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The European Union

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The European Union

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Democratization has suddenly become a fashionable theme in both the practice and the study of European integration.[1] Since the Treaty on European Union (TEU) of 1991, which both raised the profile of the integration process and substantially extended the scope of powers enjoyed by the European Union (EU; the Union), the Union has become far more controversial. Received wisdom dictates that it suffers from a (generally unspecified) 'democratic deficit', which was scarcely noticed beforehand. Paradoxically, however, in the last decade several attempts to render the EU more democratic have actually been made, a good example being the significant empowerment of the European Parliament (EP). Moreover, the TEU made member-state nationals EU citizens, an unprecedented step in world history, even if EU citizenship remains rather limited. Indeed, the EU is preparing for both further enlargement and the next round of Treaty reform (due in 2004) by launching a process of 'civil dialogue' and a quasi-constitutional convention. These are supposed to provide suggestions about increasing the legitimacy and democratic credentials of the Union system.

This chapter explores the particularities and difficulties of the EU's democratization, and argues that the way forward is to construct a set of democratic practices based on deliberative democracy and active citizenship, cemented in and reflected by institutional reform. The EU case indicates much of interest to scholars of democratization in general, as it points towards the need both for innovative mixtures of experimentation and deliberative democracy and to re-think the links between the 'domestic' and the

'international'. First, however, it is necessary to examine the context in which EU democratization must be undertaken.

Framing the issue: EU democracy as a quadruple balancing act

Democratization of the EU is a very complex and unusual process. As a transnational system, the Union is unlikely to be suited to the straightforward application of models based on the nation-state, requiring instead innovations in the theory and practice of democratic governance (Schmitter 2000). Additionally, reformers must recognize that the EU is deeply coloured by a path dependency that affects both the nature of the EU system and the attitudes of actors within it about the possibilities for reform. Attempting to make common policy in the absence of a hegemon, Union decision-making has always been characterized by the search for consensus between key actors in the elites at national and EU levels, even though the elites' composition has changed as the inter-institutional balance of power has evolved. Lord (1998) observes that this 'extreme consensus democracy' has been at the expense of mass democracy, which explains both how perceptions of a democratic deficit have arisen and why the EU's legitimacy crisis of the last decade surprised many in positions of power. However, this culture of consensus usefully demonstrates that the EU must in fact balance different kinds of legitimacy and the demands of different groups of actors in order to be democratic. Thus, although the equilibrium between these different sources and types of legitimacy is clearly in need of revision, it is necessary to acknowledge that the approach itself – the instinct for balance – is both a reflection of the EU's own political culture and likely to remain necessary.

The first balancing act that the EU must perform is between different competing national views of what a democratic Union would constitute. The member states continue to want different things from integration in terms of both specific policy areas and its ultimate end-point, the so-called *finalité politique*. Consequently they differ in the degree of sovereignty they are prepared to exercise jointly

with their partners, and also over the specific regime they would consider legitimate to erect at EU level. Member states may agree that a certain policy area should be an EU competence, but differ enormously about the nature of the legislation to be made and the constitution of the relevant decision rules. Furthermore, there are differences in political culture that often shape national elite responses to any given issue, as is demonstrated most notoriously by the diametrically opposed German and British understandings of the term 'federal' (respectively a decentralized system based on strict separation of powers and a strong rule of law, versus a centralized superstate). Moreover, national elite views about the desirable outcomes of the integration process change over time. For example, Italy under Prime Minister Berlusconi appears far less viscerally pro-integration than formerly. Thus it is clear that this first balance must be constantly revisited; no particular view has an inherently superior legitimacy. Each state that joins the Union has formal equality with all other member states, so there is no a priori reason why, for example, Denmark's reluctance to sign up to the Schengen agreements on freedom of movement is less legitimate than Belgium's enthusiasm.[2]

