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This is an author produced version of a paper published in

Journal of European Social Policy (ISSN 0958-9287, eISSN 1461-7269)

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Citation Details

Citation for the version of the work held in 'OpenAIR@RGU':

SPICKER, P., 1991. The principle of subsidiarity and the social policy of the European Community. Available from *OpenAIR@RGU*. [online]. Available from: <http://openair.rgu.ac.uk>

Citation for the publisher's version:

SPICKER, P., 1991. The principle of subsidiarity and the social policy of the European Community. *Journal of European Social Policy*, 1 (1), pp. 3 – 14.

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The principle of subsidiarity and the social policy of the European Community

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Published in Journal of European Social Policy, 1991 vol 1 no 1, pp 3-14.

Abstract. The idea of 'subsidiarity' has been gaining influence within the European Community. 'Subsidiarity' is based on a view of society in which responsibilities are conditioned by the closeness of people's relationships. Intervention at higher levels of society has to be seen as subsidiary to the obligations of smaller social units. Applied more narrowly in the context of the Community, subsidiarity has been taken to refer to a functional division of administrative responsibilities, although at times the principle is referred back to its wider usage; it implies an emphasis on decentralisation and diversity.

The gradual expansion of European interventions in national social policies has depended on a strategy of developing precedents and competence. The idea of subsidiarity, used virtually as a synonym for national sovereignty, has been enlisted to oppose this trend. Although the principle does limit the scope of a supra-national organisation, there is still scope for a European social policy which establishes principles and develops other kinds of solidarity. If, moreover, the issue is genuinely one of subsidiarity, it implies not only that the European Commission must limit and devolve its powers, but that wherever possible national governments should do the same.

Résumé. Le principe de subsidiarité devient de plus en plus important dans la politique de la Communauté Européenne. Ce principe est basé sur un concept de la société d'après lequel la solidarité est déterminée par la proximité des relations sociales. Les actions des institutions des échelons supérieurs de la société doivent être vues comme subsidiaires à celles des unités inférieures. Appliquée au contexte restreint de la Communauté, la subsidiarité se comprend plutôt selon une division fonctionnelle du travail administratif; mais le principe se rattache toujours à l'usage conventionnel, qui veut dire également la décentralisation et la diversité.

L'interposition graduelle de la Communauté dans la politique sociale des états-membres dépend d'une stratégie qui entraîne la constitution de précédents et de compétences. Utilisée en fait comme synonyme à la souveraineté nationale, la subsidiarité s'engage contre cette stratégie; elle limite le pouvoir d'une organisation supra-nationale. Néanmoins, il reste la possibilité d'une politique sociale européenne pour établir des principes généraux et des solidarités nouvelles. De plus, le respect pour la subsidiarité suggère non seulement que la Commission doit se limiter en faveur de la décentralisation, mais aussi que les pouvoirs nationaux doivent en faire autant.

The idea of 'subsidiarity' has been growing in influence within the European Community. The principle refers "to the need to ensure that political decisions are not taken at any higher level than they need to be" (Millan, 1990), or, more precisely, that there should be "a decentralised organisation of responsibilities, with the aim of never entrusting to a larger unit what can better be realised by a smaller one" (Delors, 1989). The Commission, describing the principle as 'commonsense', has suggested that the Treaty of Rome should be amended to incorporate it (European Commission, 1990a).

Subsidiarity is not a new concept. The term is used in debates in different European countries (Vranken, 1984, refers to it in Belgium; Roebroek, 1989, in the Netherlands), mainly by the Christian parties of the right. The development of the principle in Europe is generally attributable to the influence of the Catholic Church, and it has usually been put forward by the political parties most influenced by Catholicism. It can be traced back at least to the nineteenth century (Hofmeister, 1982, p.280), though its formulation is more usually credited to the encyclical *Quadragesimo Anno* (Pius XI, 1931). The encyclical argues:

"just as it is wrong to withdraw from the individual and to commit to the community at large what private enterprise and endeavour can accomplish, so it is likewise unjust and a gravely harmful disturbance of right order to turn over to a greater society of higher rank functions and services which can be performed by lesser bodies on a lower plane. For a social undertaking of any sort, by its very nature, ought to aid the members of the body social, but never to destroy and absorb them."
(Pius XI, 1931, p. 203)

The effect of such a principle is partly to treat state intervention as undesirable, at least to the extent that available alternatives are to be preferred, and partly to justify a degree of institutional decentralisation. The justifications for subsidiarity can be seen in terms of a defence of the liberty of the individual and the preservation of personal independence. There is nothing about this formulation which is distinctively Catholic: Roebroek refers to a Protestant principle of 'sovereignty in one's own circle' (1989, p. 148), which fulfils a very similar purpose. But the principle of subsidiarity has dimensions which go well beyond individualism.

