics itself has something to contribute to both depoliticization critique as such and the problems posed by depoliticization more generally. Certainly, ethics can only make this contribution if and when

²⁶⁷ There are many different sides to Schmitt. See Arditì (2008) for an account of ‘Schmitt contra Schmitt’ and the choices to be made in privileging one of his sides.

it avoids making politics reducible to moral first principles²⁶⁸. In my terms, such a reduction would amount to fixation, which as stated is a mode of depoliticization. There is thus no room for any theoretical exercise in which the political is straightforwardly derived from universal morality. Ethics, if it is to be useful for our purposes, should instead provide a way to resist the ontologizing force of first principles. The aim of this chapter is to explore various attempts to achieve such resistance.

3.1 Fixation

As we saw in the first chapter, the term foundationalism is often critically invoked to describe a situation in which politics in the true sense is not possible. Yet in the face of the complete vanishing point of the autonomy of the political that fixation represents, foundationalism is still too neutral a concept. Foundationalism implies a duality: a foundation and something that stands on top of it (a ‘superstructure’), which implies a strong form of dependence but still at least a semblance of autonomy. However, as we will see, the force of ontological and material normative givens²⁶⁹ completely obliterates any autonomy. Politics is affixed to an external domain – ontology or normativity – and is asphyxiated by it. I take fixation to be identifiable by three criteria. The first is the invocation of a ‘given’ that is directly available and therefore necessarily logically prior to politics. Second, what is given is taken to be immediately relevant to politics. Third, this directly available and immediately relevant given places an absolute constraint upon politics, so that the latter in effect ceases to have any existence of its own. This non-existence of the political *qua* political is what we will take fixation to mean.

In the first chapter I described the problem which was then still called foundationalism. The example used was that economic determinism promises to form a foundational structure in comparison to which politics can at most be a superstructure. Moral factors can equally be invoked to institute first principles from which politics can directly be derived. Moral principles here play the role of a fixating ontology. Politics can be put in its ‘proper place’ either by the invocation of factual

²⁶⁸ cf. Fagan 2016, 7

²⁶⁹ Schedler 1997; as opposed to procedural normative givens. We will consider two forms of proceduralism in the next chapter.

constraints, as in the case of economic determinism, or by the invocation of absolute normative constraints, or both.

In cases where fixating constraints are ontological in nature, they describe an underlying structure of reality that conditions with absolute force what can be allowed to follow from it. That means that politics is put in its place in an absolute sense, lacking any resources to deviate from the deep patterns of reality. When fixating constraints are normative in nature, the specificity of politics is made subservient to moral concerns, so that material normative givens function in much the same way as the factual constraints invoked by ontological concerns. In parallel to the case of economic determinism, if we assume the validity of a set of ethical first principles and an adequate philosophical insight into these principles, any policy can be tested against the principles of such insight.

The force of both ontological and normative constraints upon politics is absolute, since neither allows for any form of legitimate deviation or contestation within the domain over which they range. Again, given sufficient knowledge of reality and a case that is directly relevant to the domain of reality that is sufficiently known, there is in a quite literal sense no “space-against” from which to deviate or contest²⁷⁰. The same applies to insight into moral first principles²⁷¹. This absence of space is the result of the vertical orientation of what is ontologically or normatively given vis-à-vis politics and the absolutely forcing nature of this given. The weight of this given is so infinitely large that it seems difficult to find a justification for distinguishing politics from ontology and morality, respectively. Its gravitational pull completely dominates the politics that supposedly orbits it, but actually has been incorporated into it and can no longer claim a reality of its own. It is completely affixed to and fixated by what is given.

²⁷⁰ Abensour 2011, 94

²⁷¹ There is perhaps even more force to such first principles than to causal laws. Deviation from or contestation of causal laws is unwise in the sense that it is founded on a mistaken view of reality, but deviation from or contestation of true first principles is immoral. This can be seen as a more fundamental error as there is potentially less scope for other factors to come into play. Even given an identical understanding of factual reality, it is possible to disagree on what is to be done, for instance based on differing moral norms. Conversely, some, though not all, forms of morality are insensitive to considerations of fact.

In order to illustrate the inner workings of fixation, I here discuss Rousseau's general will, which blends absolute factual and normative constraints. While it is not properly speaking a moral concept, the factuality and direct availability of the general will has an absolute moral force to it. In later authors, from Kant onwards, the relevant moral concepts are more straightforwardly moral²⁷². Their function remains the same as in Rousseau, however: a factual presence that is directly available to every reasonable person, at least in principle, and founds and constrains politics in an absolute sense.

3.1.1 Rousseau's openings and closures

The philosophical giants Rousseau, Kant and Nietzsche, all of whom we will discuss here, are double-edged theorists from the perspective of depoliticization critique. In particular, Rousseau can serve both as the first modern example of depoliticization critique and as a notorious exponent of fixation. It can seem as if Rousseau tried to free up ontological space by making human nature subject to historical change and placing the possibility of human action, and indeed its centrality, at the forefront of his philosophy²⁷³, only to clamp down on the ensuing opening once and for all. In particular, Rousseau deprives the figure of the 'natural man', which had been central to social contract theory before him, of its factual nature.

Let not then my readers imagine that I dare flatter myself with having seen what I think is so difficult to discover. I have opened some arguments; I have risked some conjectures; but not so much from any hopes of being able to solve the question, as with a view of throwing upon it some light, and giving a true statement of it. (...) For it is no such easy task to distinguish between what is natural and what is artificial in the present constitution of man, and to make oneself well acquainted with a state which, if ever it did, does not now,

²⁷² Utility, for instance, serves a similar purpose: it is a combined fact/norm that directly determines political decisions.

²⁷³ Neiman 2002, 44-46; Marquard 2007, 101; Wokler 2001, 56-69.

and in all probability never will exist, and of which, notwithstanding, it is absolutely necessary to have just notions to judge properly of our present state. (Rousseau 2002, 82)

The effect of this ‘retreat of nature’ and its replacement by conjecture is that politics is freed from the necessity of complying with an absolute moral or ontological foundation. Rousseau goes further than this, by setting in motion his own account of human nature. This is the work of his notion of perfectibility, which refers to the capacity for contingent human self-improvement but equally the ability for imperfection, as evidenced by societal corruption according to Rousseau²⁷⁴. Finally, Rousseau unmasks the likes of Thomas Hobbes as spinning a false (in a later vocabulary: ideological) philosophical tale in the service of specific societal interests, keeping everything in its current place²⁷⁵. This act of unmasking is of course a form of depoliticization critique.

Rousseau’s European writings can be said to represent a middle stage in the development of his views on the relation between politics and ethics. Rousseau, responding to the Abbé de Saint-Pierre’s *Project for Settling an Everlasting Peace in Europe* [*Projet pour rendre la paix perpétuelle en Europe*] of 1712, sympathizes with the ideal of European federalization but cautions that bringing it about would require “violent means from which humanity must needs shrink²⁷⁶”. That being said, Rousseau believes the constant (threat of) war between European “nations politically divided” is offset by certain formal confederations – various leagues within and between nations that have a place in European history – and in other confederations,

“less visible but none the less real, which are silently cemented by community of interests, by conformity of habits and customs, by the acceptance of common principles [...] (...) Thus the Powers of Europe constitute a kind of whole, united by identity of religion, of moral standard, of international law; by letters, by commerce, and finally by a species of balance which is the inevitable result of all these ties (...); [the] concert of Europe (...). (Rousseau 1917, 40)

²⁷⁴ Rousseau 2002, 96-98; Wokler 2001, 58

²⁷⁵ Wokler 2001, 52

²⁷⁶ Rousseau 1917, 111-112

There is thus a kind of directly available unity that is counteracted by existing interests. One assumes that these interests in turn motivate the wars that Rousseau thinks of as ceaseless. It is clear that they counteract the would-be cosmopolitan direction of Saint-Pierre's project, and that is Rousseau's reason for finally rejecting that project as wise in principle, but ill-considered in practice. In the end, too many particular wills would have to be overridden by revolution, and uprooting society in this way is a price Rousseau thinks we should not be willing to pay.

In *Du Contrat Social*, Rousseau formulates his concept of the general will, which signifies Rousseau's closure of politics. He had written in favor of a federal Europe six years earlier, but his 'mature' political thought appears much more hardened than this quite cautious European plea. Referring back to our own analysis of European politics in the second chapter, Rousseau is often seen an archetypical proponent of input legitimacy²⁷⁷. This is precisely because of the concept of the general will, which is a will shared by all and in that sense reflective of the will of the people, as input legitimacy requires. However, this very same concept makes clear that appeals to the will of the people are perilous in nature; both in its claim to represent the people as a unitary and self-enclosed entity and in the implications that can be drawn from the people's support, which is supposed to provide a strong basis for legitimacy. Rousseau uses the general will as the *fait accompli* that allows him to forget about the respect he once had for the difficulties of European federalization.

The crucial factor in terms of fixation is that the general will identifies the common good and is the real will of all, in the sense of their well-considered interest. In some situations this must mean that we move beyond the realm of empirical wills and real consent: a conclusion explicitly drawn by Rousseau. He moves into the threatening ideal space of authoritarian imposition of rule on others for the supposed good of those very others.

So that the social pact not be a pointless device, it tacitly includes this engagement, which can alone give force to the others—that whoever refuses to obey the general will shall be constrained to do so by the whole body; which means nothing else than that he shall be forced to be free; for such is the condition which, uniting

²⁷⁷ Scharpf 1999, 16n; Schmidt 2006, 21

every citizen to the fatherland, protects him from all personal dependency, a condition that ensures the control and working of the political machine, and alone renders legitimate civil engagements, which, without it, would be absurd, tyrannical, and subject to the most enormous abuses. (Rousseau 2002, 166)

There are good internal reasons for this authoritarian intervention at the heart of Rousseau's philosophy. Rousseau claimed that doctrines like natural law and natural rule functioned in contemporary society as tools of abuse and sought an alternative that would carry with it the guarantee that sovereignty would not be imposed by one group on another, but would instead represent the rule of all by all. This is why Rousseau centers on the human will shared by all, the general will, as the solution to his problems²⁷⁸. But in making this move from particular wills and even the sum of particular wills, which he calls the will of all and explicitly differentiates from the general will²⁷⁹, Rousseau marks the danger involved in postulating a notion of the common good as the finality of politics, in terms of our political cases against ethics. The notion that the deviant will be "forced to be free" gives expression to the violence inherent in an order that has to suppress a particular kind of subjectivity; and not only that, but all of politics. The general will is already known to all, and directly available at all times: it is indestructible, so that even under conditions of complete corruption everyone will know what is to be done, even though they will perhaps "elude" this insight²⁸⁰. Using the name of the common good, we presuppose the existence of the common as something that is readily available and thus able to ground the social without remainder²⁸¹.

²⁷⁸ Melzer 1990, 178

²⁷⁹ Rousseau 2002, 227-230

²⁸⁰ *ibid.*, 228

²⁸¹ The authoritarianism that is involved with imposing a common good on a particular group who may not share the supposedly universal ideal has been cited as a reason to reconsider the very distinction between input and output legitimacy as applicable to European politics. Hauke Brunkhorst calls it a "technocratic rebranding [*Umdeutung*] of the Rousseauian differentiation between the will of all and the particular will" (Brunkhorst 2014, 157). In other words, pretending that 'effective politics' is a potential way of securing (output) legitimacy already means leaving behind the realm of particular wills and real consensus.

The language of compulsion Rousseau employs in the context of discussing the general will suggests that if politics is to be anything other than ‘absurd’ and ‘tyrannical’ any deviations from the public good need to be forcefully corrected. This means that any concern for particular wills or private interests as such immediately vanishes as soon as a conflict with the general will occurs. The general will is thus posed as a moral finality of politics, which depoliticizes the whole political edifice by putting it in its proper place. This is all the more stunning since Rousseau's earlier work had set it into motion in a way that will find echoes in Carl Schmitt: Rousseau and Schmitt both offer a speculative account of human nature rather than an independent derivation. Later in the chapter we will see that this is an important strategy for avoiding the perils of fixation and depoliticization more generally. In addition, in the fifth chapter we will engage an alternative reading of *Du Contrat Social* by Bonnie Honig that points in almost the opposite direction. Still, our present reading has been most influential in terms of the effective history of Rousseau's political thought in general and the concept of the general will in particular.

Kant begins as a straightforward follower of Rousseau, subordinating politics under universal principle. But whereas Rousseau grew hardened in his later years and fixated politics by employing the concept of the general will, Kant's later work shows an ambiguity that begins to move away from fixation. We will therefore consider Kant as a sort of halfway house between fixation and friction. Kant's loosening of fixation occurs in his work on perpetual peace, where he aspires to a true cosmopolitanism beyond the bounds of Europe.

3.1.2 Kantian moral politics

Nothing could be more natural than to assign Immanuel Kant to the category of fixation. His ethics is infamous for being uncompromising, with the categorical imperative providing an absolute measure for the morality of any action, directing our empirical drives in a direction that we should unconditionally follow²⁸². Morality is in turn defined as the supreme principle of action, so that there is never a legitimate reason to deviate. In most of Kant's writings, the application of such unwavering

²⁸² Kant 2010a, 99

principles to politics seems rather straightforward. Like Rousseau, Kant favors a contractualist theory; like Rousseau, Kant sees the terms of the social contract as following from a “general (unified) will”²⁸³. His argument runs very swiftly here: legitimate right [*Recht*] is tied to law, and since a public law that conditions the legitimacy and illegitimacy of the acts of all persons is valid for everyone, it is necessarily the will of the people in its entirety, so that everyone in fact decides for themselves. For “only to oneself can one not commit an injustice”²⁸⁴. Legitimate right thus presupposes the form of a public law, which in turn presupposes a general will.

Interestingly enough, Kant goes even further than Rousseau in making politics independent from any empirical starting point. As we have seen in the preceding section, Rousseau politicized human nature by severing the relationship between ‘natural man’ and the ends to be achieved in politics: in fact, the nature of man is something to be achieved by political means. Rousseau later closes off this space by superimposing the general will onto it. Kant likewise abstracts from empirical conditions, but already begins to close his fist at the exact moment at which he opens it. The difference is that in Kant the general will itself directs the contract in completely ahistorical fashion. On his analysis, there is no handwritten contract that has been passed down to our present age and in that sense obligates us to honor its terms²⁸⁵. This is a potentially politicizing move: the absence of a handwritten contract means that politics cannot be restricted by any such document. However, for Kant, this absence is offset by the idea that the contract exists in another way and remains binding on all citizens. It exists as a “mere idea of reason [*bloße Idee der Vernunft*]”, which at the same time has its practical reality, since as the general will of the people, any political principle can be evaluated in terms of its *possible* correspondence to the will of the people²⁸⁶.

We have to take stock of the multiple depoliticizing effects that are occurring at the same time. First, we here see the reverse side of the abolishment of handwritten contracts, namely the return of enforceable terms as ideas of reason. Second, we see that any political principle that

²⁸³ Kant 1977, 143

²⁸⁴ *ibid*, 149

²⁸⁵ *ibid*, 152

²⁸⁶ *ibid*, 152-153

possibly corresponds to the will of the people is thereby deemed legitimate, so that a broad spectrum of principles is immediately set at a distance from political contestation. We have to add to this that, third, Kant specifies that the judgment about possible correspondence is only the ruler's to make²⁸⁷. There is no room for the people to contest any decision based on their own happiness or any other motive, since it is only legitimate right that has the potential to secure these conditions, so that obeying the law remains their duty²⁸⁸. Politics is thus circumscribed by principles that constrain it, which provide a broad basis of legitimation: and the decision about legitimacy is moreover restricted to the ruler alone.

So far, I have explored the extent to which Kant remains rooted in Rousseauian schemas. For both Rousseau and Kant, there is a higher-level principle which imposes itself on all and in that sense forecloses the possibility of politics. This is reflective of Kant's will to totalizing system, or, in another vocabulary, his enthusiasm²⁸⁹. In his writing on perpetual peace, however, Kant used an altogether different approach: that of irony, which opens a new register not only from the point of view of his own philosophy, but for depoliticization critique as a whole.

The first appendix to Kant's *Zum Ewigen Frieden* concerns our master problem, one that has the propensity to both feel like an antique puzzle and a pressing concern of the present: the supposed tension between morality and politics. Surprisingly enough, the strength of Kant's foray into this subject is the ambivalent fashion in which the appendix, and in fact the whole essay, is constructed. This does not only concern its textual contents. Kant makes clear that the title references a Dutch inn where 'Perpetual Peace' is painted above a graveyard. It is unclear, says Kant, whether this concerns the people in general, who never seem to tire of wars, or only the philosophers who dream sweet dreams of peace²⁹⁰. This sets the tone for the rest of the essay: Kant plays with the ambiguity of death being the only perpetual peace available to man, and philosophical attempts at establishing such peace leading directly to graveyards. Kant is invoking Leibniz, who had commented on Saint-Pierre's earlier proposal for perpetual peace, to be achieved through a

²⁸⁷ *ibid*, 153

²⁸⁸ *ibid*, 153-162

²⁸⁹ De Mul 1999, 10; 22-23

²⁹⁰ Kant 2010, 3

federalized Europe, by sarcastically remarking that he know of a graveyard with *Ewige Friede* written at the entry gate. Leibniz sarcastically proposes an alternative scheme to Saint-Pierre's: if every sovereign is required to deposit an enormous amount of money to be forfeited in case of war, peace will be guaranteed for all eternity. Leibniz's intended point is that this is as feasible as Saint-Pierre's proposal²⁹¹.

Kant uses the same ironic style in his attempt to vindicate an even bolder proposal than that of Saint-Pierre. In order to continue the ironists' game, Kant deviates from his usual analytic style that is characterized by a "marvelous dryness [*glaenzende Trokkenheit*]"²⁹². The change in writing style is connected to a fundamentally different philosophical attitude, which enables Kant to describe the relationship between politics and morality in a non-reductive way²⁹³.

Kant presents us with two approaches to this problem: the way of the self-stated 'practical man', whom Kant calls the political moralist, and the way of the moral politician. These two 'roles' are differentiated by the approach to politics they favor²⁹⁴. According to the political moralist, politics is a matter of prudential statesmanship [*Staatsklugheit*], that is to say a technical problem [*problema technicum*] that mostly requires knowledge of natural mechanisms²⁹⁵. From this perspective, Kant's ideal of peace is without substance [*sachleer*] since it is completely impracticable: for one, empirically existing mankind will never be able to constrain itself to its demanding terms²⁹⁶. On the contrary, for the moral politician politics is a matter of wisdom of state [*Staatsweisheit*], that is to say a moral problem [*problema morale*]²⁹⁷. Throughout Kant's *corpus*, he insists on the distinction between the causal determinism of the ('merely') empirical world and the domain of freedom and morality. In moral-political terms this means: either we force "a morality [*ein Moral*,

²⁹¹ Stråth 2015, 265. Voltaire resorted to a similar reaction to Saint-Pierre:

"Fortunately we only see a dumb portrait
Of the abbot [Saint-Pierre] in this room.
Because, if we had had the original
We would certainly have heard something foolish." (cited in *ibid.*)

²⁹² Schopenhauer 1977, 526

²⁹³ On the ontology of irony, compare De Mul 1999.

²⁹⁴ Kant 2010, 37

²⁹⁵ *ibid.*, 44

²⁹⁶ *ibid.*, 38

²⁹⁷ *ibid.*, 44

as opposed to *die Moral*]" into the straightjacket of already established political goals, or we make those same goals subservient to morality. According to Kant, political moralism entails a reduction of politics to technical-prudent statesmanship, which for him entails the denial that morality exists at all²⁹⁸.

If we follow Kant's conceptualization, the political moralist is mirrored in the moral politician. Does this suggest that, according to Kant and those who like him argue for moral politics, politics as such does not exist either, at least as something that is somehow separate from the moral domain? For Kant, the problem with the political moralist and his technical-prudent statesmanship is that he operates from the assumption that *only* empirical factors are available. If politics is the manipulation of causal mechanisms, and ideals are dismissed in advance as lacking substance, the way the world really works will impress itself on politics and force the latter's hand completely, leaving no room for deviation from what is given. This is of course a species of fixation. If starting out from the moral politician were to yield the same results, but in reverse, with the categorical nature of moral obligation completely determining the course of politics, we would be operating in the very same way. It would be a mode of fixation that is not rooted in what is given, but in the moral procedures that dominate the realm of empirical politics, thereby eliminating what could be regarded as specifically political. Yet Kant manages to avoid this result, at least to a large extent, by insisting on ambivalence.

It would be "absurd" [*ungereimt*], Kant claims, to "immediately" and "impetuously" [*mit Ungestüm*] make changes to a morally defective constitution before the new one is ready to take its place²⁹⁹. To require this kind of immediate shift would be to act contrary to the kind of politics that is in accordance [*einhellig*] with morality: what matters is that the maxim of approaching the perfectly moral constitution remains "most intimately attended to" by those in power [*innigst beiwohne*]³⁰⁰. For those intent on unmasking Kant as a moral absolutist and an advocate for fixation, this stance on politics is difficult to understand. Should morality not rise above empirical matters? Not necessarily: Kant says in general

²⁹⁸ Kant 2010, 35

²⁹⁹ *ibid.*, 38-39

³⁰⁰ *ibid.*, 38

terms that it must be “permitted” [*erlaubt*] to “delay” [*Verzögerung*] until a “more fitting opportunity” arises³⁰¹.

Kant consistently allows for such deference to factual circumstances. This in fact becomes part of the reason why *Staatsklugheit* has to be rejected as a fitting principle of politics: we do not know enough to determine whether peaceable conditions would be better served by repressing or by liberating the people, and history provides us with contradictory examples³⁰². The principle favored by Kant, *Staatsweisheit*, is far more direct in this sense.

[T]he solution of the second problem, that of political wisdom presses itself upon us, as it were; it is clear to everyone and puts to shame all affectation. It leads directly to the end, but, remembering prudence [doch mit Erinnerung der Klugheit], it does not precipitately hasten to do so by force; rather, it continuously approaches it under the conditions offered by favorable circumstances. (Kant 2010, 45)

Kant’s ‘moral politics’ is thus not fixated on either of the two domains. It cannot be reduced to empirically directed politics, but at the same time it distances itself from purely moral considerations. The symmetry between prudential-technical statesmanship and moral wisdom of state appears to be broken here. *Staatsweisheit* properly so called comprises both morality and something else, which we could call politics. On the other hand, the self-avowed ‘man of practice’ is completely beholden to empirical politics. However, this difference is itself generated by a deeper symmetry, which exists between conceiving of politics in purely technical terms and conceiving of it as a *problema morale*. The possibilities of the political moralist are in other words only limited because he himself had first imposed those limits on politics.

By insisting on the primacy of morality and subsequently relating the latter to political reality, Kant shows that to be moral politicians we must continually oscillate between morality and politics. But for Kant, this is only possible when we take morality as our point of departure. If we start out our journey as political moralists, we will never reach the shores of morality. Through this oscillation, the necessary and forcing

³⁰¹ *ibid*, 39

³⁰² *ibid*, 45

nature of the moral law is put at a distance, in the same way that the causal determinism of the empirical domain is not taken to be the final word of politics. In this sense, Kant's first appendix can be read as one of the first examples of depoliticization critique of modern times: 'authentic' politics cannot be reduced to the implementation of prior laws, whether these are causal or moral in nature. Instead, we must always chart our course in between the directives and values provided by both domains: Kant allows for a literal ambivalence on the intersection of morality and politics. Kant's playful use of his own conceptual apparatus (political moralist and moral politician) is ambivalent in the same fashion. More precisely put: at the same moment when, in the first appendix, he turns to matters that cannot be reduced to a single principle, Kant's philosophical prose changes from 'marvelously dry' to ambivalent and playful.

As we have already considered, depoliticization critique can itself have depoliticizing effects when it does not concern itself with ontology. From this perspective, Kant is perhaps still too deferential to pre-established moral necessities. This is notably the case on a point that Kant has in common with Rousseau: his complicated belief in providence. Kant cites the "somewhat boastful, but true" phrase *fiat iustitia, pereat mundus* [let there be justice, even if the world should perish]. Kant claims that the correct interpretation of this phrase is *not* "the permission to use one's right with extreme rigor (which would conflict with ethical duty)"³⁰³. Such rigor would indeed threaten a complete reduction of politics to ethics. The phrase should instead be interpreted as "the obligation of those in power not to limit or to extend anyone's right through sympathy or disfavor"³⁰⁴. That is, legal relations conforming to the principle of right must be established both within the state and between states; and this must be done regardless of what the physical consequences will be. Kant adds force to this last claim by saying: "the world will by no means perish by a diminution in the number of evil men". This surprising addition runs parallel to Kant's own preferred translation of *pereat mundus*: "let justice reign, even if all the rascals [*Schelme*] in the world should perish from it"³⁰⁵. The idea that instituting the principle of

³⁰³ *ibid*, 46

³⁰⁴ *ibid*

³⁰⁵ *ibid*, 46-67

right has negative consequences for ‘evil men’ and ‘rascals’ is premised on Kant’s formulation of providence:

Moral evil has the essential [von seine Natur unabtrennliche] property of being opposed to and destructive of its own purposes (especially in the relationships between evil men); thus it gives place to the moral principle of the good, though only through a slow progress. (Kant 2010, 47)

There are thus some fundamental issues that cannot be addressed within the Kantian framework: the moral finality of politics points in a particular direction, and although a certain leeway is possible, as we have seen, politics can only arise on the level of implementation. On the conceptual level of the principle of perpetual peace itself, and the other principles that Kant derives, such as the importance of individual freedom and its compatibility with the freedoms of others, the force of reason cannot be resisted and moves with the inexorable force of providence³⁰⁶. That element of Kant’s political work makes him into a double-edged theorist: because of the very vantage point from which he criticizes the depoliticization of his time, he himself becomes guilty of a form of depoliticization. This should not take away, however, from Kant’s lasting importance in showing that morality need not *one-sidedly* result in depoliticization. Kant’s first appendix shows that morality can point us in the other direction, since it can function as part of a politics that distances itself from purely technical ‘problem management’. And he shows the playfulness and the willingness to oscillate between different domains that such distancing requires.

Both Rousseau and Kant take for granted a certain moral horizon; whether the general will or the categorical imperative is invoked, that horizon itself can never itself be questioned and is accepted as given. In Kant’s phrase, it presses itself upon us. After Nietzsche, such givenness would no longer be an option. This in turn, and crucially, entails that

³⁰⁶ compare *ibid*, 48: “Providence in the course of the world is hereby justified (...) [*Die Vorsehung im Laufe der Welt ist hiebei gerechtfertigt*]”. Kant puts this assertion in the mouth of the political moralist, but his problem with the statement seems to be mostly that the creation of the world cannot be justified in the same fashion, which makes the whole pattern of reasoning appear as a “questionable inference” (*ibid*). But the providential status of the world itself is entirely consistent with Kant’s view of slow moral progress in human history.

there can be no more fixation. We turn to his *Genealogy of Morals* to see what this entails and what Nietzsche puts in its place.