The second balancing act is between the different levels of governance within the EU system. The Union has not replaced or superseded national systems, which continue to reflect different national balances between centre and periphery and various approaches to the welfare state; rather, the EU has 'fused' with them (Wessels 1997), leaving (sub)national governments to implement EU policy according to national dictates. In for instance Germany, Austria, Belgium and Spain, regional/local government is powerful, bolstered by strong normative claims to legitimacy based on the principle of local self-government, often enshrined in national constitutions. As a complex and varied system of multi-level governance the EU needs to reflect the demands and roles of governance at local/regional, national *and* European levels if it is to be legitimate. Moreover, democratizing the Union cannot be accomplished solely at EU level, but also requires change at (sub)national level, given that it is through actors and institutions there that most citizens will experience the Union as a policy-maker.

The third balancing act is between output legitimacy and input legitimacy. Traditionally, output legitimacy has

been preferred, in the hope that loyalties would be transferred to the Union as a result of its production of public goods perceived to increase the general welfare. But this approach has been insufficient for two main reasons. First, the EU's inability to develop the necessary redistributive policy, the member states having refused to give it the necessary competence and budget (despite the growth in relative importance of EU cohesion policy). Second, the Union's lack of attention to public participation, which has created, or at best done nothing to remove, a situation in which citizens are generally alienated from the integration process (Eurobarometer 54, Autumn 2000).[3] Thus democratization will require a shift in favour of input legitimacy, which will not be easy in the absence of a Europeanized civil society (Warleigh 2001). However, without the emergence of a self-conscious European *demos*, institutional change at EU level will not be perceived as legitimate but rather as the imposition of a false majoritarianism unrooted in (political) identity (Chryssochoou 2000[1998]).

The fourth balancing act is between different normative views of democracy. There are many different views about how democracy can be possible in the context of the EU, which may colour the different and changing national elite positions on the Union's *finalité politique.* However, this issue increasingly goes beyond national cleavages at the elite level to academic and popular debates on the best way to develop institutions like EU citizenship or the principles on which policy in newly-vigorous fields (such as justice and home affairs, or security and defence) should be based. In terms of political theory, this boils down to debates over the most appropriate way to mix principles of cosmopolitanism and communitarianism, both of which are relevant to the Union given its multi-level and 'fused' nature.

Particularities and difficulties: democratization in a quixotic polity[4]

The novel nature of the EU – its location at an uncertain and fluctuating point on a spectrum between classic international organization and supranational federation – means that it has numerous particularities. With regard to

democratization, the first of these is the need to specify a suitable comparator for analysis. As the first case of institutionalized transnational democracy, however flawed, the EU is a paragon of legitimacy compared with traditional international diplomacy or international organizations. National models are unlikely to be suitable as direct comparators, given their dependence on a range of features and structures that the EU does not possess (see Schmitter 2000: 15–19). In addition, unfavourable comparisons with the nation-states may exhibit an overly rosy view of democracy in contemporary Western states, ignoring trends like the shift to the executive and the emergence of a 'post-parliamentary' system.

Given that the Union is developing in terms of its competence, geographical scope, and modes of policy-making, a further particularity is the requirement to marry democratization to a system that is rather more obviously evolutionary and process-based than those operating in member states. There is an unusual clarity in the EU case of the need to be experimental with forms of democratic governance. Additionally – and partly as a result – the EU's democratization process is uncommon in its blunt revelation of the links between *state power* and democracy. This can be seen in the repeated and ongoing attempts to elaborate the principles of subsidiarity, proportionality and flexibility as means of marrying national interest with collective need. It can also be seen in the crude, but nonetheless instructive, trade-off between different types of sovereignty: 'national' sovereignty (understood as the power of national governments), and 'popular' sovereignty (understood as either that of a nation or of the collectivity of EU citizens).