The 'organic' view of society favoured in some forms of conservatism presents a view of society as a complex series of networks, social interactions, relationships and obligations. Clarke writes:

"Man is born into society, into a family and a nation, and, by the mere fact of existence, assumes inescapable duties towards his fellows and is endowed with the rights of membership of that society." (1975, p.166)

People are not, by this account, simply 'individuals'; their lives are shaped by the circumstances in which they live, and they are members of a complex, differentiated society. Within this model, subsidiarity is justified as an expression of the responsibilities that people have for each other's welfare. These depend on the closeness of their relationship. Because the closest relationships mainly exist within families, it is the family which bears the primary responsibility for social support. The role of others who are more remote is correspondingly reduced; they are 'subsidiary' to the primary responsibilities. The role of public services, in particular, is subsidiary to that of family, the local community and the private sector.

The application of the idea of 'subsidiarity' to the provision of welfare may seem, from the perspective of the United Kingdom, to be very close to a 'residual' concept. Residual welfare represents welfare as a safety net, made available to people only when they are unable to meet their needs from their own or their

family's resources (Titmuss, 1974). The connection between the two is also in part political - both residual welfare and subsidiarity imply a limited scope for state intervention, and favour the private market. But there are important distinctions between them. In the first place, the idea of subsidiarity has implications which go beyond the provision of welfare in itself. In the European Community, it has been applied to a wide range of issues, including monetary policy, taxation, consumer protection, cultural activities and even the fisheries policy. It could be argued, of course, that the residual model of welfare itself is concerned with issues which are wider than those of welfare alone - issues like freedom, independence, and the market economy. But subsidiarity is explicitly addressed to a range of spheres of action, including political, social and economic activities, of which welfare is only a part.

Despite their similarity in tone, the principle of subsidiarity is stated much more subtly than the model of residual welfare. Welfare provision which is not designed as a 'safety net' is not generally thought of as 'residual': public water supplies, libraries, or a National Health Service would all fall outside the remit of a residual model. But the way in which 'subsidiarity' is described does not say that such measures are irreconcilable with the principle. The basis on which the idea is described within the encyclical suggests that the provision of welfare is legitimate in principle: a social organisation ought to aid the members of the body social. The presumption is that smaller agencies are to be preferred, but agencies which are larger, more general, or more universal may be justified in circumstances where they provide a positive benefit which cannot be obtained through other means. Subsidiarity implies, not that services will be confined to one tier, or that services must be provided by non-state agencies, but that there will be a range of services, set at different levels according to their functions and purposes. Whether or not welfare should be provided by the state depends, in part, on whether private enterprise and endeavour can achieve the desired effects; the assumption here is that private provision is more direct than public. The appropriate basis for provision is the least remote alternative which works.

This implies, in turn, that the pattern of provision which is likely to emerge from the application of a principle of subsidiarity will look very different from one which relies on residual welfare alone. Subsidiarity is structured not only to prefer the individual over the community, but also to favour local policy over national policy. This principle owes a great deal to continental liberalism. Benjamin Constant argued that, just as there was an area of each person's life which was private to that person, so any two people, a family, or group would have areas which were private, and so which no other person could legitimately intervene in. This applied not only to small groups of people but neighbourhoods, communities, regions and nations (1815). The local dimension found a place within the liberal tradition, but it is almost wholly absent from considerations of the residual model of welfare - and in many ways it is more commonly associated in Britain with left-wing views, concerned with decentralisation as a means of empowerment (see Beresford and Croft, 1986).

