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## Transnational vs. global democracy

### 1. Transnational democracy

Writing about democracy is risky, particularly in view of the enormous number of articles written on the topic. There is a risk that ideas and statements already existing in the literature will be duplicated. In this article no attempt is made to report on the literature about democracy. It is impossible and unnecessary. Suffice it to say that recently three main research trends on democracy appeared. Firstly, researchers analyse intrastate democracies – their types, assumptions, on which they are based, conditions for their development, definition features, their inner structure, the criterion of the ideal democratic system, changes of democracy throughout history. Secondly, analysts discuss the specific features of transnational democratic structures. And thirdly, suggestions to establish a democratic political order on the global scale are put forward and trends, which either favour or hamper the establishment of such an order, are analysed. In this article we will not discuss problems of intrastate democracy. It is relatively well known and well researched<sup>1</sup>. Our intention is to present, while referring to well-known concepts (those of R. Dahl, D. Held, S. Huntington, McCormick and other theoreticians), the possibilities of a supra-state (transnational and global) democracy and selected problems of its legal and political structure.

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<sup>1</sup> Authors writing about intrastate democracy include for example: R. Dahl, *O demokracji* [On Democracy], Kraków 2000, Znak; R. Dahl, *Demokracja i jej krytycy* [Democracy and its critics], Kraków 1989, Znak; R. Dahl, *Dilemmas of Pluralistic Democracy*, New Haven 1982, Yale UP; D. Held, *Models of Democracy*, Stanford 1996, Stanford UP; D. Held, *Global Democracy*, London 2000, Routledge; B. Holden, *The Nature of Democracy*, New York 1974, Barnes & Nobles; G. Sartori, *Teoria demokracji* [Theory of democracy], Warszawa 1994, PWN; A. Hadenius, *Democracy and Development*, Cambridge 1992, Cambridge UP; Klaus von Beyme (et al.), *Politikwissenschaft*, vol. 1, Stuttgart 1987, Kohlhammer Verlag; Cf. L. Diamond, *The Spirit of Democracy*, New York 2008, Henry and Holt Company; Cf. also I. Shapiro, *Components of the democratic ideal*, in: A. Breton, G. Galeotti, P. Salmon, R. Wintrobe (eds) *Democratic Understanding*, Cambridge 1997, Cambridge UP, pp. 211-248; Cf. T. Buksiński, *Trzy demokracje* [Three democracies], in: T. Buksiński (ed.), *Idee filozoficzne w polityce* [Philosophical ideas in politics], Poznań 1998, pp. 55-86, WNIFUAM; M. Kowalska, *Demokracja w kole krytyki* [Democracy in criticism], Białystok 2005, p. 125ff, UB; G. Kateb, *The Inner Ocean. Individualism and Democratic Culture*, New York 1992; J. Jakubowski, *Warunki wstępne demokracji* [Preliminary conditions of democracy], in: T. Buksiński, K. Bondyra, J. Jakubowski (eds), *Demokracja, samorządność, prawo* [Democracy, autonomy, law], Poznań 2007, pp. 13-34, WNIFUAM; Cf. I. M. Young, *Inclusion and Democracy*, Oxford 2000, .3, 4, Oxford UP; J. A. Schumpeter, *Kapitalizm, socjalizm, demokracja* [Capitalism, socialism, democracy], Warszawa 1995, p. 336ff PWN; Cf. also G. O'Donnell, J. V. Culler, O. M. Iazetta (eds), *The Quality of Democracy*, Notre Dame Indiana 2004, University of Notre Dame Press; P. Spiewak (ed.), *Przyszłość demokracji* [The future of democracy], Warszawa 2005, Aletheia; E. Krzywicka, E. Olszewski (eds) *Christian Democracy in the modern World*, Lublin 2000, UMCS Press; Cf. P. Burnell (ed.), *Globalising Democracy. Party Politics in Emerging Democracies*, London, New York, 2001, Routledge.

Ever since the European Union was established various questions have been posed about it: is the Union democratic? and if yes – to what extent is it democratic? what is the difference between supra-state and intrastate democracy? how can the Union be democratized? etc. This discussion has always started with democracy practiced in Western states. Assuming that this democracy is a point of reference for comparisons, a short list of weaknesses and possible strengths of the political system created on the European continent with respect to its democratic character can be made. Perhaps most researchers are more willing to list the weaknesses of the European Union than its positive features. It is voiced that this institution has a deficit of democracy. The adoption of the model of liberal majority democracy as an ideal reveals many transnational weaknesses of political relations. The European Parliament is the only institution whose members are elected in direct elections by citizens of EU member states. But the Parliament does not have an independent legislative power. It introduces amendments to draft regulations of the Council of the European Union (Ministers' Council), passes laws jointly with the Council of the European Union and approves of the EU budget, supervises the European Commission. But it must always consult the Ministers' Council, which is composed of the ministers of member states. The most important decisions must be approved by the Council of Europe (European Council), which is composed of heads of states. The Council of Europe is a ponderous body. The European Commission seems to have the most extensive remit among EU bodies; it acts as the government of the European Union. It is composed of full-time commissioners (their ratio to the total number of member states is 2/3; there are plans to have one commissioner per each member states) delegated by state governments and approved by EC's president and the Parliament. Therefore it is not a body elected democratically as the Parliament does not elect this government. Taking general elections or control by citizens and their elected representative as a criterion, it has to be admitted that such bodies and the European Court of Justice and the European Central Bank are even more undemocratic. Therefore the European Union lacks legitimacy – it operates slowly, it is highly bureaucratic and inefficient.<sup>2</sup>

However, these "institutional" accusations can be weakened. Representatives to important bodies of the Union are delegated by state governments and all of them hold the mandate of electors (after all, all EU member states are democratic). Consequently, delegated representatives, e.g. commissioners, also have such a mandate, even if indirectly. Therefore we can speak of a second degree indirect democracy being specific of transnational systems, admitting that this is a weakened democracy as it is more distant from citizens and their direct influence. Besides, all the important decisions within the European Union are made after discussions, consultations, and joint

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<sup>2</sup> Ch. Lord, *Democracy in the European Union*, Sheffield 1998, Sheffield Academic Press; G. Pridham, *Designing Democracy. EU Enlargement and Regime Change in Post-Communist Europe*, New York 2005, 1, Polgrave Macmillan.

agreement of positions. Therefore they express the opinions and interests of member states and their citizens. The accusation about the lack of legitimacy is not really justified. It is true that EU administration operates ponderously but redistribution of goods is relatively fair and serves the development of all the states. All member states benefit from membership in the European Union. And they are interested in membership in the European Union.

More serious accusations are also made. It is emphasized that there is no democracy without *demos*. And until today European *demos* understood as a community of people having the same understanding of the public sphere, able to organize, deliberate over common problems, recognize each other as political equals has not been established. *Demos* in democracy has real influence on rulers. Such shared political identity enabling the cooperation and the political influence has not been established yet. And there is no common public sphere in which *demos* could discuss and act. Each nation deals with its own problems and discusses them internally. It relates to its own government and not to EU administration. This accusation is partly true. However, it is too strong. After all Europe is a region with identity rooted in Christianity, common history, and awareness of the common cultural heritage.<sup>3</sup> A political *demos* is created on this basis – people share political culture, discuss about the same problems, receive the same mass media, European parties are established. People are more and more aware of their common fate and mutual relations. “People” take part in the Europeization of identity, also as a result of economic migration, tourism, and study at European universities. Elites join in the process more and more often because of their shared political views or membership in a party rather than in a nation. In the legal sense citizens of member states automatically become citizens of the European Union. A European public opinion has been created, which is composed of public national and local opinions. Research shows that the European opinion supports the European Union, thus legitimizing it. However, this *demos* is weaker than the *demoses* based on historically formed nations. It is rather a collection of state *demoses*. Nevertheless, it can exert influence upon EU authorities through the mass media, through their own governments. Individual citizens also have access to EU bodies. Most often they resort to the decisions of the European Court of Justice, successfully prosecuting their own governments for the violation of their own rights, EU rights, human rights, principles of justice, etc. Most active groups (most often groups representing business) form lobbies and exert influence also upon the committees of EU bodies. There are a few thousand lobbying groups in Brussels.<sup>4</sup> The role of national *demoses* in the transnational perspective changes – the majority in a given country can be a minority in the European dimension, for example in the case of parliamentary elections. In order to raise the

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<sup>3</sup> B. Markiewicz, R. Wonicki (eds), *Kryzys tożsamości politycznej a proces integracji europejskiej* [The crisis of political identity vs. the process of European integration], Warszawa 2006, Scholar; Z. Bauman, *Europa. Niedokończona przygoda* [Europe. An unfinished adventure], Warszawa 2005, Wydawnictwo Literackie.