3.1.3 Nietzsche against givenness

Nietzsche's analysis reveals man as a being that has gradually immersed himself in a history of self-transformation; and this history is simultaneously the history of responsibility³⁰⁷. In order to become trustworthy and own up to promises – in order “to be allowed the making of promises” – he needs to be able to speak well of himself, to ensure the continuity of will between present and future. This is considered as a right to responsibility by those who have earned it because of the pain involved in earning the privilege. Man has to become “calculable, regular [*regelmässig*], necessary; also to himself”. This goes against the nature of man, which includes an essential forgetfulness. Nietzsche understands this as an active capacity of mankind, as it enables one to move forward into the future³⁰⁸. In order to become responsible, something has to be opposed to this forgetfulness: to put it briefly, pain and torture. “With the help of this kind of memory device, one finally came ‘to reason!’”³⁰⁹ This is specifically connected to Kant's moral philosophy.

The whole sphere of obligations and rights (...) has been watered, like the beginning of everything that is great upon the earth, thoroughly and for a long time, with blood. And might one add, that this world has fundamentally never really shed a certain smell of blood and torture? (even not with the old Kant; the categorical imperative reeks of cruelty [Grausamkeit])” (Nietzsche 2009, 55)

Bad conscience is the malady that results from the fundamental change in the history of man: his becoming beholden to society and peace. There is now no external enemy or resistance, no possibility for action in the sense of the lords of old, whose virtue lay in externalizing qualities. The old drives, which can no longer discharge themselves

³⁰⁷ *ibid*, 47

³⁰⁸ *ibid*, 46-47

³⁰⁹ *ibid*, 51

towards the outside, turn inward: Nietzsche calls this the interiorization of man³¹⁰. “The terrible strongholds, with which stately organisation has protected itself from the old instincts of freedom – especially punishments belong to these strongholds – bring about that all said instincts of wild, free, roaming people have turned inward, against the man himself.” Nietzsche uses the image of man “pushed into a pressing narrowness and regularity of morals”, pursuing himself, gnawing at himself like a wild animal in a cage: in short, suffering from himself³¹¹. Then, unannounced, the undercurrent that has been present throughout Nietzsche’s genealogy comes to the fore. Having repeatedly expressed his admiration for the artistic creativity and organizing capacity of the lords, he now likens the moralists to them, saying that they have the same “active power” as the lords, only turned inward: this power expresses the instinct of freedom or the will to power, it is “rich in future” and represents the “great promise” of mankind³¹².

This affirmation of the moral position is present in part as anticipation of what is to come. Future man, for Nietzsche, is beyond bad conscience not only in the sense that, like the lords of old, he does not hear a restrictive and self-chastising inner voice, but also because, in this respect rather unlike the lords, he is not susceptible to the cunning and subtle workings of slave morality. But we can already take action and leave *ressentiment* behind in the present: Nietzsche even produces a mock-categorical imperative in order to ‘filter out’ resentment. The thought of eternal recurrence provides this filter by providing an “ethical perspective” on life³¹³. What does the idea of reliving one’s life have to do with *ressentiment*? If we consider the way Nietzsche ‘thinks’ eternal recurrence in *The Gay Science*, as “the greatest weight” as he puts it, we are able to see the point. We are asked to imagine ourselves in the company of a demonic visitor, who tells us:

“This life as you now live it and have lived it, you will have to live once more and innumerable times more; and there will be nothing new in it, but every pain and every joy (...), all in the same succession and sequence (...), even this moment and I

³¹⁰ *ibid*, 76

³¹¹ *ibid*, 77

³¹² *ibid*, 77-78; 80

³¹³ Honig 1993, 58

myself. The eternal hourglass of existence is turned upside down again and again, and you with it, speck of dust!" (Nietzsche 2010, par 341)

The key to understanding the relevance of this scenario is in our response to it. "Would you not throw yourself down and gnash your teeth and curse the demon who spoke thus? Or have you once experienced a tremendous moment when you would have answered him: 'you are a God and I have never heard anything more divine.'"³¹⁴ These two ways of responding correspond to two ways of relating to one's past: "vengeful rage" in the mode of *ressentiment*, and affirmation³¹⁵. Nietzsche is suggesting that only the tremendous moment would enable us to affirm ourselves and our pasts truly. Even if we have never known such a moment, eternal recurrence functions as a test and helps us to identify whether *ressentiment* is chaining us to our past and making us its vengeful slaves. But this is not all: Bonnie Honig emphasizes the *transformative* nature of eternal recurrence. Nietzsche indeed notes that "the question in each and every thing, 'Do you want this again and innumerable times again?' would lie on your actions as the heaviest weight!"³¹⁶. This addresses the function of eternal recurrence as a hypothetical situation we can confront ourselves with at all times, but particularly when considering an action. This is what an ethicist would call the 'action-guiding' character of eternal recurrence. Again, even if we have never known a tremendous moment of the kind Nietzsche has in mind, we can think of ourselves as having already performed a certain action and 'run the test' to see if we *should* perform it. If the action's effect would leave us more resentful than we are now, we should abstain; if they would help us to affirm ourselves and the world, or bring about the elusive tremendous moment we should commit to it. Honig sums up the account as follows:

[Eternal recurrence] is a new kind of responsibility, the old one wrested from the hands of those who wielded it as a weapon, re-covered and turned into an expression of man's affirmation of the world and himself as they are, as pieces of contingency

³¹⁴ Nietzsche 2001, 194

³¹⁵ Honig 1993, 57

³¹⁶ Nietzsche 2001, 194

(...) that sometimes become splendid, if momentary, testaments to human creativity and power. (Honig 1993, 60-61)

The reference to human creativity signifies the place of eternal recurrence within a project that is diametrically opposed to the wish to make ourselves responsible subjects in the old sense (making ourselves calculable, regular, necessary). The moralist is concerned with an image of universal man as he should be. That is the realm of the general will and the categorical imperative; of universality that dreams of leaving the particular behind for good. Responsibility in that sense is the hard-won, painful achievement of being able to speak well of oneself as a moral subject. In the creative sense, however, responsibility signals the self-discipline required to “survey all the strengths and weaknesses that their nature has to offer and then fit them into an artistic plan until each appears as art and reason and even weaknesses delight the eye”³¹⁷. Responsibility now appears as a process of self-discipline serving in a creative project of individual self-fashioning.

For Nietzsche, this idea of responsibility is connected to a ‘European’ perspective. Instead of speaking of a federal Europe (Saint-Pierre) or a European *Volkenbund* (Kant), however, Nietzsche focuses on persons: good Europeans. In one sense, the good European is a full rejection of the “nationalism and race hatred” that Nietzsche sees around him, where ‘German’ has come to mean “to be able to take pleasure in the scabies of the heart and blood poisoning that now leads the nations of Europe to delimit and barricade themselves against one another as if it were a matter of quarantine (...)[;] petty politics, (...) petty states”³¹⁸. For Nietzsche, this nationalism is ultimately rooted in Christian ideas that affect all nations of Europe: the value judgments that have defined the various traditions of the continent. But if we truly apply the strictness that these values teach us, we can become “good Europeans and heirs to Europe’s longest and bravest self-vanquishing”³¹⁹. Nietzsche describes the final step of nihilism as the ability to overcome nihilism itself. As we have seen him describe in the *Genealogy of Morals*, it is ultimately the interiorization of man that creates the possibility of going beyond slave morality. Similarly, abstract ideals, including abstract ideals of Europe,

³¹⁷ Nietzsche 2001, 163

³¹⁸ Nietzsche 2010, par 377

³¹⁹ *ibid*, par 357

were historical stages that were required for us to move beyond them. That is ultimately why Nietzsche addresses Europe and not the world: nihilism remains for him a European experience, but it is no more than “a pathological transitional stage (what is pathological is the tremendous generalisation, the inference that there is no meaning at all)”³²⁰. The counterpoint is that this meaning has passed beyond the idea that it needs to be given in some sense, whether by a God or by systematic philosophy. Instead, it needs to be created and left open. The present European Union, in arguing for a truth that is more fundamental than an earlier truth (the era of the nation-state is over, enter the EU), qualifies as “incomplete nihilism” in this sense, still operating in the scheme of the “will to truth” that had run through Christian and scientific ways of seeing the world³²¹. In our terms, it is a form of localized depoliticization critique.

Going beyond the will to truth of the ‘more real’ European level as opposed to the nation-state level entails refraining from postulating an ideal European identity that is in some sense ‘more real’ than, for instance, national identity. Instead, the highest value of the ‘good European’ shifts from truth to freedom, and the possibilities that lie beyond the will to truth are experimental in nature, without any fixed notion of Europe at the far end of experimentation: in our terms, without moral finality. This lack of an ideal of what counts as ‘good’ is precisely what makes for the ‘good European’, on Nietzsche’s view³²². In complete nihilism, one goes beyond the loss implied by nihilism and the waning of old ideals, into the new dawn of unconstrained possibilities.

Let us take stock of the helpful and unhelpful aspects of Nietzsche’s thought for the purposes of depoliticization critique. Nietzsche’s shattering of fixation and his idea of eternal recurrence allows politics to emancipate itself from material and normative constraints to political decision, because affirming the past is a creative exercise that fits into an artistic enterprise of selecting, fitting, interpreting, self-fashioning. His views on Europe clearly shows this. There are no ontological mechanisms to make our political decisions for us. We have to do it ourselves: and we have to ask ourselves at every point whether the action we are about to take reflects the kind of politics we want to be a part of, the

³²⁰ Quoted in Elbe 2003, 93

³²¹ Elbe 2003, 86-87; 90

³²² *ibid*, 90

kind of society that we want to achieve. As is the case for the individuals considered by Nietzsche, full affirmation will probably be reserved for the 'superhuman' overman.

A fundamental problem with this approach, at least for our purposes, is that Nietzsche's reboot of responsibility is necessarily centered on the individual: while we can metaphorically apply his categories to political contexts, we cannot treat the political as if it were the realm of macro-individuals. We will consider this point in more detail when we survey the ideas of Max Weber in the context of friction, our second direct relation between ethics and politics. As a second potential problem, Nietzsche's aesthetic approach contains the risk of reducing politics to an exercise of artistic self-fashioning, which is antipolitical in that politics is reduced to following an idea of what is beautiful or otherwise aesthetically accomplished³²³.

3.2 Friction

Nietzsche has shown us how, as ontology and universality retreat, ethics and politics increasingly occupy the foreground. Morality itself is revealed as a historical construct with no special claim to ontological or normative status. Arguably, this only entails an increase in individual responsibility: precisely because there are no given values for us to hold on to or to fixate our politics, it becomes of decisive importance for us to make our own. Since fixation is no longer an option now that we have moved past the givenness of normative and factual constraints, we need to look for alternatives.

We have seen how Nietzsche positioned himself in relation to Kant. He is also pivotal in understanding the reversal that occurs between Kant and Schmitt, since Nietzsche had an enormous influence on Schmitt's teacher Max Weber, as well as influencing Schmitt directly. The Nietzschean insistence that values are not given leads both Weber and Schmitt to conclude that they are posited. Weber moreover inherits the Kantian distinction between the technical and non-technical aspects of politics, which he is able to consider without recourse to the givenness of a moral horizon. This means that in his *Politics as a Vocation* [*Beruf zur Politik*], Weber conceptualizes the relation between

³²³ cf. Schedler 1997, 4

ethics and politics without relying on fixation. I will therefore analyze Weber as an illustration of friction, the second of my four direct relations between ethics and politics. Friction revolves around the idea that morality is important to politics, but cannot be directly implemented (which would take us back to fixation) because political reality is of a different kind than the moral universe and thus ‘resists’ moral norms³²⁴. This means that either ethics or politics will have to be transformed in order for politics to become moral: a monumental task that includes the risk of fixation if it ever were to be completed.

3.2.1 Friction in *Politics as a vocation*

Weber’s central notion *Beruf* is ambivalent, translating as both ‘profession’ and ‘vocation’. It is used in different ways throughout Weber’s work: as the devoted professional [*Berufsmensch*], as the ‘personality’ [*Personalität*], the charismatic individual, and the ‘genuine politician’ [*Berufspolitiker*]³²⁵. The latter, political, category is closest to our concerns, but because the dynamic between rationalization and *Beruf* is consistent throughout Weber’s work the underlying tension between the two can be analyzed in a more general sense through this particular avenue. Like Nietzsche, Weber attempts a genealogy of modern subjectivity; also like Nietzsche, he grants a starring role to asceticism. For both thinkers, this asceticism has an initial effect of withdrawing or internalizing, which then, quite paradoxically, leads to a transformed outside world. This internalization can even turn against its own fundamental commitments. Nietzsche had analyzed how the spirit of Christianity had persisted in modern science, so that it even became necessary to do away with the God hypothesis entirely. But the will to truth persists through this development and is even apparent in analyses of European politics as ‘more real’ than the politics of the nation-state. Weber describes a similar development of internalizing processes turning on themselves in terms of rationalization and disenchantment. His narrative follows the puritans’ turn towards ‘good works’ and their subsequent identity as *Berufsmensche*, as the toil of work in religious devotion became the only

³²⁴ cf. Habermas 2017, 88 who speaks of a reality “resistant” to norms [*widerständige Realität*].

³²⁵ Weber 2016, Weber 1985, Weber 2012; cf. Kim 2012

way to work toward one's salvation. This meant that asceticism went "from the monks' cells to professional life and began to dominate inner morality [*innerweltliche Sittlichkeit*]"³²⁶. This in turn meant that the ascetic drive of the puritans helped to construct the technical and economic conditions of the ordered society that determines, "with overwhelming force", the lifestyle of all individuals that are born into this machinery³²⁷. Weber continues:

In Baxter's [puritan] view the care for external goods should only lie on the shoulders of the 'saint like a light cloak, which can be thrown aside at any moment.' But fate [das Verhängnis] decreed that the cloak should become an iron cage³²⁸ [ein stahlhartes Gehäuse]. (Weber 2016, 171)

External goods, which had first assumed their meaning as intermediaries on the way to salvation, thus increasingly came to dominate both the internal and external lives of all, in Weber's analysis. But, and this is another similarity to Nietzsche, a certain 'practice of the self' becomes both the drive of the main problem – the possibility of meaningful action in the context of rationalization – and Weber's main hope. He consistently points out two directions into which we are pulled, inward or outward, at the expense of its opposite: most of us are "sensualists without heart", "specialists without spirit", or idealistic "airheads" [*Windbeutel*]³²⁹. All of these are different registers of powerlessness. Weber sees an alternative conception, which he uncovers through his genealogy: the "unbroken whole" of subjective value and objective rationality³³⁰. In political terms, this requires a true leader, and even a hero³³¹. The two directions into which we are pulled according to Weber are represented by what he calls the ethic of conviction [*Gesinnungsethik*] and the ethic of responsibility [*Verantwortungsethik*]: their unity is the mark of the "genuine human being" that can have the "call to politics"³³².

³²⁶ Weber 2016, 171

³²⁷ *ibid*

³²⁸ "casing as hard as steel" is a better translation, but 'iron cage' has become the dominant one. Cf. Strong 2007, xxx

³²⁹ Kim 2012; Weber 2012, 80

³³⁰ Weber 1978, 319

³³¹ Weber 2012, 82-83

³³² *ibid*, 81

What is it to be called to politics? An important first step is that politics presupposes the state, a point that Schmitt will later reverse. Weber briefly discusses, but quickly dismisses such “wide” notion of politics as are involved in, for instance, the politics of banks and marital life³³³. He instead understands politics as “the governing [*Leitung*] or the influencing of governance of a political community, (...) hence, a state”³³⁴. This leads him to a definition of the state as “that human community, which (successfully) claims for itself the monopoly of legitimate physical violence within a certain territory (...)”³³⁵. Nietzsche’s influence can be felt here, since for Weber, legitimacy is an act in the sense that it has to be brought about actively; it is not a reflection of a pre-existing normative realm³³⁶.

Furthermore, Weber harks back to Kant when he differentiates between the “political official” [*Beamte*] and the “element of the politician”, which is most visible in the “political leader” [*Führer*]³³⁷. The official is expected to be “impartial” [*unparteiisch*] and is involved with “administration” [*verwalten*] rather than politics properly so called³³⁸. Weber elsewhere typifies this kind of administration as involving trained professionalism [*fachgeschulten Beamtentums*], bureaucracy and “purely technical” factors in the history of state formation³³⁹. We here recall Kant’s political moralist and the general conception of politics as presenting problems of a technical nature. However, for Weber the contrary position is not that of the moral politician, at least not as Kant would have used that term. For Kant, there was still an overarching moral framework that could be invoked to put politics in its place. Nietzsche has cut off direct access to such a framework, however. For that reason, and consistently with his equation of legitimacy and the successful claim of legitimacy, Weber sees absolute moral principles as belonging to a realm that is separate from life itself: Weber’s own time knows only the struggles of different such principles among themselves.

³³³ *ibid*, 5

³³⁴ *ibid*

³³⁵ *ibid*, 6

³³⁶ *ibid*, 7: “ (...) legitimate (that is, seen to be legitimate) (...)”.

³³⁷ *ibid*, 32

³³⁸ *ibid*

³³⁹ *ibid*, 21; 21; 22

So long as life remains immanent and is interpreted in its own terms, it knows only of an unceasing struggle of these gods with one another. (...) The ultimately possible attitudes toward life are irreconcilable, and hence their struggle can never be brought to a final conclusion. Thus it is necessary to make a decisive choice. (cited in Wolin 1981, 403)

This so-called ‘warring gods thesis’ is connected to Weber’s view of the real politician and the political leader. The political official does his task “*sine ira et studio* – without anger and bias [*ohne Zorn und Eingenommenheit*]”³⁴⁰. However, “partisanship, battle, passion” [*Parteinahme, Kampf, Leidenschaft*] are “the politician’s element”³⁴¹. Weber himself believes that both perspectives are important: the complexity of contemporary society requires a certain *Beamtentum*, but Weber rejects governance by officials alone [*Beamtenherrschaft*] on multiple occasions³⁴². This means that both perspectives are always in play: politics is simultaneously, albeit in different aspects, about technical decision-making by trained experts and decisive choices that are put into action by passionate leaders without being fully covered by underlying criteria. As in Nietzsche, it is the act that counts in that latter aspect: in this case, the act of decision.

Importantly, this does not mean that the politician should aim for indecision, or that he should waver between the mode of the political official and that of the leader. The task is always to achieve unity – the unbroken whole of subjective value and objective rationality we mentioned earlier. How does the politician do this? It is a hard and perhaps impossible task, but Weber’s answer involves a combination of the ethic of conviction and the ethic of responsibility. Involving ethics with politics carries the risk of playing an “ethically highly fatal role” [*sittlich höchst fatale Rolle*]³⁴³. For ‘ethics’ can be employed to seek out a guilty party afterwards or to legitimate a certain course of action after the fact, selecting particular “grounds” which justify such judgment³⁴⁴. Weber associates this with “old wives”, “unchivalrousness” [*Unritterlichkeit*], and, most notably, the sanctimonious tendency to pronounce one’s own case

³⁴⁰ *ibid*, 32

³⁴¹ *ibid*

³⁴² *ibid*, 33; 57–58

³⁴³ Weber 2012, 66

³⁴⁴ *ibid*

and oneself as ‘correct’ [*pfäffische Rechthaberei*]³⁴⁵. The politician should not be concerned with this idle game of seeking to justify oneself in the past: rather, he should try to bear responsibility for the future³⁴⁶. This comes very close to Nietzsche’s critique of *ressentiment* as vengeful rage directed at the past, but Weber advances his critique of ‘moralism’ in political rather than psychological terms.

The true relationship between politics and ethics is thus not one of grounding or “decreeing”³⁴⁷. This is impossible because it is not the case that good actions always lead to good outcomes, and evil actions to evil outcomes. According to Weber, the whole structure of theodicy is designed to come to terms with this fact: good actions can lead to evil outcomes, and evil actions to good outcomes³⁴⁸. The ability to successfully grapple with such riddles in concrete situations is the mark of the true politician. He has to come to terms both with the aforementioned ethic of conviction, which in religious terms says: “the Christ does right and the consequences are up to God”, and the ethic of responsibility, which emphasizes that one has to reckon with the consequences of one’s actions³⁴⁹. This implies that any ethical order that attempts to establish itself through political means has to reckon with the factual requirements that are attached to the ideal. “Bringing forth absolute justice on the world” requires a following: the necessary “human machinery”, who require certain premiums, whether of this world or of a more spiritual kind. This necessity makes the leader fully dependent on the motives of his following, as distinct from his own. What the cosmopolitan finally achieves, is therefore not in his own hands, all the more since even the most devout follower is apt to use the leader’s cause as a cover to legitimate baser motives, in the sense outlined above³⁵⁰. This means that involving oneself with politics and the violence it entails – recall Weber’s definition of politics – means signing a pact with “devilish powers”³⁵¹. Maurice Merleau-Ponty would later call this orientation on value which in turn depends on a ‘resistant’ reality the “curse of politics”³⁵². At

³⁴⁵ *ibid*, 66–67

³⁴⁶ *ibid*, 67. This can seem like a rather frivolous attitude towards past wrongdoings.

³⁴⁷ *ibid*, 73

³⁴⁸ *ibid*, 73–74

³⁴⁹ *ibid*, 70–71

³⁵⁰ *ibid*, 77–78

³⁵¹ *ibid*, 78

³⁵² “We have never said that any policy which succeeds is good. We said that in order

the same time, it is always possible to find oneself authentically unable to act in a certain way for reasons of conviction, regardless of the consequences³⁵³. According to Weber, then, we need both conviction and responsibility in politics, but it is impossible to say which is more important, or in which circumstances one should prevail over the other³⁵⁴. To have the *Beruf* for politics is to stand inside of the resulting paradoxes, and it requires one to reach for the impossible ideals: that in turn, as we have seen, requires not only a leader, but also a hero³⁵⁵. This is a high bar to set, and it is motivated by the idea that political reality somehow resists ethics, even though the latter is important to the former.

This account of ‘resistance’ and the heroism needed to overcome it show what is at stake in friction. Ethics and politics come into contact with each other, but not in a harmonious way; they collide with each other and this collision must result in some kind of impact. Friction in my sense requires that politics and ethics are brought into relation with each other, and also that through this contact one or both of the terms of the relation are transformed in some way. Either ethics changes once it is successfully brought into contact with politics (the hero answers to a different ethics), or politics changes once it is brought into contact with ethics (the hero is capable of transforming politics). Crucially, these changes can only occur if the relation does not end in fixation. In other words, if friction is seen as an initial stage to be overcome and the transformation of politics and/or ethics achieves a higher ground into which both are absorbed, their interrelation ceases to be a relationship. Their becoming one, as we have seen, is a symptom of fixation and

to be good a policy must succeed. We have never said that success justifies everything. We said that failure is a fault and in politics one does not have the right to make errors and that only success can turn what was at first audacity and faith into solid reason. *The curse of politics is precisely that it must translate values into the order of facts.* At the level of action, every desire is as good as foresight and, reciprocally, every prognostic is a kind of complicity. A policy therefore cannot be grounded in principle, it must also comprehend the facts of the situation” (Merleau-Ponty 1969, xxxiv-xxxv, emphasis added). Merleau-Ponty here prefigures the so-called problem of dirty hands, introduced by Michael Walzer (1973), who also discusses Weber as one of his predecessors but vehemently rejects Merleau-Ponty.

³⁵³ Weber 2012, 81

³⁵⁴ *ibid*, 80

³⁵⁵ *ibid*, 78; 82-83. Merleau-Ponty’s later political philosophy distances itself from heroism, in part through a historical-philosophical reading of Weber (2016): see Flynn (2007).

hence complete depoliticization. Keeping them separate thus becomes a condition of friction as a direct relation between ethics and politics that cannot be reduced to fixation. Since the hero's task is to bridge the gap that separates them, we may come to regard him as an agent of fixation; or perhaps as a symbol of its impossibility.

While this is perplexing, Weber's account allows us to continue where Kant left off. After all, Kant comes close to friction's double bind in the first appendix. He emphasizes the need of the politician to retain the intention to move towards and finally realize perpetual peace, even in the face of a reality that resists such attempts. That resistance is not a neutral fact: it impacts which reforms can be put in place at which time. Kant's moral politics is thus a version of politics that is intimately connected to moral concerns, while at the same time keeping the absolutism of moral theory at a distance. Similarly, political reality cannot determine political decisions in a technical sense, while remaining important in the determination of which moral principles can be made into policies. As we know, Kant remains involved in depoliticization since the moral goal itself is not subject to contestation. Kant insists on the theme of direct availability that also characterizes Rousseau's general will. Because morality also has an all-encompassing scope, Kant even at his most ambivalent comes close to fixation. To be sure, the incontestable nature of the moral principles that are elevated into the position of directing politics makes for a form of depoliticization.

Weber presents an advance on Kant's account by theorizing a transformation of ethics in the face of the specificity of politics. The first condition of such a transformation is the idea that the means selected to achieve a particular outcome impact the *kind* of ethics that is applicable to that situation. The means specific to politics is power, which is backed up by violence. For Weber a position of "indifference" with respect to this fact flies in the face of the realities of political ethics: in this sense, relying on an ethic of conviction alone is irresponsible³⁵⁶. Weber's position is that an orientation towards values is important, but needs to take place in the real world and requires the conscription of others, who have their own goals and need to be kept at peace in order for their contribution to remain dependable. Striving for peace, for instance, cannot be done without involving oneself with political reality in this way – and the political element includes the dynamics of power and violence.

³⁵⁶ *ibid*, 67-68

That is why the politician involves himself with devilish powers in his very attempt to do good. Politics as a vocation thus involves not only a consciousness of ethical paradox, as Weber himself puts it, but also an ability to set up camp within it; to make paradox his permanent place of residence.

Friction thus teaches us that full justification is very problematic in politics. There are objective constraints on many political situations that we cannot move beyond, and these constraints lead to moral faults or remainders. Politics needs to orient itself to a perspective of value, but in doing so it is subject to a realm of facts that lies beyond the control of the politician because of its 'resistant' nature³⁵⁷.

Friction also teaches us that evil cannot be exteriorized, in a double sense. Action is volatile on both sides of a political dispute, remaining at all times at a distance from, but also intimately tied to value: again, this is Merleau-Ponty's curse of politics. By implication, any ethics that takes account of friction will thus have to explicitly theorize remainders. From this, it follows that most mainstream ethical theories are not up to the task: for instance, Kantian and utilitarian ethics consider the right thing to do as necessarily fully justified³⁵⁸. For instance, for a utilitarian, the remorse one feels may be wholesome in its consequences and in that sense 'a good thing', but it does not reflect any real fault on the part of the acting subject that chose the optimal course of action³⁵⁹.

Therefore, as a second notable implication, friction wards off the specter of moralization as described by Mouffe, and thus Schmitt's fear of the notion of the absolute enemy characterized by *Unwert*. The *cordon sanitaire* of moralization functions as an enclosure, simultaneously excluding those who are evil and settling the identity of those with clean conscience. But if we take friction seriously, this enclosure is always already breached and thereby compromised. It also avoids the self-justification or *Rechthaberei* that Weber associates with the predominant uses of moralism in politics³⁶⁰.

What cannot be avoided in the context of friction, however, is the schematic of subjective values as opposed to an objective reality that resists said values. That is why Merleau-Ponty speaks of the curse of pol-

³⁵⁷ cf. Merleau-Ponty 1969, xxxvii-xxxviii: "Does not every action involve us in a game which we cannot entirely control? Is there not a sort of evil in collective life?"

