The sovereignty of the people: the basis for circular policy making and federalisation

Leo Klinkers, The Hague, August 2019
Federal Alliance of European Federalists

The purpose of this memorandum

This memorandum is intended for all those who endorse the concept of 'popular sovereignty', but who regularly read in the newspaper that political authorities are violating this concept. It is not only citizens who have problems with this. Some representatives of the people, administrators and civil servants also struggle with the question of how society and government should relate to each other. As a federalist, however, I am particularly thinking of those who advocate a federal Europe.

It disturbs federalists that, for more than two hundred years, the federal United States of Europe has been unsuccessfully attempted. I am going to try to make it clear that the reason for this lies not only with unwilling and ignorant European politicians, but also - and perhaps above all - with the federalists themselves. In the forty years that I have spent on the subject of a federal Europe, two things have become clear to me.

First of all. I estimate that 95% of the thousands of Europeans who profess federalism do not know the essence of federalism. On a large scale, federalist movements lack basic knowledge of this particular form of state organisation. The lack of the necessary knowledge also means that there is a lack of a motive for action and a lack of prospects for action. Those who do not know where the north is, will continue to wander. It took Moses only forty years to reach the promised land. The European federalists - after the successful first federation in America between 1787-1789 - have been on the road for two hundred years. When they meet each other in 'the desert of the anarchy of European nation states', they prefer to argue rather than organise collectivity.

Second. Because they fail to organise collectivity, the many federalist movements are unable to unite in a federation of federalist movements. Their degree of organisation is shamefully flat. Whatever it is said, the well-known federalist movements in Europe are decentralised unitary movements. They have not organised themselves one level higher in a federation of federalist movements with a diversity of motives and cultures. A federation that can provide for the common interest of the individual movements: the creation of a federal Europe.

In this respect, they are blind to the existence of thousands of private federations in Europe, of which the world of football is perhaps the most striking: individual clubs > federal national bond > federal European UEFA > federal global FIFA. Now pay attention: those individual football clubs that form the basis of this federal system are the bosses in their own homes, they are and remain sovereign, autonomous with their own cultural identity, their own administration, their own members' council, their own stadium, their own shirt, their own fan club, their own club song, their own champion's party and their own Christmas party. The federal bond only takes care of things that individual clubs cannot arrange themselves, such as, for example, a match schedule that makes it clear who is to be played against the next week. Also,

for example, the training of referees and the introduction of the VAR. Federalist movements that aspire to a federal Europe have so far learned nothing from the power of the wide array of thousands of private federal organizations.

Let me now turn to the three concepts in the title of this document: sovereignty of the people, circular policy making and federalisation.

By the way, when I organized my thoughts, it turned out that this memorandum would be an exposé of everything I have learned since 1970. So, you are reading the path of my career.

The concepts of popular sovereignty, circular policy making and federalisation

The sovereignty of the people
Since Aristotle, many books have been written about the concept of 'popular sovereignty'. However, it can also be written in one sentence. People's sovereignty means: 'all sovereignty rests with the people'. Any form of state organization and the resulting policy must be traceable to this adage. For citizens, anywhere in the world, there is only one value, namely the inalienable right to pursue their happiness, supported by such an arrangement of the state that it is not concerned with itself but with an adequate arrangement of the state from which policy emerges that supports the happiness of those citizens. Happiness in the broadest sense of the word: freedom, security, development, prosperity, solidarity and enjoyment of one's own cultural identity.

Creating circular policy making
The concept of 'circular policy making' is derived from the concept of 'circular economy'. That is economy that does not produce waste. So, without destroying nature and the environment. 'Making circular policy' is designing and implementing policy without producing policy waste, such as over-organization, over-legalization, over-bureaucratization, organizing citizens' participation without drawing consequences and expensive policy notes that disappear into a drawer. 'Making circular policy' implies intercepting systematically relevant signals from society, and then also responding to these signals with measures that can be traced back to that adage 'all sovereignty rests with the people'. All wisdom and truth also rest with the people. Provided it is acquired in a good way. Circular policy making is part of the more comprehensive concept of 'Societal Policy Making'.