A further particularity of the EU context is the failure of most of the concerned actors to appreciate the implications of the EU's quixotic nature for models of democratization. Although other models of reform have been articulated, most strategies tend to rely to an unhelpful degree on what can be called the 'liberal democratic blueprint' (LDB). This is not to say that liberal democracy has no virtues which could be remodelled for the EU; as Lord and Beetham (2001) point out, certain classic features of liberal democracy are certainly capable of such adaptation. However, the LDB, with its emphasis on majoritarian parliamentary systems,

ultimately provides a zero-sum choice about democratization as a yes-or-no response to the question whether the EU should become a federal state. This tends to reduce issues of democratization to arguments about the desirability or otherwise of federalism, which tend to be circular and incapable of solution. As Schmitter (2000) points out, there is a danger that citizens: (a) equate democracy as a set of principles and practices with one particular (albeit dominant) democratic tradition, namely *liberal* democracy; (b) decide that the EU cannot therefore be democratic on the grounds of national sovereignty; and (c) decide that the EU is therefore at best an undemocratic necessity to be suffered grudgingly, or at worst a system to be rejected in its entirety.

This pre-eminence of the LDB thus in fact creates the key difficulty of democratization in the EU: the centrality of the principle of national/state sovereignty in the debate. Creativity is thereby stifled; moreover, the 'Europeanization' of civil society – necessary to create a supportive and responsive arena for institutional reform (Pérez-Díaz 1998) – is thereby rendered more difficult. This is because citizens often simply fail to perceive when they need to engage with the EU to secure their objectives, as their horizons remain predominantly national. Moreover, given the pre-eminence of the LDB 'frame', they may consider that such mobilization is impossible in the EU system. Successful campaigning activity at EU level by non-governmental organizations has so far failed to change this situation (Warleigh 2001). Developing a meaningful set of common European values and principles requires more than their proclamation by treaty; without further popular interaction, citizens will continue to experience those values primarily as national phenomena.

A further difficulty is the need to address the fact that EU democratization is part of a general reconfiguring of the European state. Certain commentators have gone so far as to say that the integration process actually 'rescued' the idea of the nation-state in western Europe by allowing its successful rearticulation after the Second World War (Milward 1994[1992]). Whether or not this is true, it remains to be seen whether the Union can do as much for the new nation-states of Central and Eastern Europe as they accede. Nonetheless, it is clear that the EU is both a response to,

and a cause of, the changing form of the nation-state in Europe. It has a similar relationship with the view that the exercise of sovereignty is often best achieved through its 'pooling' – witness the euro currency. However, this means in turn that democratization of the EU is part of a process of re-thinking the state itself. This has had two principal manifestations to date. First, the neoliberal tendency to use the EU as a means of 'rolling back the state' at national level while failing to reintroduce the same state controls or functions at EU level. The success of the single European market and the weakness of Union social policy are illustrative. Second, the fact that the EU has opened a Pandora's box in terms of centre–periphery contestation, at least in some parts of some member states. This does not prove that the EU must always privilege neoliberal tendencies or lead to a 'Europe of the regions'. However, it does demonstrate that the EU's democratization is all the more difficult for its impact on intra-, as well as inter-, state relations, and its use as a means of rethinking what the state can, or should, do. This means that support for integration can wax and wane according to current perceptions and comparisons with relevant states. As an example, recall the difficult relationship between the EU and Britain's political left. In the 1960s and 1970s, the Union was considered part of a capitalist project to exploit the working classes; in the late 1980s, when Jacques Delors led the European Commission, there was a shift towards seeing it as a potential source of social democracy; and now, although the mainstream of the Labour Party remains relatively pro-European, the EU's failure to develop its competences in social policy has triggered a return to Euroscepticism on the left.

The way forward: towards deliberative democracy?

There are of course various positions taken about the way forward. Communitarians often argue that EU democracy is a contradiction in terms, given that it depends on the existence of a *demos*, which can be found at national but not 'European' level. Others argue in a more cosmopolitan manner that the way out of the impasse is to apply the

strictures of Western liberal democracy to the EU, making it a federation and hoping that the new institutions will cause *demos*-formation over time. However, most scholars are seeking to find a way between these two extremes. For there is an urgent need for some kind of further democratization of the Union to protect the benefits to date of the integration process, yet no great will at elite or popular levels to turn the EU into a state in its own right (see *inter alia* Chryssochoou 2000[1998]; Schmitter 2000).

