Special Issue
EU Citizenship: Twenty Years On

Citizenship in Europe and the Logic of Two-Level Political Contracts

By Albert Weale[*]

A. Introduction

How are we to understand the state of citizenship in Europe twenty years after the implementation of the Maastricht Treaty? When answering this question, I focus particularly on *social citizenship*. Social citizenship may be understood as a form of political relationship among citizens extending to each collective protection against the financial risks associated with the life cycle, including dependency when young, ill heath, accidents, and the vulnerabilities of old age. Collective protection against these financial risks takes the form of social rights within the welfare state, including rights to income protection, access to health care, and the provision of education. Within the most economically developed European states, securing these rights has since 1945 been seen as central to the democratic legitimacy of these states, as well as an aspirational standard for democratizing societies seeking to achieve "the concrete substance civilised life" and the associated "general reduction of risk and insecurity"[1] at all levels that the welfare state provides.

Policies securing these collective goods entail either the raising of revenue through taxation or the imposition of a legally mandated requirement on citizens to contribute to social insurance schemes, or, most typically, some combination of these two policy instruments. Despite the existence of some provisions at the EU level to help with particular cases of social disadvantage, the primary responsibility for the securing of social rights belongs to the Member States. Citizens of those states who benefit from social rights

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[1] THOMAS H. MARSHALL, CITIZENSHIP AND SOCIAL CLASS AND OTHER ESSAYS 56 (1951).

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enjoy a form of "club good," in which benefits are extended to citizens of other Member States—each of which has its own club—on a reciprocal basis.[2]

Social citizenship requires that states be able to exercise their revenue-raising responsibilities effectively. Since 2008, the Eurozone crisis has placed enormous strain upon the fiscal capacity of EU Member States—all Member States, not just those within the Eurozone—to sustain the conditions of social citizenship. The strain is brought about by a substantial downturn in economic activity, revealed in high—in some countries very high—rates of unemployment, particularly among the young, together with programs cutting back provisions in matters such as pensions, health care, and education. The strain is augmented by the requirements of Eurozone membership and the political commitments that states in the Eurozone have made to one another to balance their public budgets.

Fiscal pressures on the welfare state are not new, of course. Since the 1970s, various analysts have drawn attention to the "contradictions" contained within welfare states; namely, that those states need to balance their spending on social policies with the requirements of securing the capital accumulation essential to the economic development upon which spending ultimately depends.[3] What is new is that the constitution of economic governance—originating in the Maastricht Treaty and developed through both the Stability and Growth Pact and the fiscal compact contained in the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union—places distinct and onerous requirements upon Member States, who are required to restrain the spending upon which collective protection depends in order to meet the obligations imposed by the single currency.

Within some traditions of analysis, a conflict between the political imperative of social spending and the requirements of fiscal rectitude imposed by a soundly constructed economic constitution is only to be expected. Buchanan[4] and Hayek,[5] for example, hold that in order to ensure fiscal responsibility, it is necessary to break the link between public expenditure and political responsiveness to the preferences of citizens because those preferences are biased to the short-term. They propose the establishment of strict economic constitutionalism, in which a set of powerful counter-majoritarian institutions acting with little discretionary power operate according to the rule of law rather than the norms of democratic legitimacy.

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[2] *See* James M. Buchanan, *An Economic Theory of Clubs*, 32 ECONOMICA 125 (1965).

[3] *See* IAN GOUGH, THE POLITICAL ECONOMY OF THE WELFARE STATE (1979); JAMES O'CONNOR, THE FISCAL CRISIS OF THE STATE (1973).

[4] JAMES M. BUCHANAN, LIBERTY, MARKET AND STATE: POLITICAL ECONOMY IN THE 1980S (1986).

[5] FRIEDRICH A. HAYEK, LAW, LEGISLATION AND LIBERTY: A NEW STATEMENT OF THE LIBERAL PRINCIPLES OF JUSTICE AND POLITICAL ECONOMY (1982).