Between 1970 and 2017, I called this way of working 'interactive policy making' because it is the result of an in-depth dialogue with the citizens and implementers involved: this is working from the outside in and from the bottom up. I was not alone in this. In 2004 James Surowiecki came up with the name 'The wisdom of the crowds'. In the meantime, the term 'interactive working' has become seriously polluted. Thinking about innovation, however, never stands still. My colleague Peter Hovens made the relationship with circular economy and so our work is henceforth called 'the methodology of circular policy making'. I'll sketch that in a moment.

Federalisation

In 1787, thirteen states in America (former colonies of England) made the first federation in the world - based on the thinking of European philosophers. Federalisation is a form of cooperation between countries in which the member states remain sovereign and autonomous but place a few interests that they themselves can no longer represent in the hands of a federal organ. Where serious problems sometimes arise within federations, as is currently the case in America, this cannot be traced back to the constitutional federal structure of the state, but to the lack of built-in defence mechanisms by which wrong people can manipulate the procedures of democracy in order to gain positions for their own benefit.

Since the arrival of the first federation in America, thousands of European citizens have been trying to establish a federal Europe for 200 years. This has always failed, even though 40% of the world's population now lives in twenty-seven federations. It has been understood in those countries that, in changing circumstances, the creation of a federal state structure is the best instrument for supporting the citizens' quest for happiness.

Designing the methodology
During my studies at the Law Faculty of the University of Utrecht (1964-1968) I learned concepts such as sovereignty, democracy, trias politica, checks and balances, constitutional monarchy, confederal and federal states. Incidentally, without any awareness of their real meaning. Like most students, I studied not to deepen my knowledge, but to reproduce compulsory knowledge on exams and then forget it as soon as possible to make room in my head for a new load of flat knowledge for the next exam.

In 1969 I got a job at a municipality and only then did I learn the deeper meaning of principles of constitutional and administrative law. I was surprised, however, that policies were made from above; from the knowledge, experience and dossiers of politicians and civil servants; without consulting the citizens concerned. They made policy as they have done for years. To the best of their knowledge, on the assumption that people at the town hall knew what was good for those citizens. And that is no different today.

In 1970, I accepted the invitation to return to the Faculty of Law to build up teaching and research in public administration. Only then did I start studying. Supported by extensive libraries, I started to analyse the functioning of governments. I discovered that more than ten different academic disciplines contain knowledge that is applicable to the functioning of governments. In addition to constitutional and administrative law, think of political/ theological/humanistic philosophy, systems theory, social psychology, cybernetics, psychoanalysis, international law, organisation theory, management theory, communication theory, forensic psychiatry, theory of argumentation, causality theory, formal logic, methods and techniques of scientific research and a few more that do not come to my mind now.

By connecting parts of those disciplines, I was able to design a methodology for result-oriented policy, with full involvement of citizens and practitioners from the very beginning of such a process. Not, therefore, as is the case with citizens'

participation, where a government has already identified the problem and has already devised the solution. And then – fighting against a defensive government - it will not be possible for citizens to recognise either the problem or the solution. No, I am talking about policy that can count on the support of deeply involved citizens in the process of policy making, assured of an active attitude on the part of those who implement it. This methodology - under the name 'Societal Policy Making' - consists of four architectures as the building blocks for a successful process of change:

1. *The architecture of breaking through the status quo.* It is necessary to set up a process in such a way that enough energy is created to drive a rocket through the atmosphere. So, to develop so much power that the intended process resists gravity and does not fall back to the ground.

2. *The architecture of goal setting.* Without careful analysis and synthesis, in nine of the ten policy processes goals are formulated in accordance with the so-called 'pitfall of solution thinking' (jumping to solutions). A goal is a solution to a problem. Without analysis (diagnosis) of the problem in its underlying causes, it is impossible to imagine a workable synthesis (therapy).