<sup>4</sup> Cf. Ch. Karlsson, *Democracy, Legitimacy and the European Union*, Uppsala 2001, Acta Universitatis Upsaliensis, p. 130ff.

status of small communities the European Union supports small local *demoses*, ethnoses and local governments. Consequently, the relations between the headquarters and local authorities, both from the point of view of individual states and that of the entire Euroregion, change.

In an attempt to make problems connected with transnational democracy more meaningful, let us first draw attention to the rules that were in force during the writing of the European constitution and to the text of some of the constitutional provisions, and then to problems connected with the ratification of the European constitution. In December 2001 member states decided to establish the Convention on the Future of Europe and made it responsible for the drafting a Treaty Establishing a Constitution for Europe. The constitution would give the European Union its legal personality and it would make it possible to have a common foreign policy. The Convention was headed by Valery Giscard d'Estaing, the former president of France. The Convention was not a democratic institution in the same sense as a national parliament is, because it was not elected in general elections and it did not make decisions by vote in compliance with the majority vote principle. It was an elite convention. Nevertheless, as one of its members emphasized, the Convention was democratic in the basic sense as people had influence upon its composition and its resolutions. It was a different kind of influence than that known in the case of national elections.

- (1) The Convention was a second degree representation because it was composed of representatives elected by the European Parliament (16) and those elected by national parliaments (26) and national governments (28); it also included representatives of states which at the time were candidates for EU membership. Other members included 2 members of the European Commission, 13 observers, delegates of the Committee of Regions, the European Economic and Social Committee, EU Secretary General, secretaries, assistants, advisors, diplomats, EU functionaries – in total 205 members;
- (2) Convention sessions were public and published on the Internet, i.e. they were accessible to all the citizens and thus they could be controlled by the citizens;
- (3) Civic organizations influenced the deliberations as they could voice their opinion on the draft text of the treaty;
- (4) Decisions were usually made following consultations and agreements reached between all the Convention members, less frequently by a majority vote. Consequently, the principle of unanimity was adopted, which was a feature of the Polish seym in the 17<sup>th</sup> century. This principle was considered to be more democratic than majority voting.<sup>5</sup>

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<sup>5</sup> N. MacCormick, *Questioning Sovereignty: Law, State and Nation in the European Union*, Oxford 1999, Oxford UP; N. MacCormick, *Who's Afraid of a European Constitution?*, Charlottesville, 2005, Imprint – academic.com; p. 22ff.

The Treaty drafted by the Convention contained 447 articles plus protocols and annexes. The first 60 articles are of importance. Practically, it is a Constitution, which replaced former intergovernmental treaties of European communities (Maastricht, Nice). It defines the basic rights and duties of the EU members and the principles on which its bodies function. With the help of the Treaty its authors tried to make the European Union more democratic. The Treaty gave more powers to the European Parliament compared to those accorded to it in the previous documents. There was a heated debate on how to ensure democratic and efficient functioning of the Council of the European Union. It was agreed that decisions would be made by 55% of the states representing 65% of the citizens and that it would be possible to temporarily block any decision and even very small states could do this. Attempts were made to ensure a balance of power between the Council of the European Union, the European Parliament and the European Commission.

The Convention completed its work on 10 July 2003 and on 29 October 2004 in Rome heads of states and governments signed the "Treaty Establishing a Constitution for Europe". The Treaty had to be ratified by the signatory states. Some of its provisions restricted the sovereignty of states and forced amendments of state constitutions (e.g. the principles of direct validity of some EU laws with respect to citizens of member states). In order to give the Treaty the traditional democratic legitimization, governments of 10 states (out of 25 member states) decided to organize referenda on its adoption. In spring 2005 the French (55%) and Dutch public (61%) rejected the Constitution.

Following a political debate in January 2006 the European Parliament decided to prepare a new Constitutional Treaty and submit it to the public vote. Political elites of Europe came to the conclusion that referenda are not a good form of a democratic decision making process in which decisions are made about the most important transnational problems as two principles are applied at the same time: the principle of majority holding within the states and the principle of unanimity applied in the supra-state dimension. Besides internal problems of states affect the voting result. It was decided to adopt a new Treaty and have it approved by the governments and parliaments of member states. This is a much more democratic procedure as it permits submission of reservations and claims by member states and incorporate them into the final text. The new Treaty was signed in Lisbon on 13 December 2007 by heads of states and governments. On 12 December 2007 member states (except for Poland and United Kingdom) signed the Charter of Fundamental Rights and Freedoms. The main provisions of the Charter have been incorporated into the text of the Treaty. Any breach of the Constitutional Treaty is prosecuted by the European Court of Justice in Luxembourg whereas any violation of human rights is prosecuted by the European Court of Human Rights in Strasbourg.

The European constitution was called the Constitutional Treaty to avoid a suggestion that it is a competition to national constitutions and therefore requires ratification and adoption in a referendum. Attempts were made to avoid expressions indicating restriction of member states' sovereignty. Only cosmetic amendments were made to the Treaty compared to its original text. Thanks to the Treaty the European Union has legal personality, ensures observance of human rights, citizenship of the European Union, and basic freedoms, and has a common foreign policy. However, social rights were not provided for. But the European Union has the right to pass laws.<sup>6</sup>

Governments of all the countries except for Ireland decided that the Treaty does not infringe upon their own constitutions and agreed to have it approved by the parliaments. In line with the requirements of its national constitution, the Irish government had to organize a referendum to adopt the Treaty. In June 2008 the Irish public rejected the Treaty.

The history of both constitutional treaties makes us rethink the specific nature of transnational democracy. The results of this reflection are unambiguous. Firstly, political processes are not controlled by political elites – after all, the French and Dutch governments supported the Treaty. Secondly, reference to people indicates that political relations in the European Union are democratic – it appeared that the *demoses*, which were to decide about the most important issues, are difficult to manipulate. Referenda stirred a heated debate about the European Union and its economic policy and principles of integration. In this way a public sphere independent of politics was formed. And thirdly, results of the referenda contrary to the expectations of political elites, caused most governments to ratify the Lisbon Treaty by national parliaments rather than in referenda, which indicates that the political legitimization of the Treaty was weakened and that the influence of people on legislative and political process in the Union was also weakened since supporters of governments constitute a majority in the national parliaments. Fourthly, both treaties were established in the course of bargaining and compromises between representatives of democratically elected governments and their delegates and they were rejected by the people – the *demos* of some states. On the one hand this questions the credibility of the governments democratically elected in the states on the transnational forum as they do not reflect the opinions and interests of their electors. On the other hand, it transpired that one *demos*, even a small one, can block the will of reforms expressed by all the others, which is not a sign of a good democratic life. Others become hostages to it. This paradoxical situation results from the principle of unanimity between the *demoses*. It means that referenda continue to be held in national states, where the principle of majority applies, whereas at the supranational level the principle of unanimity of all the national “peoples” applies. The most democratic procedures applied at the transnational level (for example, the principle of unanimity of peoples) make compromises and

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<sup>6</sup> Ibid

consensuses impossible. Opinions and interests of national *demoses* are divided fundamentally.<sup>7</sup> We learn that the principle of unanimity can be applied only in situations, in which positions were agreed in the course of deliberations and negotiations. However, masses (the whole of *demos*) hardly ever take part in deliberations, more often it is the elites or representatives of the people. In each case the people must be convinced by the elites to take a specific position in the course of discussion. Consequently, deliberations and agreements are probably the best method of a democratic decision making process at the transnational level.