The idea of subsidiarity depends, then, on a view of social networks quite distinct from that implied by residual welfare. The contrast between the two models is most easily understood when the concepts are considered in contrast to their opposites - respectively, solidarity and the model of institutional welfare. Residual welfare, which is welfare as a safety net for people in unusual circumstances, is generally viewed in opposition to institutional welfare, which bases welfare in an acceptance of need as a normal part of social life. Subsidiarity is presented in contrast to the principle of solidarity, in which people accept mutual obligations and interdependence; there is a tension between the two, in so far as an emphasis on solidarity emphasises the need for collective provision, and subsidiarity restricts its scope. But subsidiarity is not opposed to

solidarity in the way that residual welfare is opposed to institutional welfare. On the contrary, it defines the patterns through which solidarity is expressed, and the Catholic Church has explicitly argued for both principles (Coote, 1989). Subsidiarity means that solidarities are hierarchically ordered; the main source of solidarity, or mutual responsibility, is the family, secondarily a community, and so forth; only at a distance are there responsibilities to the state, the international community or 'humanity'. The picture that emerges is of progressively widening circles of responsibility, which diminish in strength with social distance. The kinds of action which are taken to care for others depend on the strength of the responsibility attributed to different kinds of social group at different levels.

The appeal of this model is that (unlike individualism) it has a powerful sociological basis. Whether relationships and obligations are seen in terms of social norms, roles or exchange, there is a body of theory which identifies obligations as structured at a range of levels, with a different level of obligation applying to people at different degrees of social remoteness. (It might even be argued, to adapt a suggestion made by Sahlins (1972), that the level of closeness between people can be defined in terms of the kinds of obligation they feel towards each other.) Subsidiarity has, then, a strong moral foundation, in the sense of the recognition of dominant social norms, as well as a considerable practical force - the ways that people relate to each other are structured, and state interventions work within this kind of social framework. A good example is community care policy, where the myth of comprehensive state intervention has been challenged from both left and right. In practice, much of the care given to people with high levels of personal need - such as physical dependency - is given by partners and families, often by the women in families. Bayley, describing in a classic work the pattern of care available for mentally handicapped people (1973), demonstrated that the effect of state provision was at best marginal in relation to the bulk of the care that was being given - implying that the state had to recognise the existing framework in order to make its own contribution to the greatest effect.

If the idea of subsidiarity has attractions for conservatives, it is not least that it rather better expresses traditional conservative concerns than the model of residual welfare, which owes more to liberalism; and, appropriately, it places residual welfare within a broad ideological framework. It is possible to see these principles being adopted in relation to the British Conservative government's policies on issues like community care, family policy, and the voluntary sector - though not, one has to note, in relation to local government, where their policies have been aggressively centralist.

Conversely, those who do not share a conservative perspective may find the principle unattractive. Despite the power of the model, in both a descriptive and a moral sense, there are important reservations to be made. The descriptive power of the model does not necessarily establish a firm moral basis for its acceptance: the way things are is not necessarily the way that they should be. It may be true that families carry a substantial part of the burden of care, but that does not mean that the family is necessarily the best or even the most desirable option. The burdens of care imposed through social networks are not simply to be accepted; they can dominate and even destroy people's well-being. Equally, the location of certain responsibilities within specific localities can create major problems of equity - because the areas of greatest need, and the most deprived communities, are also those with the least resources to meet those responsibilities. Although the principle of subsidiarity is supported by many social norms, it has to be qualified by other principles, including human rights, freedom, justice and welfare.

Subsidiarity and the European Community

The application of the concept of 'subsidiarity' within the European Community is highly ambiguous. Community documents generally refer to the issue of subsidiarity as a principle which governs the distribution of responsibilities between the institutions of the Community and the Member States. The draft Treaty of European Union refers to the principle in terms of an appropriate allocation of responsibilities; community institutions should have "only those powers required to complete successfully the tasks they may carry out more satisfactorily than the States acting independently." (European Parliament, 1984, p.9) The Single European Act (Council, 1987) is supposed to make 'express reference' to subsidiarity, though it takes a considerable effort of the imagination to see how; the principle apparently can be found in Article 130r, which is concerned with the Community's powers in relation to the environment (Giscard d'Estaing, 1990a). The connection between the article and the principle is far from obvious; the explanation given by Nicoll, a Director-General of the Council, (1990) is that the article, which establishes that the community should take on a role where it can do so more effectively than the states, has been understood in the Parliament as translating the principle of subsidiarity into practice. The Parliament has since accepted the following 'definition' of the concept:

"The Community shall only act to fulfil the tasks transferred to it by treaty and to achieve the objectives defined thereby. If powers have not been exclusively or completely assigned to the Community, the Community shall, in carrying out its tasks, take action in so far as the achievement of these objectives requires its intervention because, by virtue of their magnitude or effects, they transcend the frontiers of the Member States or because they can be undertaken more efficiently by the Community than by the Member States acting separately." (Giscard-d'Estaing, 1990b).