3. *The architecture of goal achieving.* If you have established the goal in a methodically careful manner, this does not mean that you will achieve it. This architecture does not focus blindly on the result to be achieved but on reducing uncertainties that stand in the way of the result.

4. *The architecture of circular policy making.* In this architecture, the three previous ones come together in actual application in the next three phases A, B and C.

A. *Analysis phase:*
   a. Team composition: includes team formation, team building, housing, materials, equipment, budget.
   b. Environmental Analysis: analysis of everyone who needs to be involved; the number is not relevant; if there are thirty, okay; if there are thirty thousand, then okay as well.
   c. Consultation Round: the key figures in the Environmental Analysis are preferably consulted by means of an one-on-one interview; they are, and will continue to be, involved in the policy process; in addition to one-on-one interviews, we use other interviewing techniques for larger groups of people in accordance with the method of the so-called 'nominal group'.
   d. Anthology: the contributions made by the people consulted are recorded as literally as possible and sent back (after having the input systemized) to the people consulted so that they can see that the input is actually being taken seriously.
   e. Problem and Cause Analyses: The material of the Anthology is analysed for causal chains and their layered structure. Moral: only by concentrating policy on an approach to the lower causal layers can you achieve success. Otherwise, you will get stuck in treating the symptoms.
   f. Expert Meetings: experts are put to work to detect and remove any blind spots in the analysis.

B. Synthesis phase
  g. Vision note: in a few pages, a sketch of the final goal to be achieved is presented.
  h. Strategic solution directions: just as there are several roads leading to Rome, there are always several solution directions.
  i. Sub-targets: within those strategic solution directions, there are intermediate goals. Example. If you travel from The Hague to Rome - via Belgium, Germany and Switzerland - you should definitely reach Maastricht or Brussels as an intermediate goal. Achieving such an intermediate goal is important because then you know two things: you are no longer in The Hague and you are on the right track. However, when you see the sign Hamburg you also know two things: you're not in The Hague anymore, but you're on the wrong road.
  j. Concrete actions: the conclusion of the development of a circular policy process is contained in an Action Book. Making it requires a great deal of knowledge and effort, otherwise it becomes nonsense actions. The actions are aimed at eliminating the causes that have emerged from the analysis.

C. Implementation phase
  And only then does the 'real' work begin: the concrete implementation of the concrete actions to achieve the concrete intermediate goals, to achieve the final goal.

The method is guided according to the principles of process management, including knowledge management and structural management under the adage: 'The process is more important than the result'. And that means that you have to know *what* you need and *how* to do it.

The application of this method in practice
The construction of the four architectures came into being in the course of the seventies. At first in rough contours but slowly refined by discussing them with my public administration students and small projects outside the university. As a result, the work gained some fame, leading to a commission, in 1982, from the chief of police of Amsterdam.

Due to all kinds of circumstances and developments, the police force was involved in matters of corruption and fraud, had a quarrel with the city council, the public prosecutor's office and with many organisations such as public transport, the taxi world, the hotel and catering industry, etc. The new chief of police had the task of cleaning up and - having been informed about this methodology by his staff - put me to work. This led to an entirely new policy on policing in Amsterdam, a new organisation and a new management. With a turnaround time of three years. The Action Book to be carried out included about 150 projects, laid down in a Covenant, signed by the Mayor of Amsterdam, the Minister of the Interior, the Minister of Justice, the Chief Public Prosecutor in Amsterdam and the Chief of Police himself.

This assignment made me decide to leave the university in 1983. Since then, this method has been used in dozens of projects. A few examples:

- ⬜ The Second Structure Plan for Traffic and Transport. Commissioned by the then Minister of Transport, Public Works and Water Management, a policy was developed for the Lower House of Parliament to unite the goals of traffic and transport, of the economy and of nature and the environment. Involvement of everyone with authority in the economy, traffic and transport, nature and the environment. It led to the fall of the Lubbers II cabinet in 1989.

- ⬜ In the early 1990s, a European structure scheme for transnational traffic and transport through all the countries of the then EEC, commissioned by the European Commissioner for Transport. Input from ministers, top officials, captains of industry, experts and committed citizens throughout the world.

