

# The Democratic Deficit of the European Union

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The EU as the most developed international organization, provides a laboratory for observing the development of democratic structures outside its member-states. The democratic deficit debate thus has implications that reach beyond the EU and touch upon crucial issues of future developments within democratic theory. This review distinguishes between three different types of legitimacy, namely procedural, efficiency and social legitimacy, and authors are discussed according to which type of legitimacy that underlines their analysis of the democratic deficit. Most authors invoke one type of legitimacy as their basis, but a new strand is emerging that mixes different types of legitimacy when establishing normative criteria for the EU. It is concluded that, in order to further the debate, this new strand has potential to develop advanced normative models appropriate for democracy beyond the nation-state.

## Introduction: Sources of legitimacy

The literature on the democratic deficit in the European Union (EU) is remarkable for its heterogeneity. Even the central question as to whether a democratic deficit indeed exists remains unsettled. Accordingly, potential solutions to this possible problem vary in range and scope. Puchala (1972) has very perceptively described the debate as a situation where a group of blind men approach and touch an elephant in order to determine what kind of animal it is. Each person feels a different part of the animal and not surprisingly they all come to different conclusions. This illustration remains true today, some 35 years later; as Majone observes “we are still groping for normative criteria appropriate to the sui generis character of the European Community” (Majone 1998; 6). This is as valid now as it was when he first wrote it nine years ago.

## Part I: The democratic deficit

The question of what a democratic deficit is reflects, on an abstract level, the specific model of democracy one considers to be appropriate for the EU. The more the EU diverges from that ideal, the more pronounced the democratic deficit is usually considered to be. This is very obvious in the writings of Dahl (1998). He sees the question of size as a dilemma intractable to representative government, because size and participation are negatively correlated in his view: As the size of a polity increases, the possibility of effective citizen participation decreases as a function of the time needed to express one’s views (Dahl 1998; 107). Hence, in large polities delegation is almost inevitable, which in turn brings with it bargaining among political and bureaucratic elites. As the scale increases from individual nation-states to international organizations, the need for delegation becomes even more pronounced and the possibility of effective participation diminishes correspondingly. If the democratic ideal is maximum citizen participation, then large-scale representative structures will inevitably fall short in comparison with those of their smaller counterparts. In Dahl’s view, international organizations must be subject to popular control in order to claim being democratic, just as with democratic countries. This requires the development of institutions able to guarantee opportunities for political participation, influence and control

equivalent in effectiveness to democratic countries. Furthermore, political elites would have to be willing to engage in public debate at the level of those institutions, and in order for such debate to be effective an international equivalent to national political competition would have to be created. Finally, elected representatives would have to be able to exercise control over international bureaucracies just as effectively as in (most) democratic countries (Dahl 1999; 31). Additionally, the increase in size from nation-state to international organization has to date not included two particular key components that were present in earlier expansions of democracy: A shared political culture and a common identity. These factors were crucial since they facilitated tolerance in ‘losing’ sub-groups within a population. Without them, it is not clear whether decisions that would entail heavy costs for certain groups would be enforceable among those “losers” (Dahl 1998; 117).

This makes Dahl very skeptical of the possibility of democratic international organizations, fearing that they might lead to what he terms guardianship (1989, 1998, 1999).<sup>1</sup> However, the question is whether we really have a choice between retaining democratic structures at the nation-state level or if they must, somehow, be implemented at the supranational level. According to Held (1999), the world today is characterized by important economic, cultural and ecological problems crossing the boundaries of nation-states. This undermines the accountability and legitimacy of national-level institutions, since decisions made in one state can have serious effects for citizens of another state, although the latter would have no possibility of influencing the decisions in question. The territorial boundaries that specify who may participate in a democratic process are, in other words, no longer necessarily congruent with the populations affected (Held 1999; 338). This poses some tough questions about the appropriateness of the nation-state as a locale for democratic processes. The rise of international organizations such as the United Nations (UN), International Monetary Fund (IMF), North Atlantic Treaty Organization (NATO) and indeed the EU provides venues of decision-making beyond nation-states; this might have far-

<sup>1</sup> In Dahl’s view, proponents of guardianship find the assumption that ordinary people can be counted on to understand and defend their own interests preposterous. Instead, power should be entrusted to a small group of people uniquely qualified to govern (Dahl 1989; 52).

reaching consequences for their respective member states, as well as for people in other countries. The supranational nature of the EU raises particularly hard questions about the relationship between democratic processes at member-state level and decision-making at supranational level. This is the starting point for the discussion of the democratic deficit, and it is what makes this debate important and interesting. The EU can readily be seen as a laboratory for testing the possibility of a democratic process at the supranational level, thus illuminating the important issue of democracy beyond the nation-state.