According to this view, democratic competition creates deficit financing that undermines the long-term stability of the currency and the public finances. Indeed, this tradition of analysis fed into the construction and management of the single currency.[6] In contrast to this line of analysis, it is possible to interpret the supposed tension between political responsiveness and fiscal rectitude in an entirely different way; holding that precisely because there is a tension between economic constitutionalism and political responsiveness in the national welfare state, the project of economic and monetary union was always inherently flawed because it subordinates the democratic determination of political and policy priorities to an inflexible and unnecessarily rigid set of rules and procedures. As Pascal said, "The extremes touch."[7]

In this paper, I will argue for a third interpretation that falls in between these two lines of analysis. In particular, I will show that, when correctly understood, the logic of the international commitments imposed by the economic and monetary union presupposes a democratic legitimacy that can only be secured by the maintenance of social rights. Where there is freedom of political association, social groups can organize and campaign against policies of fiscal austerity imposed by international commitments, thereby weakening the capacity of governments to secure implementation of those policies. Without a credible capacity to implement an international agreement, there are no rational grounds for the agreement in the first place. In matters of international relations, political representation should be understood as the state's power to make commitments on behalf of its population; unless those commitments are domestically feasible, no commitment can be credible. Therefore, credible fiscal prudence presupposes the political legitimacy that comes with social rights.

Conversely, social rights presuppose a regime of fiscal prudence. There is no conflict between fiscal prudence and social citizenship in the long term. Without governments accepting an imperative of national fiscal responsibility, citizens lack credible reason to think that they can order their affairs in such a way that permits them to rely upon the social rights promised by collective protection. Fiscal responsibility is a necessary condition for a state to solve the collective action dilemmas associated with the provisions of social and economic security. It would be wrong to view the question of fiscal responsibility in the economic constitution of the EU as merely an issue about conformity to a set of rules agreed upon by the Member States. It is also a question that goes to the credibility of the promises contained within the collective provisions for financial security among citizens and the long-term sustainability of the European social model—a model that is a central element in any justifiable conception of citizenship.

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[6] *See* HAROLD JAMES, MAKING THE EUROPEAN MONETARY UNION: THE ROLE OF THE COMMITTEE OF CENTRAL BANK GOVERNORS AND THE ORIGINS OF THE EUROPEAN CENTRAL BANK 6–7 (2012).

[7] "Les sciences on deux extrémités qui se touchent." BLAISE PASCAL, PENSÉES 95 (Michel Le Guern ed., 1977).

B. Democratic Contractarianism

I will approach this question through a normative theory of political legitimacy and citizenship that I term *democratic contractarianism*. Democratic contractarianism is a form of social contract theory. According to social contract theory, political organization is to be understood as a contract of mutual advantage implicitly or explicitly agreed upon by the members of a political association. Thus, political organization is to be understood as the solution to dilemmas of collective action.[8] These dilemmas arise when uncoordinated action by individuals gives rise to a potential gain from cooperation, such as agreement on weights and measures or the rules of the road. These dilemmas also arise when uncoordinated individual action leads to harmful side effects from otherwise legitimate human activity, of which pollution and resource depletion are the obvious examples.

According to the democratic contractarian theory, political organization resolves these collective action dilemmas as though it were a social contract negotiated under conditions of procedural democracy, in which the members of a self-governing community advance their common interests through collective deliberation under conditions of political equality.[9] From this perspective, the domestic political order of the EU Member States is to be understood as though it were grounded in a social contract. Well-functioning social contracts are ones in which all social groups are regarded as cooperating partners in a scheme of mutual advantage. The extent to which the actual domestic political orders of the Member States are "well-functioning" in this sense varies, of course, from case to case.

The logic of contractarian analysis can also be applied to the relationships between states. Harmful effects of uncoordinated individual action resolved at one level of political organization can reappear at a higher level of political organization. States can impose harmful externalities on other states and their populations through cross-boundary pollution, trade restrictions, or population movements, thus failing to secure common advantages through lack of political coordination. When democratic states join together to deal with these spillover effects by forming an international association, such as the European Union, the legitimacy of the resulting association is to be understood by reference to a contractarian logic that gives rise to a contractual association of contractual associations.

The union between a social contract at the level of states and a contractual association among those states must then be understood in terms of the normative logic of two-level games. In political associations following the norms of two-level games, the political

[8] *See* JAMES BUCHANAN & GORDON TULLOCK, THE CALCULUS OF CONSENT (1962); DAVID GAUTHIER, MORALS BY AGREEMENT (1986).