This is an application rather than a definition, and on the face of it, it is not particularly consistent with the initial idea; if all that 'subsidiarity' means is that institutions should act within their powers and that different functions should be placed where they are most efficiently exercised, it is far from clear that it favours decentralisation.

The frame of reference within which the principle is being applied here is evidently much more restricted than in the Catholic concept. The idea of subsidiarity has been narrowed to a principle which governs institutional structures. But this does not mean that it will not be understood in other ways, both because it is still being used in the Catholic sense elsewhere in Europe, and because the central arguments for the principle relate to a view of society which stretches beyond a view of the role of political institutions. The same committee which proposed the Parliament's resolution also argued for a distinction between 'vertical' subsidiarity (distinguishing the powers of the Community and the Member states) and 'horizontal' subsidiarity ("under which a distinction is made between the powers of the public authorities and those of society") (Giscard-d'Estaing, 1990a, p.2); Delors refers to the principle as involving respect for pluralism and diversity (1989, p.23). This seems to recognise the wider use of the term. Used ideas, like second-hand shoes, tend to have been worn in for the comfort of the previous occupants.

One of the reasons why the use of the term within the EC has been so confusing is that much of this background is taken for granted. The principle is being taken to mean more than the official definitions imply, and acceptance of the principle of 'subsidiarity' is being taken to limit the scope for activity by the community in a range of areas. An earlier resolution of the European Parliament notes that, when the principle of subsidiarity is applied,

"far-reaching competencies will remain with the Member States in the fields of economics, taxation, education, culture, social security, health, family policy, the organisation of local government, public transport, infrastructure, police, penal code, private law, religion and many other areas" (European Parliament, 1990).

It seems clear, then, that important elements of the concept are being taken as implicit. From the perspective of social policy, the application of the principle of 'subsidiarity' in a European context seems irresistibly to imply not only that welfare provision overall will be limited, but that the role of the Community must of necessity be minor in relation to that of other providers of welfare.

The social policy of the European Community

The primary justification for the intervention of the EC in social policy has little to do with social policy in its own right. The European Commission's interventions in economic markets are justified in terms of a 'level playing ground' - an attempt to establish uniformity of basic conditions. The primary economic justification for this lies in the theory of comparative advantage; in the conditions of ordinary market exchange, the specialisation of parties in those areas which they can produce most effectively maximises the productive capacity, and so the economic welfare, of both. Distortions in the market have the effect of reducing the scope for appropriate specialisation, implying sub-optimal patterns of exchange.

Although this argument has some implications for social policy, its direct relevance is limited. The EC's first efforts to involve itself in social policy were limited by its concern with the economics of the labour market. Swann identifies four main strands in the policy. First was the expansion of the total resources of the community. Second was labour mobility. Third, there was the harmonization of social security payments, and related issues affecting workers in different countries. Fourth, and last, was the Social Fund, which despite its name was also mainly concerned with the labour market - particularly with redeployment, or the resettling of people who were unemployed as a result of the development of industrial specialisations within the community (Swann, 1975 pp 184-193).

The view of the EC as an organisation mainly for trade offers little support to the development of social policy in its widest sense. To the extent that individual workers may be influenced by the package of benefits available in different countries, it may be true that unequal benefits may distort the labour market. Labour mobility is affected by a range of factors, including, for example, occupational training, language education and housing. The costs of welfare provision, equally, affect the conditions in which firms operate, both through general taxation and more specifically through payroll taxes. But it is no less true that the labour market is likely to be affected by other factors - including salaries, relative living costs, prospects, the availability of employment, and other living conditions. The idea that social benefits in themselves are particularly likely to be of influence is questionable; an emphasis on equality in relation to social benefits, when there might not be equality in these other aspects, is no less suspect. It would be difficult, then, to justify any very substantial intervention by the EC in social issues on this basis.

During the 1970s, however, the emphasis of Community social policy changed towards improving 'living and working conditions' in the community, and the idea of the 'worker' was extended to include those who were not part of the labour force. Once it was accepted that the Community had social objectives distinct from the economic objectives, it became possible to expand the role of the Community in social policy; in particular, Article 235 of the Treaty of Rome

allows for the extension of the Commission's power to achieve the Community's objectives. Although there has been considerable resistance to the Commission's expansion into this area, the Council of Ministers accepted in principle in 1984 that the Community should be concerned with social protection, population policy and policy for the family - usually understood to refer to families with children. These issues are included (in very broad terms) in the Social Charter.