Weiler et al. (1995) define what they see as the “standard version” of the democratic deficit. This view of it highlights the transfer of powers from member states to the EU, effectively removing these powers from the scrutiny of national parliaments. This situation is further exacerbated by the relative weakness of the European Parliament. Weiler et al. also point to the lack of proper European-wide elections, arguing that the European Parliament elections are mere second-order elections, or effectively national popularity contests. In addition to this, national elections might fail to result in policies that a national electorate wants, if for example a center-right government is part of a center-left dominated Council. The distance between citizens and the EU is also seen as problematic by these authors.

Coultrap (1999; 108.) refines this argument somewhat. He finds that there is a parliamentary democratic deficit, and, arguably correctly, he points to the underlying ideal of parliamentary democracy in European nation-states that permeates Weiler et al.’s characterization of the EU’s democratic deficit. Coultrap finds that ideal a poor measure of the EU’s democratic credentials. Instead, we should use a model of pluralist democracy which would enable an appropriate perspective on the current institutional setup (Coultrap 1999; 130).

Even though Katz (2001) agrees with Coultrap about the bias towards parliamentary models in the democratic deficit debate, he takes issue with Coultrap’s stateless model of pluralism as it fails to address the problem of democratic legitimacy. According to Katz, Coultrap’s extreme pluralism is essentially an argument for government by technocracy (Katz 2001; 58). This is echoed by Meny (2002), who attributes the current legitimacy deficit to the asymmetric relationship between the constitutional and the popular elements of democracy, the constitutional element being dominant at EU-level. On this view, the democratic deficit is in essence a democratic overload caused by insufficient possibilities for a majority to actually exercise its powers (Meny 2002; 9).

Another take on the democratic deficit is provided by the attention paid to the so-called “permissive consensus” (Lindberg & Scheingold 1970, Hix 2005), and more particularly to its alleged disappearance. According to Schmitter (2003; 83), there is compelling evidence that citizens in EU member states have become increasingly aware of how much of an impact EU legislation has on their everyday lives, and that they consider the EU to be secretive, remote, unintelligible and unaccountable. The first signs that the consensus was breaking down came in 1992 with the Danish no to the Maastricht treaty and the “petit oui” in France; these legitimacy problems were subsequently further underlined by the low turnout in the June 1994 European elections (Norris 1997; 276-277). All in all, it is argued, the EU has a shaky foundation. This view is influenced by the ideal of a demos as prerequisite to democracy: ‘EU legitimation [sic.] requires not just the public monitoring of EU governance, but also a common European discourse and some sense of belonging to a common

community’ (Sifft et al. 2007; 128). Here the democratic deficit derives from the fact that the EU’s powers have grown without due regard to the democratic substructure that underlies every democratic polity.

It comes as no surprise, then, that there are different understandings of the democratic deficit. Independent of the ideal democratic model chosen, though, there is a consensus that the EU is a less than an ideal polity in democratic terms. This is, of course, a rather trite fact as no polity lives up to those ideals.<sup>2</sup> The point to be made, though, is that the deficit is defined according to which democracy ideal is chosen.

As a final note before we proceed, it is necessary to point out that there is a large overlap between the literature dealing with the democratic deficit and the literature dealing with the legitimacy of the EU. This reflects partially an ambiguity as to the possibility of distinguishing between these two concepts, but also their close relationship to one another. In this paper I will draw on both literatures and thus use democratic deficit and legitimacy deficit somewhat interchangeably.

## Part 2: Procedural legitimacy

It is possible to divide the literature falling under this heading into two subgroups, namely an electoral approach and a governance approach. What unites them is their focus on procedural aspects of legitimacy, but as we shall see, their respective understandings of what constitutes a legitimate procedure differ radically from one another.

### The electoral approach

Scholars taking this approach stress the fundamental lack of proper electoral institutions at the European level. Such institutions would, according to these scholars, counter the hollowing out of national democracies. This strand of literature moreover often contains a criticism of allegedly excessive delegation of competences to the EU level. The contributions to this literature are diverse and often entangled in debates between themselves as to which remedies are worth pursuing and which ones would only exacerbate the problems.

