



An intellectual endeavor for a plural approach of constitutions in order to promote legitimate democratic governance

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Analysis and debate note - Diversity and legitimate democratic governance

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This note has been prepared within the framework of the International Network for Reflection and Proposals on a Plural Approach to Constitutions (INC), initiated and coordinated by the IRG. Its purpose is to open up to debate the INC's analysis on the formulation and plural methodology of public action, and in this case with regards to constitutions. For the INC, the plural approach is in fact a vector of change for legitimate public governance – for which the INC actively advocates the recognition and development. To do so, the INC proposes to develop its formulation and operational axes. The note recalls the postulate of the plural approach: public action must take diversity into consideration. It so happens that pluralism, the observation of and the taking into account of, is increasingly developed. However, it is important to take the necessary precautions so as to not fall in a restrictive or partial approach that would lead to monism or culturalism. A qualitative leap in the analysis of the plural approach is needed. This is what the INC and the IRG propose through the concept of integral articulation as presented in this note.

I. The reasoning of the INC

1. Diversity at the heart of public action legitimacy: the challenge of the plural approach

Here or elsewhere, from the local to the global level, societies are characterized by diversity. This generic term, diversity, here refers to social pluralism, that is to say, all the constituent elements in the management of the public good – governance – in a given society. This includes not only the involved actors (the population at large, organized citizens, the private sector, public institutions, etc.) and the plurality of cultural, social, and political (etc.) references that each type of actor carries, but also the modalities of the exercise of power. This translates into more or less peaceful coexistence of different world and power conceptions. Concretely, it is at the very heart of this diversity that collective representations and practices are formed. Moreover, daily interactions between these reveal, as pointed out by G. Hyden, the types of cultural preferences and practices (and we add social and political) that underlie the legitimation of politics, in other words its acceptance, the adherence and voluntary obedience to power.

Yet, in fact, diversity does not constitute the premise of how to define and put into practice the will to live together. To the contrary, modern political history reminds us that it is a reversed reasoning, one that established the principal of unity, supposed or wanted, as the basis, which has been imposed as the founding paradigm of public action and of the state. In doing so, the legal, institutional, and political thinking has not ceased to neglect plurality, or pluralism for some analysts, which is inherent to any given society. Furthermore, this principle of unity developed public action in such a way as to make it uniform and fixed, established in a replicable model in which power is embodied in the figure of the modern Western state. Peoples recognize themselves less and less in their institutions, in the rules that govern them, and in the values they carry. Failing to take diversity into account, these institutions do not or do not adequately embody the references, needs, and interests of their societies. In this scenario, the state is thus incapable of producing a shared and inclusive social regulation that should be a main element of its legitimacy. We can therefore only deplore the many examples, provided by the news, of the widening gap between peoples and their institutions (notably states).

The management of diversity by public action thus reveals itself as being at the heart of the current challenges of democratic governance. It poses the question of the effectiveness of the structures, the rules, and the authority of political power. This effectiveness rests on the adoption of a plural approach for public action so as to “take into account the actual social regulations at work and to promote their integral articulation for legitimate governance”. The plural approach rests on 1) the postulate of plurality and 2) on

processes that promote mutually constructive interactions between the various components of diversity in view of strengthening the legitimacy of public action.

2. For a constructive interaction of diversity: the integral articulation

Establishing diversity as the basis of public action leads to start from the complexity that is inherent to the management of the collective good. This forces one to overcome the traditional concepts and tools developed to establish the modern conception of the state and of public action. Indeed, how can we continue to refer to principles designed for a conception that is at the opposite in terms of founding paradigm (diversity in unity for the modern conception of the state and unity in diversity for the pluralist vision) when faced with the deficit of legitimate governance states are faced with today?

From this point of view, the conclusion is then that of the plurality and the coexistence of regulation systems, mobilized by actors according to their specific interests. These interests can be tangible (financial, access to basic services, etc.) or symbolic (in reference to shared values, world views, etc.). These regulation systems are composed of three elements: values, norms, and authorities. The norms and authorities are the supports that embody the underlying values, and this for each and every regulation system. Values, norm, and authorities are of various natures: traditional, religious, judicial, social, etc.

Today, the recognition and integration of diversity into state regulation (without the paradigm change) is most often limited to the inclusion of authorities (traditional chiefs, religious figures, armed movement leaders, etc.) and/or norms (traditions and customs) that the other regulation systems embody. In this scenario, the interactions essentially result in a juxtaposition and a prioritization of the different regulation systems, the one(s) of the (non plural) state being the main and predominant one.

Such a perspective creates a restrictive framework for the interaction between the different regulation systems to the extent that the articulations limit themselves to include the authorities and norms but underestimate, if not ignore, the values that underpin and articulate them. This framework channels the interactions between the different regulation systems by separating the authorities and norms from their inherent underlying values in order to attach them to those of other regulation systems, most often onto the legal rational regulation system of the state. In addition, this partial interaction between regulation systems not only disarticulates the “values-norms-authorities” triptych of the concerned systems, but also leads to the freezing of the underlying values of the other regulation systems. The consequence of this is that instead of interacting and evolving with one another, their self-reproduction is their only way forward. The combined trends of these two partial arrangements, or sectoral and disarticulated aggregations, paves the way for culturalism and fuels the divorce between the actual regulation systems at work and in a society and those recognized by the state. Increasingly impervious borders arise, interactions remain minimal, and regulation systems do not cross-fertilize each other – which is the basis for the development of true, hybrid plurality.

Quite to the contrary, when one allows the underlying values of every regulation system at work in a given society to interact in a pragmatic and constructive fashion, a common

substrate is created. It consists of new and shared values resulting from the hybridization of those inherent to the different regulation systems present. The authorities and norms that embody them can then also renew themselves, referring themselves to each subsystem in hybridity. It is therefore by promoting processes that allow for an integral articulation between the different components of each regulation system that one can pave the way for constructive and dynamic hybridization.

It is through this process of evolving articulations that the (plural) State can position itself as an actor capable of defining the framework of a common political and civic culture, one that is characterized by a shared regulation system rooted in the diversity of its society.

II. The integral articulation as a paradigm of the plural approach

The plural approach means “taking into account the actual social regulations at work and promoting their integral articulation for legitimate governance”. The plural approach rests on 1) the postulate of plurality and on 2) processes that promote mutually constructive interactions between the various components of social regulation systems at work in a given society.

Partial articulation is defined by constructive interactions, or a simple juxtaposition, between one or several constituent elements of social regulation systems at work in a given society, with the notable exclusion of the underlying values, and with the risk of putting them at odds with each other. Therefore, this type of interaction between regulation systems separates authorities and norms from their inherent underlying values in order to attach them to those of other regulation systems, most often onto the legal rational regulation system of the state. This tends to freeze the underlying values of the different regulation systems and promotes their auto-reproduction, almost identically, since they cannot integrally interact with one another.

Integral articulation is the paradigm of the plural approach. It is defined by pragmatic, constructive and mutually fertilizing interactions between the three components (underlying values, norms, and authorities) of social regulation systems at work in a given society. It allows for the creation of a common substrate consisting of new and shared common values resulting from the hybridization of those inherent to the different regulation systems present. The authorities and norms can then also hybridize, rebuild, and renew themselves by referring, or not, to each subsystem – always in hybridity. Such dynamics are the driving force behind the institutionalization of a legitimate power able to define the framework of a common political and civic culture characterized by a shared regulation system rooted in the diversity of its society.

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