Creation of European constitutions, rights and their relation to national rights are among the most controversial problems for a supranational European democracy.<sup>8</sup> The European Union is a legal institution of a new kind. It was established by member states of three communities (Euratom, the Community of Coal and Steel and the Economic Community) and today in its political and legislative endeavours it depends on member states. But not completely. To a certain extent it has emancipated from the member states and constituted itself as an independent body of regional legislation. However, the emancipation process has been completed only partially – (a) the so-called European laws are directly applied to all the citizens of EU member states, (b) framework laws are acts binding EU states but the states are free to choose the specific forms and methods of their implementation and in this way processes of the so-called indirect governance are created, (c) the guidelines and regulations of EU bodies are only recommendations and their implementation is advised but not made mandatory, (d) decisions addressed to specific natural or legal persons are differently applied. All these legal acts impose restrictions on the legislative, political and administrative activity at the national level. EU bodies have been given a mandate to independently make many decisions and pass many legal acts. States have been restricted in their legal and political sovereignty but not deprived of it completely. After all it is heads of governments who are members of the Council of Europe and representatives of states and communities are members of other EU institutions. The European Union as such is not a state. It does not have its own army, it does not levy taxes upon its citizens. But it is not sovereign either. It cannot define its competences nor its bodies. They are defined by member states. Consequently, we have a divided sovereignty.<sup>9</sup>

The political status of the European Union is not clear. Some treat it as the union of states or as a confederation of states, others – as a Commonwealth. It is an institution, which has its own legal and political structure, its own organization, and which cares for the common good and which establishes its own constitution. It is an experimental

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<sup>7</sup> J. Melchior, *Democratic Paradoxes of Constitutional Politics in the European Union: From the Constitutional to the Lisbon Treaty*, in: T. Buksiński (ed.), *Democracy in Western and Post-Communist Countries*, Peter Lang Publishing House, 2009, pp. 67-110.

<sup>8</sup> J. W. H. Weiler, *The Constitution of Europe: Do the Clothes Have an Emperor? and other Essays*, Cambridge 1999, Cambridge UP; S. Hix, *The Political System of the European Union*, London 1999, Macmillan Press Ltd.

<sup>9</sup> N. Mac Cormick, *Questioning Sovereignty*, op.cit. pp. 130-132.

field to create democratic supra-state structures. As the European Union is continually in the process of making, its democratic character is not clear. In any case it seems justified to say that it is a new type democracy. It combines in itself three forms of representation. On the one hand the European Parliament is its first tier of representation, on the other hand the European Commission and other bodies are its second tier of representation (indirect influence of the people through state representatives). And finally, there are also different committees, which agree decisions with both governments and experts and which are under the direct influence of citizens and their organized groups. We should not forget about the basic problem of deciding about the fundamental rights – in a democratic process at the first, second or third tier, preceded with negotiations and agreements. Enforcement of democratic governance in the individual member states is an important function of the European Union. It is true of both the old and the new members. The European Union attracts, it becomes attractive as a democratic structure and as a structure, which supports democracy. The free flow of goods, services and people, legally guaranteed by supra-state structures, creates a new atmosphere in the region. To a certain extent it is a guarantee of democracy and peace in Europe.<sup>10</sup>

## 2. The process of state democratization

“Democracy in the global dimension” is an expression with many meanings. On the one hand it is about the introduction of democratic systems in the emerging states of the world, on the other – it is about the creation of political (but also civic, cultural, economic) structures and institutions of a supra-state character all over the globe. It is also about the possibility of introducing democracy in countries with the authoritarian tradition (China, Russia) or where there is no distinction between the *sacrum* and *profanum* (some Islamic countries). The problems and processes mentioned above are mutually conditioned. Let us begin with drawing attention to some problems connected with the enlargement of democracy.

As proved by S. Huntington, democracy at the times of modernity lived through periods of ups and downs. Huntington has identified (in the same way as R. Dahl) three waves of ups. The first wave (1828-1926) had its roots in the American and French revolutions and its distinguishing feature was the appearance of national democratic institutions. After J. Sunshine, S. Huntington considers democratic those countries, in which at least 50% of adult men were granted the right to vote and in which there was a relevant executive power, which had the support of most of the elected members of parliament or simply the majority of electors in general elections. In 1828 these criteria were met by the United States of America and then by Switzerland, France, and Great Britain.

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<sup>10</sup> K. Słomczyński, G. Shabad, *Dynamics of Support for European integration in post-communist Poland*, “European Journal of Political Research”, 2003, No 42, pp. 503-540; M. Telo, *Europe: A Civilian Power? European Union, Global Governance, World Order*, New York 2007, Palgrave Macmillan.

Italy, Argentina and a few other states joined this group before the First World War, and after the First World War – the states, which were established after the fall of tsarist Russia, and the Habsburg monarchy joined it. In total, about 30 states met the criteria. The years 1922-1942 witnessed retreat from democracy in Europe and South America in favour of communist, fascist and militarist systems. The second wave of democratization took place between 1943-1962. Countries of Western Europe returned to democracy. Democracy was introduced also in Turkey, Japan, South Korea, in some countries of South America (Argentina, Columbia, Peru, Venezuela) and in Nigeria, India and in the Philippines. The understanding of electoral democracy was widened – it was understood as extension of electoral rights to all the adult men and (gradually) to women. Between 1958-1975, as a result of military coups, authoritarian governments were reintroduced in most countries of Latin America and Asia. The third wave of democratization started in 1974 (a coup in Portugal) and it is continuing. At this time democratic systems were introduced in Central European states established after the collapse of the communist bloc, almost in all South America and in South Asia.<sup>11</sup> The process of democratization is well illustrated by numbers. In 1974, out of 150 countries of the world, 40 countries were democratic. In 1990, out of 165 countries of the world, 76 were democratic. In 2006, out of 194 countries of the world, 123 were democratic. However, a reservation has to be made that these numbers denote only democracies, which meet the minimum criteria of electoral democracy. According to the data of the Freedom House, in 2006 only in 90 states democracies were more or less electoral in character, which means that they also met some other criteria of full democracy.<sup>12</sup> As is noticed by A. Sen, democracy has become a positive value in the opinion of global population. There is no alternative to it. Neither the ideological projects of Islamic fundamentalism nor the ideas of Asiatic values are attractive to the majority, but only to narrow cultural circles.<sup>13</sup>

A study of the third democratization wave is continued by L. Diamond and his associates writing for the "Journal of Democracy". His views about the possibility to make all the states of the world democratic have evolved from those of an enthusiast to those of a moderate pessimist. L. Diamond argues that at the beginning of the 21<sup>st</sup> century development of democracy was halted, both in terms of quantity and quality. Countries of the world, which were undemocratic, did not become democratic and there is no hope of them becoming democratic. In countries of electoral democracy, on the other hand, democracy is not deepened and there are no processes to make democracy fuller. Some societies abandon it more easily, others find it more difficult. There are many reasons for this, some depending on their mentality, culture, tradition, geopolitical position and many others. Firstly, for the majority of people in the world democracy is not an aim in itself, it is not an absolute value but a means to lead a good

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<sup>11</sup> S. Huntington, *Trzecia fala demokratyzacji* [The third democratization wave], Warszawa 1995, PWN, p. 26.