For instance, Decker (2002) attributes the democratic deficit to the institutional deficiencies of the current electoral and party system and lack of a European demos. With the transfer of competences to the European level, the EU’s supranational characteristics find no response at its social base among parties and voters (Decker 2002; 261). The solution Decker advocates is the direct election of the Commission president and the transfer of core national competences (such as foreign and security policy) to the EU. This approach is complemented by Hix and Føllesdal (2006), who see the lack of a European-wide party system and the absence of a clearly recognizable parliamentary opposition at EU level as the greatest hindrances to the development of democracy at that level. The role of the parliamentary opposition is considered particularly crucial, since it would provide EU citizens qua voters with sets of competing policies to choose between – and it would give the voters the opportunity to “punish” MEPs (Hix & Føllesdal 2006; 16). The idea is that with increasing competition at the EU level, voters will become aware

<sup>2</sup> For discussion of democracy as an impossible ideal, see Dahl (1989). For a discussion of ideal types, see Goertz (2006).

of what their MEPs are doing in the European Parliament, and thus be able to make an informed choice when the next election comes around.

None of the authors cited here are oblivious to the no-demos problem,<sup>3</sup> but they believe that democratic practices would create conditions under which a demos might develop. For Hix and Follesdal (Hix 1998; 53, Hix & Follesdal 2006; 550), democratic practice is enough to further the development of a demos, whereas Decker (2002) argues that it must be accompanied by identity policy measures. Specifically, Decker argues for a strengthening of EU foreign policy, as he sees that internal identification with the EU would increase if the EU had a strong EU presence on the international scene (2002; 269-9).

The above solutions are criticized by Meny, who states that '[t]he worst course would be to replicate through mimicry rules and practices at the national level [...] this is a recipe for disillusion as the experience of the European Parliament shows' (Meny 2002; 10). According to him, the primary task for the EU is to invent new paradigms, rules and institutions instead of duplicating national ones. Abromeit (2002) echoes this view in arguing that too narrow a focus on the parliamentarization of the EU will result in "unholy" alliances of dominant groups (such as the PES and EPP grand coalition in the Parliament), which might lead to smaller groups being cast as permanent minorities.

One way to overcome this problem would be to develop the popular component of the EU's political system through small incremental steps such as introducing more direct and indirect accountability, strengthening transnational parties and organizations, and through more direct democracy (Meny 2002; 11, Abromeit 2002; 18). Lord & Beetham (2001) partly agree with this in their analysis, but remind us that such measures can only complement representative politics, since the minimum requirements for democratic legitimacy in a liberal democratic state apply to the EU, too (Lord & Beetham 2001; 444).

In summary, the electoral approach points the finger to several of the sore points regarding the EU's democratic credentials, but there is a tendency to equate democracy with the electoral mechanisms of representation; or, to put it more bluntly, representative democracy is often viewed uncritically as the "gold standard" here.

### **Governance: Networks and deliberation**

The literature on networks and deliberation highlights a different kind of procedural legitimacy. Giving a central role to the public sphere, scholars writing with this focus investigate the presence of, or potential for, strong publics within the EU. In this vein, Jorges & Neyer (1997) investigate the EU's comitology system as a possible site for deliberation and publics.<sup>4</sup> In their view, comitology committees are a novel solution to the legitimacy problems in supranational decision-making. Comitology committees are examples of non-hierarchical governance structures which operate on the basis of persuasion, argument and discursive processes, say Jorges & Neyer (1997; 298). On this view, the intrusions of the EU into spheres of national autonomy are com-

pensated for by this form of pluralist legitimacy at the supranational level, albeit access to these committees is restricted to government elites.

This resembles what Eriksen & Fossum (2002) label strong publics. In contrast to a general public, a strong public is "a sphere of institutionalized deliberation and decision-making" (Eriksen & Fossum 2002; 402). Public spheres are, according to these authors, central to democratic legitimacy as they force decision-makers to enter into them and justify their actions. Evaluating the EU's comitology against the standards of deliberative democracy, Eriksen & Fossum find the committees to have certain redeeming elements, but the committees nevertheless fall short on the issue of access as committee members are appointed by national governments, and they conduct their meetings in secrecy which renders them unaccountable. Thus, Eriksen and Fossum reach the conclusion that they cannot be considered strong publics (2002; 411). In contrast, the authors show that the European Parliament and the Charter convention both constitute(d) strong publics and find that there is an emergence of a number of EU networks centered around social and political actors in epistemic and academic communities which are closely linked to emerging strong publics (Eriksen & Fossum 2002; 420).