[9] *See* ALBERT WEALE, DEMOCRATIC JUSTICE AND THE SOCIAL CONTRACT, 31–64 (2013).

representatives of each state simultaneously owe obligations to both the political representatives of other states and their own populations.[10] Properly understood, the normative logic of two-level legitimacy in an association of political associations reinforces the norm of fiscal responsibility at the Member State level.

The outline of the argument presented in this article runs as follows: Section C sets out in a schematic way the basic logic of contractual associations at the state level—the level at which individuals and social groups create a political contract that shapes the basic structure of their social and economic organization. That logic interprets the role of social rights in a political community as collectively agreed upon protections against the financial risks associated with all stages of life. In light of this analysis, Section D then examines the higher-order logic of political association among EU Member States, using the economic and monetary union as its reference point. It suggests that such a union requires credible commitment and the precondition of democratic political legitimacy. Political legitimacy in turn requires politically demanding conditions on fiscal balances within Member States—conditions with implications for the protection of the European social model. I argue that, although politically demanding, these requirements are legitimate provided that they imply no more than is required by the basic logic of association. Section E draws out some practical implications for the current political situation of the EU.

C. Political Contracting and Social Citizenship

How are we to understand social rights within the welfare state? And what is their rationale and justification? In order to answer these questions, it is helpful to contrast the welfare state with a non-welfare state, and identify the deficiencies of the latter. Suppose an economic and social order that conforms to the basic principles of classical liberal political theory. In such a situation, the members of the association enjoy the liberal rights of non-interference. They have a right to the physical integrity of their person and their property. They also have rights to freedom of conscience, freedom of movement, and freedom from arbitrary arrest and imprisonment. Suppose also that they conduct their business with one another in ways that avoid force and fraud.

Classical political liberals suppose that if these conditions are met, then there would only be a need for a minimum night-watchman state.[11] However, such an inference is premature. Even when individuals respect the classical liberal rights of others, the cumulative effects of their uncoordinated actions create the need for purposive political

[10] *See* Deborah Savage & Albert Weale, *Political Representation and the Normative Logic of Two-Level Games*, 1 EUROPEAN POLITICAL SCIENCE REVIEW 1, 63–81 (2009).

[11] For the best-known modern statement of this position, see ROBERT NOZICK, ANARCHY, STATE AND UTOPIA (1974).

control, as would the opportunities for joint gains in welfare through cooperation. For example, in communities in which each producer intends to carry on production according to norms that respect the rights of others, the cumulative effect of all producers acting in this way may be the over-exploitation of resources, the generation of externalities, and unresolved conflicting claims. In short, the deficiencies of even an ideally operating liberal order require a social contract in which participants accept common terms of political association in order to address their problems of collective action.

This argument does not suggest that, in practice, there could be conditions in which all agents voluntarily respect the liberal principles of dealing with others free of force or fraud. It does, however, establish a reference point—akin to a competitive equilibrium in economic theory—by which we can assess the properties of a classical liberal regime and identify the circumstances in which there is a need for legislative political control.

Democratic contractarian political theory offers a distinctive account of the underlying principles of redistribution within the welfare state. Because a social contract must offer gains to all, it follows that the welfare state should not aim at a general redistribution of income across social classes. Rather, welfare state programs are best understood as a form of income smoothing across the life cycle in situations in which uncoordinated market mechanisms suffer various efficiency failures arising largely from asymmetric information.

Redistribution within the welfare should not be regarded primarily as a device by which earned income is transferred from the more productive to the less productive, but rather as a device by which the income of all productive workers—including those doing the work of reproduction—is spread over the course of their life cycles. In practice, a large part of welfare state redistribution does actually take the form of redistribution within social classes across the life cycle rather than vertical redistribution between classes. For instance, Falkingham and Hills have shown that for the UK welfare state—which is not a very highly developed welfare state—in the mid-1980s, "between two-thirds and three-quarters of gross lifetime benefits are effectively self-financed."[12] Whether funded by social insurance or general taxation, the institutions of the welfare state can be thought of as devices by which the financial risks associated with periods of need at particular points in the life cycle are pooled. As Nicholas Barr crisply put it, "even if the entire population were middle class, there would still be a need for institutions for people to insure themselves and redistribute income over the life cycle."[13] Redistribution in the welfare state is thus a social device for spreading the product of labor over the course of one's life in a way that is both individually prudent and dependent upon a social contract than

[12] Jane Falkingham & John Hills, *Redistribution Between People or Across the Life Cycle? in* THE DYNAMIC OF WELFARE: THE WELFARE STATE AND THE LIFE CYCLE 137–49 (1995).