³⁵⁸ Walzer 1973, 162

³⁵⁹ *ibid*, 163

³⁶⁰ Weber 2012, 66-67

itics, and also why Weber calls for a true leader and a hero to overcome the ethical paradoxes inherent in true politics, politics as a vocation. There is an *air* of hopelessness to such almost mythical invocations of curses and heroes. We have seen that when the direct relation between politics and ethics is one of fixation, politics collapses entirely into the factual and/or normative constraints that are imposed on it. In case of a normative constraint, there is no distance at all between politics and ethics, since the latter has swallowed up the former in its entirety. When the direct relation is one of friction, by contrast, the distance between them appears too wide. The dualism between subjective values and objective reality seems to be too starkly posed: that is indeed the substance of Carl Schmitt's criticism of Weber, his erstwhile teacher, to which we now turn.

3.2.2 Weber's nightmare

Schmitt attacks the supposed heroism of true political action, and the underlying account of friction as the direct relation between ethics and politics, by pointing out that both reinforce the underlying condition of the 'iron cage'. Likewise, the gesture of aestheticism, which as we have seen is important to Nietzsche's critical reboot of responsibility, only reinforces a purely subjective and individual focus which in turn allows the objective devaluation of human life to go on as planned. Weber's attentiveness to the 'curse of politics' confines itself to the individual conscience of the political leader³⁶¹; this is a strongly depoliticizing assumption and shows a problematic aspect of Weber's reliance on Nietzsche. According to Schmitt, the problem lies with the very idea of two opposite poles of modernity: economic-technical thought on the one hand, and subjectivism and romanticism on the other hand. Schmitt's goal is to move beyond this duality by way of his specific concept of the political³⁶². It is designed to counteract the domination of an objective order, which is completely indifferent to life and produces "a silk blouse and poison gas" "with the same earnestness and precision"³⁶³. A philosophy

³⁶¹ cf. Walzer 1973, 179

³⁶² McCormick 2005, 31-32; 48-51

³⁶³ Schmitt 1996, 14-15; also cited by McCormick 2005, 43

of merely (inter)subjective ideals cannot counteract this development, but instead facilitates and co-produces it.

This resonates well with the analyses I have carried out so far. We have encountered a series of central distinctions that involve a notion of authentic and inauthentic politics. In Rousseau, the general will is opposed to the will of all; in Kant, the political moralist is opposed to the moral politician. Nietzsche problematizes the moral foundations of both of the preceding philosophies, but participates in the same kind of distinction by way of the 'old', *ressentiment*-driven notion of responsibility he rejects and the affirmative, aesthetic notion of responsibility that he advances³⁶⁴. In Weber, the real politician with *Beruf* to politics is opposed to both the political official and the naive child or airhead. All of these distinctions are normatively charged and their forcefulness relies precisely on the reality of the second term and the as yet unrealized or extremely rare nature of the first term. Weber's case shows this especially clearly, even though he is far from a systematic moral philosopher: his appeal to heroism reads like a sign of despair, a sign that authentic politics is almost impossible under present conditions. It is at most an ideal to be realized, and one plagued by a curse.

We have seen how in Rousseau and Kant the ideal is 'given' and in that sense straightforward, though decidedly less so in the latter than in the former. Kant already begins to withdraw from the idea that morality needs to monopolize politics, but still posits a moral horizon against which the moral politician must test himself. Nietzsche breaks up the givenness of morality entirely. In so doing, he makes 'value stances' strictly personal: they are purely subjective acts. This Nietzschean inheritance, as indicated above, is what makes Weber's stance so powerless when he turns to politics. Without clearly delineated values of sanctimoniousness, he is left in the objective world of the iron cage. The ideal of the authentic politician seems to have become ethereal and perhaps, following Nietzsche, more aesthetic than moral in the traditional sense of the term. In the context of his account of the tyranny of values, which we have discussed previously, Schmitt calls the worldview of his teacher "Weber's nightmare":

³⁶⁴ This is not in itself a political distinction, but that is part of the Schmittian point that follows.

[T]he individual avoids the absolute value-freedom of scientific positivism and opposes it with his free, that is subjective world-view. The purely subjective freedom of value-determination leads, however, to an eternal struggle of values and worldviews (...) The old gods rise from their graves and fight their old battles once again, but now disenchanted and now, as should be added, with new means of struggle which are no longer mere weapons but terrifying means of annihilation and extermination – dreadful products of value-free science and the industrialism and technology that it serves. (...) That the old gods have become disenchanted and become merely accepted values makes the conflict specter-like and the antagonists hopelessly polemical. This is the nightmare Max Weber's depiction presents to us. (Schmitt 2011, 39-40)

The supposedly separate realms of the subjective and the objective are thus in truth entangled in two ways: merely subjective philosophy facilitates and co-produces objective devaluation of human life, and objective technology comes to the aid of the resuscitated warring gods, now understood as subjective ideals. The way out of this Gordian knot is to formulate “a collective standpoint that will not participate in a subject/object dualism but will itself *be* the identical subject-object that transcends it philosophically and politically (...)”³⁶⁵. The call for such a standpoint is, as we will see later on, answered by Schmitt through his notion of the political.

3.3 Isolation and immanence

Schmitt supposes that the political can best be understood as the possibility of antagonism that arises on the interior of life domains. We have already considered the concept of the political in general terms in the first chapter. It is perhaps natural to suppose that Schmitt shakes off entirely the yoke of ethics, and perhaps this was his intention. To do entirely without ethics (and ontology, in some cases) is the goal of what I call isolation. This is the third direct relation between politics and ethics. At least at first glance, this may be an attractive position to many theo-

³⁶⁵ McCormick 2005, 58

rists of a post-foundationalist bent. But in terms of depoliticization critique, isolation is not a promising strategy. It requires that politics and ethics exist side-by-side without ever really coming into contact. This leaves open two options, of which the first is that politics is grounded in some other domain of life. We could call this demoralization: it entails the position that politics stands at a distance it does not need to bridge, since ethics and politics have nothing to do with one another; but there still exists a grounding relationship between politics and a non-political (and non-ethical) factor. Any such foundation of politics outside of itself is haunted by specters of fixation. Economic determinism, which I have been using as an example of fixation, would indeed satisfy the requirement that politics should be demoralized. Demoralization in this sense thus does not add to our earlier analysis of fixation. Still, it is here the expulsion of ethics from politics rather than its inclusion that leads to depoliticizing effects. In Andreas Schedler's terms, we are left with either an "instrumental" form of antipolitics, which sees politics as a purely technocratic exercise – we have seen Kant and Weber condemn this position – or simply an "amoral antipolitics" which seeks to reduce politics to rational choice³⁶⁶. For our purposes, these two forms of antipolitics represent the same dynamic: factual constraints are invoked to put politics in its place.

When demoralization in this sense occurs, politics only leaves ethics behind to flee into the arms of other constraining factors. One may thus object that ethics should be left behind without substituting in something else to take its place. This is a more general form of isolation, which seeks to free politics of any prior commitment. After all, the problem with fixation is that the force of the (ontological and/or normative) constraint resulting from such commitments limits politics in an absolute sense; and the problem with friction is that politics needs to struggle with the impossible task of translating values into the order of facts. But why should it voluntarily take on this curse?

Leaving all connections behind means that politics cannot be tainted in any way by concerns and distinctions from other domains. Politics is its own sphere; it is self-grounding. Yet this still returns us to the idea of a ground and hence to a 'proper place' of politics³⁶⁷. The more we strive to give politics a place of its own, the more we limit politics to this

³⁶⁶ Schedler 1997, 12-13

³⁶⁷ Chambers 2011, 310; Rancière 2001, para. 25

proper place and thus undermine its conditions of possibility. A politics of proper place is of necessity a pure politics; one sphere among many, which does not mix with its neighbours. In other words, it is completely depoliticized. As Samuel Chambers convincingly argues from a Rancièrian point of view, the political is precisely that which renders impure³⁶⁸. This requires a starting point of *apparent* purity – politics, in terms of political difference – on which the political can then operate. I emphasize that this purity can ever only be apparent. Rancière's *police*, recall, creates a society that denies its internal difference to itself: purity is only attainable for those who neglect this difference. The political is that which breaks the spell by rendering impure that which had presented itself as pure. Crucially, this operation takes place on the interior of politics or *police*: in more Schmittian terms, it is immanent to the domains of life from which it springs, to which we may add the importance of historical context.

A second argument against isolation can be gleaned from Lefort's criticism of Cornelius Castoriadis, more in particular the latter's central concept of auto-institution which is parallel to what I have called self-founding. According to Castoriadis, every society is originally the result of a radical imaginative act³⁶⁹. However, most societies pass into self-alienation and heteronomy by imagining themselves as founded on an external cause: for instance, the will of God, nature, necessity, or history. For societies that wrongly think of themselves as founded upon alterity, the experience of alterity within society must result (for instance the experience that political institutions have their own logic, which cannot be mastered fully from the outside)³⁷⁰. Castoriadis aims to restore the truth of auto-institution, and this implies a radical destruction of society and its institutions, which have come to be materialized forms of the heteronomous lie it tells itself about itself. Lefort counters that such auto-institution and -alteration are never quite possible, since they presuppose complete control of every aspect of society. Castoriadis' proposal is thus the unlikely ally of totalitarian extremism in the pursuit of a society that is completely transparent and fully identical to itself, and that wills itself fully and is conscious of this act of will³⁷¹. To Lefort, the

³⁶⁸ Chambers 2011, 310

³⁶⁹ Loose 1997, 79

³⁷⁰ *ibid*, 80

³⁷¹ *ibid*, 81 The language of immanence has been used to describe this fully self-identical society ("the completely immanent auto-institutional rendering of the social", *ibid*).

alterity despised by Castoriadis is always already part of the experience of living among institutions that necessarily embody an alterity that originates from the 'flesh [*chair*] of history', which also points towards an alterity contained in the future that we cannot foresee or control. To imagine politics as isolated and self-founding is to think in terms of a fixation of society to its own act of radical imagination, which must seek – in vain – to erase any aspect of society beyond its control. It is to wrongly ignore, in more Schmittian terms, the pre-existing domains of life within which the political originates.

The political thus cannot be pure and isolated. However, it is also not something that is given with the initial *police* order. Put in reverse, the political needs to take place at a distance from what pre-exists it, but without being completely distant from it. It is caught in between the crushing pressure of fixation and the absolute distancing of isolation. (Friction conceives of a way out, but only by waiting for a hero in a world of cursed politics.) Various authors have diagnosed Schmitt with parasitism to indicate the fact that for Schmitt politics 'grows out of' or 'ingests itself with' pre-existing domains of life³⁷². I propose the concept of immanence rather than parasitism since the latter suggests an addition from the outside, whereas the political should be understood as arising on the interior of (and in that sense, immanent to) any given order, as the possibility of antagonism. In Chambers' reading of Rancière, the same figure emerges: the political transforms the given, 'pure' order of the police by contesting it and rendering it impure, from the inside. Schmitt's account allows for the *possibility* of antagonism to be part of this process of rendering impure the apparent purity of a given order. I will later use this notion of possibility to distinguish between two moments of the political.

3.3.1 Schmitt on the possibility of antagonism

With this in mind, let us reconsider Schmitt's notion of the political. In what follows I will only consider *On the Concept of the Political* [*Zur Begriff des Politischen*]. There are many voices in Schmitt, as well as refine-

This is not the sense in which I will use 'immanence' as the name of the final direct relation between politics and ethics.

³⁷² Shapiro 2003, 107; Arditì 2008, 20-24

ments of previous positions, but the notion of the political he develops in that work provides the most immediate response to the problems I have been discussing³⁷³. Indeed, Schmitt's intention to refrain from non-participation in subject/object dualism can be invoked as an explanation for the way he opens this particular work. In direct reference to Weber, the political is freed from its reliance on the 'prior' concept of the state³⁷⁴. Schmitt in fact reverses this relationship in his opening sentence: "The concept of the state presupposes the concept of the political"³⁷⁵. The political is thus not a property of an objectively existing political entity – nor is it, more obviously, an individual inclination. The political instead comes to the fore in concrete struggles of the political group, a "fighting totality of men"³⁷⁶, with its enemies, unaided at this historical point in time by ahistorical values that can be used to adjudicate this conflict. There is only the conflict itself³⁷⁷. In that sense, Schmitt's notion of the political is an analysis of "the order of human things"³⁷⁸. That in turn means that "the possibility of dying for what one [is]" constitutes the "final determining quality of the human"³⁷⁹. For Schmitt, this possibility of politics and being truly human is under threat. His attacks on liberalism and depoliticization, which are central to his *oeuvre* as a whole, are motivated by his perceived need to respond to that threat, while the political itself necessarily remains in play as a possibility. Schmitt, after all, insists that human nature is and remains "problematic" and defined

³⁷³ For an overview of the contrasting options Schmitt presents to interpreters, see Arditì (2008). The development of Schmitt's work in the context of Weimar legal theory would proceed from very different motives than the ones I am pursuing in this investigation. Schmitt insists upon immunizing certain constitutional achievements against any popular initiative and installing an effective 'protectorat' in various works. This is "hypocritical" posturing that masks Schmitt's real intentions [*scheinheilig*], the "political aim" of which are "clearly perceptible" (Brunkhorst 2003, 373). This aspect of Schmitt's thought can be described as a development of "statutory positivism" which in Schmitt eventually leads to the subordination of institutional politics to the will of the leader (*ibid*), which is itself unassailable. In my terms, this is a clear species of fixation.

³⁷⁴ Schmitt 2007a, 19–22, esp. note 2

³⁷⁵ *ibid*, 19

³⁷⁶ Strauss 2007, 112

³⁷⁷ cf. Wolin 1990

³⁷⁸ Schmitt 2007a, 96; Strauss 2007, 99

³⁷⁹ Strong 2007, xvii

by the drive to conflict³⁸⁰. The political is nothing other than this ‘dangerousness’ at the root of what it means to be human³⁸¹.

This makes clear that Schmitt’s discourse on the political is more than a dispassionate factual or semantic analysis of the political and the conditions that need to be in place for it to obtain. According to Schmitt, the political is in a certain sense inescapable, but it is still under threat. Depoliticization seeks to cover up the very possibility of antagonism by seeking recourse to, for instance, peacefully attained consensus and notions of historical progress. In other words, Schmitt’s response is necessarily “more than the recognition of the reality of the political, namely, an espousal of the threatened political, an affirmation of the political”³⁸². The element of affirmation as distinct from mere theoretical description is crucial for our entire investigation. Schmitt’s insistence on affirming the political involves him in a type of moral discussion: he wants to stake a claim for what it means to be truly human, and this brings with it certain commitments. Schmitt in fact insists on this link between philosophical anthropology and political theory. There are two classes of views, in his eyes: anthropological optimism and pessimism. The first implies that man is by nature good, the second that man is by nature evil³⁸³. For Schmitt, liberalism is essentially implicated in the quest, motivated by an “undifferentiated optimism of a universal conception of man”, for a “good world among good people”, where “only peace, security and harmony prevail”³⁸⁴. Once again, this is the Rancièrian ‘indistinct point of view’. Pessimism, on the other hand, leaves the undifferentiated whole behind and thus leaves open “the concrete possibility of an enemy”, “the reality or possibility of the distinction of friend and enemy”³⁸⁵. In other words, Schmitt is explicitly committed to a pessimistic notion of man in view of his affirmation of the political.

Schmitt, like Rousseau, does not supply a derivation for his anthropological presuppositions in terms of ontology. He rather speaks of “optimistic or pessimistic conjectures” and “anthropological confessions of

³⁸⁰ Schmitt 2007a, 61; Viriasova 2016, 88; Mouffe 1999, 2

³⁸¹ cf. Strauss 2007, 112

³⁸² Strauss 2007, 112

³⁸³ Schmitt 2007, 58

³⁸⁴ *ibid*, 65. Schmitt adds that this is the “fundamental presupposition of a specific political philosophy” (*ibid*).

³⁸⁵ *ibid*

faith”³⁸⁶. This makes a world of difference. For Schmitt, optimism and pessimism do not function as an independently deduced ground of the political. We instead start with a multiplicity of conjectures, and the decision we make in following through with one of them determines our ability to recognize the reality of the political. Schmitt himself affirms the political by taking sides in the debate: not by deciding the “question of the nature of man”³⁸⁷ in a final sense, but by deciding to affirm the pessimistic answer to this question. This affirmation can be called moral since a certain notion of the political is advanced based on a prior commitment to what counts as genuinely human; Strauss concludes on this basis that Schmitt is committed to an “affirmation of the moral”³⁸⁸. We should add immediately that this commitment itself is again politically motivated³⁸⁹. This likely goes beyond Strauss’ own intention. I assume Strauss wanted to show the continuity of Schmitt’s thought with a certain liberal tradition which he nominally repudiates: both liberals and Schmitt, says Strauss, accept a certain picture of the good life and make this the basis of politics. I do not follow Strauss in this regard. In Schmitt, as we have discussed above, pessimism and optimism are not externally imposed on politics as a limiting factor (as is the case for the liberal view Strauss has in mind) but are selected as a result of *taking sides*, which is a decision in the truest sense of the word. Schmitt’s conception of the political is committed to pessimism, and Schmitt’s pessimistic ‘confession of faith’ is itself political.

Approached from the other side, we may say that optimism is intimately connected to a political stance; one that is in fact, paradoxically, concerned with denying the reality of the political. Pessimism is in the same way involved with affirming the reality of the political. Since affirmation of the political goes beyond merely recognizing its reality, it is itself a political struggle of affirmers against deniers. We are thus caught

³⁸⁶ *ibid*, 57-58

³⁸⁷ *ibid*, 65

³⁸⁸ cf. Strauss 2007, 117; Strong 2007, xviii

³⁸⁹ “(...) one may say in general that as long as man is well off or willing to put up with things, he prefers the illusion of an undisturbed calm and does not endure pessimists. The *political adversaries* of a clear political theory [i.e. optimists, the adversaries of pessimists, JK] will, therefore, easily refute political phenomena and truths in the name of some autonomous discipline as amoral, uneconomical, unscientific and above all declare this – and this is *politically relevant* – a devilry worthy of being combated (Schmitt 2007, 65-66, emphasis added)”.

in a circle – the concept of the political requires a certain position on the nature of man, namely as a problematic being, and this ‘problematic’ anthropology itself is politically motivated. I here want to emphasize the circular feature of this interrelation. The circle is perhaps best described as being moral-political in nature: it is moral in the sense that the concept of the political is predicated on a notion of what counts as ‘truly human’ and meaningful human existence, and political in the sense that this notion itself is consequent to political decision. This circle will prove to be of great importance in the fifth chapter, where I will take it up for my own purposes. For now, we have ourselves come full circle: from Rousseau’s politicization of the nature of man to Schmitt’s political insistence on ‘true man’ as a problematic being. While this avoids depoliticization, it is not clear yet how immanence could be made fruitful for political practice. I now consider a kindred attempt by Mouffe along agonistic lines, and finding this wanting I shift focus in the next chapter to an investigation of indirect relations between politics and ethics. This is done with a view to either rivaling immanence or finding an indirect relation that can join it in its tasks.

3.3.2 Mouffe’s agonistic politics for Europe

Following the Schmittian account I have used to illustrate the account of immanence above, the political can be separated into two moments. The first moment of the political concerns its presence as a possibility, namely the possibility of antagonism. We will see in a later chapter that this mainly has to do with the formation of a ‘space-against’, using Abensour’s term. This would be the conceptual home of an institutional framing of the political, in such a way that that the possibility of antagonism is not denied but affirmed. Then there is the moment in which the political is brought into actuality: antagonism erupts. This is the second moment of the political, which is exemplified by Rancière’s account of politics. In this way, the concept of immanence could allow for a connection between some form of institutional politics and the ‘fleeting’ event that sees the political burst through. One influential attempt of forging such a connection while insisting on political difference is Chantal Mouffe’s formulation of an agonistic politics, which she connects to ‘the future of Europe’.

Mouffe takes as her point of departure Schmitt's friend/enemy-distinction, but she transforms the enemy into an adversary, so that antagonism is reformed into agonism, which is characterized by what she calls conflictual consensus. Indeed, one of her stated goals is to simultaneously stress the permanence of negativity or conflict within political orders and to prevent these conflicts from taking on an antagonistic form³⁹⁰. This means that "the idea of a consensus without exclusion and the hope of a perfectly reconciled and harmonious society" must both be abandoned³⁹¹. Yet she thematizes a "necessary moment of closure"³⁹² because of the importance she places on hegemony. This harks back to Laclau's description of the term (both Mouffe and Laclau adopt it from the work of Antonio Gramsci) which I discussed in the first chapter. The intended point is that the construction of differential complexes are simply the obverse side of the ruptures represented by chains of equivalence: both are equally important. This reflects back on the notion of political difference, which still recognizes the differentiation between the political as the "ontological dimension of antagonism" and politics as the "ensemble of practices and institutions whose aim is to organize human coexistence"³⁹³. However, the terms of this difference are entangled for Mouffe; on the one hand, politics always operates on the "terrain of conflictuality informed by 'the political'", and on the other hand, institutions are needed in order to sublimate conflicts into forms of agonism rather than unbridled antagonism³⁹⁴. This entanglement makes it possible for her to provide 'an agonistic approach to the future of Europe'.

Mouffe critically notes that addressing the oft-lamented democratic deficit (which I analyzed in the second chapter) is made nearly impossible because of the difficulties national peoples experience when it comes to identifying with transnational modes of politics. According to Mouffe, these difficulties are mostly engaged "through the paradigm of communicative rationality and a procedural method of legitimation", but she notes that such an approach does not do justice to the affective dimension of identification³⁹⁵. In addressing this problem, contin-

³⁹⁰ Laclau & Mouffe 2001; Mouffe 2013, xi, xiii; Mouffe 1999, 4-5

³⁹¹ Mouffe 2013, xi; cf. Mouffe 1999, 4

³⁹² Mouffe 2013, 15, 17

³⁹³ *ibid*, xii

³⁹⁴ *ibid*, Mouffe 1999, 4-5

³⁹⁵ Mouffe 2013, 46-48; this is of course a reference to Habermas and Rawls, both of whom we will discuss in the next chapter.

ued European integration seems to be something of a *fait accompli* for her, due to its potential to form an alternative to “the neo-liberal world model of globalization”³⁹⁶. Indeed, Mouffe asks: “what are the lessons to be drawn for the way in which the process of European integration should proceed?”³⁹⁷ She is interested in proposals which allow for autonomy within the system by allowing for a variety of *demos* at the center of European politics. The goal should not be to replace national political centers by a European one, but to proliferate the sites of politics and the opportunity for political subjects to engage themselves. An agonistic EU would thus “give people the possibility of participating in a variety of *demos*, where they can exercise their democratic rights without having to discard national and regional allegiances”³⁹⁸. In order to realize this possibility, popular passions should be mobilized by way of a “politicization of the European project that would allow (...) an adversarial confrontation between different ways to engage the nature of the EU and its place in the world”³⁹⁹. For this engagement on the part of citizens to take place, a ‘common’ is required; but following Stephen White, Mouffe defines this common in political terms as a “web of allegiances and conflicts”⁴⁰⁰.

If we return to Vivian Schmidt’s notion of the regional state, it seems that the EU largely meets the requirements of ‘*demos*-cracy’⁴⁰¹ already, because of the composite membership structures it enables. Likewise, the political ‘common’ Mouffe proposes seems to be largely in place. For instance, during the Greek debt crisis a web of allegiances became visible among member states in the Northern and Southern halves of the Union, respectively; as well as a web of conflicts between these two groups. Yet this seems to have done little to correct the perception of the EU as a vehicle of negative integration, which seems very difficult “to reform” so that “the only solution that remains is to exit”⁴⁰².

³⁹⁶ *ibid*, 58

³⁹⁷ *ibid*, 48–49

³⁹⁸ *ibid*, 54

³⁹⁹ *ibid*, 55

⁴⁰⁰ White 2010, 114; Mouffe 2013, 57

⁴⁰¹ This term is taken by Mouffe from Kalypso Nicolaidis; see for instance Nicolaidis 2013, which goes much further than Mouffe, for instance outlining ten ‘guiding principles’.

⁴⁰² Mouffe speaks of this perception in terms of the EU as an “increasingly neo-liberal project” (2013, 58): in terms of my analysis from the second chapter, this applies to

While it seems clear that the permanent possibility of contesting given political orders, which is a central tenet of agonism⁴⁰³, is missing from European politics – recall Schmidt’s notion of policy without politics – the conditions that Mouffe describes thus seem to be quite close to the present reality of the European project; and indeed she identifies its present success at keeping antagonism at bay⁴⁰⁴. Yet as we have seen, aspects of depoliticization can be found in many aspects of European politics. Thus, it appears we have to go into more detail about the kinds of institutions that would be needed to make sure that the possibility of antagonism is affirmed⁴⁰⁵. As Mouffe correctly states, Europe is in the midst of what Gramsci calls an organic crisis, where “the old model cannot continue but the new one is not yet born”⁴⁰⁶. In the next chapter, we will consider proposals along procedural lines, formulated in the contexts of discourse ethics and political liberalism.

3.4 Direct relations and depoliticization

At the conclusion of our adventure, we thus have to conclude that the relationship between ethics and politics has been a conflicted affair ever since ontology began to retreat from political philosophy in the modern age. There are several routes that could have been travelled. We have also seen the relationship between politics and ethics transform. Ethics started off as a universality that was imposed onto the particularity of politics, leaving no room for the latter. This was true of Rousseau and the earlier part of our discussion of Kant. We then saw how in the first appendix of *Zum Ewigen Frieden*, Kant took a different view and placed politics and ethics in a more heterogeneous relationship. After Nietzsche, it was no longer possible to assume the givenness or even

the one-sided pressure to negative integration which results from the EU’s need to rely on output legitimacy, and which in turn results in liberalization.

⁴⁰³ cf. Fossen 2008

⁴⁰⁴ Mouffe 2013, 48

⁴⁰⁵ Mouffe argues briefly for a “European protectionism” that would go some way towards establishing a new model of development that would be “more respectful of the environment” (ibid, 62) and that this would require an unpopular challenge to our current consumerist model (ibid, 63–64), but she does not inform us how these changes would be accomplished.

⁴⁰⁶ ibid, 60

meaningfulness of the universality with which we started and a new individualized ethics was developed. In Weber, we encountered the notion that politics should grapple with ethics in a world where the outcome of political action is unknown and may well turn against the politician. This rested on a dualism of subject and object that made it very difficult for political action to be meaningful. Finally, in Schmitt, we saw that for all of his emphasis on the irreducibility of politics to ethics or any other domain, Schmitt positioned himself ethically through his formulation of the concept of the political. This positioning, however, is itself political in nature. This moral-political circle is made possible by the direct relation of immanence, which sees politics as the possibility of antagonism 'from within' all domains of life.

The end result of this investigation is a number of potential relationships between politics and ethics that have to be explored further, most notably in their relation to a politicized European politics. So far, we have only considered direct relations: ones in which ethics is directly brought to politics. The four direct relationships that have been under consideration thus far are: *fixation*, *separateness*, *friction*, and *immanence*. Let us briefly consider them once more in a systematic rather than historical fashion.