Porte & Nanz (2004) dismiss comitology as insufficient in providing procedural legitimacy because of its lack of "a mechanism that links expert deliberation with the concerns of affected citizens" (Porte & Nanz 2004; 271); instead, they investigate the Open Method of Coordination (OMC) as a possible site for deliberative governance. Analyzing the policy areas of employment and pensions, they find that the deliberative democratic qualities of the OMC are mixed. In particular, these two applications – employment and pensions – of the OMC are found to lack transparency and possibilities for democratic participation by the broader public (Porte & Nanz 2004; 284).

Complementary to the deliberative approach, the network literature on European governance has blossomed in recent years. Jachtenfuchs (1997) describes the main normative assumption behind network governance in a democratic polity as "the necessity to increase citizen participation in decision-making which is of relevance to them and the preservation of small-scale identities" (Jachtenfuchs 1997; 12). The European Commission has used the strategy of creating supportive networks when entering into new policy areas such as environmental issues and telecommunications (Heretier 1999; 273). Networks are organized according to functional and sectoral lines, their members delegated by their respective organizations to represent the latter's interests within the network. Formed across national boundaries and polity levels, the networks moreover generally involve public and private actors (Heretier 1999; 273). Skogstad (2003; 322) identifies the possibility of a problem-solving logic based on deliberation flourishing in these policy networks. She considers this to be a solution to the dilemma of procedural legitimacy in non-majoritarian decision-making. Given the lack of political will within Europe to parliamentarize the EU, the development of network governance alongside the co-decision procedure can provide added procedural legitimacy by providing sites of deliberation among actors or groups affected by a piece of legislation (Skogstad 2003; 326-7). Some see the emergence of networks as the Commission's reaction to the member states' unwillingness to parliamentarize the EU. Through networks the Commission can "infuse" its policies with legitimacy in a way that does not require treaty reform "and, in some cases, not even legislation"

3 See part 4 for a detailed discussion of the proponents of the no-demos thesis.

4 With publics Jorges & Neyer mean sites where national regulators present their arguments in a transnational arena (Jorges & Neyer 1997; 298).

(Heretier 1999; 271). But these networks must necessarily, in Heretier's view, remain substitute elements of democratic legitimacy. They can not legitimize the EU (Heretier 1999; 280).

The deliberative and network governance literatures point to novel solutions to the democratic deficit in the EU, but also have their limitations. The search for sites of deliberation within the EU is an exciting endeavor, reminiscent of Meny's call for new paradigms and rules for supranational democracy (Meny 2002). So far the results have nevertheless not been convincing; there are promising aspects such as the OMC and comitology, but it is difficult to see how the EU can claim any real democratic credentials without treaty reform. The network approach to democratic governance points to exciting new vistas for supranational democracy, and research has shown that there are certain merits to the Commission's creation of policy networks. But as promising as they may be, they do not involve broad citizen participation, and within the networks, the views represented on the substantive issues in question tend to be partial (Heretier 2003; 818, Magnette 2003; 149-50). Tsakatika (2007) goes so far as to argue that governance in itself is undemocratic: First, there is no possibility within governance processes to "throw the rascals out", second, civil society and government are fused, with the risk that organized civil society may be co-opted by government. Thus, scholars writing from the deliberative and the electoral perspectives take the view that governance practices at EU-level might even exacerbate the democratic deficit.

### Part 3: Efficiency

The literature stressing efficiency, or output legitimacy, focuses on the normative issue of proving that there is no democratic deficit that is specific to the EU. Rather, the question of the quality of democracy is argued to haunt all European democracies. Within this literature, the EU is viewed as a polity that handles issues the member states are not able to handle very well on their own anymore. A central strand of thought here refers to the complicated system of checks and balances present in the EU, the conception of legitimacy being a pluralist model coupled with minority protection. Another strand claims that the EU is not a democratic structure and never was intended to be one, and that therefore there is no democratic deficit. If the EU has a problem, then it is that the delegation of power to the EU from its member states is poorly structured.