[13] NICHOLAS BARR, THE WELFARE STATE AS PIGGY BANK: INFORMATION, RISK, UNCERTAINTY AND THE ROLE OF THE STATE 1 (2001).

mandates cooperation. The rights of social citizenship are a form of "social savings"[14] accessible to citizens on a universal basis to cover the financial risks associated with dependency over the life cycle, including childhood, old age and sickness, dependencies that create forms of need that cannot adequately be dealt with by market arrangements.

What does this democratic contractarian conception of a political order enable us to say about the conditions of social citizenship? In particular, what does it have to say about the European social model? There is, of course, no one European social model, and the policy instruments associated with European welfare states vary according to historic conditions and political choice, taking many forms with complex modes of organization.[15]

However, abstracting inductively from the details of well-developed welfare states, including those in Europe, we can identify certain shared general principles of operation. Welfare states raise income from those in paid employment and redistribute that income in cash to certain categories of beneficiaries, including, most importantly, the elderly, those whose employment is interrupted by ill health or accidents at work, the disabled, and those responsible for caring for children, either as single or joint parents. Through its revenues, the welfare state also finances a range of services, most notably education and health care, which are provided with the intention of removing financial barriers to access of those services.

In the case of health care, for example, the provision may not be free at point of use, since items like pharmaceutical prescriptions are often charged for in many welfare states, but the idea is that such charges, though they may raise revenue and have a deterrent effect on frivolous use, do not prevent those who need the medicines from obtaining them. Similarly, with education, parents may be responsible for paying for transport, school uniforms and some learning materials, but such payments are intended to be incidental to the financing of the service, not one of its central features.

In highly developed welfare states, the distribution of cash benefits and services in kind is universal. That is to say that the cash and services are given to those in need—as indicated by age, state of health, or inability to find paid employment—without regard to income or wealth. The benefits are regarded as a right of citizenship rather than as mere provisions for the poor or destitute who cannot otherwise provide for themselves. The universal allocation principle is modified in a number of highly developed welfare states by excluding

[14] JOSEPH WHITE, COMPETING SOLUTIONS: AMERICAN HEALTH CARE PROPOSALS AND INTERNATIONAL EXPERIENCE 25 (1995).

[15] For good discussions, see GØSTA ESPING-ANDERSEN, THE THREE WORLDS OF WELFARE CAPITALISM (1990); THE DEVELOPMENT OF WELFARE STATES IN EUROPE AND AMERICA (Peter Flora & Arnold J. Heidenheimer eds., 1981); THEODORE MARMOR, JERRY L. MASHAW AND PHILIP L. HARVEY, AMERICA'S MISUNDERSTOOD WELFARE STATE: PERSISTENT MYTHS, ENDURING REALITIES (1990). For an excellent account of the implicit ethical principles of the welfare state, see J. Donald Moon, *The Moral Basis of the Welfare State in* DEMOCRACY AND THE WELFARE STATE 27–52 (Amy Gutmann ed., 1988).

the very wealthy from access to benefits. For example, in Germany and the Netherlands, those with very high incomes are excluded from access to the social insurance scheme for healthcare. However, these are modifications to the general principle—and relatively minor ones—rather than a breach of the principle, and they do not apply in the case of education.

When welfare states function well, participants benefit from the joint gains of economic security and income smoothing more so than they would from the returns on an individualistic minimum that they could otherwise obtain. This fact, I conjecture, is one reason why social citizenship has proved so hard to dismantle across the developed world—including in the United States—despite there being strong currents of ideological opinion favoring a reduction of state intervention. Experience suggests that there simply is no way of achieving the economic and social security associated with income smoothing over the life cycle other than through use of the instruments associated with politically mandated social savings. Note, however, that in order to function well, welfare states presuppose that there is no long-term high level of unemployment. A system of social saving is only viable if citizens are in a position to contribute resources to a fund—whatever form it takes—that pools contributions in order to provide benefits at an appropriate time.