Despite the attention given to the Social Charter, the proposals contained little which was new - which makes its watering down all the more depressing. The concern of the UK government to remove reference to non-workers from the Social Charter in many ways missed the point, because the Charter would have been applied to non-workers in any case. But most of the provisions which have survived are tied, directly or indirectly, to the labour market. Unemployment benefit, vocational training, sex discrimination, or the extension of the rights of part-time workers, are areas in which the EC has already gained substantial influence, partly through the application of EC law, and partly because the decisions which the EC makes about rules of employment, trade or taxation inevitably affect national social policies.

This is symptomatic of a general limitation on the ability of the Commission to develop social policies on a European basis. The direct powers of the EC to provide welfare services are still very restricted. Unable to institute major policies in its own right, the Commission has flirted with special 'programmes', like the poverty programme or, more recently, projects relating to disability and elderly people. Regional policy has been used to fund certain kinds of welfare projects, but it is bound to particular areas and generally requires national government co-operation. The use of these policies is evidence of a desire to intervene in welfare policy, but it is more than that. The Commission's strategy seems to be based, not least, on the example of the development of welfare provision within the United States. The US federal government, unable in many cases to intervene directly in respect of basic welfare provisions, has tended to build up special programmes (like the 'War on Poverty'); to invite states to participate in federal programmes (like Aid to Families with Dependent Children, and the less successful AFDC-U for unemployed people with families); to develop the rights of individuals as a sanction against state governments; and to limit the scope of states to vary from certain federal standards. In many respects, the approach adopted by the Commission reflects the US approach fairly directly. In justifying the directive for a health warning on cigarette packets, for example, the Commission established the position that it was the Community, and not the member countries, which is responsible for regulatory policy as soon as state lines are crossed. That is precisely the justification which was used by the federal government of the United States for federal laws which would affect the conduct of the states - like the US minimum wage, which applies to all firms engaged in inter-state commerce - and it has been central to the development of US welfare policy.

This does not fully encapsulate the kinds of measure which have been taken, though, because the Commission has been expanding its influence in other ways. Probably the most significant strategy which it has adopted has depended on the incremental development of marginal, relatively innocuous measures in order to establish precedent and competence. The measures in relation to cigarette packets again provide an example. It makes the point not only that the Community is concerned with trade, but also that it has the power to intervene in matters related to public health. This is part of a general approach, which has extended to policies for pharmaceuticals, organ transplants, formula baby milk, or water regulation. The Commission has also argued for controls on aluminium to protect dialysis patients travelling between

countries, a point which seems to stretch the arguments for intervention gossamer thin; if it is important, it is because it would establish a further precedent in respect of public health.

Further examples of the attempt to develop the power to intervene have included bus passes and language education in schools. The idea that pensioners should be able to take advantage of concessions abroad, like bus passes, is very limited in its scope, but it meant more than it appeared to be. It implied not only that rules which are meant to apply to 'workers' have to be applied to people who are not workers - which is by now well established - but also that the Commission would have a direct interest in the welfare of elderly people, which is why the proposal was savaged, becoming only a recommendation to member states. The Commission's desire to extend its competence in relation to elderly people is evident; a new programme for elderly people has been announced, and 1993 is to be the 'European Year of the Elderly and Solidarity between Generations'. If the Community has the right to intervene in relation to benefits and services for elderly people which are not related to the labour market, it would bring a substantial tranche of the provisions made by European welfare states within the Community's remit.

The process of taking a crowbar to welfare provisions was made more explicit in relation to the Lingua programme than any other. This was intended to give the EC the right to intervene in the provision of education in the member countries; and that is what the Commission considers it achieved. Vasso Papandreou, the redoubtable Commissioner for Social Affairs, said it quite plainly: 'we now have competence in school education' (Usborne, 1989). Education is being treated as part of the 'social benefits' available in the 'people's Europe'.

The potential for the expansion of Community activity seems considerable. A justification for intervention has been established in relation to public health, social protection, education and family policy; action for vulnerable groups includes measures for young people and women (Venturini, 1989); Social Europe has referred to the intention to expand the Community's activities in relation to poverty, disability and old age (Social Europe, 1989), and more recently to ethnic minorities and 'marginals' (1990, p.35). This lays the foundations for a new kind of social policy, in which the locus of control is moved away from national governments.