- ⬜ In the 1990s, for the municipality of Amsterdam - in addition to the strategy of the police and the Public Prosecution Service - the creation of its own municipal strategy with concrete actions to combat organised crime. Involvement from all sectors and layers of society.

- ⬜ Also in the 1990s, the ministry of Transport, Public Works and Water Management commissioned a safety policy for all interactions in the North Sea: boats, fishermen, tourists, oil and gas installations, nature and the environment.

- ⬜ In the 1990s, the United Nations (partly at the request of the EU) also commissioned me to tackle in Bangkok the increasing deterioration of the living conditions and impoverishment of that part of the city where the King's palace is located, some of the most important ministries, the largest markets and the most beautiful temples. Huge crowds of people and the emission of gases from vehicles caused the quality of life to deteriorate, civil servants were unable to reach their workplaces, citizens were unable to get their food from the markets, temples fell into disrepair and tourism declined. The method of working outlined above was incorporated by the UN in an instruction that was distributed by the UN office in the countries of Southeast Asia.

- ⬜ For the government of Suriname:
  - an integrated traffic and transport policy on behalf of the Minister for Transport and Communications;
  - the design of an integrated national security policy on behalf of the Minister for Justice and Police and the Minister for Defence;
  - on behalf of the International Development Bank (IDB) a policy to strengthen the Surinamese economy;
  - a policy for the EU and the Suriname Business Forum to improve in Suriname the 'ease of doing business' in accordance with the methodology of the World Bank;
  - on behalf of the Vice President, the design of a policy to fill the gaps in the legislation that should be present under the constitution, as well as the modernisation of outdated legislation;
  - more recently, a study by the municipality of Voorst (Netherlands) into the possibilities of working preventively within the social domain in order to prevent problems that seriously impede the happiness of (vulnerable) residents. This project was excellently led by Koen van Bremen; he is one of the founders of our Cooperative Societal World.

I'll leave it at this list. It is only intended to indicate that this method applies to every issue, that is to say, independently of the policy area. It can handle any complexity, provided that ...... we can work as it should be, that is, according to Standard Operational Procedures (SOP), which I have outlined in pages 4-6.

In order to transfer knowledge of this SOP, I conducted many multi-day courses between 1983 and 2000. In and outside the Netherlands. One of the students was Peter Hovens. Although others also started to work with this methodology, Peter turned out to be the only one who committed himself to it in principle and thus became my colleague. Now, in 2019, he believes that the time has come to write a book about 'circular policy making' with all the gained knowledge and experience. This will be published in 2020.

The relationship with the concept of 'federalisation of Europe'
I was co-founder of the Association for Public Administration in 1972 and then as vice-chairman in charge of the portfolio to set up public administration education in the Netherlands and internationally. The international work took place within the International Institute of Administrative Sciences (IIAS), the International Association of Schools and Institutes of Administration (IASIA) and the European Group of Public Administration (EGPA).

In these contexts, I met a number of Flemish colleagues at various Belgian universities. I discussed with them the progress of the far-reaching constitutional reforms in Belgium (started in 1960), aimed at transforming the unitary state into a federal state. Only by means of a federal state could Wallonia (French-speaking) and Flanders (Dutch-speaking), and a small German-speaking part, continue to live and work together without shooting at each other. Only then did I learn the intrinsic meaning of a federal state organization to support the citizens in the pursuit of their happiness. Since the principles of federalisation therefore come from the same source as the creation of bottom-up policy - namely from the concept of 'all sovereignty rests with the people' - in addition to developing the method of interactive policy, I went on to study the basic building blocks of federalisation, to be applied to the establishment of a federal Europe.

In order to get closer to the far-reaching federalisation process in Belgium, I decided to move to Belgium in 1996. There I met a director of the Flemish Ministry of Foreign Affairs, Herbert Tombeur. His knowledge of federalism filled the gaps that had arisen in my case despite my intensive studies on the subject.