<sup>12</sup> Freedom in the World Survey, 2007, <http://www.freedomhouse.org>

<sup>13</sup> A. Sen, *Democracy as a Universal Value*, "Journal of Democracy", No 10, 1999, pp. 3-17.

life. People hope that democracy will make them wealthy, will guarantee them peace, justice, observance of the law, self-accomplishment. If it does not meet their expectations, it is criticized or even rejected. Societies, for which it is a non-instrumental value (though not being the only value) are attached to democracy to a greater extent and even at the time of economic or political crises they are faithful to its principles. This is how democracy is treated by societies of Anglo-Saxon countries. Some treat it exclusively instrumentally. Secondly, a coalition of non-democratic or seemingly democratic states is being established, which fight the democracy of the world, particularly the forms of supra-minimum democratization. This group includes mainly such states as China, Russia, Belarus, Venezuela, Zimbabwe, some Islamic states. Thirdly, the economic situation of some states does not favour democracy. In this case there are two types of situations. One has been described in the works of S. Lipset. His thesis saying that the chances for introducing and maintaining democracy increase with increased wealth of the country and the level of its development is well known. It is corroborated by research. According to a UN study, out of 50 most development countries 44 four liberal democracies and only Singapore and countries with abundant oil deposits are not democratic. The richer the society, the more tolerant it becomes for the pluralism of views and attitudes and the more critical it is about the authorities.<sup>14</sup> It is true that in recent years attempts have been made to undermine this thesis – it was argued that democracy is faring well also in poor countries (India, Bangladesh, Mali). However, nobody undermines the thesis that democracy develops best in rich countries. The other situation has been described by L. Diamond. He showed that countries with abundant oil deposits, which base their economy on oil, are not democratic or seemingly democratic (Nigeria, Venezuela, Russia, seven countries of the Persian Gulf). This is due to many facts: citizens are dependant on the state or oil corporations, elites fight for access to proceeds from oil and the states also becomes dependant on proceeds from oil. On top of that there is the dependence of governments on Western countries and corporations, which buy oil and are interested in political stability, even stability, which is ensured by non-democratic regimes. As a result, authorities become independent of citizens and citizens become indifferent to the relations of authorities.<sup>15</sup>

It is interesting that the study of attitudes, views and values of people made by the World Value Survey and the so-called local barometers reveals that the attitude towards democracy is not dependant on religious denomination. It is not dependant on the place of residence and membership in the so-called community (Asiatic) groups. 92% of the population of the Western world, 88% of the population of Eastern Europe, 88% of Muslims in Asia Minor, 85% of the population of Asia and only 81% of the population of Russia were for democracy. The idea of a strong leader was supported by, respectively,

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<sup>14</sup> S. M. Lipset, *Political Man*, Baltimore 1981, John Hopkins UP.

<sup>15</sup> L. Diamond, *Developing Democracy: Toward Consolidation*, Baltimore 1999, John Hopkins UP; L. Diamond, *The Spirit of Democracy*, op. cit., pp. 74, 86.

25%, 33%, 36% and 48% of the population of the regions named above. However, religion does exert a strong influence on moral positions (divorce, abortion) and is important for the extent and type of tolerance in political life (e.g. that related to pornography).<sup>16</sup>

Systems of the majority of Islamic countries have a specific character. In these countries there are many active groups of fundamentalist mentality. They pose a threat not only to democracy, but also to liberalism. In many of these countries authoritarian regimes have been established. They do not observe human rights, they are not legitimized by fully free elections but every now and then they exhibit features of electoral democracy organizing elections of political authorities. They ensure some civil liberties and elementary human rights. Some of them have done away with all forms of civil (liberal) liberties in the name of the religious fundamentalist system (Sudan), others have restricted the influence of fundamentalist groups aiming at the elimination of civil rights (Egypt, Algeria). In such countries introduction of full democracy would mean seizure of power by enemies of democracy and enemies of civil liberties. Therefore authoritarian regimes are tolerated and even supported by Western countries.<sup>17</sup> However, it must be emphasized that not all Muslim countries have strong and active fundamentalist communities. In Morocco, Lebanon, Jordan, and Tunisia civil rights and many democratic rights of citizens are observed. The war in the Persian Gulf (1990-1991) and the overthrow of Saddam Hussein in Iraq (2002) strengthened democratic tendencies in the region. Observers have noticed the weakening of fundamentalism in Arab countries and the strengthening of moderate Islamism. In most of these countries there are democratic institutions introduced by colonial states – parliaments, elections, political parties.

### 3. Global democracy as a form of capital control

Most reservations and problems connected with democracy are about supra-state and supra-regional structures. On the one hand it is emphasized that there is a need to create global democratic political structures, which would make it possible to control processes of economic globalization and restrict its negative consequences, and on the other difficulties in the creation of such structures or even the impossibility to create such structures are stressed. Economic globalization brings about ambiguous results – for some it is the source of wealth, cheap services, work and goods, for others it is the source of unemployment and poverty. Some of the negative features include the deepening of differences in the resources and wealth between the rich and poor states and social groups within individual states, degradation of the natural environment, the weakening of the traditional values that bond societies and give sense to the lives of

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<sup>16</sup> Ibid, pp. 32-33; M. Kaldor, M. Albrow, H. Anheier, M. Glasius, *Global Civil Society 2006/2007*, London 2007, Sage Publications. The book contains tables on democracy in the world, observance of human rights, non-government movements, religiousness and other problems.

<sup>17</sup> Fared Zakaria, *The Rise of Illiberal Democracy*, „Foreign Affairs“ No 76, 1997, pp. 22-43.

their members, the lack of influence of citizens and governments of individual states on economic processes, market radicalism, reduction of people to the role of producers and consumers of goods and services, the lack of transparency in global operations of companies; the threat of global crises, the feeling of powerlessness and the fear of the future. Processes of economic globalization make economic entities (corporations, companies, stock exchanges) independent of national states and political institutions. Economic entities are not democratic internally and are not subordinated to democratic bodies. They are governed by their own laws. Moreover, they affect the political sphere and subordinate democratically elected state authorities by extorting favourable conditions of investment and operation. Besides, more and more centres of power and management in different fields and at different levels are created in the world, which operate independently of citizens and the democratically elected bodies. Some of them operate within the framework of the law (cultural societies, peace movements, defenders of human rights), others operate on the border of law (cliques, pressure groups) and others operate above the law (the mafia, criminal organizations). These subpolitical global entities affect democratic structures and bodies in individual countries and the legally operating supra-state institutions and organizations, both economic and political, civic, and humanitarian. They compete with them.<sup>18</sup>

Negative consequences of globalization force us to look for ways of creating an equitable order in the global dimension. Attempts are made to determine and define the global norms of good life and globally shared values, which could serve as the basis for the normalization of global legislation or global political institutions or global politics. States alone are not able to cope with global challenges. One of the suggestions to solve this problems involves the creation of democratic structures of supra-state and supra-regional authorities. Maintenance of the world in a state that favours the life of human beings requires a joint effort and cooperation in the definition of aims, values, ideas of good life. Such an agreement is not possible without public deliberations, without political cooperation involving all the entities important in the global dimension.