The first direct relationship we have formulated is that of *fixation*, which is close to affixedness and even asphyxiation. Politics suffocates under the infinite weight of ontology, which grounds it without remainder. Ethics can play this ontological role, though as we have seen more straightforwardly ontological domains, such as economic determinism, can function in much the same way.

The second direct relationship is *friction*. We start out from the idea that ethics is politically important and quickly find that it is difficult to make this importance count. Political reality somehow narrows our range of possibilities, yet crucially without falling prey to fixation. This 'somehow' can be specified in many different ways. We have already considered how for Kant choosing the 'opportune moment' for moral-political reform is an important consideration. Relatedly, Weber is of the opinion that ideals of conviction can become powerless in certain circumstances. Merleau-Ponty laments the curse of politics; only a Weberian hero can save us. Here, too, 'autonomy' is safeguarded, but the gulf between politics and ethics becomes the source of new problems.

The most fundamental alternative to both fixation and friction is

isolation. This can be like praying to a *Deus absconditus*: politics can be agnostic about the very reality of ethical principles. Whether ethics represents something real or not, politics is 'autonomous' from it. Politics and ethics exist side by side without ever really coming into contact. From the perspective of friction, this is a vexing problem; from the perspective of isolation, politics is finally free. Its strategy of mutual avoidance is the most fundamental way to go against fixation, which sees ontological and/or normative givens completely dominate politics. But isolation is committed to assigning politics to a proper place, where it can maintain its purity – or, as demoralization, it collapses into fixation all the same. In either case, isolation falls prey to depoliticization.

The fourth and final direct relationship is *immanence*. If it is the case that the political is simply an intensified form of human existence, as Schmitt claims, then it seems to draw on the categories and distinctions from all other domains. That is in itself compatible with political distinctions being *sui generis*, in some sense. But it also suggests that the political is not of an altogether different kind than what we find in various domains of life, including ethics. The political ingests whatever it finds in its path and thereby energizes itself. In Schmitt's affirmation of the political, an affirmation of the moral is presupposed in the sense that the former requires a position on what it means to be truly human. It remains to be seen how this concept of immanence relates to more procedural political philosophies, and whether it can be fruitfully used to analyze a possible politicization of European politics. That will be the aim of the fourth and fifth chapters, respectively.

The next chapter is devoted to indirect relations. I call them indirect because of the interjection of procedure that ethical positions have to go through before they can be admitted into politics. The focus thus shifts away from the ethical positions themselves to a large extent, and this by itself is often an important commitment for those who champion a procedural approach, whether in discourse-theoretical or liberal terms. The need for an indirect approach would thus seem to depend on the impossibility or undesirability of the direct approaches. In fact, it is not that simple. What sets the indirect approaches apart from the direct ones is not a derivative, but a positive signification: that politics in the true sense of the word requires specific procedures to be in place. The direct relationship do not necessarily subscribe to this requirement and are in that sense more 'open' approaches to the relationship be-

tween ethics and politics. We consider indirect relations in search of an account that comprises both the first and second moment of politics. Mouffe's position counts as an example of this, but as we have seen is not the complete story.

Chapter 4

Open-endedness and justification: indirect relations between politics and ethics

At the end of the previous chapter, we defined a central characteristic of indirect relations between politics and ethics. Whereas direct relations concern bringing ethics directly to politics, indirect relations breach this directness by interposing a procedure. Specific accounts of indirect relations differ in the way they define this procedure. These procedures are supposed to confer legitimacy *qua* procedures. They make it possible to accept decisions without worrying about the values on which the content of these decisions rests, while remaining agnostic about “the ability of these values to function as general principles of decision”⁴⁰⁷. This appears to address the worries we voiced in the previous chapter under the heading of fixation. If ethical values, principles and the like do not function as an absolute normative constraint, then there is no risk of depoliticization on that front. On the other hand, this seems to merely displace the problem as the procedure is elevated to the status of, in Schedler’s terms, a normative given on the procedural level⁴⁰⁸. However, the idea of procedure as such does not necessarily entail a depoliticization of this kind. At the end of the previous chapter, immanence emerged as a promising way to account for ethics vis-à-vis politics. We briefly considered that from the perspective of immanence,

⁴⁰⁷ Luhmann 1983, 31

⁴⁰⁸ Schedler 1997, 13

the political can be understood as the possibility of antagonism within the various domains of life, while it remains unclear how it should be connected to any political program.

Applying Schmitt to my categorization of the political in terms of moments, we can say that it is through intensification that the first moment of the political (the possibility of antagonism) changes into the second (its actualization). It is in this intensified form that it appears as the political, and it reaches back into its 'host domains' (pre-existing domains of life) to select its own commitments. These commitments may include attachment to a specific procedure. At this point, it is important to distinguish between commitment to a principle of procedure as an independently derived given and such commitment as a matter of politics. In the same way that Rousseau's version of human nature, as a conjecture, differs crucially from that of earlier social contract theorists, the proceduralism that could attach to an immanence-based account of ethics and politics will thus be completely different from a rival proceduralism rooted in metaphysical principle or some other directly available factual or normative constraint. This may seem like a slight difference between a complete depoliticization through fixation and the only way out thus far: immanence. But the distinction between these two forms of proceduralism is rooted in their respective mode of justification. It makes an enormous difference whether an outcome is justified as logically prior to and absolutely binding on any subsequent political decision or is presented as a political argument in favor or against a particular decision without the space for contestation being closed off. This possibility to contest is thus a critical test to any account of proceduralism, and it is with this in mind that we will consider indirect relations in the present chapter.

I will consider two accounts of proceduralism: Habermasian discourse theory and political liberalism in the tradition of John Rawls. The first of these has direct implications for the future of European politics and will thus form our point of departure. Habermas has often been accused of a liberal shift by thinkers working in the tradition of political difference: a shift thought to occur in his seminal work of legal philosophy, *Faktizität und Geltung*. Rather than working in the traditional ways of critical theory, Habermas begins to employ the language of justification rooted in procedure in his later work. There is a widespread tendency, especially among radical commentators, to see Habermas'

adoption of this language as a turn in his overall philosophical work. Matthew Specter provides a list of complaints put forward by others: the work has been said to mark the end of critical theory, resign itself to Western-European parliamentary democracy, and substitute ethics for politics⁴⁰⁹. The latter accusation rings true of many of the attempts to ground politics in ethics that we have seen in previous chapters. Slavoj Žižek speaks of “Habermasian and Rawlsian *ethics*” as vestiges of an attitude that seeks to “depoliticize politics” by “formulating the clear rules to be obeyed so that the agonistic procedure of litigation does not explode into politics proper”⁴¹⁰. In this formulation, both Habermas and Rawls seem close to overcoming the distinction between direct and indirect relations between ethics and politics. If politics, in the sense of the political, is indeed reduced to a mode of legal scuffling by rules that are not themselves the subject of political contestation, then it seems not a lot has been gained since Kant’s contractually enforceable ideas of reason. This in turn would have severe consequences for Habermas’ proposals for the political reform of Europe, which he explicitly connects to his discourse theory⁴¹¹. In other words, the place of discourse theory in Habermas’ work, and notably the question whether it substitutes ethics for politics, is important to our evaluation of an influential set of views on European politics.

But perhaps something is to be gained from a partial shift towards liberalism. This is connected to a specific reading of the Rawlsian project of political liberalism, which does not concern itself with a strategy of metaphysical justification but instead tries to show why those who are already committed to basic liberal premises should endorse a particular view of society⁴¹². This kind of political liberalism is thus a political wager that does not seek to justify itself ‘all the way down’. As such it provides interesting responses to the challenges facing the Habermasian project, and is the second procedural project we will consider. Having gathered resources from these two kinds of proceduralism, we are then in a position to draw preliminary conclusions on the way to conceive of the interface between direct and indirect relations and, thus, on the possibility of involving ethics in politics while avoiding depoliticization,

⁴⁰⁹ Specter 2009, 92; see also Žižek 1999, 28

⁴¹⁰ Žižek 1999, 28

⁴¹¹ Habermas 2015, 46–60

⁴¹² Rawls 1985; Quong 2011

and perhaps aiding politicization. This theoretical account will then be further developed and put to the test in the next chapter with reference to its context of application: namely as a set of proposals for European politics. In the same way that the philosophical formulation of depoliticization was tested and further developed by providing a critical account of European politics in terms of the aspects of depoliticization with which it is involved, the question whether and how ethics can function to politicize Europe will be answered through a constructive account of its possible politicizations (keeping in mind the earlier critical account).

Of the two accounts of proceduralism we will discuss, Habermasian discourse theory is most closely aligned with European politics. In order to bring out this connection, we have to first situate discourse theory within Habermas' work as a whole and then connect it to his later plea for reform of the European Union.

4.1 Habermasian discourse theory

The most useful approach to Habermas' theoretical starting point runs through the contrast he himself draws between the usage of Kantian practical reason as a foundational concept and his own account of communicative rationality⁴¹³. The idea of practical reason introduces a newly found focus on the autonomous private individual, which can be superseded by other roles, notably the member of civil society, the national citizen and the world citizen: a possibility that was realized on the theoretical level in the eighteenth and nineteenth century, as we also saw in the previous chapter⁴¹⁴. This kind of normative escalation from concerns of individual autonomy to the level of world society, where the 'I' gradually becomes synonymous with the notion of man, is of course an indelible part of the political-philosophical tradition of the moderns. Since then, as Habermas notes, societies have become so complex that such escalations are no longer credible. The options that are open to the tradition of practical reason are not attractive. Habermas conceives of them in terms of a trilemma: we can, first, either impose teleology onto history and then ask it for directions, or, second try to glean some

⁴¹³ Habermas 2017, 15-22

⁴¹⁴ *ibid*, 15

substantive normative positions from “the constitution of mankind”⁴¹⁵. It seems clear that these first two options cannot provide the kind of guidance we should be looking for. The third horn of the trilemma is to deny that reason is efficacious at all [*Dementis von Vernunft überhaupt*]⁴¹⁶. According to Habermas such a denial is simply belied by human experience.

Habermas’ solution to this impasse is to displace the ascription of the exercise of reason from a solitary subject or a stately macro-subject to an interlinking of interactions and a structuring of life forms through the medium of language. In this sense, Habermas is heir to the social contract tradition, which ties the validity of norms and institutional arrangements to the consent they do or would receive in the context of certain communicative practices⁴¹⁷. The place of Rousseau’s general will is taken by practical discourse in Habermas’ argument. We can enter into such discourse by stepping out of ordinary action contexts⁴¹⁸. The medium of discourse is home to a specific form of ‘communicative’ rationality, with a specific linguistic *telos* of understanding or agreement [*Verständigung*]⁴¹⁹. Unlike practical reason, communicative rationality is not the source of norms for action. It does, however, have a normative side: communication involves pragmatic presuppositions [*Unterstellungen*], often of a counterfactual nature, which usually remain implicit in language but are explicitly formulated and discussed in discourse⁴²⁰. An example of such a presupposition is the claim that utterances are valid outside of their particular context [*kontextüberschreitenden Geltungsanspruch*]⁴²¹. Habermas notes how in this manner the tension between idea (perhaps ‘ideal’ would be more accurate) and reality breaks into the facticity of forms of life structured by language⁴²². Too much is being asked of everyday practices of communication, but it is through the ability of these practices to transcend themselves that learning processes can take place⁴²³.

⁴¹⁵ *ibid*, 16–17

⁴¹⁶ *ibid*, 17

⁴¹⁷ Benhabib 1995, 330–331

⁴¹⁸ McCarthy 1985, 289

⁴¹⁹ Habermas 2017, 18

⁴²⁰ McCormick 2007, 128–129; McCarthy 1985, 279–280

⁴²¹ Habermas 2017, 18

⁴²² *ibid*, 19

⁴²³ *ibid*

Habermas' overall strategy is to reconstruct the 'know-how' and its pragmatic presuppositions contained in every act of communication⁴²⁴. Perhaps his central insight, and one that has remained consistent across his long and distinguished career⁴²⁵, is the idea that communication is anticipatory in nature, in part because, as pointed out above, claims to validity are intimately connected to the context within which they are formulated, while at the same time pointing above and beyond this limited context. Since the *telos* of communication is understanding or agreement, what is anticipated 'in the limiting case' is a formal structure that is free from constraint in every sense, so that the understanding or agreement attained will be the result of the force of the better argument rather than strategic concerns or faults in communication⁴²⁶. As Habermas himself puts it, this ideal speech situation should be understood neither as an "empirical phenomenon" nor as a "mere construct"; rather, it is an "unavoidable supposition reciprocally made in discourse", which even if counterfactual or fictitious is operatively effective as an "anticipated foundation"⁴²⁷. The practical aim and function of invoking the ideal speech situation is to serve as a guide for the institutionalization of discourse and as a critical standard against which every actually achieved consensus can be measured; in this sense, Habermas accomplishes his stated goal of providing moral-practical foundations for critical theory⁴²⁸. Therefore, in order to name the indirect relation between politics and ethics that pervades Habermas' recent work, I propose to use the term *anticipation*.

Habermas aims to develop a reconstructive theory of society by applying this overall account of communicative rationality to an interpretation of law as society's steering capacity through a specialized kind of discourse than can relate itself to the equally specialized systemic discourses of power-driven administration and money-driven economics⁴²⁹.

⁴²⁴ McCarthy 1985, 276

⁴²⁵ Habermas says in his 1963 inaugural lecture in Frankfurt that "the goal of critical theory – a form of life free from unnecessary forms of domination in all forms – is inherent in the notion of truth: it is anticipated in every act of communication", quoted in *ibid*, 273; see also *ibid*, 308.

⁴²⁶ McCarthy 1985, 306

⁴²⁷ Habermas 1975, 258; see also Habermas 2017, 392-394 and Benhabib 1995, 346.

⁴²⁸ McCarthy 1985, 307-309

⁴²⁹ Habermas 2017, 108; see also McCarthy 1985, 276; 288 for an account of the notion of reconstruction in Habermas' work.

If law is to have this capacity, it needs to have recourse to both factual force [*faktischen Zwang*] and legitimacy [*legitime Geltung*] in the sense that it must be based on intersubjectively recognized claims to normative validity⁴³⁰. What law steers towards is the formulation (in this same double sense of its factual and normative dimensions) of norms that will enable social integration⁴³¹. Law is needed to formulate these norms because the conditions of social integration through what Habermas calls the lifeworld, if left to themselves, are no longer unproblematically available in modern societies. The lifeworld operates in the background of communicative action “in the mode of an unmediated certainty, from which we live and speak without distance”⁴³². But with the widening of ethnocentrically limited perspectives, the pluralization of life forms and the individualization of life histories, the familiarity of the lifeworld increasingly dwindles. This raises the problem of the normative validity of social order in modern societies, which is then addressed through the efficacy of law⁴³³. For Habermas, it is not the case that law is an “image” of morality in the Platonic sense; rather, general norms of action branch out into moral and juridical rules, which can thus be governed by a discourse principle:

Only those action norms are valid to which all those possibly affected could agree as participants in rational discourses (Habermas 2017, 138).

As Habermas specifies, this principle “makes explicit the meaning of impartiality within the context of practical statements [*Urteile*]”⁴³⁴. In other words, the real consensus that is the aim of any act of communication can be attained in moral and juridical contexts through a faithful adoption of the ideal of impartiality, which finds expression in the discourse principle. This means that laws and moral norms must both be justifiable in terms of this principle⁴³⁵. On this basis, Habermas goes on to reconstruct a “system of rights” that shows the entanglement [*Ver-*

⁴³⁰ Habermas 2017, 44–45

⁴³¹ *ibid.*, 45

⁴³² *ibid.*, 38

⁴³³ *ibid.*, 42

⁴³⁴ *ibid.*, 138

⁴³⁵ cf. Chambers 2009, 235–238

schränkung] of individual rights, democracy and the legal form itself⁴³⁶. He ends up with familiar institutions such as human rights, the rule of law and the separation of powers. It is sufficient for us to discuss the underlying discourse theory and the principle that is used to critically inspect instances of consensus that have crystallized into aspects of a given society, whether from a moral or juridical perspective.

An important addition is that Habermas' is not seeking an end of politics through the achievement of some philosophical goal. He warns against the conflation of the “*design* [*Entwurf*] of a concrete form of life” on the one hand, and a “*project*” [*Projekt*] on the other⁴³⁷. He is thus not in the business of spelling out institutional arrangements of the ‘ideal society’, but involved in an attempt to articulate the conditions under which such an ideal could be formulated by those involved, so that the ideals themselves are sublimated into discursive procedure⁴³⁸. Similarly, legal norms as articulated in constitutions should not be seen as finished structures, but as a “delicate and sensible – above all fallible and revisable – enterprise, whose purpose is to realize the system of rights *anew* in changing circumstances (...)”⁴³⁹. What is more, the notion of consent or agreement [*Verständigung*] itself is not understood as an end goal or as a reified presence that politics needs only to tap into, but as a process for the cooperative generation of validity⁴⁴⁰.

We thus end up with a dynamism inherent in the *project* of law-making and consensus formation guided by (or at least reconstructable through) discourse theory. Habermas has emphasized throughout that the system of rights has recourse to and presupposes an administrative power structure with the ability to punish, organize and perform executive functions⁴⁴¹. Such a structure cannot be self-perpetuating or it would lose touch with the public sphere that is supposed to invigorate democratic politics. Habermas' solution is to differentiate between administrative power and communicative power [*kommunikative Macht*], where law is the medium through which communicative power is con-

⁴³⁶ Habermas 2017, 109-208

⁴³⁷ *ibid.*, 12; Specter 2007, 97

⁴³⁸ Habermas 2017, 12; Specter 2007, 98-99

⁴³⁹ cited in Specter 2007, 103

⁴⁴⁰ Benhabib 1995, 345; McCormick 2007, 138

⁴⁴¹ Habermas 2017, 186

verted into administrative power and the former is the only allowed avenue for regenerating the latter⁴⁴².

In my analysis, the notion of communicative power represents an important possibility to break free from a given legal order. It harks back to Arendt's definition of power of the ability to act in concert⁴⁴³. If that is so, power does not belong to the individual. Habermas concludes that on this understanding of the power of groups, communicative power should be understood as a law-making [*rechtsetzende*] capacity, namely as the potential of a common motivational will that can authorize or resist. According to Habermas, it "emerges in its purest form when revolutionaries seize the power of the streets; when a (...) population opposes tanks with its bare hands; when convinced minorities contest the legitimacy of existing laws and practice civil disobedience; when in protest movements the pure 'lust for action' surfaces"⁴⁴⁴. This seemingly comes close to a Rancièrian notion of politics, but there is a limiting condition: even the potentially explosive force of communicative power is made subservient to the conditions of real consensus. "[It] can only form in a non-deformed public sphere and can only emerge from an undamaged intersubjectivity and non-distorted communication"⁴⁴⁵.

In summary, norms and laws, wherever they appear, are necessarily subject to an ongoing and open-ended normative conversation⁴⁴⁶. This conversation models itself on, and is revisably justified by, the ideal speech situation that is anticipated in every act of communication which answers to a purely communicative rationality and is thus devoid of social pressures and other asymmetries. On the societal level, administrative power is regenerated or criticized by communicative power, which is likewise beholden to requirements of 'pure' communication. This represents Habermas' discourse-theoretical conception of law and the democratic state, developed in the eighties and nineties and centered on the nation-state. In more recent times, Habermas has devoted himself "for obvious political reasons" to the process of European unification⁴⁴⁷.

⁴⁴² *ibid*, 187

⁴⁴³ Arendt 1970, 44

⁴⁴⁴ Habermas 2017, 184-185

⁴⁴⁵ *ibid*, 184

⁴⁴⁶ Benhabib uses the term "moral conversation", but this seems to pre-empt Habermas' distinction between moral and juridical specifications of the discourse principle. See Benhabib 1995, 339-345 and Habermas 2017, 138.

⁴⁴⁷ Habermas 2015, 51

4.2 The EU and transnationalized discourse

In his 2012 contribution to the ‘Forum Europa’ organized by the Association of German Jurists, Habermas advances three basic arguments for ‘more Europe’. First, the opportunity for Germany to cultivate a liberal self-understanding, which according to Habermas it “was able to develop for the first time (...) [b]y embedding itself in Europe”⁴⁴⁸. The “old West Germany” is held up as an example of how to practice a “Germany *in* Europe”⁴⁴⁹. Second, in present circumstances the balance between politics and the market has shifted beyond the ingenuity with which they were combined in the constitutional state, where markets provided “the guarantee of equal subjective freedoms” and politics provided “equal opportunities to participate in the process through which society exercises collective influence over itself”, so that the “two media can enhance each other’s effectiveness” in securing freedom⁴⁵⁰. Habermas sees a dual development wherein politics is self-subjugating to the market, while at the same time “systemic mechanisms are increasingly escaping the intentional influence of democratically enacted law”⁴⁵¹. He adds immediately that “[t]his trend can be reversed, if at all, only by recovering the scope for political action at the European level”⁴⁵². Third, Habermas believes that “existing and growing structural imbalances” within the Eurozone also call for “transferring further national sovereignty rights to the European level”, since at current the conditions for Europe’s single currency (the Euro) to function are not present⁴⁵³. This final reason can easily be reversed and turned into a Euro-sceptical argument, and is contingent upon prior acceptance of the single currency. However, the first two reasons are more deeply embedded in Habermas’ work in multiple ways and thus bear some elaboration.

The first reason may read like an argument peculiar to Germany’s position within the EU. However, it bears on his more general notion that the “decisionistic substance of the power involved in the exercise of political authority” decreases first with the rise of constitutional state, whose “major historical achievement was how it contained despotism”,

⁴⁴⁸ *ibid*, 80

⁴⁴⁹ *ibid*

⁴⁵⁰ *ibid*, 81

⁴⁵¹ *ibid*, 82

⁴⁵² *ibid*

⁴⁵³ *ibid*; cf. *ibid*, 32

and second how it is being broken down further “in the crucible of the communicative currents of transnational negotiations and discourses⁴⁵⁴”. Addressing this idea of containing despotism *through* a domestication of decisionism requires an account of the relation between decision and deliberation: I will develop such an account in the next chapter. For now, it is notable that Habermas sees the development from pre-constitutional to constitutional and finally transnational state in terms of a continuous quest to transform the substance of political power away from decision, and that the loss of “functional autonomy” of individual states is pressing them into cooperation that further domesticates the violent tendencies of politics⁴⁵⁵.

Habermas’ second reason is likewise about containment, this time not of despotic rulers but of despotic markets. Habermas believes the present EU represents a further power increase markets at the cost of politics rather than a political counter to markets. He sees a pragmatic incrementalism at work that responds to market changes with targeted policies, without an overall vision in place about the direction of the political union. These moves and shifts are made by technocratic means, while democratization – which Habermas insists is urgent – is deferred towards an indefinite future⁴⁵⁶. According to Habermas, this potentially makes member states “even more meekly prey to the imperatives of the market”⁴⁵⁷. This pragmatic incrementalism is coupled with a “strong, but free-floating executive”, an example of which is the “executive federalism” that allows European authorities to impose their political will onto member states ‘informally’, with the threat of punishing them via economic sanctions if they do not comply⁴⁵⁸. The political problem represented by such institutional skews is the “danger of the gap between a consolidation of regulatory competences, on the one hand, and the need to legitimize these increased powers in a democratic manner, on the other, becoming still larger”⁴⁵⁹. This returns us to Habermas’ criticism of the EU that I discussed in the second chapter: centrally, the idea that the *form* of law, as contained in the Treaties for example, is not sufficient to generate the *substance* of law, which for Habermas depends, as we can

⁴⁵⁴ *ibid*, 52; 52; 55

⁴⁵⁵ *ibid*, 54–55; cf. Habermas 2012, 10

⁴⁵⁶ Habermas 2015, 9–12

⁴⁵⁷ *ibid*, 12

⁴⁵⁸ *ibid*, 11; Habermas 2012, viii

⁴⁵⁹ Habermas 2015, 12

add after our analysis of *Faktizität und Geltung*, on both factual force and legitimacy. We also know that legitimacy has to be understood in terms of the discourse principle. Habermas' critique can thus be stated in terms of the incompatibility of the EU's political practice with the normative requirements imposed by communicative rationality.

According to Habermas, controlling the market, so that systemic mechanisms function at the mercy of the lifeworld rather than the other way around, can no longer take place at the national level. He speaks of "the abject spectacle of a capitalistic world society fragmented along national lines"⁴⁶⁰. Habermas refers to the increasing entanglement of states in "systemic relationships that permeate national borders"⁴⁶¹.

Above all, globalized markets make use of accelerated digital communication to create ever denser networks and bring these collective actors into completely new kinds of dependencies. In view of the politically undesirable side effects of systemic integration, there is a need for steering that single nation-states are increasingly unable to meet. (Habermas 2015, 30)

Habermas' proposed solution starts with the metaphor of the 'two-chamber system' that arose within the nation-state, and specifically within the political system of the federal United States. Here, a "historical threshold" was crossed with the aim of integrating not just governments, but the participating 'peoples' as well⁴⁶². Through the establishment of the Senate, combined with the federal capacities of the citizens of the United States as such, the equality of states and the equality of citizens were brought into harmony⁴⁶³. This is also how Habermas conceives of supranational democracy in Europe, through counterfactual means. We must imagine such a democratically developed European Union "as if it had been developed by a double sovereign (...) [,] composed of the entire citizenry of Europe, on the one hand, and of the peoples of Europe, on the other"⁴⁶⁴. Citizens and peoples are here conceived as a double constitution-framing subject.

⁴⁶⁰ *ibid*, 85-102

⁴⁶¹ *ibid*, 30

⁴⁶² *ibid*, 35

⁴⁶³ *ibid*, 36

⁴⁶⁴ *ibid*, 40, emphasis in original

The assumptions that inform this thought experiment include the idea that the European citizen “[has] good reason to pursue” both a transnationalization of democracy, so that politics can assume its ‘shaping’ function in a manner that is both effective and legitimate, and an agenda that reserves an important role for the nation-state as “[*guarantor of the achieved level of justice and freedom*]”⁴⁶⁵. There is thus a definite role for both the European and the national ‘aspect’ of the double sovereign: the sovereign needs to take a ‘European shape’ but this shape is “limited by the obligation to conserve (...) what citizens *claim* as the emancipatory achievements of their respective national democracies”⁴⁶⁶. This also means that Habermas’ construction of the double sovereign shifts between two levels of discussion. On the one hand, he refers to the level of the ‘well-considered interests’ of citizens (which echoes Rousseau’s general will) in the form of the good reasons they have to favour transnationalization. On the other hand, the level of their particular wills (multiple ‘wills of all’) is likewise relevant in the form of claims to nation-state achievements that citizens factually advance.

This proposal gives Habermas the means to consistently side with the institutionalization of communicative rationality through adequate procedure. In his view, on the European level this means counteracting despotism-through-decisionism and the colonization of the lifeworld by market forces. Habermas believes that the nation-state does not have the steering capacity required to adequately control market forces, and that the nation-state on its own, though its leadership is constitutionally bound, still leaves unwanted space for violence. The solution to these two problems, of course, must be an intense cooperation between states that addresses both the political response to market pressures and a way to further civilize politics. Habermas has repeatedly stressed the need to pursue coordination at the continental level⁴⁶⁷, and the European Union is to his mind a promising attempt at such coordination, although as we have seen it is at present plagued by pragmatic incrementalism.