#### Checks and balances

Where, as we have seen, Meny considers the constitutional element of the EU to be overdeveloped, Moravcsik considers this "overdevelopment" to be one of the EU's major legitimizing aspects (Moravcsik 2002; 605). For Moravcsik, the EU specializes in those areas where democratic states traditionally have made extensive use of delegation to independent agencies. Furthermore, the EU is constrained by substantial legal, fiscal and procedural "brakes" enshrined in treaties and legislative provisions. The EU has both direct and indirect accountability through the Council and the Parliament, maintains Moravcsik, and adds that semi-autonomous judges and technocrats providing expertise and minority protection lend a certain legitimacy to EU-level decisions. Such actors moreover provide majorities with unbiased representation.<sup>5</sup> Moravcsik argues that essentially, deliberation is

<sup>5</sup> Moravcsik refers to the fact that in open political processes (such as elections, direct democracy and deliberation) majority interests often fall victim to powerful minorities with particularistic interests. The

a fruitless exercise since voters within the EU do not care anyway (2002; 614). He concludes that the EU's policy output is close to the preferences of the median voter, and that there is no democratic deficit unique to the EU when judged by the same standards as the member states. Zweifel (2002) comes to a similar conclusion on the basis of a study comparing the EU, Switzerland and the USA on a number of democracy scales. The EU, he finds, does not deviate significantly from the other two cases he examines.

In a similar vein, Crombez's (2003) rational choice model of decision-making in federal systems shows the EU not to have a democratic deficit, when applied to the co-decision procedure. Crombez expects the democratic deficit to show up as a large deviation between the median voter's preference and the EU's policy output. The larger the distance between median-voter preference and policy output, the larger the democratic deficit (Crombez 2003; 104). The analysis nevertheless concludes that there is no democratic deficit per se in the EU. The only problems Crombez identifies are excess delegation and a lack of information. In this, the EU is not alone, Crombez maintains, similar to Moravcsik (see above). Crombez's suggestions for a more democratic EU, though, show more sympathy for Hix's & Follesdal's (as cited above) preference for more competition for key EU-level offices (Crombez 2003; 116). As Crombez only analyses the co-decision procedure, it is unclear to what extent his results apply to the other forms of EU decision-making, though admittedly, the co-decision procedure is currently the EU's main decision-making procedure.

Crombez and Moravcsik differ on one central point, namely the role of blocking minorities. A central concern for the consensus model of democracy is that minorities should not be excluded from the decision-making process (Lijphart 1999). Both Moravcsik and Crombez agree that blocking minorities is a central part of the "political game" in the EU. However, Moravcsik thinks that minorities' ability to block particular policies is essentially positive for democracy, although that undermines the popular dimension of democracy (Moravcsik 2002; 609). Crombez, in contrast, argues that blocking minorities prevent policy output from approximating the median voter's preference, thus representing an obstacle to democracy (Crombez 2003; 113).

Blocking minorities undermine the popular dimension of democracy, which does not sit comfortably with the political participation aspect of democracy. Furthermore, Hix and Follesdal (2006) rightly criticize Moravcsik for treating voter preferences as exogenous to the political process. Lord (2006) echoes this position, writing that "preferences in a democracy need to be deliberated and not just aggregated" (Lord 2006; 672).

#### The EU as a regulatory polity

The view of the EU as a regulatory polity is closely linked to the idea and practice of delegation and principal-agent relations. Tallberg (2002) has identified one aspect of delegation that may limit legitimacy and one aspect that may enhance it. Not surprisingly, the question boils down to what one views as the proper source of legitimacy. If procedural legitimacy is stressed, then delegation may decrease legitimacy as the agent has no external

insulation of certain policy fields from open political processes may prevent that from happening. This, of course, raises the question of how such fields are defined, and how and by whom they are governed; on this point Moravcsik is silent (Moravcsik 2002; 614).

source of democratic legitimacy, and because the agent has the possibility of acting beyond his/her actual terms of reference. If efficiency is viewed as the primary or only source of legitimacy, then delegation may enhance democratic legitimacy, if it produces Pareto-efficient policies from which EU citizens will benefit (Tallberg 2002; 36).

Franchino's studies (2004, 2005, 2007) of the reasons for delegating authority to the Commission and national agencies shed some light on the actual practice of delegation. Compiling a dataset comprising 158 of the most important legal acts adopted in the EU which serve as the basis for a "discretion index"<sup>6</sup>, Franchino finds that worries about the lack of accountability is unfounded as the Council has a large degree of control with regards to "bureaucratic drift" (Franchino 2007; 307, Franchino 2004; 291-2). Furthermore, in the majority of cases, delegation does not confer implementation powers to the Commission but rather to national agencies (Franchino 2004; 286-7). In this sense, fears of a vast bureaucracy beyond democratic control in Brussels seem unfounded.