However, it is not certain whether global democracy is possible. For example, J. M. Guehenno, Chantal Mouffe and many other theoreticians, who assume the importance of the features of intrastate democracies, think that global democracy cannot be built because there is no global citizenship, there is no political community of a global dimension. A community is characterized by shared ideas of good life, justice, duties, contribution of work to the good of all, influence on political decisions, separation of citizens from those who do not belong to the community, shaping public life according to the ideas agreed between citizens. In the global dimension citizens do not define their way of life and they do not rule over economy, finances, culture. Solidarity between citizens disappears. There are no shared ideas of good life, justice, rights, ethicality. There are no global political parties, although attempts at establishing them have been

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<sup>18</sup> More on this in T. Buksiński, *Moderność* [Modernity], Poznań 2004, WNIFUAM, X.

made.<sup>19</sup> There are many centres of power, which are hardly recognizable and consequently an impression is created that non-personal and invisible authorities exist. It is not known who is responsible for decisions. Mechanisms of politics are concealed. Moreover, economic forces try to undermine democratic life at the national level. And they do it very effectively. Political freedom is changed into increased consumption. Citizens are changed into consumers. A political people striving for the achievement of the common cause disappears. In other words, *demos* disappears and there is no democracy without *demos*.<sup>20</sup>

Despite these pessimistic arguments attempts are made to reformulate projects of global democracy and it is argued that they stand a chance of success. This belief is based on some contemporary trends, which favour introduction of democracy. They include, *inter alia*, (a) the processes of dissemination of intrastate democracy in the world. Democracy become trendy. It has the power of attraction. Even non-democratic regimes call themselves democratic; (b) The public opinion of almost all the countries supports democracy as a universal value. This could be an indication of the creation of some global homogeneity, i.e. global *demos*; (c) The number of international initiatives promoting democracy has grown. All global and regional political organizations are in favour of democracy – UN, Council of Europe, the Organization for Security and Co-operation in Europe (OSCE), the World Bank, African Union, the Organization of American States (OAS), the Association of Southeast Asian Nations (ASEAN). Democratic states financially support democratic initiatives of movements, institutions and organizations; (d) Politics of individual states is becoming more and more dependant on the politics of other states. And therefore states are forced to cooperate. And cooperation breeds reciprocal tolerance; (e) A wider area of global legislation is being created. More and more institutions take part in legislative work and more and more entities become subject to global legislation; (f) The increased exchange of goods, services and people opens borders to others and their views, attitudes and beliefs; (g) A network of organizations, institutions, formal relations is created, which makes it possible for elites to form global structures of an institutionalized supra-national management; (h) A global network of organizations and grass-roots relations is created (Greenpeace, Human Rights Organization, Doctors Without Barriers), which are less formalized and which affect the conduct of global political and economic entities. They create the ethos of global society.<sup>21</sup>

#### 4. Cultural meta-identities

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<sup>19</sup> P. Burnell (ed.), *Globalising Democracy. Party Politics in Emerging Democracies*, London, New York 2006, Routledge.

<sup>20</sup> J. M. Guehenno, *Das Ende der Demokratie*, Wien 1995, Atremis & Winkler; Ch. Mouffe, *On the Political*, London & New York 2005, Routledge.

<sup>21</sup> H. Kersting, *Recht, Gerechtigkeit und demokratische Tugend*, Frankfurt/Main 1997, Suhrkamp, pp. 206-209, O. Hoffe, *Demokratie im Zeitalter der Globalisierung*, Munchen 1999, Beck.

Although the need for global political structures results from the negative consequences of uncontrolled economic expansion it seems that agreement on the creation of democratic structures of global power meets mainly barriers in the form of different cultural meta-identities. Let us discuss them using Western and Islamic meta-identities as examples.

There are many assumptions or conditions necessary or favouring the implementation of democracy. Some of them play the leading role in the visions of normative democracies, others – in practical applications in democratic states. Some of them gained the status of norms, principles, values, rights important and mandatory for the entire culture, understood in Huntington's sense. They decide about the identity and the specific character. Nobody can change or undermine them. They are inalienable. They have been inherited and they were granted the status of absolute importance and therefore they restrict all the other laws established either in the form of a constitution or in the form of specific acts of parliament. They also restrict political activities, procedures, aims, desired goods. They are superior to all of them. Only within their framework, within their limits are differences, a multitude of opinion and interests permitted. Human rights and civic rights belong to such an axiological and legal framework in the Western culture. They mandate provision of basic rights to all individuals, i.e. civil liberties – the right of movement, work, speech, ownership, freedom from arbitrary imprisonment; political freedoms – the right of association, involvement in power; cultural freedoms – the right to use one's own mother tongue, the right to express one's own religious beliefs. They are supra-state sanctities, independent of the form of authority and political systems. Their different interpretations, different concretizations are possible, but they must be observed. The democratic systems of the West permit different statutory laws, differences, conflicts and disputes among parties and factions, but only on condition that human and civic rights are observed. These rights are rooted in the natural law. In the Middle Ages they were considered to be religious laws inscribed by God in human consciousness (St. Thomas). At the beginning of modern times they were treated as moral laws (Hobbes' reason right) and during the Enlightenment they were ascribed the status of legal principles and incorporated in the Declaration of the Rights of Man and of the Citizen of 1789. In the 20<sup>th</sup> century they were given the status of universally binding statutory laws (1945).

In modern times in the Western culture the idea of the rights of man assumed the form of human rights (the right to life, ownership, movement, freedom from arbitrary imprisonment), civic rights (the right to work, speak, establish family) and the rights of the citizen (political rights to take part in elections, hold offices, associate in political parties). And new and new rights are added to this portfolio. In recent decades social rights were added (the right to decent pay, to decent working conditions, etc.) and cultural rights (the right to speak one's own mother tongue, the right to education, the right to express one's own religious beliefs in the public sphere). They are like a

framework for the expression of particular identities, existential and other interests and values of community members. This framework restricts rights, which are dangerous for others and it restricts ways of their manifestation, which are harmful to community members. They assume the form of statutory laws. These meta-restrictions have become obvious for members of Western culture. They perform all the functions of cultural meta-identity and profound existential values of the entire culture. And they restrict democracy understood as the power of people, i.e. decisions made by the majority of votes by people or their representatives. This framework decides, which problems are excluded from this procedure.

The meta-identity and existential interests of the West are composed not only of human and civic, social or cultural rights. Existential interests are understood as such conditions and goods, on which existence, survival, financial and civilizational conditions of individuals and groups depend. Meta-identity and existential values include different restrictions and assumptions: political ones pertaining to how justice, democracy, freedom, equality, solidarity and constitutional methods of their implementation are understood, as well as to the treatment of nations and the basic political entities; moral ones connected with the relation to authorities, with the understanding of participation in public life, with relations between individuals; cultural ones, which define social customs and traditions, equal treatment of minorities, etc. These are consensuses pertaining to the foundations of the society and its functioning. Sometimes we do not even realize the existence of some of them.<sup>22</sup> Recognition of the rights of man and citizen and other basic values denotes the creation of new forms of individual and social existence because it denotes separation of rights from power. Political authorities must submit themselves to the laws, there is no control over them, they are not at the disposal of political authorities, they are beyond their reach. But the laws are not at the disposal of people either. They are above its authority to establish law. They are not immanent. Resolutions of people are made by the majority of votes or unanimously and they cannot undermine the rights of man and citizen. Decision and actions of the majority must take into account, to some extent, the rights of the minority. In this way they acquire their non-instrumental status. They become conditions of the existence of societies of a given culture.<sup>23</sup>

Meta-identities, like particular identities, are given and they constitute communities. They provide for extra-rational integration, beyond the interest of communities. Their breach by external factors can lead to the disintegration of the community or to its change. Their importance for the community was recognized as early as in ancient

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<sup>22</sup> Cf. M. Welan, *Drei Weise aus dem alten Ostereich: Friedrich August von Hayek, Karl Raimund Popper, Hans Kelsen. Unwissenheit als Grund von Freiheit und Toleranz*, in: E. Czerwińska-Schupp (ed.) *Values and Norms in the age of Globalization*, Frankfurt /Main 2007, Peter Lang Verlag, pp. 95-108.