Within the social contract of a political association, individuals have two distinct sets of interests.[16] The first is their own separate and distinct interest, which, while it may be shared with kith and kin, is in competition with the interests of other parties to the social contract. For example, with healthcare, individuals may have an interest in securing access to very expensive pharmaceuticals that will impose a substantial opportunity cost, as measured by the value of the other uses to which the resources could be put.

The second interest of individuals is in the integrity of the institutions that embody the social contract. This is a collective interest that they share with all other participants in the social contract, and which includes matters such as the long-term financial viability of the institutions securing social rights and a concern for the efficient and effective operation of those institutions. So, while from the individual's point of view there is an interest in securing the maximum benefit possible from the institutions of the welfare state, there is also a corresponding general interest in ensuring that those institutions are maintained in a way that allows the benefits that they provide to come in the right quantity and quality for each individual when needed. This tension between competing individual and common collective interests is at the heart of social citizenship politics.

An important—indeed, the fundamental—common interest of citizens resides in the fiscal prudence of social and economic security programs. In the conventional literature on the

[16] ELINOR OSTROM, GOVERNING THE COMMONS: THE EVOLUTION OF INSTITUTIONS FOR COLLECTIVE ACTION 38–39 (1990).

fiscal crisis of the welfare state, emphasis is placed upon the conflict between spending in order to secure political legitimacy, and restraint on expenditure in order to maintain the conditions for capital accumulation.[17] However, this misconstrues the tension by focusing only on what is true at any one time. The continuing political legitimacy of the welfare state depends upon its long-term financial viability. A welfare state that is forced into emergency programs of spending reductions or the termination of key policies does not provide conditions that allow individuals to rely upon certain services being available in sufficient quantity and quality, and thereby be able to plan their lives over the course of time.

The clearest example of this condition is in the case of retirement pensions, which is typically the largest component of public expenditure within developed welfare states. If individuals are to plan properly for income protection in old age, they need reliable information regarding the portion of their income that is to come from shared savings and the portion they need to provide for themselves. For this reason, fiscal responsibility and the prudent use of resources in the management of social savings schemes are not in conflict with the functioning of the welfare state, but rather are the only credible bases for its existence. If the central principles of social citizenship are to be realized, then the collective balancing of the books over time is essential. The club should not be allowed to go bankrupt.

D. Political Contracting in the EU

The logic of political association among states is structurally identical to the logic of contractual association among individuals and social classes. So long as there are gains to political association over a baseline of non-cooperation, those states will find it advantageous to make a political contract with one another. As Sidgwick pointed out, the international equivalent to a liberal political order at the domestic level is a system of international relations based upon Grotian norms of territorial integrity and the equality of states in the international system.[18]

In such a world, states may gain from establishing more extensive forms of international political cooperation, ranging from international regimes with rules and institutions governing specific issues such as the management of the oceans or air sheds, to deeper forms of association such as confederations or federations. For example, the creation of a single market requires the cooperation of common institutions with some authority to regulate non-tariff barriers to trade, even when the single market in question rests upon a principle of mutual recognition.

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[17] *See* IAN GOUGH, THE POLITICAL ECONOMY OF THE WELFARE STATE (1979); JAMES O'CONNOR, THE FISCAL CRISIS OF THE STATE (1973).

[18] HENRY SIDGWICK, THE ELEMENTS OF POLITICS 230 (1891).

The gains available to Member States must be gains that in principle are available to all, and make each of the contracting parties better off than they would be in the baseline situation of non-cooperation. The sequence of treaties establishing and expanding the EU since the Treaty of Rome can be viewed as "grand bargains" where agreement is secured through states negotiating with one another for advantages in different issue areas. For example, in the 1980s, northern countries wanted the single market without the structural funds, and southern countries wanted the structural funds without the single market.

According to the logic of a classic logroll, agreement could be reached on the single market with the structural funds because it was the second best option for each of the negotiating parties.[19] So long as concessions can be traded across issue areas, the potential for expanding the scope of the political contract is enhanced.