We have used the one-sided reliance on negative integration through juridical means as an explanation for the political direction of present European politics: a reliance which is in turn predicted by a further reliance on output legitimacy. In my interpretation, Habermas’

⁴⁶⁵ *ibid*

⁴⁶⁶ *ibid*, 41; cf. Habermas 2012, 13; 41

⁴⁶⁷ McCormick 2007, 192

figure of the double sovereign is meant as a perspective from which input legitimacy can consistently be applied on the European level, to be used for reform of the Treaties. Habermas deduces a number of particular reforms: for instance, the European Parliament should be able to propose legislative initiatives, and the European Commission would have to answer to both the Parliament and the European Council: such measures would introduce a “symmetrical participation of both ‘chambers’” and their “symmetrical status (...) with respect to the executive branch”⁴⁶⁸. For Habermas, this is the “obvious” response to the question which reforms are necessary to eliminate the legitimization deficit in European politics from the perspective of the double sovereign⁴⁶⁹. Habermas asserts elsewhere that the idea of the double sovereign leaves “considerable leeway for the concrete design of the state bodies and of the separation of powers at the European level”⁴⁷⁰. However, this leeway should not be taken too broadly, as the arguments in favor of a particular design would be advanced “under the normative aspect of an *at once democratic and workable* supranational [European] polity⁴⁷¹”.

Habermas thus uses the European nation-states (and their citizens *qua* national citizens) as a kind of vaulting pole: he needs them in order to jump into the great beyond of a truly European politics. Yet this leaves Habermas in a conundrum. He himself insists that European politics is “of a different caliber”, so that it cannot copy the legitimization process of national (federal) states⁴⁷². While Habermas certainly shows us many respects in which the reformed EU would function differently to ‘regular’ states, the transition from the national to the European level is taken merely as a further abstractive step in a development already begun by the onset of the nation-state itself: from local or dynastic concerns, we have already gotten to the national level and must now take the next step in the learning process⁴⁷³. This suggests a kind of trans-historical continuity, which smooths over the idea of structural transformation from Habermas’ earlier work⁴⁷⁴.

⁴⁶⁸ Habermas 2015, 41

⁴⁶⁹ *ibid*

⁴⁷⁰ *ibid*, 59

⁴⁷¹ *ibid*, 60

⁴⁷² McCormick 2007, 203

⁴⁷³ Habermas 1998, 102

⁴⁷⁴ McCormick 2007, 193-195

More specifically, the discursive framework that Habermas develops to maturity in *Faktizität und Geltung*, while it seemingly takes a normative approach at the cost of its involvement with socio-economic and legal developments⁴⁷⁵, is actually rooted in the German legal tradition. This tradition engages both with the Weimar republic – which traces Habermas' own development, but can also be seen as a way of cultivating and safeguarding the aforementioned German liberal self-understanding – and the Bonn republic⁴⁷⁶. In the process of German unification, Habermas was an active proponent of an integration of the two existing, East and West German, constitutions. In the end, the West German constitution was applied in full to the newly formed *Bundesrepublik Deutschlands*. Habermas was dismayed at this development and polemically described it as a form of *Anschluss*, referring to the German annexation of Austria in 1938⁴⁷⁷. His concern was that the existing political culture of East Germany would be bulldozed out of existence, so that the constitution would not have the proper will formation behind it. Habermas thus wanted to accord East Germany its proper weight, but at the same time was wary of its illiberal impulses. According to Matthew Specter, this is the historical context for the tension between liberal and republican aspects that Habermas makes productive in *Faktizität und Geltung*⁴⁷⁸. The same tension is reflected in Habermas' double sovereign in his European writings. There is both the need to safeguard concrete political culture and the need to go ahead and unify because that is the outcome of normative deliberations. As Habermas puts it, in regretful tones: "Unification hasn't [yet] been understood as a normatively willed act of the citizens of both states, who (...) decided upon a common civil union"⁴⁷⁹. This is the historical situation that informs the discourse principle. But this seems to pose problems for Habermas' proposal for Europe. Can we apply the framework of German unification to European integration – are member states simply so many East and West Germanies? This would mean that the EU can acquire its political shape as if it were simply a federal national state; something that we have already seen Habermas deny. This is where his continuity thesis becomes problematic.

⁴⁷⁵ *ibid*, 152-153

⁴⁷⁶ Specter 2007, 111; 92, 109

⁴⁷⁷ *ibid*, 107

⁴⁷⁸ *ibid*, 104

⁴⁷⁹ *ibid*, 107

We are only now in a position to evaluate Habermas' European writings from the perspective of depoliticization critique. He admirably emphasizes the open-endedness of the political process in many ways, where he might have been satisfied with postulating an end goal or a reified condition that simply justifies current developments. First, we have discussed Habermas' political-philosophical goal as the elaboration of a project rather than the production of a concrete design. Second, consensus [*Verständigung*] is not pursued as an end goal in terms of which everything as justified, but as a processual and gradual accrual of justification; and consensus already achieved remains open to criticism and revision. Third, we have seen how highly Habermas speaks of the exercise of communicative power, either in support or in rejection of a given legal order. Fourth, there is no conclusive story to be told about the concrete design of European institutions or the separation of powers. It may be said in response that Habermas accepts a version of the ontological argument that claims the nation-state is simply no longer a viable model, so that Europe becomes an unavoidable next step. But we should note that Habermas is not trying to justify any given political design on the political level, and that his commitment to supranational politics has a further argument behind it. Fifth, the ground Habermas invokes, in the form of the ideal speech situation as it arises out of the presuppositions that govern language, is an anticipated ground rather than a material (moral) given. But this is also where the main problem with Habermas' position comes more clearly into view.

The discourse principle and the double sovereign both fit into a continuum of processual consensus, which, although it is not closed off with respect to its content, always already takes on an anticipatory posture. That is to say that there is at every moment a directionality in play. It falls to law to bring order to politics, and while the letter of the law is subject to changing circumstances and revisions, the law itself continually needs to transcend its own context – this is simply an echo of Habermas' analysis of validity claims that are inherent in every act of communication. Every such act in a way brings forth the moment of supranational political order: act and order relate to one another as micro- and macrocosm that are both expressive of the communicative rationality that underlies them. The filtering out of arbitrary power influences in speech is an obvious consequence of the figure of the ideal speech situation. Arbitrary power in the political sense likewise has to

travel through the discursive filter, and because of the structure of the ideal speech situation has to give way to a proceduralized two-chamber system; first in the nation-state and then in the EU. In this sense, there is no difference between German unification and European integration. Both are a discursive step forward, and Habermas sketches in relative detail the conditions that would be needed to make them reflective of that which had already anticipated them and will continue to regulate them: the discourse principle. He says of a world state that it is “unlikely” and “a global welfare regime seems a rapturous, if not bizarre idea”⁴⁸⁰. Yet if we stick to the transhistorical logic that Habermas applies to get us from the national (federal) state to the EU, which as we know is merely a second abstraction after the nation-state had already abstracted from dynastic and local affairs, there is no reason why it should not be brought about. We can imagine a higher-tier double sovereign composed of the peoples of the world (divided according to continent) and the citizens of the world. Would this not entail a further containment of both decisionistic politics and unfettered markets? Habermas does not accept this conclusion, as is clear from his pronouncements on the ‘quite bizarre’ idea of a world state. But this seems to require an appeal to a qualitative difference between world politics and continental politics. However, any such appeal to the effect that the former is of a ‘different caliber’ should surely also apply to the transition from national politics to continental (European) politics. Habermas does require us to take seriously the innovations of European politics, but does not fully draw the conclusion that European politics itself is fundamentally new.

Habermas’ account can thus not bring us all the way towards a newly politicized Europe. His conception of the goals of political philosophy, the processual account of consensus and his account of communicative power in relation to administrative power under the roof of a dynamic conception of law are all modes of politicization. But this is counteracted by the continuity clause that stretches all the way from a particular act of communication to a supranational European polity based on a two-chamber system, in the shape of a directionality that can be called a ‘processual normative given’⁴⁸¹. We started our discussion of Habermas

⁴⁸⁰ Cited by McCormick 2007, 190; 192

⁴⁸¹ This terminology refers back to Schedler 1997, who we have already used to differentiate between different kinds of givens. Schedler himself does not use this particular term in this way, nor does he use it as part of a critical analysis of Habermas.

with the idea of the normative escalation he had left behind, namely that which led from the individual 'I' to the identification with humankind as such through practical reason. Here we arrive at a structurally similar conclusion: Habermas' own work is characterized by a normative escalation from individual acts of speech to the integration of Europe as a whole through communicative reason. This compromises the extent to which Habermas is able to affirm the possibility of antagonism at all, that is to say, at any level of analysis. In this sense, Žižek's allegation that processes of litigation are used to forestall explosions into politics proper is justified. All the openings we have discussed above seem to be part of a greater, well-ordered whole which had always already been anticipated. Conflict, and political decision in the sense Weber required of political leaders, is reduced to occurrences that in some way fall short of an ideal.

Reflecting on Habermas in terms of the relation between ethics and politics, we can distinguish between an ethic of design, which derives from ethics the tools to derive a concrete political order, and a project ethic, which uses ethics in order to determine the direction of politics in an open-ended fashion. It should be clear that Habermas' discourse theory gives us a project ethic. An ethic of design would be a species of fixation and hence depoliticization, since there is no room to deviate from the concrete political design that follows from given ethical first principles. Said principles thus operate as an absolute normative constraint. We can say of project ethics that it no longer deals in first principles that decide politics from the outset; rather, it operates on the basis of 'final principles' that reflect the conditions of a fully legitimate procedure; one that in Habermas is in most cases impossible to reach, but still, as we know, anticipated. These final principles do not fixate the politics that are said to follow from an ethic of design (so that ethics and politics can really no longer be distinguished, which marks the disappearance of the political *qua* political). However, their guiding role cannot be denied. Politics is necessarily expressive of the operative effectiveness of its final principles, and in that sense a path is marked out for it in advance. This means that anticipation as an indirect relation between politics and ethics has many virtues, but also necessarily involves depoliticization⁴⁸².

⁴⁸² We might say that it is a form of localized depoliticization critique, which points out some of the shortcomings of an ethic of design but ultimately puts a project ethics in its place.

Yet this is not all that we can learn from procedural approaches. On the intuition of most who are concerned about depoliticization, the works of Rawls are either a hunting ground for positions to criticize or a place to avoid entirely. In the next section, I try to show what is lost in such a negative approach by showing the politicizing potentials of political liberalism, mostly through the lens of an updated version of the project by Jonathan Quong.

4.3 Political liberalism

In order to understand why Rawls is usually treated in a one-sidedly negative way, we can follow Bonnie Honig's reading. In the first chapter we referenced her notion of resistibility (traced by Honig to the work of Arendt), and it is from this perspective that Honig criticizes Rawls. According to her, Rawls stifles political conflicts by erasing undecidable and tragic situations from his account of justice in the context of developing a "critical lever or standard" that can be used to evaluate existing institutional arrangements⁴⁸³. We can see that in comparison to Habermas, the focus has shifted from consensus and legal orders to justice and institutions. For Rawls, justice pertains to the "basic structure" of society and is involved in the distribution of primary goods⁴⁸⁴. The latter are not limited to resources in the narrow sense, but also comprise immaterial aspects of life such as freedoms and rights⁴⁸⁵. Like Habermas, Rawls seeks to approach his particular problem – for Rawls, the problem of distribution – through the ideal of impartiality. Rawls does not seek this ideal in the presuppositions of language, but in the design of society itself. The importance that is attached to impartiality explains why Rawls summarizes his own project as justice as fairness. The counterpart of the ideal speech situation is the so-called original position. This is the perspective that Rawls uses as a "representative device" in order to advance two principles of justice that should follow from the adoption of an impartial position⁴⁸⁶. The first principle concerns the distribution of basic goods in such a way that they are maximized, while the freedoms

⁴⁸³ Honig 1993, 126-127

⁴⁸⁴ Quong 2011, 128-129; Rawls 1996, 178-180

⁴⁸⁵ Rawls 1999, 54

⁴⁸⁶ Rawls 1985, 258

of one are not limited by the freedoms of another⁴⁸⁷. This is connected to the broader liberal idea of the priority of the right over the good, which states that a given society should not be governed by substantial moral principles but instead should be concerned with allowing each citizen of that society the opportunity to formulate and practice his own conception of the good life, so long as the version of the good life that is selected is compatible with the limits drawn by justice as fairness⁴⁸⁸. The second principle describes conditions under which inequalities can be allowed.

A lot depends on how we choose to interpret the original position. Honig states that over the course of *A Theory of Justice*, Rawls “becomes more and more beholden to its ideal”⁴⁸⁹. But in the years after its publication, as Habermas notes in his own commentary on Rawls, the argument for justice shifted from an almost universalist project to a more humble claim to spell out a coherent liberal project specific to a particular culture and time period⁴⁹⁰. Habermas characteristically finds this an unattractive dilemma. It is certainly possible to view the original position as a reified and “monological” perspective on the idea of justice, which in contrast to Habermas does not take the views of all those potentially affected into consideration but merely operates to maximize the socio-economic position of a non-distinct individual under conditions imposed by the “veil of ignorance”⁴⁹¹. Then it would be a variety of social contract theory not only in the respect that political community is imagined as if it were the result of a founding act which structures said community, but also in the sense that a privileged position has been found from which the further course of politics can be derived. The original position would thus take over the role of natural man: a notion that we saw was already discredited by Rousseau. In any event, it is clear that this reading of the original position would amount to declaring it a vehicle of depoliticization.

Let us therefore shift the interpretation some way toward a more specific commitment to liberalism that precedes the formulation of the principles of justice themselves. Jonathan Quong proposes that liberalism should not aim to justify itself ‘all the way down’: rather, it should attempt to persuade those who are already committed to basic liberal

⁴⁸⁷ Rawls 1999, 53

⁴⁸⁸ Rawls 1988, 251-252

⁴⁸⁹ Honig 1993, 126

⁴⁹⁰ Habermas 2017, 82-83

⁴⁹¹ Benhabib 1992, 166f; for the veil of ignorance, see Rawls 1999, 11, 17, 118-123

principles⁴⁹². The idea of the Rawlsian framework, on this interpretation, is not that everyone subscribes to it at present, but that under the right ('liberal') conditions, reasonable people *would* subscribe to it. There is a similarity to Kant's *Ideen der Vernunft* here, but while for Kant the moral experience is valid for everyone under all circumstances, Rawls on this reading operates on the basis of "shallow foundations"⁴⁹³. This means that the principles of justice cannot ground themselves and are also not deducible from some other first principle: indeed, no "deep justification" is sought for them⁴⁹⁴. Instead, they are supposed to integrate well with the moral positions intersubjectively held by citizens (in the Rawlsian parlance, these are called "comprehensive doctrines"⁴⁹⁵). The derivation Rawls engages in over the course of *A Theory of Justice* is thus consequent to political decision; and the latter is necessary to make Rawls' into a full argument. The original position is here thus precisely not a reified and monological perspective, but rather a specification of certain moral values that are rooted in a particular society. This is consistent with the notion of "reflective equilibrium", which for Rawls is the moment in which the principles of justice are considered not as species of "ideal theory"⁴⁹⁶, but as outcomes of an abstract process of reflection that have to line up with the sense of justice of persons affected⁴⁹⁷. In the process of reflective equilibrium, the factual "considered convictions"⁴⁹⁸ or "shared understandings"⁴⁹⁹ are accorded their due weight and the 'fit' with the normative principles of justice is determined in a back-and-forth process. Although Rawls' is a very different theoretical angle, Habermas' double sovereign, which as we have seen was prefigured by the productive

⁴⁹² Quong 2011, 6-7, 139

⁴⁹³ Raz 1990, 8; Quong 2011, 225

⁴⁹⁴ Raz 1990, 8

⁴⁹⁵ Rawls 1996, 13

⁴⁹⁶ The distinction between ideal and non-ideal theory concerns the idealizing assumptions that are made, for instance about compliance with the proposed principles. For an overview on the discussion on ideal theory, see Vallentini 2012 and Stemplowska 2008.

⁴⁹⁷ Rawls 1999, 18, 42-45, 507

⁴⁹⁸ Rawls 1996, 3; Rawls 1999, 216

⁴⁹⁹ This term was introduced by Walzer and represents a modification of Rawlsian approaches as it highlights the 'shared', i.e. intersubjective nature of convictions/understandings. See Walzer 1981 for a statement of Walzer's polemic against the 'radical detachment' view of philosophy.

tension between republican and liberal elements in *Faktizität und Geltung*, seems very similar to Rawls' much earlier account.

That being said, while Rawls opens the gate to his political philosophy by allowing and indeed insisting on shallow foundations, the inside is riddled with strictures. What exactly we find on the inside is a matter of interpretation, as is borne out by the commentary industry that his work has spawned (and to which I am now making a contribution from the perspective of depoliticization critique). Since this particular commentary focuses on the openings and closures that political liberalism is able to provide, the next step is to view the notion of disagreement from a Rawlsian perspective.

The first thing to note in this regard is that Rawls believes that only oppression can create societal adherence to a single comprehensive doctrine: under conditions of liberty, it will prove impossible to have this kind of unity, for reasons Rawls describes jointly as the burdens of judgment⁵⁰⁰. Said burdens include the complexity of empirical and scientific evidence, the fact that our assessment of moral political values is to some degree shaped by our total life history, and the limitations of social institutions when it comes to their ability to incorporate values, so that difficult or even tragic choices can become unavoidable⁵⁰¹. The combination of these factors makes disagreement endemic to any liberal society: in this spirit it is sometimes said that pluralism is not a counter to liberalism, but its starting point. Pluralism here refers to the coexistence of social groups with different answers to metaphysical, moral, religious and other 'substantive' matters. Rawls is a proponent of liberal political philosophy in that he argues for the priority of the right over the good⁵⁰². That is, reasoning about the good is left to citizens themselves – at least, citizens in a certain capacity – and the normative goal of the state should be to facilitate the articulation of a view of the good life by these citizens. Doing this facilitating work requires "some point of view, removed from and not distorted" by contingent circumstances that

⁵⁰⁰ Rawls 1996, 36-37, 55-57; cf. Quong 2011, 36-37

⁵⁰¹ Quong 2011, 37. The burden mentioned last here directly contradicts Honing 1993, 130: "The promulgation of an ideal that closes [the spaces between institutional promise, individual expectation and delivery] has a depoliticizing effect that resonates throughout Rawls' regime and makes it harder, not easier, for Rawlsian citizens to be true to (to rise to the challenge of) the spirit of the democratic scheme that Rawls envisions."

⁵⁰² Rawls 1985, 250

create unfair bargaining advantages “from which a fair agreement between free and equal persons can be reached”⁵⁰³. That is the function of the original position: it is “simply a device of representation” or a spelling out of what it means to bracket all concerns that have no bearing on the question of distribution; the fact that Rawls represents the question in this specific way does not signal a commitment to psychological or metaphysical positions concerning the self⁵⁰⁴. In an important phrase, justice as fairness is taken to be a political rather than a metaphysical project. In the sense outlined above, Rawls starts from ideas taken to be implicit in the public culture of a liberal-democratic society, and this includes a normative conception of the person as free and equal, which he adapts so that it can form part of a political conception of justice⁵⁰⁵. Rawls explicitly differentiates his conception from “an account of human nature” as we find it in “comprehensive moral doctrine” or “natural science or social theory”⁵⁰⁶. In summary, we can say that we have so far seen Rawls avoid depoliticization in two ways. First, he develops an account of justification that is not premised on the agreement of a given institutional structure to a pre-established normative standard. Second, Rawls also refrains from closing this newly created opening when he turns to the scheme he uses to create a perspective from which to decide on matters of justice. His conception of the person is consistent with the idea of shallow foundations in that it is not fixated in normative or ontological ways; it is itself a political take on the person, much like the strategy we saw Rousseau and Schmitt employ in the third chapter.

The idea of free and equal citizens who engage in fair cooperation of course leads Rawls to his two principles of justice:

First: each person is to have an equal right to the most extensive scheme of equal basic liberties compatible with a similar scheme of liberties for others.

⁵⁰³ *ibid*, 235

⁵⁰⁴ *ibid*, 237; 230-231. Rawls seems annoyed when he says that when “we simulate-being in this [original] position, our reasoning no more commits us to a metaphysical doctrine about the nature of the self than our playing a game like Monopoly commits us to thinking that we are landlords engaged in a desperate rivalry, winner take all” (*ibid*, 239).

⁵⁰⁵ *ibid*, 232 n15, 233

⁵⁰⁶ *ibid*, 232 n15

Second: social and economic inequalities are to be arranged so that they are both (a) reasonably expected to be to everyone's advantage, and (b) attached to positions and offices open to all.
(Rawls 1999, 53)

It is possible to criticize the progression from the original position to these principles, but more important for our purposes is the extent to which disagreement about these principles is 'allowed' from the perspective of political liberalism. This is especially important since the fact of reasonable pluralism concerning conceptions of the good has now been filtered down into two principles concerning 'the right'. But what makes these considerations of justice so different from more straightforwardly moral principles; could there not be disagreement about the principles of justice under liberal conditions? The assertion that principles of justice are given undue special treatment in comparison with moral principles has been called the 'asymmetry objection'⁵⁰⁷. Jonathan Quong, who poses the problem in this particular way, also devises a strategy to defuse it. His strategy is based on a distinction between two types of disagreement: justificatory and foundational disagreement. Justificatory disagreement concerns the conclusions (to be) derived from standards of procedural justification held in common by the disagreeing parties, whereas foundational disagreement regards the standard of procedural justification themselves⁵⁰⁸.

The idea of a shared justificatory framework thus makes all the difference: for Quong it acts as a "filter" that ensures mutual acceptability of conflicting arguments advanced by disagreeing but ultimately reasonable people⁵⁰⁹. This framework is that of public reason, which makes sure that it is possible for each party to accept arguments "in [their]

⁵⁰⁷ Quong 2011, 149-150, 192-193

⁵⁰⁸ *ibid.*, 193; cf. Luhmann 1983, 31: "With respect to the concept of legitimacy, one has to distinguish clearly between the *acceptance of the premises of a decision and the acceptance of a decision itself*. (...) Once can affirm [*bejahen*] the principles and norms, from which a decision is 'deduced, but still reject the decision itself, because it is logically false or is grounded on false interpretations or false assumptions of fact. And conversely one can accept decisions without worrying about the values on which they rest, in complete indifference to, or even while rejecting their grounds as general rules of decision-making" (emphasis added).

⁵⁰⁹ Quong 2011, 207-208

capacity as free and equal citizen[s]”⁵¹⁰. This does not refer to particular outcomes, but rather to the standard of justification reasonable people owe one another⁵¹¹. The burdens of judgment thus leave untouched the necessity of advancing reasonable arguments, that is to say, arguments informed by acceptance of the burdens of judgment and the commitment to finding fair terms of agreement with others who are conceived as free and equal citizens⁵¹².

Of course, the implication is that foundational disagreement cannot be a challenge to liberal legitimacy. As we have already considered, Quong advances an ‘internal conception’ of liberalism that does not seek to ground liberal values in some ultimate foundation, but already assumes the availability, through reflective equilibrium, within public culture of notions like free and equal persons, social cooperation and public reason. It makes good internal sense for Quong not to see unreasonable views as a problem for the legitimacy of political order⁵¹³. Yet once again, there are echoes of Rousseau’s closure here. Political liberalism does not need to be acceptable to “everyone, as we find them in our imperfect world”; saying that the exercise of power needs to be justified on that basis is a “wildly implausible thesis”⁵¹⁴. “Rapists and murderers, for instance, may not accept the arguments offered to them when their liberty is restricted by the state, but this does not make the restriction of their liberty wrong or illegitimate”⁵¹⁵.

Not only are unreasonables not owed a justification that they would factually accept (rather than one they *should* accept), but they are also viewed as dangerous elements. As Rawls himself puts it, doctrines that reject one or more democratic freedoms are “a permanent fact of life (...) This gives us the practical task of containing them – *like war and disease* – so that they do not overturn political justice”⁵¹⁶. Quong agrees that

⁵¹⁰ *ibid*, 209 (emphasis in original)

⁵¹¹ Rawls 1996, 241

⁵¹² Quong 2011, 218

⁵¹³ Quong points out that public reason does not exclude the unreasonable citizen, but rather “unreasonable views or claims”: ‘certain aspects of a person’s beliefs or behaviour, rather than (...) a clearly identifiable class of real people’ (*ibid*, 291). Yet it seems that citizens are in fact excluded from advancing their views or claims precisely insofar as the latter are deemed unreasonable.

⁵¹⁴ *ibid*, 312

⁵¹⁵ *ibid*

⁵¹⁶ Rawls 1996, 64 n19, emphasis added; cf. Quong 2011, 299

such a strategy of containment may be necessary in order to provide the normative stability that a well-ordered liberal society requires⁵¹⁷.

This may seem like an incredible escalation: starting from the seemingly benign observation that democratic values can be found in our public culture, we have ended up with the task of containing unreasonables. The critical point is that these values, for Quong, are not based merely on an interpretation of the culture from which they arise, but arise from a process of reflective equilibrium that takes place inside of said culture⁵¹⁸. In this way, the Rawlsian strategy of marrying facticity and validity through a process of rationalizing views and claims and thus transforming them into ‘considered convictions’: our views “at all levels of generality” and “on reflection”⁵¹⁹. This is then opposed to our views, not merely insofar as these do not satisfy these requirements (they are not ‘considered’ enough), but insofar as these contradict the political order that is informed by the normative perspective to which we all subscribe, at least in our capacity as free and equal citizens. We are once again opposing the general will to the will of all (‘as we find them in our imperfect world’, ‘rapists and murderers’). It should be clear that this opposition is a mode of depoliticization. This is confirmed by the idea of needing to contain rather than politically engage ‘unreasonable’ views. The depoliticizing requirement of filtering ethical positions through a test of reasonableness is the indirect relation I propose to call *generalization*.

This being said, not all Rawlsians are Quongians. But Quong convincingly argues against the external conception of liberalism, and this leaves Rawlsians in an uncomfortable dilemma. The overall argument can be summarized as follows: the idea that justification is owed to “real citizens” rather than idealized ones is problematic because in order to avoid collapsing into the internal conception⁵²⁰, the political liberal would have to accept public culture at face value, so that he has to

⁵¹⁷ Quong 2011, 300: Quong also distinguishes between a right to be wrong (in ways that do not contradict the requirement of reasonableness) and a right to be unreasonable, and concludes that the latter does not exist (ibid, 309–310).

⁵¹⁸ ibid, 155

⁵¹⁹ Rawls 1996, 8

⁵²⁰ According to Quong, the rejection of public culture at face value as well as the bootstrapping argument, which says that people *should* believe in Rawlsian ideas even though they do not, both collapse into the internal conception. See Quong 2011, 151–152

account for the dissensus about justice that exists in real society. This makes political liberalism vulnerable to the asymmetry objection, to which only an empirical reply is now possible: citizens do in fact agree more about justice than they agree about the good life⁵²¹. This is contingent on actual agreement, so that political liberalism collapses entirely into a descriptive enterprise. If the choice between internal and external conceptions of liberalism is a valid description of the options open to political liberalism, it seems hard to prefer one over the other.