<sup>23</sup> Cf. M. Piechowiak, *Filozofia praw człowieka* [The philosophy of human rights], Lublin 1999, TTKUL; B. Banaszak (ed.), *Prawa człowieka. Geneza, koncepcje, ochrona* [Human rights. Genesis, concepts, protection], Wrocław 1999, WUW.

times but the dangerous consequences of their unlimited expression (e.g. fight for their recognition or provision) to others were not overlooked. Therefore attempts were made to regulate them: on the one hand to guarantee the possibility of their accomplishment, on the other to restrict their excessive public expression.

In recent years the number of different international charters of rights, accords, and declarations supporting human and civic rights, cultural rights, etc. has grown.

In other (non-Western) societies and cultures there are other meta-identities. In African countries each election, each activity is restricted by local customs and traditions, religious beliefs, rituals and inherited moral norms. They are the indisputable sanctities.

The Islamic culture is most clearly different from Western culture. In the Islamic culture *sharia* is the main component of meta-identity. It is a religious, spiritual and moral body of law and, at the same time, a body of juristic law. It defines the framework for legal and political action. It was codified in the Koran and supplemented with hadiths, i.e. traditions relating to the words and deeds of the Islamic prophet Muhammad, *sunnahs*, i.e. the way and the manners of the prophet, developed out of norms practically observed by the first generation of Muslims, interpretations of the scholars-jurists, governments, judges. In the belief of radical Muslims *sharia* has been given by God, not by man. *Sharia* restricts particular identities and interests much more and differently than the rights of man and citizen. It is a philosophy of life. It consists of rights and duties. But the latter are more expanded. If we assume that each right of one man corresponds to a duty of another man (for example my freedom corresponds to the ban on its violation by another man), it is impossible not to notice that what dominates in the Western culture is the language of rights whereas in the Islamic culture it is the language of duties, imperatives and prohibitions. *Sharia* makes it imperative to look for the good, which comprises respect for and protection of religion, life, offspring, ownership, intellect, life in social harmony, fight for social justice, and the common good.<sup>24</sup> Duties serve as borders for the action of spiritual, legislative and political authorities and for the conduct of the faithful. They are considered to be universal. No agreement can change them. Each legal decision (*fatwa*) must be based on *sharia* and applied to a specific life situation.<sup>25</sup> Political pluralism is restricted by them more than is the case in the Western culture and it is done by human and civic rights since *sharia* (a) regulates human conduct more precisely than human and civic rights and requires that they be more strictly observed, (b) provides for more severe punishment for its non-observance (e.g. an adulterous woman can be stoned or a thief's hand can be cut off), (c) it pertains to the whole of human life, i.e. to religious, private, political and economic

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<sup>24</sup> Ozlem Denli, *An Islamic Quest for a Pluralistic Political Model: A Turkish Perspective*, in: M. A. Muqtedar Khan (ed.), *Islamic Democratic Discourse*, op.cit., p. 96.

<sup>25</sup> Tariq Ramadan, *Ijtihad and Maslaha: The Foundations of Governance*, in: M. A. Muqtedar Khan, *Islamic Democratic Discourse*, op.cit. p.4.

life, (d) it unequally treats women and men, (e) it restricts individual freedoms in favour of community values (for example, capital punishment when the Islamic religion is abandoned). Within the framework decided by sharia political parties can represent different economic, political and symbolic interests. Different economies are permitted (free market economy, command economy), different political systems are permitted (authoritarian, socialism, kingdom, democracy). But authorities, which do not apply sharia in the country in which Muslims are in majority, are not possible. In the Islamic culture religious rights and values are most important. Activity of many political parties are permitted (in Algeria or Yemen there are a few dozen of them, there several parties in other Islamic countries) but none of them can negate sharia. In practice, political authorities can differently interpret sharia but they cannot undermine or negate it. Different parties usually are in favour of different interpretations of sharia and Islam – some are in favour of its strict version, others are in favour of a more tolerant version. For example, in Malaysia there are two parties: the Pan-Malaysian Islamic Party or the Islamic Party of Malaysia, commonly known as PAS, the Islamic radicals, and the United Malays National Organisation, or UMNO, the moderate right-wingers. Both are based on the political dominance of Islam. In this sense they are religious parties. The first aspires for the introduction of strict sharia, the other – liberal sharia. All important problems of the country are interpreted in a religious or ethnic language. But sharia in Malaysia is only partially prevalent. Although Islam is the official religion, followers of other religions are tolerated although politically they are not equal to Muslims. The parties compete for the votes of non-Islamists and ethnic minorities.<sup>26</sup> In Egypt, on the other hand, which is considered to be a non-democratic country as a state of emergency has been in force there since 1981 (when fundamentalists killed President Sadat), basic civil liberties are ensured. Moreover, there is also some semblance of political freedoms – elections are organized to the National Assembly (parliament), which nominates the president, and to the Consultative Assembly (which interprets sharia and applies it to modern problems). Religious minorities are tolerated but fundamentalists are not. Different political factions can be active, although they cannot seize power from President Mubarak and the National Democratic Party of Egypt as both electors and elections are manipulated by the government.<sup>27</sup> Even in Iran, which is considered a non-democratic country, there are some elements of electoral democracy. Referenda, general presidential elections and general elections to the Majlis of Iran, i.e. to the Islamic Consultative Assembly (the Iranian Parliament), are held. Religious minorities (Christians, Jews, Zoroastrians) have one or two seats in the Parliament. In Iran, like in other Islamic countries, the Council of Guardians, composed of Islamic jurists specializing in different aspects of Koranic law, controls the parliament, supervises elections and approves of candidates for president and members of parliament. In its

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<sup>26</sup> Osman Balzer, *Islam, Ethnicity, Pluralism and Democracy. Malaysia's Unique Experience*, in: W. A. Muqtedar Khan (ed.), *Islamic Democratic Discourse*, Lanham 2006, Lexington Books, pp. 64-81. Cf. also other articles in this volume,

<sup>27</sup> Muhammad Said al-Ashmawy, *Islam and the Political Order*, Washington 1993, CRVP. This is the author's interpretation of the liberal sharia and relations in Egypt.

assessment of the candidates the council interprets how the views and actions of the candidates are in line with their interpretation of sharia as the moral and religious law.<sup>28</sup> In most Islamic states such legal guardians are dependant on the political authorities in a given state or even are its members.

In most Muslim countries we observe a strange situation – their constitutions and rights guarantee equality in law irrespective of religion, race, language, and beliefs and guarantee human freedom, including the freedom of religious practices, but at the same time make Islam state religion and sharia the source of state legislation and impose on the government to educate citizens in the religious spirit. In these countries the church is not separated from the state because there is no separate church as an institution. In practice political authorities (with the legal guardians and other jurists, experts of Koran) decide about the law. Religious minorities are tolerated. They enjoy civic rights but they are denied political rights. Politically they are not equal to the Muslims. In practice in countries with a moderate political Islam, in which Muslims constitute a majority, limited sharia must be observed by everybody active in public life and only the Muslims enjoy full political rights (passive electoral rights). Religion does not belong to the private sphere, it is part of the public sphere. Elements of the private sphere include science, economy, education, and family life. In states of radical political Islam other religions are tolerated only in private life (Iran), whereas in states of the so-called lay Islam (Turkey, Lebanon, Jordan, Iraq) religions other than Islam, although legally having the same rights as Islam, are only tolerated.

In disputes in Islamic societies symbolic interests dominate over material interests. That is why democracies in Islam are of identity character. Even other interests (political, economic) are expressed in a religious and normative language. All disputes take the form of disputes about identity. And they are particularly fierce because they relate to profound axiological structures of the communities. And can be settled by force or in a consensus, agreement or persuasion.