In any political contract among states, the fundamental problem to be solved is that of credible commitment. Although any successful contract will enable each party to gain over the status quo, there are many circumstances in which one contracting party gains even more by free-riding on the compliance of others while shirking its own obligations. Of course, this option cannot be available to all; otherwise there would be no way the contract could ever be rationally agreed upon. To overcome the free rider problem, states must be able to make credible commitments to one another about their willingness to fulfill their obligations even when such fulfillment is onerous. Thus, in a monetary union, states must be able to make a credible commitment to others about the maximum deficits that they are willing to tolerate in their public spending plans.

This is the rationale for the no bailout rule of the EU monetary union. This rule is intended to ensure that no Member State seeks the advantages of the monetary union without a corresponding willingness to carry the associated costs. National players enjoy the political benefits—gaining votes—of deficit spending, while the potential negative effects, in terms of higher interest rates, are felt by all Member States. The alternative to a no bailout rule is to leave discipline to the markets. However, within a currency union, credit risk accrues because the exchange rate risk of deficit financing is not present and borrowing premiums remain low over a period of time.[20] Thus, the commitment of states in regard to their budget deficits can only be made credible if each state gives all other states good reason to think that it can deliver on its promises.

A necessary condition of such credibility, however, is that states enjoy the requisite political confidence of their citizens. When a state enters into commitments with other states, each party to that agreement has to recognize that all the state parties are acting as

[19] ALBERT WEALE, ET AL., ENVIRONMENTAL GOVERNANCE IN EUROPE: AN EVER CLOSER ECOLOGICAL UNION? 45 (2000).

[20] OTMAR ISSING, THE BIRTH OF THE EURO 193–94 (2008).

representatives of their citizens. The state parties are thus engaged in a two-level game, in which the conditions of agreement have to be simultaneously acceptable to both other negotiating parties and domestic constituents. In their representative capacity, states are subject to normative rules and constraints that need to be respected if the representation is to be successful. Simultaneity in this context does not mean "occurring at the same time," but rather indicates that any international agreement must fulfill two sets of conditions.

On the one hand, an international agreement requires "fair dealing" among states as the representatives of their people; on the other hand, states in relation to their people must be able to justify their international commitments as being a reasonable way of advancing the common interests of those populations, including any provisions for side payments if the agreement is to be made generally acceptable. Unless this second condition concerning the general acceptability of the agreement to domestic constituents is maintained, no other state party to the putative contract can be confident that commitment to the agreement at the international level is credible. International negotiating partners need assurance that the governments with whom they are negotiating are authorized to enter into potentially onerous commitments and that this authorization can be sustained over time. However, such assurance depends on their estimate of their potential partner states' abilities to ensure that the costs of meeting collective obligations can reliably be imposed upon the populations they supposedly represent.

In the context of economic and monetary policy, some are tempted to think that the requirements of credibility impose a heavier burden of fiscal responsibility on states sharing a single currency than on states with their own currency. However, this seemingly sharp contrast needs modifying. Outside of a monetary union, a state faces the discipline of maintaining financial solvency through its ability to finance its government deficit on the international money markets as well as the need to avoid falls in the value of its currency that lead to domestic inflation. Successful financing in these circumstances requires either higher productivity to finance repayments or a short-term growth stimulus by means of devaluation. Both entail lower levels of consumption by citizens in the face of the need to repay international loans.

It should be remembered that a significant initial impetus to the monetary union came when the redistributive Keynesianism of the early Mitterrand administration gave way to the need for austerity in the face of the precipitate fall in the value of the franc from 1982 onwards. In this respect, France in the 1980s merely recapitulated the experience of the UK in the 1960s, when the commitment of the Labour government to Keynesian expansion was destroyed by the pressure on the currency that eventually led to devaluation in 1967.[21] It was the experience of the failure of Keynesianism in one country that led the

[21] PETER A. HALL, GOVERNING THE ECONOMY: THE POLITICS OF STATE INTERVENTION IN BRITAIN AND FRANCE (1986).

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French government to revive its interest in the plan for a single currency. The difference between an international agreement on a monetary union with strong fiscal discipline on the one hand, and funding on the international money markets on the other, is not that the former involves a reduction in consumption whereas the latter does not. Rather, the difference is that the former requires explicit and open commitments, whereas the latter can take advantage of the “money illusion” to pretend that painful adjustments are not taking place.