Majone (2006) views the claim that the EU has a democratic deficit as a category mistake and thinks we should be concerned with a legitimacy deficit on the part of the EU, as opposed to with a democratic deficit. This perspective is closely linked to the conception of the EU as a regulatory polity run amok, so to say. A regulatory polity finds its legitimacy in transparency and clearly defined areas of authority, and in its autonomy from the political sphere (Majone 1998; 21). The EU is lacking in these areas and thus has a legitimacy deficit. A democratic deficit, in contrast, has to do with the lack of transparency and poorly defined terms of reference, which confuses the exact scope of the EU and particularly of the Commission. For Majone, it is clear that the peoples of the EU do not want more political integration, but would be satisfied with a purely economic regulatory polity a "size smaller" (Majone 2006; 620). The legitimacy deficit would in other words be relatively easy to correct, by simply restricting the Commission's scope to dealing with Pareto-efficient policies on the basis of clear mandates and more transparent working procedures.

Eberlein and Grande (2005), though partly sharing Majone's view of the EU as a regulatory polity, come to different conclusions. The lack of will to delegate further powers to the Commission has in their view resulted in the rise of informal networks in conjunction with the rise of the importance of EU legislation. This means that the regulatory polity has become more informal, and therefore less accountable. This raises issues of democratic legitimacy, therefore "it is very possible that the functionally effective back road of informal governance may end up in a democratic cul-de-sac" (Eberlein & Grande 2005; 106). Although some of the same issues are raised here as in the network approach, network scholars advocate more inclusive networks whereas in the regulatory polity literature we find calls for either the transfer of power to the EU based on clear terms of reference, or a re-nationalization of particular policy areas in relation to which no clear mandates are possible or desirable. However, this raises the issue of the appropriateness of networks in non-majoritarian governance structures. Zürn (2000) has rightly criticized Majone's approach as containing a paradox: Non-majoritarian institutions cannot deal with exactly those problems that international competition confronts nation-states with today. Because of their reliance on unanimity and negoti-

ation, redistributive policies will be vetoed by potential losers. If social policy and regulatory policies with strong redistributive effects are hampered at the national level and obstructed at the international level, then the initial question re-emerges as to how effective and legitimate governance beyond the nation-state can be accomplished. (Zürn 2000; 195).

#### Part 4: Social Legitimacy

A more fundamental question about the possibility of democratizing the EU concerns the issue of social legitimacy. Here the issue of a lacking demos at the European level is problematized. The main assumption made here can be summarized as "rather than being a mere electoral matter, democratic governance presupposes an institutional context characterized by intense communication and socio-cultural cohesion" (Cederman 2001; 140). This approach provides a criticism of those scholars who find that procedural legitimacy provides a political system with sufficient legitimacy. The central worry that the lack of a demos conjures up is captured very precisely in Jolly's statement that "without this [the demos] the legitimacy of the political unit will be contested, however impeccable its procedures" (Jolly 2005; 13, see also Schmidt 2004). According to De Beus (2001), the rise of a European identity is a necessary pre-condition to the development of a commitment to a public sphere beyond the nation-state. The central point developed in this literature is that without a democratic substructure, there can be no successful institutionalization of democracy at the European level. Further, one key prerequisite to such a substructure is the presence of a public sphere, which is not considered present today. In this vein, Sift et al. (2007) argue that in order for the EU to be democratically legitimate, public monitoring of EU governance is necessary as well as a common European discourse and a sense of belonging to a common community. In a longitudinal analysis of media discourse in five member states, these authors find that there is no significant European-wide discourse and that there is a communication lag between the EU and the member-state populations (Sift et al. 2007; 147). These authors conclude that the EU mainly relies on national legitimating mechanisms as it lacks the resources to justify its own decisions in a public discourse (Sift et al 2007; 1499).

These results are echoed in the statement that "the integration process must be slowed down in order for identity formation to catch up" (Cederman 2001; 162, see also Etzioni 2007). An empirical analysis of the effects of EU enlargement incidentally indicates that it might in fact be the identity-formation process which will experience a slow-down: 'Enlargement, in short, will make the prospect of a truly European demos recede that much further' (Zielonka 2004; 31). Zielonka goes on to conclude that the efforts to create a truly European public space and a genuine European demos will not bear fruit for decades, if ever (Zielonka 2004; 33). Schmitter, in the same vein, argues that there could be nothing more dangerous for the future of democracy in the EU than to thrust democracy upon a citizenry that is not prepared to exercise it and that continues to believe its passions and interests are best defended by national, not supranational democracy (Schmitter 2000; 115).