Quite apart from the choice between the internal and external conception, Rawls is haunted by specters of depoliticization in other ways. The first is the identification of politics with the justice-administering state, which drives us back into Weber's arms (as it constitutes a re-reversal of Schmitt's reversal of Weber)⁵²². This identification is an assumption Rawls employs in order to "fix ideas": "society is a more or less self-sufficient association of persons who in their relations to one another recognize certain rules of conduct as binding and who for the most part act in accordance with them"⁵²³. This assumption is reflected by the idea that citizens within society can collectively engage in reflective equilibrium. Likewise, the idea of a community of free and equal citizens already assumes a moral community⁵²⁴. In a formula, it is reconciliation rather than politicization that drives Rawls' strategy, and the remainders of reconciliation are depoliticized⁵²⁵, for instance by casting them as disease-like and in need of containment. It is thus always simultaneously too early and too late for politics: at first we need to assume a stable society in order to 'fix ideas', and this then results in a mode of reconciliation that cannot be contested in a reasonable way, which is to say that such contestation will always present a danger.

There is thus much we have learned from Rawls. He offers us a way of avoiding the crossfire between ethics of design and project ethics, since Rawls stops short of deriving either a design or directionality from either first or final principles. This avoids charges of depoliticization, from which we can surmise that political philosophy is to be not only

⁵²¹ *ibid*, 151-153

⁵²² cf. Honig 1993, 129: "In the name of a democratic politics [Rawls] recenters the state that other democratic activists are actively involved in decentering."

⁵²³ Rawls 1999, 4

⁵²⁴ Van Schoelandt 2015

⁵²⁵ cf. Honig 1993, 127-129. This is also apparent in Rawls' writings on punishment; see Honig 1993, Ch 5.

concerned with its own content in a positive sense, but also needs to decide where it ends; what it leaves up to politics itself⁵²⁶. There is a distinction to be made here between two kinds of restraint⁵²⁷. First, political philosophy can build on moral positions that are prevalent in a given public culture and in that sense restrain the search to justify itself completely. This is rooted in a conception of the role of philosophy vis-à-vis society and politics. On my analysis in this section, Rawls is an example of this first kind of restraint, so long as we see his selection of public culture as informed by an interpretation of that culture rather than the result of reflective equilibrium. Second, political philosophy can allow for an open-ended normative conversation *as part of its substance*. This is part of the philosophical theory itself, so that Habermas is an example of this second kind of restraint.

Conversely, it is also the case that Rawls, while building on received public culture rather than deducing independent justifications from first principles, formulates a theory that does not exhibit the open-ended structure championed by Habermas. The indirect relation of *generalization* which operates on ‘comprehensive doctrines’ implies the invocation of a standard that is ascribed to citizens themselves, but it ends up operating on the level of the general will rather than that of the will of all. Habermas himself, by rooting his political philosophy in the presuppositions that govern every act of communication by *anticipating* the ideal speech situation, ends up saddling his discourse-theoretical approach with final principles. Thus, both of them preclude conflict at some point in their theories, but they do so in different ways. Rawls opens up the justification of his theory but constructs a system that is only able to contain and punish those who are ‘unreasonable’, while Habermas is not committed to such a concrete design, but ‘says too much’ about the different steps that his project must take in view of what it anticipates. Going forward, our aim should be to refrain from depoliticization on both scores. This would mean keeping open the structure of justification that supports political philosophy as well as the substance of political philosophy itself. Delivering on this aim will be the purpose of the next chapter.

⁵²⁶ cf. Fagan 2016

⁵²⁷ The notion of restraint is here modeled on Raz 1988, 110, 136.

Chapter 5

Politicizing across the board

In the previous two chapters, I conducted an analysis that was at many points critical, while at the same time the theorists we criticized (from Rousseau to Rawls) offered a lot of insight on how to proceed in order to avoid depoliticization on particular points. Yet the danger that localized depoliticization critique can have depoliticizing effects by not addressing the ontological dimension of the problem was never far removed from our considerations. The challenge thus remains how to conceive of a politics that is able to pass the test of a generalized depoliticization critique, and to show what such a conception would imply for European politics.

In order to build up to this conception, I want to propose a methodological interpretation of Schmitt's remarks on the polemical nature of political concepts, properly understood. By adopting this notion of polemics and extending it from the conceptual to the political domain more generally, we can give an account of a politics that would be able to fulfill the conditions entailed by the first moment of the political, as I have called it in previous chapters: the idea that a truly political arrangement should affirm and confirm rather than seek to overcome or curb the *possibility* of antagonism. This means that, like Mouffe's agonistic effort described in the third chapter, I seek to overcome an overly clinical separation in terms of political difference: institutional politics operates

on “the terrain of conflictuality informed by ‘the political’”⁵²⁸. Yet unlike Mouffe, I do not see the need to postulate a “necessary moment of closure”⁵²⁹ in this regard. The first and second moment of the political (the possibility of antagonism and its realization) need to remain on the table. As indicated at the end of the third chapter, I disagree with Mouffe on the desirability of keeping antagonism ‘in check’ through agonism, and I have argued for my position in terms of the shortcomings of her proposal for an agonistic future for Europe. In this final chapter I will bring together direct and indirect relations between politics and ethics in order to maintain both the first and second moment of the political. I combine the immanence-based account of politics and ethics with a newly developed indirect relation: that of political engagement. This notion extends some of the theoretical apparatus we have seen at work in Rawls and Habermas while attempting to avoid their respective pitfalls. Political engagement also completes my account of indirect relations between politics and ethics.

Indirect rel. politics-ethics	Definition
<i>Anticipation</i>	Politics is attuned to final principles that are anticipated by its every expression
<i>Generalization</i>	Moral positions are only admitted into politics once they pass a specific test of reasonableness
<i>Political engagement</i>	Polemical politics that consistently politicizes

Political engagement in turn requires an account of the relation between a given political content and the room it leaves for decision. I will use an insight from Honig on deliberation and decision as well as some evocative fragments of thought from Derrida and Lefort in order to lay the groundwork for such an account. We will then be able to discuss political engagement itself. Political engagement is a form of ‘engagement’ in two senses. First in the sense of being an instance of action in a context that requires it; second in the sense of being connected or attached, since what is at stake is a polemic to which one is committed. To be politically engaged, as I will define it, is to pursue a polemical

⁵²⁸ Mouffe 2013, xii

⁵²⁹ *ibid*, 15, 17

politics while consistently politicizing. This poses a double requirement: first, positively speaking, that the possibility of antagonism is affirmed across the board and advanced in a polemical politics, and second, negatively speaking, that depoliticization is avoided across the board. The importance of consistency is not to attain elusive political purity – I have already criticized such an approach in the context of discussing the direct relation of isolation. Rather, the point of consistency is to think clearly about the subject matter of (de)politicization, which is by its very nature unclear. It is precisely to root out political claims to political clarity, and more generally depoliticization, that we must remain philosophically clear-headed and point out exactly where depoliticizing arguments (the claims to political clarity) fail. Failing to do so would entail running headlong into the by now well-rehearsed objections to localized depoliticization critique, which falls short of politicization across the board. Granting the importance of consistency on this basis, political engagement can serve as the model to be applied in both the first and the second moment of politics. With this model in hand, we then return to European politics and explore one of the ways in which it could pass the test of political engagement. More specifically put, I attempt to apply the lessons learned through a notion of Europopulism which builds on Laclau's work.

5.1 Polemical usage

In the first chapter, we used the Schmittian framework developed in *The Age of Neutralizations and Depoliticizations* to show how the object of depoliticization critique shifts around depending on the area that is for a while elevated to the status of producing neutral positions that can be used to adjudicate ongoing conflicts. However, every sphere that is made to serve this function quickly finds itself at the center of a new conflict. This conflict is new precisely because its subject matter has changed – for instance, it is now an economic rather than a metaphysical one. At each step, both the neutralization of conflict and the nature of conflict itself (once it re-emerges) are thus tied to a particular historical context. This resonates with a specific pronouncement on political concepts in *The Concept of the Political*, which we can now add to our overall account.

Schmitt says that all truly political concepts are “polemical”⁵³⁰. In light of his thesis that conflict is adjudicated by the invocation of a novel neutralized sphere which then becomes the site of further conflicts, such polemics have to be understood in terms of providing a concrete “place-against”⁵³¹ from which a particular goal can be achieved against the particular order of a given time-period⁵³². In this spirit, Schmitt lauds Kant’s notion of a *Volkenbund* as a polemic against royalism⁵³³. Yet it also follows from Schmitt’s analysis that political concepts can become stale, that is, they may lose their political character⁵³⁴. He indeed describes an example of such a loss of political status in reference to the concept of humanity, which in the eighteenth century could function as “a polemical denial of the then existing aristocratic-feudal system and the privileges accompanying it”⁵³⁵. This same concept divorced from this concrete polemic becomes a universal, which is all-embracing and in that sense depoliticized. In the same way,

The League of Nations idea was clear and precise as long as such a body could be construed as a polemical antithesis of a league of monarchs. But this polemical meaning disappeared with the political significance of monarchy. (...) For many people the ideal of a global organization means nothing else than the utopian idea of total depoliticization. (Schmitt 2007, 55)

⁵³⁰ Schmitt 2007, 30

⁵³¹ cf. Abensour 2011, 94

⁵³² Schmitt 2007, 30-32

⁵³³ cf. Monod 2013, 141

⁵³⁴ Schmitt here comes close to a position defended by Marx and Engels. They had claimed that class warfare had not advanced far enough for ‘utopian socialists’ to theorize the revolution correctly, which in turn meant that while revolutionary in their own time, an uncritical adoption of their theory now would count as reactionary. In their words: “The significance of Critical-Utopian Socialism and Communism bears an inverse relationship to historical development” (Marx & Engels 2007, 41). His emphasis on historical rootedness and development likewise seems to have been a continuation of Hegelian themes: “one may (...) view Schmitt as the chief example of what can be called the dialectical right” (McCormick 1997, 37; see also *ibid.*, 17-18). Yet see also *ibid.*, 300, which places Schmitt’s historicism in existentialist rather than Hegelian terms.

⁵³⁵ Schmitt 2007, 55

In order to be political, a concept thus has to be involved in a concrete polemic within a particular historical context. As soon as this context ceases to exercise influence, the concept itself can only remain in play insofar as it is unduly taken out of context, which results in the Rancièrian ‘indistinct point of view’ we discussed in the first chapter – and hence in depoliticization. Whether a concept is political or not thus turns on the question of its relation to a given historical context. Speaking from a more theoretical perspective, generalized depoliticization critique always politicizes and never depoliticizes, while localized depoliticization critique politicizes within the limited context it polemicalizes against while simultaneously carrying the depoliticizing effect of not addressing the matter of political ontology. In addition, localized depoliticization critique leads to depoliticization when it is taken out of context and stated from the indistinct point of view. This is possible at all precisely because the ontological dimension is not addressed. The three examples given above (Kant’s *Volkenbund*, the concept of humanity and the League of Nations) all illustrate this latter point of a polemical usage that gives way to a depoliticizing effect when the polemical element is taken out.

Building on this analysis, I propose to extend Schmitt’s notion of polemical usage from the realm of concepts to that of politics more generally. This means that we have to ask the question under what conditions the formation of a ‘space against’ is possible on the interior of politics and (possibly at the same time) as a reaction to it. It is clear that we have to avoid what Laclau calls the “reabsorption [of politics] by the sedimented forms of the social”, as this would entail “the death of politics”⁵³⁶. Laclau’s own solution is populism, and we will weigh its merits later on in this chapter. The danger of reabsorption makes clear that there must exist a real element of decision against the ‘ossified’ structures put in place by the logic of the prevailing institutions. This means that as with the notion of the polemical usage of concepts, what counts as a polemical politics is determined by the political context that is targeted in an attempt to unmask it as open to political contestation rather than the result of absolute constraints. Continuing this line of reasoning, it is possible for a once-polemical politics to become part of *police* and, conversely, for ‘ossified’ politics to rediscover their political poten-

⁵³⁶ *ibid*, 155.

tial and affirm the possibility of antagonism against the political context of which they are a part.

In a way, the same point is demonstrated by Rancière's distinction between *police* and politics: politics happens in the interior of *police*, and the second moment of the political (as I call it here) is reabsorbed into an adjusted *police* order. What Rancière does not quite give us, however, is the notion of a tension within a given politics. The first moment of the political, which concerns the possibility of antagonism, seems to be undervalued. As we saw in the first chapter, it is through the *performance* of a society's internal difference to itself, the active shattering of the apparent purity or in our terms the second moment of the political, that politics in Rancière's sense becomes possible. What is lost by this seemingly exclusive focus on the second moment is a sense that anything other than the fleeting 'moment' of breakthrough could be politically meaningful. Yet from the perspective of depoliticization critique, the crucial break-off point is to be found one level deeper: in the affirmation or denial of the possibility of antagonism.

It is important to emphasize at this point that this possibility is never truly closed off. Depoliticization does not occur when fixation succeeds in a final sense, as it cannot: this impossibility is built into the idea of affirming the 'problematic' nature of man and the ever-present possibility of an enemy. But this does not mean that fixation cannot be efficacious⁵³⁷. Fixation, and depoliticization more generally, can deny the possibility of antagonism. This happens at the level of claims, sometimes at the level of paradoxically political claims. Ontologically speaking, this does not mean that the possibility of a political breakthrough is off the table. This was already traced historically by Schmitt: the fact that certain conflicts were neutralized through the intervention of a particular domain of human life (metaphysics, morality, economics) could not prevent new conflicts from springing up. The status of these domains themselves becomes the focus of conflict, and as they are displaced their depoliticizing spell is broken. It is thus the transformation of the status of a domain within a given political context in view of the possibility of antagonism that decides all in Schmitt's historical approach, as well as in my extension of it.

⁵³⁷ The kind of efficacy involved is close to the notion of symbolic efficacy introduced by Claude Lévi-Strauss and taken up by Lefort: see Flynn (2005), 131-133 and Lefort (1999), 185 (cf. Flynn 2005, 254).

I think it is possible to relate polemical politics to its context in a parallel fashion, along two axes: one concerns direct relations and the second concerns indirect relations. First, within a given political-institutional context, the status of that context itself and its political elements must not be claimed as subject to absolute ontological/normative constraints (fixation); nor must it be claimed in terms of a juxtaposition of powerless subjective ideals and objective reality (friction) or in terms of a separate, standalone domain of politics (isolation). Second, within such a context it must not be claimed that the context of its political elements are bound by anticipation or generalization. This status of not being 'claimed' may appear rather harmless as a condition for what is considered polemical. But a politics which answers to both conditions will necessarily take on a polemical character when it is posed against a background of depoliticization. As we have seen, generalized depoliticization critique asks questions of an ontological nature which are in most cases simply assumed away. The politics we have in mind would have to resist the force of such assumptions. There can be no "necessary moment of closure"⁵³⁸ or necessary theoretical "bedrock"⁵³⁹ underlying its politics. Having briefly sketched the kind of condition against which a polemical politics would be posed, we are now in a position to signal two potential problems. In the next section I will then resume the account of polemical politics.

The first potential objection signals that it is possible in principle that such a politics would attain hegemony within a given political context. On my analysis this would *not* entail a novel kind of depoliticization, since the affirmation of the possibility of antagonism is necessarily a part of their practice. Because we affirm that the nature of man is and remains 'problematic', it cannot be supposed that contestation would die down under such circumstances, as if a single correct way of governing had been stumbled upon. Rather, many political contents (and hence contests) are possible within a polemical framework, as we will later consider in more detail. Yet even if there would be no contestation across a certain time period, this would not in itself pose a problem so long as this contestation remained *possible*, in the sense that its possibility is not denied on the level of claims. This is again to be understood as the absence of depoliticizing claims within the political context concerned.

⁵³⁸ Mouffe 2013, 15, 17

⁵³⁹ Quong 2011, 313

There is a second important objection to the extension of Schmitt's notion of polemical usage to politics: the concern of parapolitics. In the fourth chapter, we saw Žižek phrasing the concern in terms of the replacement of the political and its conflicts by recourse to litigation: we investigated this claim with respect to Habermas and Rawls. The term 'parapolitics' itself Žižek adopts and indeed adapts from the work of Rancière, who employs it in several distinct senses, referring to a transformation of the strategy in successive phases: Aristotle's political philosophy, social contract theory (in Hobbes and Rousseau), and social science⁵⁴⁰. Parapolitics in general can be said to mean: the official incorporation of political elements into *police* logic, which actually excludes them by assigning them a proper place in the system which does not count them among its parts⁵⁴¹. Rousseau is cited as a proponent of "breaking down the people into individuals"⁵⁴², which on both of the readings I offer on these pages is an overly hasty interpretation that completely assimilates Rousseau to the project of his predecessors. As we saw in the third chapter, Rousseau does not derive an ideal society from a fixed notion of 'individual' human nature, but instead complicates the idea of natural man by placing it beyond factual claim. Furthermore, as we will see further on in the present chapter, it is possible to read Rousseau in such a way that the specter of closure that haunts his general will is expelled.

Rancière's hasty rendering of Rousseau is instructive for our purposes because it exposes the fact that one of the core premises of his parapolitical critique is that the political (which for Rancière must be performed by the *demos*) can only be included within a political order at the price of reducing the political to a *fixed role* within the institutional framework, thus removing its disruptive potential. This is confirmed by his proto-Hobbesian reading of Aristotle, in which the fundamental matter of political equality gives way to concerns about the occupation of offices and the distribution of power⁵⁴³. Through the lens of this

⁵⁴⁰ Rancière 1999, 69–81

⁵⁴¹ See in particular *ibid.*, 72: "It is Aristotle who managed to square the circle, to propose the realization of a natural order of politics as a constitutional order *by the very inclusion of what blocked any such realization*: the *demos*, either in the form of exposure of the war between the "rich" and the "poor," or in the ultimate form of the effectiveness of an egalitarian anarchy (emphasis added)."

⁵⁴² *ibid.*, 78

⁵⁴³ *ibid.*, 73

supposedly Aristotelian parapolitics polemical politics must appear as a mode of “squaring the circle”, that is, accomplishing the impossible task of squaring the political with political philosophy by reducing the former to the latter⁵⁴⁴.

My response to objections of this kind is that the notion of a polemical politics is not tied to such matters of stable ‘inclusion’ and thereby exclusion, but rather represents the constitution of a space-against in and of politics (rather than a “spatialized politics”⁵⁴⁵ engendering a specific inclusion/exclusion). We have not yet considered the full entailments of politicization across the board. But we can use the notion of a polemical politics to gain more insight into the kind of politics that would be able to favor politicization consistently, without cutting off truly political possibilities by focusing on the fleeting moment in which antagonism is actualized so that the political appears on the stage only as an explosion. Narrowing politics to its explosive second moment is at least potentially premature based on the notion of the political as we find it in Schmitt, which centers on the *possibility* of antagonism or what I here call the first moment of the political.

Our search for this first moment cannot be concerned with spelling out a definite content for politics in advance. Indeed, this would merely render politics subservient to project ethics and thus collapse into fixation. Any analysis that fulfills the conditions of a polemical politics has to ‘leave content to politics itself’. That is not merely a negative description of what politics itself may not do, but likewise a positive description of its task in facilitating a politics that is indeed able to formulate its own content without being claimed and thus preempted by depoliticizing direct or indirect relations to ethics (and/or ontology). It also combines the two lessons on restraint we learned from Habermas and Rawls in the previous chapter. The ramifications on the level of politics itself must be that all designs, and certain projects (namely those that depoliticize) are not to be part of politics since they are not political themselves. Depoliticization itself may be politically motivated, but its effect is a closure of politics that spells the latter’s end. From the perspective of generalized depoliticization critique, our goal is to unmask and avoid such effects. Yet we are now confronted with the apparent paradox that to avoid the closure of politics, we must ourselves close

⁵⁴⁴ *ibid*, 72

⁵⁴⁵ *ibid*, 75

off politics in a certain regard – namely to avoid depoliticization. In my analysis, this paradox can be defanged because avoiding depoliticization is not itself a form of depoliticization owing to the ethical-political circle that informs the direct relation of immanence.

In order to fully make this point, we first have to elaborate on what a polemical politics would entail. From the preceding remarks, we can adduce that the art of being polemical has to consist in a formal structure that will allow the formulation of non-depoliticizing political content while always leaving open the possibility of political decision (in the sense of not precluding its affirmation). This means that a polemical politics stands in a very particular relationship to the ‘contents’ of politics itself. We are now in a position to discuss the relationship between polemics and politics, and I will use the angle of a critique on deliberative theory in order to bring this out.

5.2 Deliberation/decision and polemics

Theorists of deliberation worry about their ability to give valid justifications based in procedure for political and philosophical principles and positions. This is a worry since for them outside of deliberation we find nothing other than decision, whose proponents cannot justify any principle in a valid manner and therefore end up promoting dangerous arbitrariness in the style of Nietzsche and Schmitt (sometimes Derrida is included)⁵⁴⁶. The task of deliberation is thus to exorcise the ghost of naked decision, and this is done by finding the right balance between practical reason and sovereign will; the idea of human rights and the principle of popular sovereignty; Kant and Rousseau. In the analysis of Bonnie Honig this means that deliberativists rely on hypostatized categorizations that limit politics by seeing the terms they attempt to reconcile as binaries⁵⁴⁷. She rereads Rousseau in an attempt to bring out what is lost to such an approach, and we will follow her reading here. This will allow us to reflect on the central place of decision, in spite of deliberativist protest, in any kind of politics: and we will consider how this centrality should be affirmed and engaged as part of a polemical politics.

⁵⁴⁶ Honig 2007, 1; Benhabib 1994a

⁵⁴⁷ Honig 2007, 14-15

Rousseau, as we are aware, seems to distinguish sharply between the will of all and the general will. The effective history of this distinction has been to read Rousseau as a proponent of fixation, who at first pioneered an important strategy for politicization (placing human nature beyond factual claims) but later succumbed to closure. This was also our reading in the third chapter. Yet Honig draws attention to the ways the general will remains tied to the will of all within Rousseau's work. One of them is the idea that the general will is the "sum of particular wills", which allows for the calculation of the general will from the starting point of the will of all: "take away from these same [private] wills the pluses and minuses which cancel one another, and the general will remains as the sum of the differences"⁵⁴⁸. Seyla Benhabib reads this as the first of Rousseau's two attempts to find a solution to the paradoxical nature of limiting a sovereign people by means of the law that forms them in the first place: this is what is called the paradox of democratic legitimacy. She finds this first, "arithmetic" solution unsatisfactory; Honig agrees but only on the grounds that it should not be thought of as a solution in the first place⁵⁴⁹. For Honig, Rousseau's "fuzzy math" illustrates the impossibility of knowing "when we have our hands on only one and not the other", so that the general will continues to be inhabited by the will of all⁵⁵⁰.

Rousseau's second 'solution' receives similar treatment. As we have seen, Rousseau postulates a lawgiver which in situations of founding or deeply rooted corruption can define for the not yet fully formed people what their general will consists in. Honig extends this problem to cover not only situations on the brink of politics, but democratic politics as such: "the subject postulated by politics is seen as never quite the cause because also always the effect of political practice"⁵⁵¹. Again, here the point is not that the paradox of democratic legitimacy is resolved but that Rousseau marks the problem as an enduring one: the 'people' is undecidable and 'multitude'⁵⁵². In other words, the lawgiver stands for the idea that active shaping is a necessary part of political practice, since the people is never 'just there' but is itself the result of continuous political

⁵⁴⁸ Rousseau 2002, 172; cf. Honig 2007, 4; Benhabib 1994b, 28

⁵⁴⁹ Benhabib 1994b, 29; cf. Honig 2007, 4

⁵⁵⁰ Honig 2007, 4-5

⁵⁵¹ *ibid*

⁵⁵² *ibid*, 5

shaping processes (for instance, an externally imposed law that simultaneously gives rise to and reflects the public dimension of a general will).

Such a reading is reinforced, as Honig also notes, by the fact that for Rousseau the lawgiver is as unknowable as the general will. Just as the general will may be feigned by the will of all, the lawgiver can be impersonated by charlatans⁵⁵³. As soon as Rousseau moves to the durability of the resulting laws as a sign of the lawgiver's "great soul"⁵⁵⁴, he cites critics of the Law of Moses who would see in their survival nothing but the success of "lucky imposters"⁵⁵⁵. While Rousseau disagrees, claiming that "the true statesman admires in their systems the great and powerful genius which directs durable institutions"⁵⁵⁶, this leaves open the possibility of lucky imposture and thus deprives the criterion of durability of its usefulness. A will claimed as general may merely be a will of all, a claimed lawgiver may merely be a charlatan and institutions that are claimed to be durable because of their intrinsic qualities may merely last because of good fortune⁵⁵⁷. This means that the decision⁵⁵⁸ of the not yet or no longer fully-formed people themselves remains important in distinguishing between the two options in each of these cases; and only through this decision they form themselves as a people.

This entails that the very focus on paradoxes like that of democratic legitimacy, which presuppose that their terms are themselves complete (in this case, the people is taken as a given), misses the truly political questions that decide which and whose claims are 'admitted into' the people and its politics in the first place. This means that deliberation between settled parties forecloses fundamental political questions about who gets to claim entry into the ranks of those deliberating and who is dismissed as unreasonable before deliberation proper is initiated⁵⁵⁹. This is a more general configuration of the indirect relations of anticipation and generalization (both of which depend on deliberative procedures)

⁵⁵³ *ibid*, 6

⁵⁵⁴ Rousseau 2002, 183

⁵⁵⁵ *ibid*; cf. Honig 2007, 6

⁵⁵⁶ Rousseau 2002, 183; cf. Honig 2007, 6-7

⁵⁵⁷ cf. Honig 2007, 6-7

⁵⁵⁸ Honig instead refers to the "will or judgment" of such a people (*ibid*, 7)

⁵⁵⁹ This more general point is similar to Rancière's notion that in any police order, there is an uncountable element that is not taken into account: see e.g. Rancière 1999, 116

and their effect of securing a privileged mode of politics to the exclusion of alternatives, in such a way that depoliticization occurs.

It is clear that deliberation is merely one political project among many other possibilities. Still, Honig shows that even in the context of deliberative political philosophy, which has the foreclosure of naked decision as one of its main aims, an element of decision is present as the condition of deliberation so that decision is an internal factor which actively informs politics rather than an external threat from which it can be safeguarded (only) through the interjection of proper procedures. As Honig avows, the nature of the political is to resist the hypostasis of *any* project that relies on rigid categorization. This element of resistibility, as we have already seen it described in the first chapter, is what opens the space-against which engenders a polemical politics.

This describes polemical politics in its insistence that any political order must be resistible as a matter of political decision. At the same time, in order for there to be resistance against something, we need to have a 'content' first. In this sense, the political exists in a double bind. As Derrida puts it in the context of describing decision in more general terms, there needs to be an irreducible "heterogeneity between two linked orders", namely the 'content' (that is, the concrete political program that is advanced) and the insistence that this content cannot go all the way⁵⁶⁰. Derrida conceptualizes this in terms of "knowledge and non-knowledge": both are demanded by decision at the same time⁵⁶¹.