Because fiscal responsibility can impose severe limits on public expenditure, it is often regarded as a constraint on social citizenship. However, this interpretation is not warranted. In the welfare state, requirements of credible fiscal commitment between governments and their populations are a precondition of social citizenship itself. Responsible public spending is integral to the social contracts of which Member States themselves are agents. Leaving aside any concerns about international lenders, in order for the social savings schemes embodied in the welfare state to be credible for domestic populations, the schemes need to secure their own financial integrity because no participant in a social savings scheme can rationally have confidence in an arrangement lacking long-term financial viability. Principles of fiscal responsibility ought to be regarded as conditions of political legitimacy. They reinforce the requirement of collective prudence that is required for the domestic social contract to be an object of reasonable commitment on the part of citizens.

E. The Future Conditions of Social Citizenship in Europe

The argument thus far can be stated as follows: At the center of the EU’s political contract formulated in the Maastricht Treaty, the Stability and Growth Pact, and the Treaty on Stability, Coordination and Governance is the problem of establishing conditions of credibility within a monetary union that participants need to respect if that union is going to be sustainable. However, there must also be conditions of credibility within welfare states if they are to be sustainable over time. In principle, and insofar as normative legitimacy is central to stable political legitimacy, these two sets of conditions ought to reinforce one another. International credibility is premised on the democratic legitimacy of the welfare state. Credibility at the international level requires each state to believe that other states can meet their obligations, and a presupposition for this belief is that each state believes that all the other states party to the agreement have sufficient political legitimacy to be able to meet the obligations that the international agreement imposes upon the participants.

However, these two imperatives that ought to reinforce one another over time have been turned into political contradictions as they relate to our present dilemmas. The fiscal conditions of the monetary union are such that the level of savings in public expenditure necessary to meet its criteria reaches levels damaging to the economic growth that is a condition of reducing the public debt. Member States are reducing the social spending that is one of the principal grounds for their right to levy taxation and other forms of contribution upon their populations. At the same time, total government debt levels are rising rather than falling in the countries that need fiscal adjustment the most. This in turn leads to a voter backlash, resulting in street protests, flash parties, and ousting from office those who are responsible for imposing the internationally agreed upon terms and conditions of continuing membership in the currency union. The problem is that if leaders are ousted from office under these circumstances, then there are no reasonable grounds for holding that governments can enter into credible commitments with one another, for the governments that make the commitments may have undertaken obligations that their successors are unwilling to meet.

Central to the functioning of welfare is the avoidance of large scale and persistent unemployment. Unemployment not only reduces the capacity of people over the course of their working lives to make contributions to the social savings that are the main mechanism of welfare state provisions, but it also reduces the stock of human capital when, for example, skills acquired earlier in life atrophy through lack of use. Rates of unemployment have soared in the EU since the crash of 2007 and 2008. Not only is the general unemployment rate high, it is also concentrated in the southern European states and among relatively young workers—just the sort of citizens who should be building up a contribution record towards social savings. Moreover, if the structural reforms of the labor markets in which there is so much interest are to be successful, they need to take place in a way that does not lead to the destruction of the human capital of those currently working. So, if we are to understand the future of social citizenship in Europe, we need to understand the ways in which this unemployment is related to the political constitution of the EU and the processes of decision making that occur as a consequence of that political constitution.

It follows that in policy terms, the problem is securing fiscal balance for the foreseeable future without at the same time creating levels of unemployment that undermine contributions to social savings. In other words, fiscal responsibility requires maintaining political credibility across time. Here the issue of credibility takes the form of Augustine's problem: "Oh Lord, make me chaste—but not yet."[22] This problem is highlighted by the fiscal compact negotiations over the speed and intensity of budget reductions that demonstrate bias towards a fiscal consolidation that does little to deal with the problem of unemployment.