Bartolini (2006), in an ambitious classical macro-sociological and -historical comparative work, argues along the lines of the other authors in this section. One argument he makes forcefully is that the EU affects the nation-states in Europe by undermining their boundaries. That is, the EU is weakening national political

<sup>6</sup> The formula can be found in Franchino (2004; 283, 2007; 85).

structures without producing comparable European ones (Bartolini 2006; 381). He, among other things, specifically goes on to discuss the weakening of the shared identity and cultural homogeneity, or what he calls loyalty, within the European nation-state, which is taking place without a similar production of loyalty at the European level. This is problematic, as institutional democratization without system building (and loyalty) “may turn into façade electioneering at best, or dangerous experiments at worst” (Bartolini 2006; xv).

As can be seen, the key criticism developed here is rooted in basic ideas about democratic transitions. Where the electoral approach stresses the interplay between identity formation and democratic procedures, or democratic procedures only, the social legitimacy approach sees identity formation as a pre-requisite to democratic procedures. It is important to note, though, that most scholars adopting this approach do not conflate identity and cohesion with ethno-nationalist identity conceptions; they are perfectly comfortable with the notion of overlapping identities on a regional, national and supranational level. Whether cohesive identities is a pre-requisite to democratic procedures or could develop in tandem with them, however, is an empirical question that remains to be solved.

The focus on the development of a democratic substructure as a pre-requisite for democracy common to the scholars cited here is partially challenged by Habermas (2001), though he would agree that a common political identity is of central importance. For Habermas, a European public sphere is no sine qua non with regard to European-level democracy. Media outlets whose coverage transcends national boundaries would suffice.<sup>7</sup> Such a setting of interlinked national public spheres would provide the EU with a foundation for a common political identity (Habermas 2001; 18). Schmidt nevertheless challenges this view, claiming that without European-wide representative politics to focus the political discourse, European political elites have little opportunity to address polity issues directly and the public has few possibilities to deliberate and to manifest their views through voting (Schmidt 2004; 992). He develops this criticism further by showing that the democratic deficit at the EU level also has consequences for national democracies. On the national level, a state of politics without policies prevails, he says, whereas at the European level the situation can be described as policies without politics. Moreover, Schmidt argues, polities with simple majoritarian electoral systems have more difficulties dealing with the added layer of the EU than compound polities based on proportional representation (Schmidt 2006). One key development necessary to alleviate the democratic deficit, argues Schmidt, is for political elites to develop a responsible discourse where the impact of the EU on its member states is properly acknowledged. Subsequently, new ideas addressing change at the national as well as at the supranational level must be developed. This would involve advanced normative models allowing for multiple sources of legitimacy, and it is to such models we turn in the next part.

## Part 5: Multiple points of legitimacy

<sup>7</sup> A pertinent example is the Danish newspaper Information which have a collaboration with the English newspaper The Guardian, and regularly publish Danish translations of the Guardians articles.

The turn has come to an emerging literature combining several of the above approaches into an argument about multiple points of legitimacy in the EU (for an overview of kinds of legitimacy found in the EU, see Føllesdal 2004).

According to Heritier (2003), an interwoven web of different kinds of legitimacy is best captured by the concept of composite democracy. Composite democracy consists of “vertical legitimation [sic] through parliamentary representation [...]; executive representation [...] in the Council of Ministers; horizontal mutual control among member states; associative and expert representation in policy networks; and individual rights-based legitimacy” (Heritier 2003; 814). These elements are linked in the EU in such a way that bodies possessing different kinds of legitimacy are party to any EU-level decision.

Turning to the question of how different types of legitimacy may reinforce or exclude each other, Lord and Magnette (2004) find four “vectors” of legitimacy, which roughly correspond to Heritier’s five elements, namely indirect, parliamentary, technocratic and procedural legitimacy (2004; 184). First, indirect legitimacy refers to the principle that the EU’s legitimacy is a derivative of its member states’ legitimacy, its respect for their sovereignty and its ability to serve its member states. This closely resembles the principal-agent model described above. Second, the parliamentary legitimacy vector refers to the view that the EU’s chief source of legitimacy is a combination of a directly elected parliamentary body and the member states’ representation in the Council. Third, technocratic legitimacy is a derivative of the regulatory approach advocated by Majone (see above). Finally, procedural legitimacy does not, in Lord & Magnettes terminology, refer to any kind of electoral process but to transparency, proportionality, legal certainty and the consultation of stakeholders in the decision-making process.