We need to have knowledge, the best and most comprehensive available, in order to make a decision or take responsibility. But the moment and structure (...) of the responsible decision, are and must remain heterogeneous to knowledge. An absolute interruption must separate them (...). (Derrida 2005, 145)

In more expressly political terms, we need to be at pains to formulate the best possible political program without allowing the moment of decision to be determined by the content of this program (in which case there would be no decision at all). Indeed, for Claude Lefort, the conceptual possibility of politics involves the "intertwining" of "knowl-

⁵⁶⁰ Derrida 2005, 25-26

⁵⁶¹ Fagan 2016, 74

edge and non-knowledge” in this sense⁵⁶². Only given these conditions, where one’s prior political commitment is not absent but also not an absolutizing force, politics is possible. Extending this to our notion of the political, we can say that what is needed is not the mere presence of an element of decision – since ontologically speaking such an element is present even under conditions posed by depoliticization, however deliberative we may wish to be – but the *affirmation* of decision, both in terms of resistibility (being able to decide *against* the prevailing political order) and in terms of non-cynical commitment to one’s own position (deciding *for* a particular political content)⁵⁶³.

This completes our notion of polemical politics. Such a politics is polemical only with respect to a specific political-institutional context and, relative to that context, affirms the element of decision that is present in every political order (in spite of deliberative theory). Decision, as we have seen, should be understood both in terms of the ability to resist a given political order (the element of non-knowledge or deciding against) and in terms of non-cynical commitment (the element of knowledge or deciding for). This gives us the conceptual material required to move from polemical politics to the indirect relation of political engagement.

5.3 Political engagement

Throughout this investigation, I have developed depoliticization critique as a theoretical angle in two distinct varieties: localized and generalized. We now understand that the shortcomings of the first variety should be understood in reference to its inability to consistently affirm decision; it does not do so across the board, since its analysis does not extend far enough. The ontological dimension is left unquestioned, as we have seen in our analysis of political philosophies that do engage in depoliticiza-

⁵⁶² Lefort 1972, 367; see also Flynn 2005, 21, 70-71

⁵⁶³ This requirement of non-cynicism is close to asking for consistency, since cynicism is described as not drawing practical lessons from theoretical insight pertaining to falsity (Sloterdijk 1983, 37-38). Furthermore, cynicism itself necessarily depoliticizes because of its accompanying notion of “enlightened false consciousness”, which vitiates any contestation or critique because of its sheer indifference (*ibid*, 37). Non-cynicism is in this sense required for consistent politicization: see section 5.3 on the formal requirements posed by the latter aim.

tion critique, but in the end succumb to their own form of depoliticization. This leaves us with an ambiguous patchwork of theoretical paths cutting across the political. What we have found was usually both a capacity to unmask depoliticization in others and a seemingly insuppressible need to have recourse to elements of closure all the same. What one argument opens up, is closed down by another – sometimes even within the same theory, as we have seen. If we imagine all the possible aspects of politicization and depoliticization that we have considered as a single area divided into regions, then mapping theories onto them would prove to be a chaotic affair, with regions both folding back into themselves and politicization in one area leading to depoliticization in another. This paradoxical feature of localized depoliticization critique cannot be left standing; in order to keep politics open, the possibility of grounding it without remainder needs to be excluded. That sounds like a new layer of paradox, as remarked earlier, and we will engage with it shortly. At stake is the possibility of a generalized politicization critique that does not fall victim to a further mode of depoliticization: that is, consistent politicization.

My proposal is to achieve this in terms of what I call political engagement, which is the third and final indirect relation I consider. Political engagement earns the title of engagement in a twofold way. First, political engagement is engaged in the sense of being connected or attached, since what is at stake is a polemic to which one is committed. Second, political engagement refers to an instance of action in a context that requires it due to problems that it faces: it ‘engages’ these problems. The problems in question here are of course the modes of depoliticization, in all the forms we have discussed in the last two chapters. To be politically engaged, as I will define it, is to pursue a polemical politics while consistently politicizing. These two elements correspond to the two senses of engagement. While there is thus an emphasis on what is polemical, political engagement avoids turning politics into an arena without rules since the aim is to achieve politicization *consistently*. This means that depoliticizing claims are anathema for the purposes of a polemic. For example: polemicists – those who engage in the kind of polemic I envisage – are to avoid fixating, that is, invoking or claiming absolute ontological and/or normative constraints to, the political. The same is true of the other (in)direct relations I have introduced with regard to their (de)politicizing effects. We have to remember that these

are merely formal conditions for a polemic that is consistently politicizing: the polemic itself is at least as important. Yet the formal conditions themselves are quite efficacious; it can be readily seen that applying political engagement would exclude many currently commonplace 'political' themes. We will consider this idea further on.

For the moment, our most important concern is the fact that political engagement in our sense requires a shutting out of depoliticization. It must *affirm* the importance of the decisive moment and extend this affirmation to the exclusion of anything that would preempt it. In Strauss' analysis of Schmitt, as we saw in the third chapter, this affirmation of the political implies an affirmation of the moral. I am not interested here in how Strauss himself intended his remark, or how Schmitt should respond to this alleged second affirmation. But the connection between the two affirmations certainly follows for the position that I am taking. There is no prospect of a good world among good people that is characterized by harmony: that would be the ultimate depoliticizing claim. But why is this prospect 'not there'? Because I insist – in this respect, side by side with Schmitt – that meaningful human existence simply does not have this harmonious quality, and this is an ethical insistence. Meaningful human existence exceeds well-defined problems with fitting solutions, and the political itself (at least, what I have called the second moment of the political) is nothing but an intense realization of such an existence, as the concept of resistibility makes clear. It is this idea of what makes human life meaningful that involves us with moral categories. Without them, the concept of the political and therefore political engagement could only be described, and not affirmed. Political engagement, as an indirect relation that builds on affirmation, thus points us back to the direct relation of immanence.

But we still have to address an important issue. Is political engagement a paradoxical affair, or even an impossibility? Fixation looms if this moral idea of meaningfulness somehow preempts the identity of the political. It would then pose an absolute normative constraint on the political itself, thereby negating it completely. Does the idea that depoliticization needs to be shut out limit politics before it has even gotten started, so that with or without the notion of political engagement, depoliticization must be the end result? Note that this would only follow if politics were to be 'swallowed whole' by a non-political given that is external to it. From this perspective, the response readily suggests itself.

Politics, in our analysis, is immanent to all domains of life rather than external to it. Nor is the 'affirmation of the moral' a given that is deduced from some external foundation. As we have seen, the idea that the affirmation of the political requires an affirmation of the moral lands us in a moral-political *circle*. The choice of the moral principle that informs meaningful existence is itself political. That is to say, the affirmation of a 'problematic' human nature is not a deduction or a derivation from given first principles. In Rousseau's formulation, the principle is not solved; a conjecture is risked with the hope of throwing light upon it. Schmitt shares the notion of a conjecture, or a confession of faith. Perhaps Rawls' formulation is most to the point here: the moral notion that is advanced is political, not metaphysical. And the choice to go with this particular conjecture is not one that closes off its alternatives in a final sense; it does not even justify itself, except by showing that neither the choice made nor its alternatives are the necessary consequence of an ontological and/or normative given. There is no fixation here. Politics directs us to morality, which directs us back to politics, and this is a circle we could keep on drawing. To politically affirm the moment of decision, we need to insist on the meaningfulness of antagonism; this meaningfulness is not a first principle that informs politics from the outside (and would thus fixate it), but is itself subject to political choice.

Political engagement can thus avoid the apparent paradox that in the very attempt to affirm politicization, it depoliticizes precisely by shutting out depoliticization based on a moral notion. For the affirmation is not a moment of closure, but itself an instance of opening up through the political engulfing of this very moral notion, which itself engulfs politics as part of the same circle. There is no point at which a winner can be declared: likewise, there is no disjunction to the effect that either morality or politics is to be preferred. Instead, the direct relation of immanence is characterized by a mutual encroachment of the political and 'the moral'. It is for moral reasons of meaningful human life that we end up with the political, and these moral reasons are themselves politically motivated, without laying claim to ontological foundations. The circle goes on *ad infinitum* and expresses the mutuality of the terms when they are seen through the lens of immanence.

Yet the direct relation of immanence by itself is not enough, since while it does not itself engender depoliticization, it is not clear how it is able to give shape to any kind of politics. The mutuality that exists with-

in immanence is not yet developed. It still needs to answer the question how politics can consistently avoid depoliticization. The response I offer is the indirect relation of political engagement. The contribution of ethics to generalized depoliticization critique and hence to the conceptual condition of politicization is thus that it fulfills the requirement of the affirmation of the political without thereby grounding and thus absolutely constraining it. This is how politicization can be strived for consistently, that is, while avoiding the pitfalls of depoliticization. The fact that it has recourse to both a direct and indirect relation between politics and ethics relates to both (directly) affirming the possibility of antagonism as immanent to all life domains and (indirectly) excluding, as part of the strategy of political engagement, direct and indirect relations that depoliticize. On that level of analysis, too, immanence and political engagement are related in a specific way.

Now we need to ask the question how political engagement impacts practical politics. In other words: what limits are imposed by the requirement of a polemical politics and expressed by the formal structure of consistent politicization? We will consider these limits in terms of our direct and indirect relationships insofar as I have already shown their depoliticizing effects, in six steps. First, fixation in terms of ontology needs to be excluded. Below I introduce the dimensions of given factual references, given factual goals, and descriptions of factual situations that are posed as absolute constraints on the political. Second, fixation in terms of normativity has to be excluded as well. The dimensions are the same as the factually based ones, with the addition that the combination of moral references, goals, and constraints forms an ethic of design. There can be considerable overlap between fixation in factual and normative terms, as norms can play an ontological role and *vice versa*. Third, powerlessness based on friction has to be excluded. Fourth, the removal of politics based on 'nonpolitical' domains based on isolation has to be excluded. Fifth, given (discursive) procedures for determining 'final principles' based on anticipation need to be excluded. Finally, sixth, given (reflective) procedures for filtering out unreasonable elements based on generalization need to be excluded. Given these conditions, a polemic that politicizes consistently is possible; the polemic itself can take any shape that does not fall foul of the conditions.

The first item on the list above, the exclusion of fixation in terms of ontology, already throws into doubt the political nature of many existing

political programs. For one, references on the basis of claimed 'givens' are off the table. This refers to any reified will of the people that is put forward as part of a political program, and likewise to the identity of the people construed as a given, whether ethnically, religiously, historically or more generally culturally. The same mechanism of claimed factual references is at work in the by now well-rehearsed example of economic determinism, which sees politics as confronted by the managerial task of how to optimize society given the efficacy of certain economic forces. Thus from the perspective of depoliticization critique politics based on race and religion is of a kind with politics based on an economic model, in that both falter at the first opportunity by allowing fixation to undo what is political about them. A like mechanism returns in the postulation of factual goals, such as economic growth or CO₂-reduction, as a given. The point is not that these goals themselves are unworthy, undesirable or otherwise ill-suited. Related to both factual references and goals is the idea of an absolute factual constraint, and this, the manner in which the goals are claimed, is what is problematic from the perspective of depoliticization critique.

As is true of the direct relation of fixation more generally, the ontological and normative can begin to shift into each other. The ambiguous nature of a constraint already hints at this shift: the idea that such a constraint needs to be posed in the first place already shows that its formulation carries a certain evaluative content. An example of an absolute constraint that displays a shift between ontological and normative concerns is the idea that sovereign debt must not be forfeited. One can ask: does this refer to an impossibility of governance, to an ethic of debt payment, to a politics designed foremostly to win the trust of the *Marktvolk*, or all of the above? What is true for all variations on this theme is the function of the constraint in the delimitation of a space that politics can or must not venture into. That by itself means that political engagement in my sense is no longer possible.

This is true more generally speaking for the idea of an ethic of design. The design is supposed to pick out a legitimate way of proceeding, and in that sense delimits the uses to which politics can and cannot be legitimately put. We can work back from this idea to the more purely normative constraints that can be placed on politics. For instance, a given moral reference takes place when the real, unmediated interests of the people are invoked – this goes beyond the will of the people in

that the reality of these interests need not refer to or be expressed by an already existing set of circumstances. Likewise, given moral goals can include liberalization, and an absolute commitment to representative democracy can be described as a moral given which places an absolute constraint upon politics.

Moving from fixation to friction, the idea that politics requires the insight that one is subjectively powerless to realize admittedly important values in a 'resistant' objective reality is to be avoided for the same reasons. Allowing the distinction between subjective and objective 'poles' means that one is caught in a position of powerlessness that cannot be overcome without the intervention of a hero. This latter category seems to be more expressive of an ideal *qua* ideal than of some properly political categorization or possibility. In a related sense, isolation would require the distancing of politics from supposedly non-political domains based on a strict division. In both of these cases, politics foregoes its potential to impact the reality within which it finds itself; in friction because this reality is cast as non-responsive to the normative demands that are placed upon it, and in isolation because politics is asked to maintain its purity in order to avoid polluting itself.

Practical politics is also impacted by its need to avoid depoliticizations that occur as a result of indirect relations. We have seen that Habermas' mistake was to suppose that politics has recourse to a procedure for determining 'final principles', which sees politics as an expression of that which it necessarily anticipates. In parallel fashion, Rawls' mistake was to suppose that politics can have recourse to a procedure designed to filter out 'unreasonable' elements. Both of these kinds of procedure, anticipatory and generalizing, must be avoided. In both cases, posing the accompanying procedural requirements in advance may allow one's moral commitments to withdraw into procedure, but these commitments do not thereby lose their efficacy. A path is marked out in advance and politics cannot help but enter upon it and, as it were, trace its own progression in the path it follows.

While it is important to recognize the limits depoliticization critique places upon practical politics, it is not the case that politics is unduly limited or simply made impossible by the imposition of said limits. It does, however, call for a reconsideration of specific political forms and how we customarily discuss and evaluate them. In what follows I will resume our discussion of populism, which we have encountered in many

roles and to which we can now turn with the complete set of conceptual tools and criteria that have been developed on these pages.

In the first chapter, referring to the analyses of Rancière and Laclau, we saw how the *name* ‘populism’ can be invoked to unmask a dissenting people as unworthy of carrying political influence. Populism as a political phenomenon (as distinct from the name) revolves around the shattering of a complex of meaning that is composed of differentially related terms. A demand that cannot be absorbed by the existing political system will performatively forge equivalential connections that go beyond singular logics. But it seems that such a demand must have an ethical structure of its own: contemporary populism arguably builds upon the idea of directly moral precepts concerning the proper destiny of the people that do not stand in need of mediation and in fact are not even compatible with mediation⁵⁶⁴. On this basis, it can seem misleading to claim that populism is to be celebrated for its politicizing potential in all of its guises, as critics have noted⁵⁶⁵. It rather seems to imply the very opposite: a form of antipolitics, which turns against the specificity of politics, as a specific form of human activity not just aimed against institutions, but against the political as such⁵⁶⁶. More specifically, the specificity of politics comes under pressure because it is made absolutely beholden to the central concerns of an outside domain. In populism, this would be the antecedent force of moral precepts in the sense referred to above.

What the model of political engagement allows us to establish is that from the perspective of depoliticization critique, populism is not to be universally praised or condemned. Whether populism politicizes or depoliticizes is dependent on the claims it makes regarding its own political content. As we have seen, as soon as a reference to the will or interests of the people is claimed as an absolute ontological and/or normative constraint politics drops out. If populism is able to avoid this and truly “[constructs] a people that does not yet exist”⁵⁶⁷, that is, successfully shatters the pre-existing differential field, then the ties of previous facts or norms will not put an absolute constraint on politics. Instead, the space of political decision itself will remain open. Let us see

⁵⁶⁴ Osborne & Molyneux 2017

⁵⁶⁵ *ibid*; cf. De Mul 2017, 41: “not less”, or more for that matter, “but a better populism”.

⁵⁶⁶ Walter & Michelsen 2013, 60– 61

⁵⁶⁷ Laclau 2005, 154

what this implies for political practice. That is to say: using political engagement as a model, we can now begin our return to European politics.

5.4 Europe's political frontier

The notion of polemical usage that I have taken from Schmitt allows for a certain notion of historicization. Political status comes to depend at least in part on the role a concept or politics plays in either entrenching or challenging the prevailing political order, and this role can change depending on how the concept or politics in question is used. To repeat Schmitt's own example: Kant's *Volkenbund* was polemic in its own time in its role as a critique of royalism⁵⁶⁸. This means that we can reread the 'Europes' we encountered in the third chapter in the same way, namely as polemics: those imagined by Saint-Pierre, Rousseau, Kant and Nietzsche. Saint-Pierre and Rousseau's position then appear as counters to the absolute position of power enjoyed by national leaders, which in part through the doctrine of *raison d'état* led to an engulfing of the European continent by ceaseless wars between the European nations. Within that context, Rousseau's idea that Europe expresses a kind of whole that goes beyond the alliances that have also served to tie the nations together acquires a polemical and in that sense political potency. He does immediately warn us of the upheaval that would be entailed in attempting to realize a more federal Europe, and in the end urges caution. That political temperament is one of the less obvious ways in which Kant follows Rousseau: like Rousseau, Kant urges caution and allows the moral politician to delay until a fitting opportunity arises. What matters is that the moral spirit of the project is continually and truthfully embraced by the political leaders. In one sense, this is a politically toothless interpretation of the European project at a time where the naked abuse of power by mono-nations on the continent was still a very real problem. What is worse, the political attempts by Rousseau and Kant insist on the givenness of their respective moral goals. This is indeed what allows them to derive in relatively straightforward fashion an ethic of design that expresses the moral truth of the situation, with the proviso that it may be hard and perhaps even impossible to realize. But the underlying normative commitment remains intact, so that po-

⁵⁶⁸ Schmitt 2007, 30-32

litical engagement is on the final analysis rather far removed from both Rousseau's and Kant's European project.

Nietzsche's notion of good Europeans poses a different set of challenges because it represents a polemic against the idea of ordering European politics based on the idea of a 'truer' politics, still operating within the scheme of the 'will to truth'⁵⁶⁹. It is precisely relinquishing this hierarchical notion of truth that defines the good European, according to Nietzsche. Nietzsche thus advances a polemic not only against 'petty politics' and 'petty states' but also against the very idea of a European ethic of design. Yet even here that is a sense in which the European identity is the given destiny of citizens on the continent, as indicated by the concept of 'complete' nihilism that Nietzsche affirms. One could argue in response that the idea of self-overcoming that accompanies Nietzsche's description of the good European does not imply a finality, but instead insists on the continual overthrowing of supposed truths, which in politics can be said to have an "ennobling" effect on those who engage in it⁵⁷⁰. The way Nietzsche describes the good European can then be taken as a step within the wider process of self-overcoming; the good European is he who has left the automatic reference to the nation-state behind.

As we remarked earlier, for Nietzsche nihilism remains a European phenomenon, so that Europe is not thought in terms of a positive constellation of political forces but rather as a territory that contains certain political potentials to be unleashed *against* the 'European' states of Nietzsche's day. Seen through the lens of contemporary European politics, Nietzsche is one-sided in the sense that he only allows us to see the limitations of the nation-state perspective and prefers the European perspective without posing the question in reverse. This is to some extent unsurprising, since Nietzsche was not in a position to criticize a European politics that did not yet exist. But it also shows us the limits of his approach. In order to transform the 'Nietzschean' polemic into one consistent with political engagement from a current standpoint, we must make both the national and the European perspective into a matter of politics⁵⁷¹.

⁵⁶⁹ Elbe 2003, 90

⁵⁷⁰ cf. Owen 1995

⁵⁷¹ Perhaps this can be seen as an additional step in the process of self-overcoming, consistent with Nietzsche's wider project.

Depoliticization critique addresses a part of this requirement, since its aim is to bring out the political gestures that are usually obscured from view. Adding to our earlier analysis the model of political engagement, it is clear that certain aspects of political engagement are currently not being met in European politics. As we saw in the second chapter, the EU was initially considered worthy of being pursued for its own sake. This is essentially connected to the project of European integration as a matter for elites to discuss, where the outcome of these discussions could only be greeted with permissive consensus. As the influence of 'Europe' on citizens' lives grew, legitimacy pressures increased and were addressed by referring to peace and (later on) prosperity as justification *ex post facto* for European integration. We have already analyzed the status of these references and pointed out their depoliticizing elements. Insofar as this analysis was convincing, we can conclude that justifying Europe through absolute factual and/or normative claims (with peace and prosperity completely blurring the divide between factual and normative) is not compatible with political engagement.

It is not only the status of integration itself that is subject to this kind of critique. We have also considered in detail the strategy of output legitimacy and, relatedly, negative integration that has been favored by the EU. Dependence on output legitimacy entails that European legitimacy is tied up with the ability of European politics to solve certain well-defined problems *for* the member states and their inhabitants. The competences required to address such problems were acquired by juridical rather than political means. The institutions whose role is to address and decide on gaps in the Treaties, respectively the European Committee and the European Court of Justice, have therefore come to be of crucial importance for the European project as a whole. The possibility of correcting such institutions is accordingly quite limited. They turn into shaping forces that are over and above the political process properly so called, since their transnational status – the condition of their political activity – becomes ever-more pronounced and at the same time increasingly implies a removal of European institutions from societal and democratic legitimacy⁵⁷², so that they become increasingly unassailable⁵⁷³.

⁵⁷² Brunkhorst 2014, 101-105

⁵⁷³ Habermas 2015, 100

In our attempt to respond to this problem, we need not draw the opposite conclusion and insist on the accountability of European politics at large to the democratic publics of member states. Doing this can easily slip into claiming democracy as a given normative referent or moral finality. However, in general the figure of policy without politics⁵⁷⁴, which is well illustrated by the effects indicated above, is again incompatible with the model of political engagement. The initial dignity which allowed the European project to launch under conditions of permissive consensus has been displaced, through means associated with negative integration, to the institutional-juridical level. As I remarked in the final pages of the second chapter, we can differentiate between an ontological, a rights-based and a moral-political argument that underlie this dignity today. All three arguments are effective depoliticizations. Let us briefly reconsider them in view of the theoretical baggage gained in the present chapter.

First, the ontological argument states that Europe, more than any nation-state on its own, is able to conform to the necessity of unified power blocs imposed by the border-transcending qualities of market forces. This hierarchy between the nation-state perspective and the European perspective runs straight into Nietzsche's argument concerning the will to truth, aside from overlooking general legitimacy concerns, as noted earlier. The argument also presupposes both a constraining factual description about the nature of market forces and a moral finality pertaining to their containment (coupled with a further factual constraint about how such containment could be achieved). Second, the rights-based argument states that Europe is a force for good through its championing of human rights. We have already seen that this has not been brought out in practice – we can add that the argument provides a convenient opportunity for moralization in Mouffe's sense, describing a moral reference and inscribing it into the European territory, while excluding it from the 'outside'. Third, the moral-political argument pertains to the political dignity of Europe, which is thought to be in need of securing through transnational organization. However, such an appeal to dignity relies on an absolute moral reference to what politics should be like, while populism is cast as the evil twin of this ideal politics. This is again a moral reference that is claimed as a given. In addition, the

⁵⁷⁴ Schmidt 2006, 22–23; 157–162

moral-political argument does not hold for the practice of European politics either.

There are, however, possibilities for reform. The concept of the regional state confirms this: recall Vivien Schmidt's assertion that the EU does not share in the "finality" that characterizes nation-states, but is better conceptualized "as in a constant process of becoming"⁵⁷⁵. Historically this process can be summarized by the interrelated triad of concepts we have already discussed: output legitimacy, negative integration, depoliticization. Again, I am not arguing for a simple reversal of these concepts, so that an input-oriented democratic model of legitimacy could be established leading to positive integration and politicization. Either by representing the will (input) of the people as reified or by subjugating it under a Habermas-style project ethics, such an approach would likely lead to depoliticization all the same. The route I am proposing in its stead is that of political engagement. Let us now consider it on its own terms.

What would be needed to render a European politics compatible with political engagement? In general, we can say that it must be polemical, and that it must politicize consistently. The second of these conditions conforms to our analysis of the direct and indirect relations with depoliticizing effects – fixation, friction, isolation, anticipation, generalization. If these pitfalls are avoided the possibility of antagonism is left open. In addition, a polemical politics functions as a space-against from which every element of the political framework can be criticized and reformed. This implies both being able to decide *against* the prevailing political order and deciding *for* a particular political content. These in turn conform to the double requirement of non-knowledge and knowledge in Derrida and Lefort, used in their work to make decision possible in a political sense.

Speaking more specifically of the European institutional framework, we have to find a way for the European project of 'becoming' to be governed by the model of political engagement, with the current constellation of European institutions as the historical context that serves as our immediate point of critical reference. The specifics of that context are the historical product of an attitude of permissive consensus. This attitude depoliticizes to the extent that it foregoes the possibility of antagonism. The effective history of permissive consensus has certainly

⁵⁷⁵ Schmidt 2006, 9

been such a foregoing, and eventually foreclosing. This is due to the self-entrenching effect that occurred in response to the onset of legitimation pressures: the initial phase of permissive consensus had given the European project enough stature, resources and momentum to build up considerably. It was in a way its own success that made the impact of European politics on the lives of individual citizens sufficiently perceptible to generate questions of legitimacy in the first place. We know that output legitimacy was the answer and what the institutional effects of its selection were. At the far end of this development, in the current phase of European politics, the attitude has arguably traveled all the way across the spectrum and become one of constraining dissensus⁵⁷⁶. This is hardly an improvement over permissive consensus, since constraining dissensus enshrines the political status quo because of the difficulties it poses for any practical change. The challenge for political engagement is to achieve the first moment of the political under these circumstances.

Part of the action required to meet this challenge is situated at the national level. The increasing distance between European politics and national arenas in which it could be contested is part of a mutually reinforcing cycle of one-sidedness: leaders of member states very rarely discuss what does not concern the national political discussion, and when this does happen, their response to European concerns either comes in the shape of 'blaming Brussels' or overstates the capabilities for action that are open to individual member states within the European framework⁵⁷⁷. Both of these modes of discussion emphasize the proper place of the nation-state at the center of politics: those who blame Brussels long to restore the good old days when nation-states could act without finding themselves subordinated to a European legal framework, and those who overstate the nation-state's capabilities for action are insisting that the good old days have never quite faded, or have at least made a return. Conversely, as we have seen, European institutions themselves widen this gap between national and European affairs. Part of their ability to do so stems from the initial ratification of the ECJ's capacity to interpret the European Treaties not only in letter but in spirit⁵⁷⁸.

The importance of the ECJ's interpretive monopoly suggests one way to potentially break through the cycle of one-sidedness. The ECJ's

⁵⁷⁶ Hooghe & Marks 2009

⁵⁷⁷ Habermas 2015, 101; Schmidt 2006, 9

⁵⁷⁸ Weiler 1982, 44-45; Weiler 1992; Burley & Mattli 1993; Van Middelaar 2009, 51-52

position is one of virtually unassailable interpretative monopoly, and it is part and parcel of the negative integration by juridical means, which as we know favors liberalization. A case could be made that the precedence of European law over member state law should not have been uncritically ratified by the national courts (as part of the practice of permissive consensus). This would suggest both an overturning of the initial ratification and placing renewed emphasis on the importance of national constitutions, for instance by invoking a perpetuity clause such as the *Ewigkeitsklausel* that exists in the German constitution⁵⁷⁹. Still, it seems highly unlikely that such an argument could be made into a successful case given the self-entrenching mechanisms that have long been at work. What is more, even if the *Ewigkeitsklausel* would prevail over an ECJ verdict in a particular case, thus creating a powerful legal precedent, the ultimate effect of this precedent could only be a reinstatement of the primacy of the nation-state. What we are shooting for at such cases is a retreat, not only from European politics in its current form but from the very battle lines Nietzsche had drawn by invoking his good European against the ‘petty politics’ of his time. It is meaningful that the clause that would be invoked in such a court case is itself depoliticizing in nature, since its very function is to insulate a national constitution from political contestation.