I was particularly interested in the way in which the world's first federal state was established through the work of the 55 members of the Philadelphia Convention in 1787, supported by the 85 Federalist Papers of James Madison, Alexander Hamilton and John Jay between 1787 and 1788. One of the claims was that the American federation was based on the philosophical thinking of European philosophers (Aristotle, Althusius, Montesquieu, Rousseau), while after 1787 there had always been a vain attempt to choose a federal form of government for Europe as well.

In 1999, Robert A. Levine, a top official in America's federal administration, wrote in the New York Times that the then EEC was doing itself no favours in establishing a monetary union (under the Maastricht Treaty in 1992) without first establishing a federal foundation. He argued that this was an uncertain future for the euro and advised to start by writing a European version of the Federalist Papers. That advice remained in the conversations between Herbert and me for a long time. As no one else in Europe had taken that advice, we decided to write the European Federalist Papers ourselves between August 2012 and May 2013. In 26 Papers we explain how bad the EU's intergovernmental operating system under treaty law is, why that is bad, what the power of a federal state is, why it should replace the current system and what a strong European federal constitution looks like.

Result? Zero. The political, academic and media attention to the way to govern a group of countries that want to preserve their sovereignty and cultural identity but want to find protection in a federal body that defends their common interests was zero and is still zero.

A Citizens' Convention as a link between popular sovereignty, circular policy making and federalization
If you look again at pages 4-6, you will see the link between popular sovereignty, circular policy making and federalisation. It is the link of what one needs to know and to handle in cases of a complex process of change.

People's sovereignty is the fundamental source for the creation of a federal state. This implies that the people themselves sign up to a federal constitution. No federal constitution of, for and by the people? Then no federal state. But this signing - constitutional termed 'ratification' - requires such an organisation that two things are guaranteed:
● that the constitution really is of, for and by the citizens; this implies the organisation of the fundamental involvement of the citizens in describing the important content of the constitution;
● that the constitution itself must be perfectly professional craftsmanship; this implies that well-meaning amateurs and foolish bunglers must not interfere with it.

A Citizens' Convention such as that of Philadelphia in 1787 - an unparalleled constitutional and institutional formula for success - is the instrument for offering these two guarantees. In a book that you can see at the end of this note, I explain in detail how to set up a Convention of 56 people, what its mission is, how it is to be carried out, and what role and influence it will give to the citizens of Europe in its implementation. Now I mention that role and impact by referring, for the sake of brevity, to our methodology of circular policy making, outlined on pages 4-6. This methodology involves the citizens of Europe in the composition of a federal constitution in a planned and systematic manner. And thus, not by means of well-meaning but mis organised collections of so-called 'citizens' assemblies' that can only achieve quasi involvement because of a lack of methodological knowledge.