These vectors reinforce each other in some ways in their interaction(s), and in other ways they exclude one another. The authors identify four mechanisms of reinforcement and exclusion:

- ◆ Partitioning of legitimating approaches: Particular vectors of legitimacy are confined to different policy areas.
- ◆ Relay of legitimating approaches: Different legitimating vectors apply to different stages in the decision-making process.
- ◆ Hierarchy of legitimating approaches: Different vectors may be arranged hierarchically, such as super-systemic (IGC), systemic (the Community method) and sub-systemic (policy networks).
- ◆ Mutual contamination: this resembles the deliberative approach, where supporters of different kinds of legitimacy alter their conception when exposed to different vectors.

One fundamental issue raised here is how to handle conflicts between the different legitimacy vectors; concretely, how can the EU respond to conflicting, but equally valid, notions of legitimacy? To this question Lord & Magnette (2004) suggest two possible solutions, namely bargaining and deliberation. Bargaining involves actors trading legitimacy claims. The idea is that actors with different notions of legitimacy would potentially be prepared accept certain political outcomes that they are essentially unable to justify in terms of their own normative beliefs. In exchange, actors with other notions of legitimacy would “re-

turn the favor” at other stages of the policy-making process. The deliberative solution takes as a given that actors are willing to embrace a set of norms comprising the following elements: a willingness to be persuaded and to let all views be heard irrespective of their relative positions of strengths, as well as to understand why other actors hold the views that they do. Moreover, all actors must be prepared to present their arguments in a manner that exposes their assumptions to challenge (Lord & Magnette 2004; 193-4). Neither type of solution is unproblematic, however. The bargaining solution carries with it the inherent risk that powerful and resourceful actors determine the outcome. The deliberative solution requires actors to internalize beliefs about the deliberative process.

Taking a different approach, Bellamy and Castiglione (2003) have developed a rather complicated theoretical model showing the intersection between internal and external legitimacy in connection to regime and polity creation. These authors see the EU as a polycentric polity with a multilevel regime. They argue that enhancing its legitimacy requires a set-up of institutional checks and balances along with enhanced citizen contestatory power (Bellamy & Castiglione 2003; 28-29). Moreover, they hold that legitimacy operates across the four dimensions mentioned above, and that no single dimension is sufficient in relation to the EU. Internal legitimacy relates to the values that political actors hold, whereas external legitimacy refers to principles used to evaluate a political system. Mainly, according to Bellamy and Castiglione, the EU has neglected the intersection between the scope and style of regime and sphere and subjects of the polity.

This focus on different sources of legitimacy is very much in line with Abromait's (2002) analysis of the feasibility of a European federation. Abromeit stresses possible discrepancies between federalism, consociationalism and the principle of one person, one vote (Abromeit 2002; 17). A compromise between effectiveness (majority rule) and democracy (unanimity) must in her view be found. Given the EU's territorially clearly defined units, federalism with majority rule in the units and unanimity at the federal level is her answer to the question of the EU's legitimacy. (Abromeit 2002; 17). She considers the parliamentarization of the EU an important instrument to focus public debate on federal policies, but essentially inadequate as a safeguard of minority preferences. Therefore a democratic (federal) version of the EU must, according to Abromeit, incorporate a number of different sources of legitimacy, namely efficiency, democracy, federalism and non-territorial federalism at different levels of the EU polity.

This strand of literature within the broader literature concerned with the EU and its democratic credentials shows promise in terms of transcending the sometimes one-sided scholarly accounts cited in earlier sections of this review. Particularly the focus on interaction between different kinds of legitimacy could prove an exciting new research agenda.

## Conclusion

The literature on the EU's democratic deficit is multi-faceted and as engaging as sometimes confusing. The debates between the different strands of literature identified here seem somewhat locked in stale-mates, their trajectories determined by the scholars' perceptions of competing sources of legitimacy. These debates have admittedly generated many thought-provoking contributions; nevertheless, there is a feeling that no new ground

can be gained once the various sets of arguments and positions have been stated, contested, and restated. It is becoming increasingly clear that in order to move forward, the literature must transcend old barriers and, to echo Meny (2002), develop truly novel models of supranational democracy and/or legitimacy. The new literature, emphasizing multiple points and vectors of legitimacy is a refreshing in this regard. It opens up the possibility of advanced normative models of democratic legitimacy not taking their points of departure in democracy as we know it in contemporary nation-states, but in the combination of different sources of legitimacy in the EU's institutional setup. Whether these possibilities will ultimately bear fruit, remains to be seen.

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