This should make us cautious with respect to the more general wish to exit from the EU that exists somewhere on the political spectrum in most member states. ‘Remaining’ is liberating to the extent that it allows us to move beyond organicist metaphors that see individual societies as moral spaces home to the accomplishments of equality and consensus within a given community⁵⁸⁰. Imagining society in such a way is perhaps one of the most fundamental species of depoliticization, which like the European narrative of peace and prosperity fixates politics from two directions at once: both ontological and normative. Rather than pursuing societal integration and hence the repression of dissensus and instability presupposed by the very image of the moral space, this type of imagination should be disrupted. Luhmann has approached this imperative in terms of the need to ensure sufficient disintegration⁵⁸¹. The characterization of the EU as a regional state certainly shows the political promise

⁵⁷⁹ Scharpf 1999, 57

⁵⁸⁰ Schinkel 2017, 60

⁵⁸¹ *ibid.*, cf. Luhmann 1993, 584

of some form of the European project in this sense. It remains a political project in the sense that it is non-final, has multiple, composite and shifting membership structures, and is home to a specific process of becoming that cannot be replicated on the national level⁵⁸². It is true that the non-finality of the European project by itself does not entail that a series of exits would necessarily fail the test of political engagement. But we should add, echoing Nietzsche's invocation of the good European, that there are at least good reasons for looking to a politicized European politics to remedy some of the shortcomings of national politics. Moreover, serially reinventing the national politics of all member states is beyond the scope of the present investigation.

What, then, is to be done? The three strategies that suggest themselves at first all come with their own problems. First, pushing for negative integration reinforces the cycle which involves the juridical means required, which themselves turn on the narrative of output legitimacy and the ever-expanding list of competences required in order to attain it. Second, pushing for positive integration shatters on high consensus barriers⁵⁸³ and overstrains the limited legitimation resources that are available for specifically European resources in view of a general absence of *Gemeinsamkeitsglauben*⁵⁸⁴. Third, the attempt to undo the process of integration entirely is unclear in terms of its (de)politicizing effects and would turn on a serial reinvention of national politics within member states. The only opening that presents itself as an alternative to these strategies is polemicizing European politics from the inside. In order to do this, both the national and the European political level need to be engaged with politically. I have already enumerated a number of 'political' programs that could not meet the requirements. But what could be a positive example of political engagement in the context of European politics?

We have already reflected on the place of populism when viewed from the perspective of political engagement. We should now distinguish between familiar national populisms and what I will call Euro-populism, which is currently being attempted in very different ways by various pan-European political movements⁵⁸⁵. Current European poli-

⁵⁸² Schmidt 2006, 9

⁵⁸³ Michelsen & Walter 2013, 335-336; cf. Scharpf 1999, 31; 53

⁵⁸⁴ Kielmansegg 2013, 18-19

⁵⁸⁵ The most significant of these movements are: Operation Libero, Initiativet, New European Energy, European Alternatives, The European Moment, We Are Europe,

tics only speaks of populism in the darkest of terms and sees part of its own dignity as rooted in the avoidance of populism. On the other hand, many national political parties identified as populist glorify the 'good old days' of the nation-state (both within the member states and outside of Europe). A consistently politicizing Europopulism would wage a polemic on both of these fronts, to avoid the depoliticizing effects of, respectively, the self-entrenching effects of current European politics and the automatic identification of the political with state politics in an absolutizing ontological/normative sense⁵⁸⁶.

As we know from the first chapter, Laclau defines politics itself in terms of populism. Populism forges an equivalential chain based on a logic or several logics that overdetermine demands that find themselves unfulfilled and which cannot be reabsorbed into the existing differential structure of hegemonic meanings existing within established institutional frameworks. We have added to this the notion that according absolute status to ontological and/or normative claims must result in depoliticization. In terms that are closer to Laclau, this would amount to a complete reduction of politics to the realm of the social that is additionally being presented as grounded without remainders. But what matters for Laclau is that the option of grounding in this sense is not available as the equivalential link that connects demands from different domains is established performatively. There is no logic that ties them together at first: it is the process of tying together in a new way that characterizes populism and therefore, according to Laclau, politics⁵⁸⁷.

The new chains to be created through and by Europopulism are in one sense close to the demands of Nietzsche's good Europeans, in view of their shared general desire to move past the petty politics of petty states. Yet in another sense, they simultaneously move in the opposite direction, countering the peace and prosperity policies the EU prides itself on. The unabsorbed demand, in Laclau's terms, would be to open up the EU's current policy-making competences to the possibility of antagonism. The conjoining work that results would transform both the European and the national level. European politics could then no longer operate from the vantage point of unassailable institutions; and national

and Volt. Note that most of these would vehemently resist being labeled 'populist'.

⁵⁸⁶ National political parties that do not lay claim to this identity between state and politics would avoid the latter charge.

⁵⁸⁷ Laclau 2005, 154

politics itself would have to be reconsidered from the perspective of political engagement.

It is impossible to predict the exact course of events that would follow a Europopulist movement. For instance, whether there would be local-national chapters or parties – *Front* (or *Rassemblement*) *Européenne*, *European Block*, *The European Interest*, etc. – or whether the movement would have to insist on its transnational status rather than intervening in national political discussions. What we can say in terms of the populist argument that would be made is that it necessarily operates on the basis of a specific equivalential chain, and since we know the double polemic and at least some of its stakes, Europopulism in the sense that concerns us here will necessarily have certain features. It gains further content from the ways in which it is limited by its commitment to political engagement. These two shaping factors will also be connected through equivalence: in particular, the polemic against depoliticizing aspects of European politics will be performatively linked to an affirmation of the political. As we know, this affirmation in turn relies on an affirmation of the moral, which is itself politically motivated. This is what we have called the moral-political circle. The insistence on the meaningfulness of (the possibility of) antagonism that comes with this circle creates a further platform for equivalence. It is not compatible with what Schmitt calls an optimistic anthropology, which is associated with the possibility and desirability of harmonizing society: human beings have to remain ‘problematic’, and this facilitates the idea that non-harmony is meaningful to human existence.

Of course, this leaves open a set of possibilities that can be specified in myriad different ways⁵⁸⁸. For instance, the political dynamics of the private sphere could be intensified as the result of an equivalential chain connecting the demand of European working women to no longer be subject to a “second shift” in their homes⁵⁸⁹. From the perspective of current social dynamics, this may be a natural conclusion to draw: but whether it becomes part of the broader equivalential chain is contingent on the act of forging the chain in a particular way. In other words, creating the full chain is the proper task of the populist movement in question rather than something that can be made to follow from philosophical principles. The same restraint must apply to the question of

⁵⁸⁸ On the general idea of the specification of principles, see Richardson 1990.

⁵⁸⁹ Hochschild & Machung 2012

the proper political subjects to be associated with Europolism: individuals, movements, national parties, European parties, others. 'Pulling the trigger' on this question would unduly limit the ways in which Europolism can be pursued.

However, given the background against which Europolism would be polemically set, there are certain aspects that cannot be part of equivalence since they are part and parcel of the differential set of relations that forms the immediate context within which the unfulfilled demand is constituted and finds itself within a 'political' system that is not compatible with said demand. Laclau, recall, speaks of a "reabsorption by the sedimented forms of the social" as the "death of politics"⁵⁹⁰. This means that non-absorption or rather the systemic impossibility of absorption of a particular unfulfilled claim within a given institutional framework is a precondition of politics. It follows from this argument that in the particular context of a Europolism set against contemporary European politics, the equivalences that can be forged are necessarily polemical with respect to this background. This presents a first set of limits. Given the equivalence that we have sketched between this particular polemic against European politics in its present form on the one hand and the broader commitment to political engagement (including but not limited to the national level) on the other hand, there is a second set of limits with regard to what Europolism could mean. The very example of a local chapter of, in this case, France-based Europolism that would be called *Front Européenne* is itself necessarily polemical with respect to the local-national *Rassemblement Nationale* which seeks to advance the interests of a factually and normatively anchored French population set against the parts of French society that do not satisfy these requirements, as well as the properly foreign interests of non-French (non-) Europeans. A hypothetical French chapter of Europolism could not argue for this kind of factual or normative anchor in any absolute sense, whether in terms of France or Europe. Put another way, there could not be a factual or normative reference that fixates the political program before it even gets started.

What then of representative democracy as an obligatory moral reference? This would not be compatible with a Europolism committed to political engagement for the same kind of reason that excludes factual reference to a certain identity of the people in the style of the *Rassem-*

⁵⁹⁰ Laclau 2005, 155

blement Nationale. In both cases the political status of the references falls prey to fixation, respectively of an ontological and a normative kind. At the same time, there is no reason to conclude that any Europopulism would have to be antidemocratic. As thinkers like Jacques Rancière have long pointed out, there is a link between the absence of positive requirements that entitle one class to rule over others (such as riches or kin⁵⁹¹) on the one hand and democracy, conceived as the insistence that not having any title to rule is what enables politics, on the other hand⁵⁹². In this way there is a certain family resemblance between Europopulism and democracy in this Rancièrian sense. We again cannot say in advance to what extent Europopulism would rely on received notions of representative democracy and the ways in which it has been employed as a mode of government. It rather belongs to the core of political engagement that no mode of government or institutional configuration should be considered final or absolute.

For the same reasons given before, we cannot spell out in detail the nature of European politics after Europopulism has taken hold. We do know that the affirmation of the possibility of antagonism is part of its practice. We should understand this practice along the lines of Derrida and Lefort's double requirement for decision: both knowledge and non-knowledge. Politics has to be engaged based on non-cynical commitment to a particular political content, without the pretense that we should never have to return to the matter at hand or that our collective hands are (perpetually) forced due to some relevant fact or norm that is taken as a given. So long as unfulfilled demands are able to influence the direction that politics takes, this ensures an openness to contestation. Which demands should be allowed to exert this kind of direct influence can only be decided from the interior of these very institutions, once again keeping the formal conditions of consistent politicization in mind. But whatever demands are arrived at through political engagement, no set of demands can ever be considered final.

Europopulism that consistently politicizes, as remarked, would also polemicize against national politics. In the first chapter I used the notion of self-withdrawal to illustrate the inner workings of contemporary institutional politics on the national level. Insofar as national politics in Europe is characterized by self-withdrawal, Europopulism would

⁵⁹¹ See Rancière 2007a, CH1

⁵⁹² Rancière 2010, 31

turn against the underlying ideas of, first, a fear of contingency and a corresponding desire for objectivity in politics, and, second, globalization construed as unavoidable which must also result in the irrelevance of the nation-state. The same applies to the uncritical reference to the nation-state as the solution to all problems, as we considered when addressing the matter of the (de)politicizing effects of a series of exits from Europe.

A possible concern that affects both fronts is the nature of the antagonism that would be unleashed on the current configuration of member states both individually and within the larger context of European politics. Given the call for antagonism, is there not a risk of out-and-out violence? Several lines of response are possible. First, one of the advantages of Laclau's approach to populism is his interpretation of politics as a battle over *meanings*, and more in particular over which meanings assume a hegemonic position. While this is not without danger, it makes clear what *kind* of struggle Europolism would call for. Relatedly, second, it is the *possibility* of antagonism that is at stake. Third, the recognition of political volatility and dirty hands on both sides of any conflict closes off most justifications that are commonly used to excuse violence. A prominent example of this kind of justification is found in moralization. In this sense, it seems more likely that Europolism would itself be subject to moralized violence, for instance because it threatens the moral-political dignity of current European politics or because it goes against fixated and fixating concepts of race, religion, and nation – not to mention economics.

As Laclau also teaches us, the real contest in a struggle for hegemony between Europolist forces and those representing current European political interests concerns the status of Europe as a floating signifier: its meaning is as yet suspended, though subject to stabilization in some of its aspects⁵⁹³. One aspect that unites the 'two Europes' is a recognition of the limits of national politics. However, even here current European politics would emphasize the capabilities of European politics to contain market forces, champion human rights and dispel the evils of populism; none of these justificatory levers is available to a Europolism

⁵⁹³ Laclau 2005, 131; 133, cf. Bourdieu 2002. Laclau speaks of 'fixation' rather than stabilization, but he means a temporarily settled discursive frontier rather than the mode of depoliticization that we have called fixation.

consistent with political engagement. For that reason, from the perspective of depoliticization critique it seems we should prefer alternatives to current European politics, so long as one of the alternatives *is* consistent with political engagement.

I must insist that Europolism is here offered as nothing more than a positive example of a politics consistent with political engagement. This does not entail that it is the only way, and it would indeed be contrary to the requirements of generalized depoliticization critique to reduce politicization to a single strategy. Europolism succeeds because in its consistently politicizing form it allows for a polemic on two fronts (against national and European politics) that does not itself fall victim to a depoliticizing commitment to for instance absolute ontological or normative references that are invoked as a given. Avoiding such a commitment is possible because of the performative element that characterizes populism in Laclau's sense. But this is not intended as a claim that nothing of value can be found outside of this strategy of populist performativity: presented here as an example, Europolism does not in any way exclude other strategies of political engagement. It does, however, point out one strategy to consistently politicize, and shows that it is possible to do so.

In closing, I express the hope that political engagement, expressed in whichever form, will offer a serious alternative to the current configurations of European politics and that some of the arguments I have advanced on these pages – or their intellectual offspring – will find their way into the political arena, with the goal of politicizing consistently. This goal represents Europe's truly political frontier.

5.5 Conclusion

We started out the inquiry with the simple intuition that depoliticization expressed the claim that some matters are beyond politics. The strategy I had in mind for attempting to combat this kind of claim, through the theoretical angle of depoliticization critique, was to use ethics as a tool of politicization rather than its mortal enemy. This strategy is quite contrarian, but it has proven fruitful in establishing the different direct and indirect relations between politics and ethics and their

bearing on (de)politicization. These relations themselves gave substance to certain important insights, for instance the possibility of an apolitical given that shifts between ontological and normative registers as a species of fixation, and the notion of pure politics as a consequence of the attempt to free politics from ethics completely. While cataloguing and diagnosing different modes of depoliticization both on the theoretical level and within the applied context of European politics is certainly part of the contribution of this investigation, I have also shown a way to combine direct and indirect relations that enables political engagement and hence consistent politicization. The first part of this combination is the direct relation that is able to avoid depoliticization: immanence, here understood as the existence of the political within ethics and other life domains as (the possibility of) antagonism. The parenthesized possibility makes the difference between the first and second moment of the political: these two moments represent respectively its status as a not-yet-realized possibility and as the actualization of antagonism. As we have seen, depoliticization constitutes a negation of the possibility of antagonism, whereas politicization is its affirmation. Such an affirmation of the political is necessarily accompanied by an affirmation of the moral, namely by an insistence that antagonism is important to meaningful human existence. This moral notion is not derived from first principles, but itself a political stipulation. In this manner, politics and ethics are part of a never-ending moral-political circle that exposes their mutuality.

On its own, this does not give us an account of any kind of politics. That is why I also sought to learn from influential interpretations of an indirect relation between politics and ethics. From Habermas I took a general model of politics conceived as an open-ended conversation and extended it into the notion of polemical politics, while leaving behind Habermas' added conclusion that the 'conversation' is characterized by a certain directionality. I analyzed this latter feature in terms of the indirect relation of anticipation and showed its depoliticizing effects. From Rawls I took the idea that shallow foundations and political conceptions of, for instance, the person can be effectively employed, while leaving behind the notion that moral positions (or in Rawlsian parlance, comprehensive doctrines) have to pass a specific test of reasonableness in order to be admitted into politics. Again, I analyzed this latter feature

in terms of an indirect relation, in this case generalization, and showed its depoliticizing effects. The newly conceived indirect relation of political engagement avoids the depoliticizing effects plaguing Habermas and Rawls. In political engagement, there is no anticipatory directionality or generalization that selects for reasonableness. It transforms the Habermasian notion of a political conversation and applies to this the Rawlsian insistence that we need not and in fact should not work with first principles without either posing final principles or procedural reasonableness as limits. What is left is a polemic, which does not entail that 'anything goes' but does liberate politics from the depoliticizing commitments of the other indirect relations.

The only limit that *is* imposed concerns the nature of the political itself. The aim of political engagement is to provide consistent politicization, so that the various modes of depoliticization catalogued earlier are not only valuable as items in the catalogue but also give further substance to political engagement. The apparent paradox of expelling certain positions from politics in order to avoid depoliticization is defanged by referring back to the moral-political circle that is part of the direct relation of immanence. In this manner, immanence needs political engagement in order to express the mutuality of politics and ethics within politics itself, whereas *vice versa*, political engagement needs immanence in order to consistently argue for politicization in the manner required by generalized depoliticization critique.

Using ethics as a tool of politicization is thus a complicated matter. It concerns an ethics that is not to be derived from first or final principles, but is rather involved in a circular relationship with politics. Ethics supplies a certain perspective on human life that does not have the finality of practical reason in the classical sense. Rather, it is shot through with elements of decision, and keeping this element open is in a way its whole point. It is only this open-ended quality that keeps ethics from being a force of depoliticization. At the same time, ethics does not become identical to the political. While the political remains a descriptive phenomenon, describing as it does an ontological level at which antagonism is always *possible*, from the perspective of depoliticization critique it is not sufficient to merely describe this ontology in theoretical terms. The contribution of ethics in terms of depoliticization critique and politicization is that it is able to support an *affirmation* of

the political. In this way, the political, as it is used in Schmitt (as a critical category) and within depoliticization critique as I have defined and applied it, positively requires ethics.

While this makes clear the functional role of ethics with respect to, in our case, the politicization of European politics, the notion of ethics that is employed here deserves further attention. As I have noted, it informs a notion of political action that is volatile on both sides and does not permit full justification for either side of a conflict. The strongly contextual features of the political according to Schmitt, which I have put to productive use here, also carry implications for the kind of ethics that is compatible with the notion of the political. The political by itself imposes certain constraints on ethics based on the commitment to avoid depoliticization. In particular, there are clear limits to the theoretical ambitions of ethics based on the non-availability of first principles or alternative deductive mechanisms. It should thus be clear that ethics in this sense cannot be about formulating general moral requirements about 'how one ought to live'⁵⁹⁴. By contrast, it is about seeing beyond obscuring generalizations that pave over the complexities of moral life. Such an ethics is also necessarily self-critical, as part of its mission is to show the inability of pure argument to reach a fully justified conclusion based on some version of moral deliberation. It affirms this inability in the face of any proclaimed moral certainty, and given the widespread nature of the idea of full justification in moral and political philosophy, this polemical aspect will often be felt. As part of the same strand of arguments, this kind of ethics is committed to seeing human beings as 'problematic', in Schmitt's terms. To repeat, no definitive truth claim can be made about this status, since it is more of a conjecture, confession of faith and political presupposition than the result of a neutral procedure in search of definitive certainty. This in itself implies a position from which most types of ethical theory can be criticized in a particular way, namely from the standpoint of the politics of problematic humankind. I cannot pursue this further presently, as it is outside of the scope of our investigation.

The central question under consideration has been: What role can ethics play in the politicization of European politics? My answer is that it is necessary in order to affirm the possibility of antagonism, which exceeds the task of merely describing it on a theoretical level. For that

⁵⁹⁴ cf. Williams 2006

reason, ethics underlies politics, as politics in turn underlies ethics: I described this as the moral-political circle. It summarizes the lesson concerning their direct relation that I have described under the heading of immanence. This attains political relevance for Europe when we add the indirect relation between politics and ethics which I have called political engagement, through the pursuit of a polemical politics and a recognition of the formal limits imposed by the aim to be consistent by avoiding depoliticization. Political engagement thus demarcates the lesson concerning the indirect relation between ethics and politics. Parallel to the need for political engagement from the perspective of immanence (in order to be extended to politics itself), political engagement needs immanence in order to avoid depoliticization. The moral-political circle makes it possible to affirm the political without falling back on a first principle that precedes political decision.

Together, immanence and political engagement show what would be necessary to politicize Europe. At present, European politics is depoliticized in terms of its self-justification and legitimation strategies, the insulation of some of its central institutions (for instance, the interpretative monopoly of the European Court of Justice), the political process and its feature of policy without politics, and the ways in which European politics engages in moralization. My starting point during the analysis of these modes of depoliticization was the idea that ethics could provide a productive way of looking at the problem. Our master problem thus became the relation between ethics and politics. Different direct relations (fixation, friction, isolation, and immanence) and different indirect relations (anticipation, generalization, and political engagement) were distinguished and analyzed in terms of their (de)politicizing effects. The crucial distinction throughout has been that between localized and generalized depoliticization critique. While the former leaves the ontological dimension unperturbed, thus not asking the proper question in connection to (de)politicization, the latter scrutinizes precisely that dimension and is thus able to politicize consistently given certain conditions. The aim of consistency is animated by the pursuit of philosophical clarity in the context of political un-clarity; the only way to demonstrate the latter is through the former, and the former leads necessarily to the latter. Affirming the political requires showing where depoliticizing claims go wrong. I have analyzed how they can go wrong, and how they do in fact go wrong both in European politics and in

some of the theoretically significant ways in which ethics is brought to bear on politics. As remarked, this has not ended in despair: under the combined flag of politics and ethics, through both direct (immanence) and indirect (political engagement) relations between them, and only in and through these combinations, is it possible to politicize consistently. The fact that this strategy has recourse to both a direct and indirect relation between politics and ethics relates to both (directly) affirming the possibility of antagonism as immanent to all life domains and (indirectly) excluding direct and indirect relations that depoliticize as part of the strategy of political engagement. That is the test that should be applied to any version of European politics. The possibility of such application was shown by the example of Europopulism, which combines the elements of polemical politics with satisfying the formal conditions of political engagement. It would undercut the whole argument to claim that this is the only way: I do not make this claim. I have merely indicated the possibility of a consistently politicizing Europopulism. The conditions that make it into a possibility in the first place are more than an indication, however: they tell us how politicization finds itself poised against mechanisms of depoliticization in European politics, how (de)politicization itself *works* and under what conditions the politicization of European politics can be attained.

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Summary

Depoliticization presents itself to us both as a theoretical and a practical-political problem. The argument of the thesis aims to develop depoliticization as a philosophical concept which gains its impetus from and is tested against the politics of the European Union (EU). My approach to depoliticization (critique) is that ethics provides part of the solution, rather than simply being part of the problem. After a conceptual reflection, I analyze EU politics in terms of its modes of self-justification, the incontestable nature of some of its central institutions, and its one-sided reliance on negative integration through juridical means. In an attempt to develop the relationship between politics and ethics more constructively, I then develop an account of both direct and indirect relations. A key aspect of my analysis is the distinction between localized and generalized depoliticization critique – only the latter extends to the ontological dimension, which is why the former falls short. This leads to an ambiguous patchwork of politicizing and depoliticizing effects, which is illustrated by the development of the ethical-political relationship between Rousseau and Schmitt. These are what I call direct relations between politics and ethics, in which ethics is directly ‘brought’ to politics. I then consider indirect relations, in which a specific procedure is interposed: I consider Habermas’ proposed reforms of EU politics, and interpret Rawls’ political liberalism as a complementary account. In the end, direct relations between politics and ethics are found to be insufficient by themselves, and indirect relations, while promising, end up depoliticizing in ways that complement each other as much as the relations themselves. In order to remedy these flaws, I introduce a notion of political engagement that combines what is promising about direct and indirect relations. Political engagement combines a polemical politics with the shutting out of depoliticizing effects and is thus able to politicize across the board, fulfilling the requirement of generalized depoliticization critique. Europopulism, which I define in connection with Laclau, is my proposal to extend political engagement to European politics.

Samenvatting

Depolitisering dringt zich zowel als theoretisch als praktisch-politiek probleem aan ons op. Het argument van de voorliggende dissertatie heeft als doel depolitisering in te zetten als filosofisch concept, dat zijn praktische motivatie ontleent aan de politiek van de Europese Unie (EU) en daartegen kan worden afgezet. Mijn benadering van depolitisering(skritiek) is dat ethiek onderdeel van de oplossing vormt, in plaats van louter onderdeel van het probleem te zijn. Na een conceptuele reflectie analyseer ik EU-politiek in het kader van haar rechtvaardiging, de niet-aanvechtbare aard van enkele van haar belangrijkste instituties, en haar eenzijdige afhankelijkheid van negatieve integratie volgens een juridische weg. In een poging om de relatie tussen politiek en ethiek op constructieve wijze te definiëren, ga ik hierna in op directe en indirecte relaties tussen beide termen. Een belangrijk onderdeel van mijn analyse is het onderscheid tussen gelokaliseerde en algemeen toegepaste depolitiseringskritiek – enkel de laatste heeft betrekking op de ontologische dimensie, zodat de eerste niet ver genoeg door kan voeren. Toepassing van dit onderscheid leidt tot een ambigu lapwerk van politiserende en depolitiserende effecten, dat wat betreft de directe relaties wordt geïllustreerd aan de hand van het begrip van de relatie ethiek-politiek tussen Rousseau en Schmitt. Ik ga dan, in het kader van indirecte relaties, in op hervormingen van de EU voorgesteld door Habermas en bied een interpretatie van Rawls' politiek liberalisme zodat deze als complement van Habermas kan dienen. Na analyse blijken directe relaties tussen politiek en ethiek niet te kunnen volstaan, terwijl indirecte relaties, hoewel veelbelovend, depolitiserende effecten hebben. Om deze onvolkomenheden te adresseren introduceer ik een notie van politiek engagement die een polemische politiek combineert met het uitsluiten van depolitiserende effecten. Op deze wijze kan politiek engagement consistent politiseren en dus voldoen aan de voorwaarden van algemeen toegepaste depolitiseringskritiek. Europopulisme, dat ik definieer in het verlengde van het werk van Laclau, is mijn voorstel om politiek engagement mogelijk te maken in de Europese politiek.

Europe's Political Frontier uses the problematic of depoliticization as a springboard for a new type of critique, which gains its impetus from and is tested against the politics of the European Union (EU). It is argued that for the purposes of depoliticization (critique) ethics has a constructive role to play, rather than being merely part of the problem. Depoliticization is developed as a philosophical concept, which is then analyzed on an EU-level as involving specific modes of self-justification, the incontestable nature of some central institutions, and a one-sided reliance on negative integration through juridical means. In an attempt to address these aspects of depoliticization within European politics, an account of the direct and indirect relations between ethics and politics is developed and illustrated through developments in modern and contemporary philosophy. These interrelations either lead to depoliticization or are found to be insufficient by themselves. The notion of political engagement is introduced with a view to combining the strengths of both direct and indirect relations, so that it becomes possible to politicize across the board. This possibility is brought to the EU through a proposal of Europopulism that would extend political engagement to European politics.

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