## 5. Consensual democracy

If we accept the argument about the possibility of forming global democratic structures a question arises about the shape they can and should assume. After all such democracy must be different from intrastate democracy. Many proposals of such a system have been prepared, but this is not a place to elaborate on them.<sup>29</sup> Let us focus on those proposals, which in our opinion are most realistic and which seriously treat

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<sup>28</sup> P. Lewicka, *Demokratyzacja w świecie islamu na przykładzie wyborów parlamentarnych* [Democratization in the world of Islam illustrated by parliamentary election], in: A. Mrozek-Dumanowska (ed.), *Islam a demokracja* [Islam vs. democracy], Warszawa 1999, Askon, pp. 125-158.

<sup>29</sup> Some of them have been discussed in: T. Buksiński, *Współczesne filozofie polityki* [Modern philosophies of politics], Poznań 2004, WNIFUAM.

the multitude of cultures and identities as a factor significant for processes of democratization.

As pointed out many times<sup>30</sup>, wherever divisions between social groups are profound, the supreme power constituted by the majority method is not adequate because it is not capable of representing the whole society/community. It would be too unjust for the minority. Some people would not be able to accept its policy and would revolt. We are witnessing this situation in the case of ethnically, nationally, and religiously pluralistic societies. Their values and norms are intensive and therefore they unite these groups and make them active. And then, in order to preserve the social integration of the whole consensual methods are applied to the creation of the supreme power and to the establishment of principles of cooperation inside the entire community. Such methods are applied, *inter alia*, when parliamentary mandates are distributed in Switzerland and Belgium. Negotiations prevented force solutions when political systems were changed in Central and Eastern Europe. They were known as "round tables". Negotiations cannot be identified with compromises or consensuses. The former indicate reciprocal concessions and resignation from claims to accomplish one's interests (in line with the "something for something" principle) and depend on the bargaining power of the parties involved. The latter are the result of rational argumentation and indicate admission of beliefs, truths, principles and norms. In negotiations an important role is played by important group interests (financial, political) as well as important values, principles and norms of cooperation. During negotiations both rational arguments, persuasion and appeals to the interests are used.

Negotiations are not only a method aimed to help peacefully solve profound conflicts. It is a certain model of democracy, juxtaposed with the majority model. Negotiations are not aimed at finding solutions to specific problems. They are a kind of standardization, decisions on norms, according to which aims can be achieved. Therefore they pertain to fundamental things. Supreme authorities are appointed and the most important resolutions are adopted, laws are enacted and institutions are established on their basis. They define the bases for the regulation of relations between groups: they regulate cooperation, ways of solving conflicts and methods of electing the supreme authorities and deciding about their remit, as well as rules governing their functioning. In such models usually the remit of the supreme power (authorities) is very limited. It is reduced to the rights of regulating by means of laws and, in line with the agreed procedure, deciding about the basic mutual relations between groups and settling conflicts. Any settlements pertaining to the group are left to the group and must be agreed internally, provided that the decisions do not infringe upon the agreed and adopted norms, values and laws. Human and civic rights, social and cultural rights as

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<sup>30</sup> N. Lijphart, *Democracies*, New Haven 1984, Yale UP, pp. 285-288; M. Young, *Inclusion and Democracy*, Oxford 2000, Oxford UP, p.119ff.

well as the influence of all the groups upon the political authorities must be guaranteed.<sup>31</sup>

Generally speaking, this model can be extended to include international relations. As mentioned above, this model is applied to a large extent in the European Union. After all, in the European Union basic rights are agreed between member states whereas the headquarters usually issue basic regulations to be implemented by member states (framework laws, criteria on which goods can be launched on the market, regulations of cooperation, etc.). Specification of many laws is left to the bodies of member states, and so is solution of internal problems, which member states are capable of solving themselves. It is said that such authorities are regulatory and not governing in the traditional sense, i.e. in the sense of management of processes. Rules replace military power and fight between states. And we cannot forget about the growing role of regions and regional and local authorities. They serve as the basis for civic self-government. Local democracy is also closer to the consensual model than democracy exercised at the level of states (people know each other and agree on problems that pertain to all of them). The authority of the EU headquarters is divided between different advisory bodies, expert groups, institutes, discussion groups, which prepare draft regulations of all kinds. It is delegated to them.<sup>32</sup> In this way, on the one hand a legal community is established, which follows the principle of justice and expresses some ideas of solidarity between member states and nations. It is becoming the beginning of the creation of a new political community. On the other hand in this way a new collective, common sovereignty is created, shared by member states. It is the foundation of a new political identity of Europe.

It seems that this model of democracy can be applied also to the creation of global political structures. In this case we are dealing primarily with cultures of different meta-identities (and existential values). Achievement of agreement between them is the main difficulty in the achievement of the condition of effective cooperation at the political plane. In this understanding basic principles and rights of citizens are agreed on the one hand and, on the other, basic regulations on the regulations between the cultures and social and political systems are created. The problems of good life, aims accomplished by individual governments is left for settlement inside the individual cultural, state and religious communities.

It seems that an agreement on the principles of reciprocal cooperation, given the tolerance of internal differences on the norms of good individual and community life and forms of political system is possible. It is much more difficult to come to an agreement on the assumption that not every form of government and not every concept

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<sup>31</sup> R. Rich, *Bringing Democracy into International Law*, „Journal of Democracy”, 12, 2001, pp. 18-31.

<sup>32</sup> G. Majone, *Regulating Europe*, London 1996, Routledge; G. Majone, *The Regulatory State and its Legitimacy*, “Political Science Series”, No. 56, July 1998, Wien, p. 1-22.

of good life (religious, moral, ethnic, economic, political) can be tolerated. Then it is necessary to identify borders for these non-tolerated norms. If we assume that democracy is the criterion of intrastate tolerance of political systems, we must define what democracy is meant – is it a minimal electoral democracy or a minimal legal democracy or a consensual democracy or maybe another democracy of a higher quality. It seems that shared axiological and normative meanings, if and when found in meta-assumptions or meta-identities, are the key to the solution of the problem. If they do not exist, they must be formulated.

Agreements at the level of great cultures are difficult because at the same time many dimensions of claims, attitudes, many types of interests, values and identities have to be taken into account. It is difficult to make comparisons between them. Consequently, work must start with the agreement on the principles of talks on cooperation and common norms of social and political life. Subsequently, the importance and role of individual, more specific and detailed norms, rights, goods and interests must be agreed. This at least assumes the readiness of the parties to abandon imposition of their views on others and to abandon claims about an absolute universal importance of their meta-identities as well as to be open to some common values, rights and principles of cooperation and reciprocal tolerance. Is such an agreement possible? It seems that it is possible. There are some common interests in the global dimension: assurance of peace, increase of welfare, protection of nature, elimination of diseases, security, and education. Representatives of cultures are able of convincing members of cultures that supporting cooperation between cultures and creation of legal and political structures in order to achieve shared values and goals is good for everybody. In this way certain attitudes and opinions, important for the unity and cooperation, are made universal and unified. It is more difficult to agree on more specific and yet fundamental values and norms pertaining to intrastate democracy and on the border between particular collective identities and the rights and autonomy of individuals.