Subsidiarity and European social policy

The central defence of national governments against communitarian inroads into their field of activity has been couched in terms partly of 'sovereignty', and partly of subsidiarity. Sovereignty emphasises the control of national governments over their own sphere of influence. But the idea of sovereignty is a blunt instrument, and those who wish to maintain their power and authority by opposing the extension of bus passes can be made to feel foolish in referring to it. Much of the case for sovereignty has in any case been undermined by the agreement to enter Europe; there is no obvious reason to take the arguments very seriously.

By contrast with 'sovereignty', the idea of 'subsidiarity' is rooted in a rich, complex body of social theory with a strong moral foundation. It is not difficult to see why subsidiarity has been co-opted for the purposes of opposing the expansion of Community responsibilities. The idea is distinctively European - a concept widely current and accepted within the political debates of a number of member countries. The emphasis on the power of the more local, lesser body has a clear implication for the centralising force of the European Commission.

The growing acceptance of the language of subsidiarity within the EC has been shaped by the kind of strategy the Commission had been following to expand its competence. The problem with the sorts of issue which have been used as a lever - like bus passes, cigarette packets and language education - is precisely that they are apparently trivial. As such, they are among the measures which are most vulnerable to the objection that they violate a principle of subsidiarity. Bus passes and other concessions to pensioners might reasonably be left to local authorities (as they are in the UK); it is the sort of issue which central governments do not necessarily deal with. The school curriculum may be centralised, but it may not be; a principle of subsidiarity brings the issue down to the level of local government or even to the school. Only the issue of cigarette packets, because it is being applied to trade across national boundaries, seems to avoid the objections. Even then, Leon Brittan has argued that a principle of subsidiarity, strictly interpreted, would apply

"even if the legislation being considered was clearly within the competence of the Community. Its purpose would not be to define the Community's competence, but to limit the extent to which it should be exercised." (Brittan, 1990)

Subsidiarity has, then, a major effect in limiting the scope for a European social policy, as it must limit the actions of any supra-national body. The effect of accepting it could be to take issues like the provision of health care (which is decentralised or regional in some countries), personal social services, education and housing largely outside the possible remit of the European Community. The potential for the Social Charter was enormously limited by the development of support for the concept. Initially, the charter was presented in the following terms:

"A solemn declaration, the Charter requires no amendments to the Treaty; its aim is not to widen Community competence in the social field. ... The initiatives to be taken to implement these social rights are the responsibility, depending of the case in question, of the Member States and the bodies which constitute them or the responsibility of the European Community in line with the principle of subsidiarity ... "

(European Commission, 1989b)

But the idea of subsidiarity was held to limit the terms of the Charter much more extensively. A background report on a relatively minor aspect of the implementation of the Social Charter (part time work) describes the situation as follows:

"While the Charter itself ... creates no binding legal rights or obligations, it is now being complemented by specific individual proposals for legislation. ... The Commission's overall strategy is set out in its Action Programme ... [which] identifies more than 40 areas in which steps can be taken to reinforce the social dimension. ... In the vast majority of cases the Commission confirms that any action required should be taken by the individual member states, or should be tackled by means of Commission opinions or recommendations which do not create legally binding obligations on the member states.

This reflects the Commission's new buzz word - "Subsidiarity", namely that binding measures should only be taken at a Community level where absolutely appropriate, leaving many areas of policy solely to the discretion of the member states." (European Commission, Nov 1990b, p.1)

The way in which the case for subsidiarity has been argued, which this fairly captures, prompts some scepticism about its persuasiveness. Subsidiarity is being taken here, as it is in the Parliament's discussions (Giscard-d'Estaing, 1990a/b), as a limitation which leaves decisions to the member states. If this were all that the principle of subsidiarity implied, it would be equivalent to

sovereignty, and it loses its moral force; one has to be suspicious of a moral principle which seems to limit the actions of the EC and almost no-one else.

The acceptance of intervention by the European Community in order to remove obstacles to economic trade is an indication that other principles can temper the principle of subsidiarity - in this case, principles derived from the economics of international trade. There is some inconsistency in arguing that the European Community can intervene supra-nationally in economic affairs but could not have a case to intervene supra-nationally in social affairs. Social Europe argues, I think rightly, that

"With the Single Market economic strategy embracing all of the Community, the principle of 'subsidiarity' can no longer apply automatically to social protection without rejecting the very principles of the Treaty of Rome" (Social Europe, 1990, p.7).