Does it make a difference to the argument that there are competing theories of political economy about the relationship between public action and unemployment, and that few today will accept that there can be a simple direct relationship between a public

[22] ST. AUGUSTINE, *He Deplores His Wretchedness, that Having Been Born Thirty-Two Years, He Had Not Yet Found Out the Truth, in* THE CONFESSIONS: BOOK VIII (1960).

expenditure stimulus to the economy and a permanent increase in employment without the danger of inflationary expectations becoming embedded in the minds of economic agents? Unless one entirely dismisses the possibility that there can be a sub-optimal economic equilibrium at less than full employment, employment can be increased by short-term government stimulus to the economy. Conceptually, the solution is to distinguish between two components of the public budget: A public services part, which should generally be balanced and used solely to finance the social savings and provisions of public goods that are the heart of the welfare state; and a stabilization part, which should engage in deficit financing in times when sub-optimal unemployment is high and secure returns to balance out the deficits when unemployment is low. However, institutionalizing this distinction—and in particular, institutionalizing it in such a way that there is no incentive for policymakers to reclassify income and expenditure in distorting ways—seems a major task.

Both the welfare state and the monetary union of the EU, as political contracts, are ways of organizing the problems of social and economic interdependence. Citizens share the financial risks associated with the life cycle with one another, and states share the economic risks and advantages of a single market and the single currency that are associated with that market. Within a political union, risks are never eliminated. If the union works well, they are merely transformed and managed in a better way. As the externalities associated with creating a common national market and economy are dealt with through political consolidation, new externalities are created and dealt with by being incorporated into social savings systems. A political community can be defined by the willingness of its members to share negative externalities. In some deep sense, there are economies of scale within a society by which its members can do better collectively than they can do individually, but the price that they have to accept for securing these economies of scale is that they display a willingness to share risks with associates. Interdependence cannot be avoided; it can only be politically managed.

Presently in the EU, we are muddling through to mutualization, despite the insistence by powerful voices that the political union of the EU should not become a "transfer union." This maintains the two-level political contract, but accepts that the need to mobilize resources was not envisaged in the Maastricht Treaty and subsequent agreements, and rests upon forging an elite political consensus on how to manage through the pressures. The chief elements in this muddling through are Draghi's commitment on behalf of the European Central Bank (ECB) "to do anything it takes"[23] to save the Euro, including the prospect of purchasing bonds issued by distressed governments, the willingness of the German Constitutional Court to accept the constitutionality of the ESM, the hope that economies will recover sufficiently to pay down their debts, a willingness to tolerate some

[23] *See* Mario Draghi, President, European Central Bank, Address at the Global Investment Conference in London (July 26, 2012), http://www.ecb.europa.eu/press/key/date/2012/html/sp120726.en.html.

marginal adjustments in the timetable for restoring fiscal balance, and the failure of those who oppose austerity to be able to articulate a clear storyline about how to reconcile conflicting demands, so that opposition takes the form of street protests and flash parties.

Only time will tell whether muddling through will prove sufficient to maintain both the domestic political contracts of the welfare state and the international political contract of the EU's monetary union. The principle of fiscal responsibility as a necessary condition of both the monetary union and the long-term sustainability of the welfare state—a principle set out in Article 1 of the Treaty on the Stability, Coordination and Governance in the Economic and Monetary Union—is derivable from the fundamental logic of political association in which credible commitments on the part of all cooperating parties are essential. However, it is one thing to set out the abstract logic of complementary principles; it is another matter to manage the day-to-day and month-to-month development of a political union in such a way as to reconcile the operation of those principles in practice.

To say that the reconciliation of social citizenship and the management of the single market is a dilemma of political legitimacy is to say that political leadership is an essential element in dealing with the problem. The political constitutions of the monetary union owe their intellectual inspiration to the political theory of liberal constitutionalism, according to which the central element of a successful political order is the formulation of general rules impartially and firmly applied. Clear rules play an indispensable role in any society governed according to the principles of the rule of law. However, when the circumstances in which they were crafted turn out not to be the circumstances in which they are applied, something beyond rules is needed. At the time leading up to the Maastricht Treaty, it was often said that what Europe needed was its own James Madison, as though the idea that a constitutional draft could be conceived at one time and implemented over successive periods was a feasible one—and let us remember that the Civil War took place only some seventy years after the acceptance of the United States Constitution. What Europe needs now is not the imposition of more rules, but shared political leadership that realizes that politics is not the art of the possible, but rather the art of making things possible. If that does not happen, we will not be able to discuss European social citizenship twenty years from now; the conditions for its maintenance will have been destroyed.