For example, in the case of agreements between the culture of the West and the culture of Islam it is about reinterpretation of human and civic, cultural and social rights on the one hand and, on the other, about reinterpretation of sharia so that it is accepted by both sides. Radical Muslims (fundamentalists) reject democracy because it leads to laicization, democratization, corruption, wars, brutalization of sex, destruction of traditions. Probably it is difficult to agree with them on the need of applying democratic principles of cooperation and democratic governments in states. On the other hand democratically thinking Muslims say that the contract concluded in 622 in Medina between Muslims, Jews and pagan Arabs is a model of relations between different religious. Through consensus equal rights for all groups to profess religion were guaranteed and a peaceful solution of conflicts was mandated in it.<sup>33</sup> They also relate to

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<sup>33</sup> Ozlem Dendi, *An Islam Quest for a Pluralistic Political Model. A Turkish Perspective*, in: W. A. Muqtedar Khan (ed.), *Islamic Democratic Discourse*, op.cit., p. 86ff.

the idea of surah-consultation, contained in the Koran, which contains recommendation on the need to exercise power democratically or agree decisions with representatives of the community. Muslims are masters of mediation. And even non-democratic rulers (in Kuwait, Bahrain) seek support of clan and tribe leaders, consult their decisions with them, negotiate problems of the country, and in exchange for their support offering them involvement in power and wealth. All authorities require support of the majority of the society. Without this support, they cannot prevail. All authorities must care for the interests, values and the good of the societies in which they have been established. Obviously authorities in Muslim societies cannot be indifferent to religious and community interests as they are valuable in the society. All Muslims (radical and moderate) agree that any authorities (including democratic authorities) should care for religious and moral goals (it is a means to achieve them) and that the foundations of social systems and rights are divine and not human. Therefore in democracy people are not sovereign (autonomous) but only trustees of one sovereign – God.<sup>34</sup> This view on the role of religion, provided it relates only to Muslim societies and provided it does not negate the minimum legal democracy, which does not discriminate against other religions, is acceptable to representatives of Western culture. Such views are the foundation for the establishment of common values and norms above cultures.

It appears that the laws of sharia and human and civic rights are similar in many respects. Suffice it to say that as early as 1981 in London representatives of Islamic states signed the Islamic Universal Declaration of Human Rights. It speaks of the equality of people, prohibits persecution and discrimination, mandates assurance of the right to asylum and social welfare. In the following years leaders of Muslim states signed similar declarations in Cairo, Bangkok, and Vienna. In modern mass media emphasis is put on what divides, i.e. on the Koranic ideas of women being dependant on men, citizens being obedient to authorities, on the primacy of family and community rights over individual rights, the non-democratic character of power of the guardians of sharia. These differences are the basic obstacle to an understanding between cultures, but only if understood literally. On the one hand it can be proved that the legislation of democratic Muslim states is similar to that of Western states – in today's Muslim states nobody is stoned and nobody's hands are cut off and lawyers justify the liberal interpretation of legislation pointing out that sharia would justify such punishment in extreme cases only: when the entire Muslim community was moral, when there was no doubt about the guilt, when the guilty did not show remorse for his actions. In practice these conditions are never satisfied.<sup>35</sup> On the other hand many institutional solutions of the West are surprisingly similar to those in the culture of Islam. Even such an institution as the guardians of sharia has its functional counterpart in the West – the European Court of Human Rights. Besides, in the Western culture apart from human

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<sup>34</sup> Abdelwahab El-Affendi, *Democracy and its (Muslim) Critics: An Islamic Alternative to Democracy?*, in: M. A. Muqtedar Khan, op.cit, p. 230.

<sup>35</sup> M. S.al-Asmawy, *Islam and the Political Order*, op.cit. p. 99ff.

and civic rights there are many other sanctities of Christian origin (similar to those valued in Islamic communities), which no democratic government would be bold enough to violate, e.g. celebration of Sunday, prohibition of polygamy, respect for parents, duties to grow up the children etc. Each person living in the Christian culture and identifying with it tacitly accepts its fundamental values and norms and takes them for granted and never publicly questions them. Even if tolerance of the criticism of religious values and norms is greater in the West than in Islamic countries.<sup>36</sup>

In light of the above discussion the views of Habermas, Rorty and other liberals, who voice arguments about the universality of human and civic rights in their Western understanding and Western justification, seem to be wrong.<sup>37</sup> Contrary to Habermas, in our opinion there are many cultural identities, many ways and paths to modernization. We also believe that modernization is not associated with the Western understanding of freedoms and with liberal individualism. Each culture has its own "human rights" and its own sources and ways of legitimizing them. And they affect democracies created in such cultures. They give them their own image. And this does not exclude agreement, mutual tolerance and cooperation between different cultures. In all cultures there are some common values, norms, goods. They belong to basic or elementary values and norms (the value of life, health, survival, minimum subsistence, freedom from enslavement, tolerance for community identity). Not all of them are identical with the human and civic rights in their Western version.<sup>38</sup>

## 6. Final remarks

Meta-identities, identities and existential values are the basis of existence and social integration of human communities. They provide for the unity of communities, nations, states, organizations, systems and cultures. All these social structures petrify some goods, values, norms, properties as significant, important for the community as a spiritual, moral, cultural or political being. Usually some of them are given, i.e. created unconsciously, handed over by tradition, existing in the form of moral or cultural norms, religious rituals, and subsequently verbalized, improved, specified in the form of declarations or legal norms, which are mandatory as statutory laws. And these verbalizations and establishments are made by elites, by elected representatives or self-appointed lawmakers, revolutionaries, reformers or are created in the course of negotiations between representatives of different groups. Therefore they are not established democratically by general vote or by vote of representatives elected in free elections. And despite this they are most important for the community. And in the

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<sup>36</sup> Cf. J. L. Esposito, O. J. Voll, *Islam and Democracy*, New York, Oxford 1996, Oxford UP; G. Salame (ed.) *Democracy without Democrats? The Renewal of Politics in the Muslim World*, London, New York 1996; T. D. Sisk, *Islam and Democracy, Religion and Power in the Middle East*, Washington 1994, Institute of Peace.

<sup>37</sup> Cf. J. Habermas, *Zur Legitimation durch Menschenrechte*, in: J. Habermas, *Die postnationale Konstellationen*, Frankfurt/Main 1998, Suhrkamp, pp. 170-193.

<sup>38</sup> Cf. H. Shue, *Basic Rights: Subsistence, Affluence, and U.S. Foreign Policy*, Princeton UP, Princeton 1996.

present times such agreements between elite groups – committees, institutions, or global organizations are a more and more common practice of establishing laws, regulations, norms and procedures.<sup>39</sup> Obviously agreements between representatives of the interests and identities of particular (state) groups are different from those made between representatives of great cultures. Representatives of the former are usually elected by communities and so people have influence upon them. People also have an indirect influence on institutional representatives of regions organized in a political group, e.g. the European Union. On the other hand representatives of all other great cultures and large regions do not have even such indirect electoral legitimacy. It seems that in such cases participants in negotiations can be considered representatives of cultures on the basis of their authority, popularity, typicality or embodiment of cultural norms and values. After all, negotiations and agreements between cultures should be about assumptions and circumstances in which cooperation should be pursued and a whole composed of different cultures should function democratically. Such assumptions are of spiritual (religious, cultural) and social and political character. Consequently, authorise from outside politics and statutory law can, and even should take part in such negotiations and agreements.

Such forms of the establishment of norms, principles and laws can be accused of being undemocratic or elitist. However, it should be pointed out that all forms of democracy must be based on assumptions, condition or circumstances, which have been adopted undemocratically. The assumptions of a democratic system must be verbalized, designed, prepared by somebody. Somebody must organize their recognition as valid assumptions and then implement them. None of these activities require the involvement of people. People can only accept the constitution of the system in a referendum. However, somebody must have prepared it in one or another form. And besides people do not vote in a referendum or some other form of plebiscite to accept political principles. Even if they voted on them, they would not be able to give them legal validity because any voting assumes prior legal validity of this form of opinion expression, i.e. voting. In completely new situations (e.g. negotiations and agreements between cultures) conditions of cooperation and democratic functioning at the global level are created and formalized. Therefore they must contain extra-formal elements, going beyond the traditional forms of majority democracy.

People can have an influence upon the result of agreements – by gaining the possibility to exert pressure. But some conditions must be met first – openness to disputes with people, transparency of disputes and actions, sensitivity to public opinion, to the needs, aspirations and desires of people, etc.

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<sup>39</sup> Cf. T. Buksiński, *Prawo a władza polityczna* [Law vs. political power], Poznan 2009, WNIFUAM.