The need for anchoring

In line with the principle that all sovereignty rests with the citizen, I have therefore been dealing with two expressions of sovereignty since 1970. Firstly, the methodology of policy making from within society itself. In 2000, I needed to anchor my knowledge - and the experiences with its application - in a trilogy. Here are the title pages. The first two books can be downloaded for free via the links: Beleid begint bij de samenleving en Vakvereisten voor Politiek en Beleid. Note: these books are in Dutch language only.
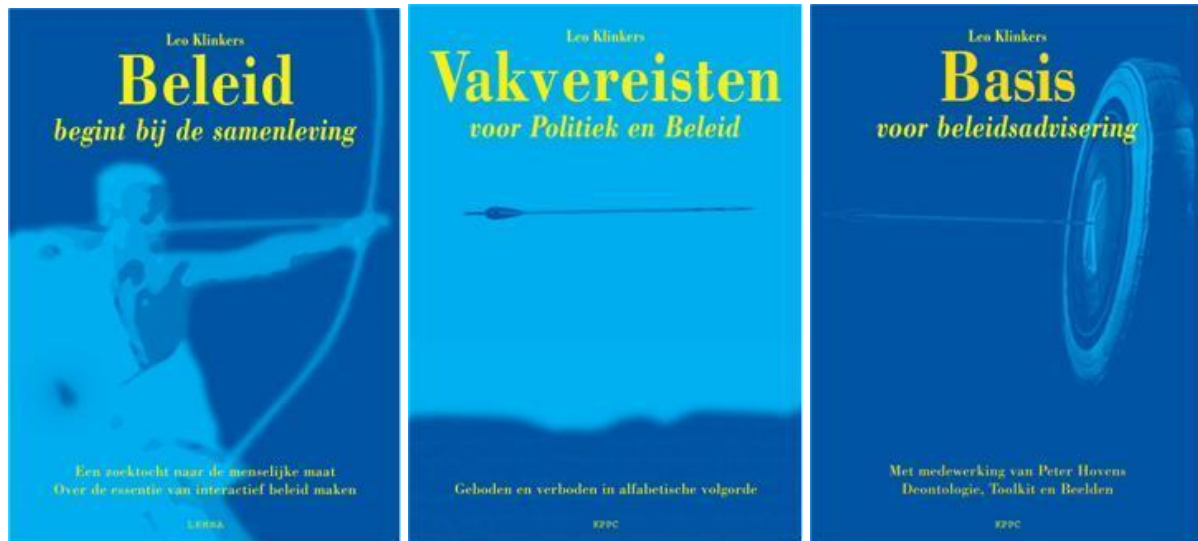
In the first book I recorded the experiences with the methodology, applied from the beginning of the eighties until the turn of the century. The second book contains about 180 essays on commandments and prohibitions in politics and policy. The third book is an online course (onlinecursus Dutch language only) to learn this subject under our guidance. The archer with his arrow symbolizes that you will only hit your target if you know what you have to do before you let the arrow go. Now we call it 'making circular policy'.

The pursuit of a federal Europe is also anchored. One of the main reasons for the continuing lack of a federal Europe after two hundred years is the curious absence - I have already mentioned this - of a federation of federalist movements. No matter how many such movements we have had, they are all decentralised unitary movements. They have never been able and/or willing to increase their level of organisation.

Federalist organisations that share the same goal - the establishment of a federal Europe in this context - but are not prepared to strengthen their degree of organisation will never achieve their goal. That is why six people, two from Italy (Lorenzo Sparviero and Mauro Casarotto), two from France (Catherine Guibourg and Michel Caillouët) and two from the Netherlands (Peter Hovens and I) founded the Federal Alliance of European Federalists (FAEF) in Milan in May 2018. Its aim is to offer federalist movements and, furthermore, any organisation that aspires to a federal Europe, the protection of a federation. In this way, to create critical mass through 'Federating the Federalists'.

A second objective that we are pursuing with FAEF is 'Educating the Federalists'. We see that on a very large scale there is a lack of thorough knowledge of what a federation is. There are plenty of opinions, but knowledge is what we need. Politicians who, since the failed Maastricht Treaty of 1992, have been making false statements about federalisation and a federal Europe through conceptual ignorance, have led citizens to believe that federalisation is a bad thing. Well, that is on the same level as claiming that the earth is flat and that the sun revolves around it.

Our goal is to create the United States of Europe, following as closely as possible the process that took place in America in the 18th century. Without increasing the degree of organisation of federalist movements and without sharing the basic knowledge needed to create a federal Europe, we will not make any progress.

Here, too, there is a need for anchoring in order to prevent this federalist FAEF initiative from being swept away by the banalities of history.

This is our FAEF logo (www.faef.eu)

And this is the trailer of my book 'Sovereignty, Security and Solidarity': http://www.faef.eu/trailer/. In order to share a deeper understanding of federalization, I have developed a course (cursus) on federalism (English language only) based on the guild-system in previous centuries: Apprentice, Journeyman, Master.

Finally
President Bill Clinton once made the following comment to underline the importance of economics: "It is the economy, stupid." Now that in many countries in the world, and certainly not only in Europe, the foundations of the concept of democracy are eroding, it is time to choose a different adage:

"It is NOT the economy, stupid. It is the sovereignty of the people,
organized within a true democracy,
based on a federal constitution,
under the rule of law."