Subsidiarity does not constitute a bar to intervention; it only establishes a condition to be satisfied - that interventions must be justifiable at the level at which they are implemented. One can, then, accept the core of subsidiarity while at the same time accepting that it is qualified by other principles.

The extent to which subsidiarity is subject to other principles is taken into account in the concept itself. The model of society presupposed in the concept of subsidiarity implies that patterns of solidarity are structured according to existing social networks and communal identification. Social policies can be established only in so far as a solidaristic network is established. Although there may be universal values - universal in the sense that they cannot be claimed for some without conceding, at the same time, that they apply to others who meet the same basic conditions - they have to be interpreted in the context of specific social relationships. Peter Jones distinguishes universalism from a 'particularist' view, in which political and social boundaries are held to have a moral significance. 'Radical particularism' is based in the view that people are members of particular societies, and their rights and obligations can be viewed only in relation to those societies; 'moderate particularism' argues only that different societies have some rules which are special to themselves (Jones, 1990). The principle of subsidiarity implies a number of reservations about the universal application of social and moral principles, reservations which are consistent with different forms of particularism. One is that many moral obligations must be interpreted in the context of a particular society. A second is that moral obligations are structured, so that the nature of obligations changes with proximity. Neither of these propositions favours the development of networks of responsibility at an international level.

This does not imply, however, that the European Community cannot intervene in areas of welfare policy. It may be possible for the EC to establish universal principles which are then operationalised in the context of specific social conditions. This pattern is outlined in a proposal for vocational training:

"The philosophy of 'subsidiarity' very much applies to the programme, with Member States being called upon to implement a common framework of principles for the development and improvement of training policies and systems ... " (European Commission, 1989a).

The Community, by this account, establishes principles while the States work out the practice. Similarly, a recently proposed directive on transport for workers with reduced mobility - another example of incremental pressure to establish the Commission's competence - implies substantial regulation of public transport systems, but leaves the details to member states. The Commission argues that the provisions

"take sufficient account of the principle of subsidiarity, which is of particular importance in the field of public transport, which (except for trains) is organized at local or regional level in almost all the Member

State. Consequently, the Directive sets the aim to be achieved and leaves each competent authority to choose how best to implement the Directive according to the real needs of these users." (European Commission, 1991, p.2)

At the same time, it may also be possible for the Community to exercise a number of specific functions. In general, functions like the provision of welfare should be decentralised to the level at which they are most appropriately exercised. The idea of Europe as a community, or a system of cross-national communities, identifies both the limits and the potential for a European social policy. There are divisions at local, regional and national levels. But the development of cross-national solidarities within the community implies that both that there will be an increasing degree of interdependence, and that particularist principles will be confined, not to national boundaries, but to sectors within the European Community.

If this is the case, the case against European intervention at the social level becomes very much weaker. Where issues are of the kind which relate to the moral identity of a community, that community is often smaller than that which is identified with member states; where they relate to regions, nations, or language, a principle of subsidiarity supports diversity and self-determination; and where values are viewed as universal, the appropriate level seems to be supra-national. It may well be at the European level, rather than the level of the nation-state, that many social interventions would have to be organised; even where national governments have delegated responsibility for enforcement (as they currently do within legal processes) an appeal to the European level must be allowed for if any generally applicable principle is to be admitted and enforced.

The corollary of this argument is that the social policies of national governments should be framed in terms which are consistent in principle with those being developed on the basis of subsidiarity in Europe as a whole. If the principle of subsidiarity is admitted at a European level, it is difficult to see why it should cease to apply at levels currently within the remit of national governments. If the issues being addressed relate to local communities, regions, or nations rather than the territorial areas of member states, the exercise of powers and location of functions properly belongs at those levels. Subsidiarity implies not only that the European Community should foster the devolution of power, but that wherever possible national governments should do the same. This must call into question the idea that the doctrine of 'subsidiarity' can be used effectively in defence of the sovereignty of the existing member states. On the contrary, it seems to undermine sovereignty both internally and externally.

Note

Thanks are due to Brian Smith, Brian Baxter, and Antony Black for comments; and to David Hart in the European Documentation Centre at the University of Dundee.

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