Many analysts argue that the most suitable way to address the particularities and difficulties of democratizing the European Union is to apply a reform model based on deliberative democracy. This is because the principal problem is the lack of a Europeanized public sphere. That reflects the lack of a European political identity and solidarity between member-state nationals, their status as EU citizens having so far failed to alter significantly their sense of political identity. At popular and elite levels, there are substantial differences in perspective about both 'big picture' and more particular policy issues. There is no real sense of community, or *demos* (even civically-defined) at the EU level. Liberal democracy, with its dependence on a tightly-bound *demos* and over-reliance upon representative mechanisms that sit ill in the non-majoritarian EU context, is of limited help. Instead of implicitly assuming the existence of an EU political community, reformers must pay attention to the generation of one. Deliberation is a means by which this sense of community can be created by a process of difference management. It is also open-ended and process-based – which sits well with the evolutionary nature of the European integration process.

Deliberative democracy argues that the best form of democratic governance is one in which all those affected by a public policy engage in a process of deliberation: that is, they exchange views, try to understand other actors' needs and perspectives, and thereby reach a mutually acceptable outcome (Dryzek 2000). Thus, it is a process of constructing a common interest by learning and mutual accommodation. It is *not* a process of bargaining or interest aggregation; deliberation envisages the formation of a consensus through dialogue, not a package deal whereby actors reach strategic accommodations through processes of log-rolling.

To facilitate this, deliberative democracy envisages that issues should be treated in isolation from each other. Thus, participation is privileged over representation; the franchise is considered not just the right to vote but rather the ability to participate effectively in the formation of public policy, based on principles of pluralism, free debate and mutual recognition as political equals. Deliberative democracy thus favours input legitimacy over output legitimacy, and as a corollary depends on transparency and accountability, so that those who have engaged in deliberation can ensure that their input has been reflected in public policy (J. Cohen 1997). As a key asset in this context, deliberative democracy expects differences to exist, and seeks to provide a mechanism for actors to co-operate and build mutual understanding despite these differences. It is a means by which community can be built from the bottom up, and by which socialization can occur at both popular and elite levels through active citizenship, iterated contact, and social learning (Christiano 1997).

Further assets of deliberative democracy in the EU context are its adaptability, ability to generate a culture of voluntary compliance, and correspondence with the EU culture of informal politics and inter-institutional dialogue (see Dryzek 2000). Deliberation can be a means of making decisions in every policy regime, but is capable of providing different solutions to each issue and involving different groups of stakeholders as appropriate. This is in keeping with the EU, whose various competences are subject to different decision rules and involve many different actor sets. The ability to generate voluntary compliance is a particular benefit; EU policy depends on the member states (and their subnational governments and/or agencies) to implement policy, which leads to many gaps in the implementation of Union legislation. If legislation came from deliberation rather than log-rolling, the implementation deficit would probably diminish. In terms of inter-institutional dialogue, deliberation is of great relevance. It must be recalled that EU policy is generated through policy networks, given the unclear separation of powers and interdependence between the EU institutions and national equivalents. These networks function best when they engender a process of mutual understanding, such as the growing joint legislative culture

between the EU Council and the European Parliament (EP) that is being established as a result of the codecision process[5] (Shackleton 2000). Such networks can be long-term or issue-specific. What matters is that they are successful when marginal utility becomes translated into a process of mutual understanding and collaboration.

Of course, deliberative democracy is not capable of application to the EU in unaltered form; like any theory it must be adapted to the real-world context. First, there is the obvious issue of communication capacity. Deliberation is impossible if citizens cannot understand each other. In the EU there is no popular *lingua franca*, despite the growing dominance of English at elite level. This means that at least in the medium term deliberative democracy will have to be tempered with representative democracy (Lord and Beetham 2001), accompanied by creative approaches to the language issue.

Deliberative democracy is so different from conventional liberal democratic views that citizens may simply fail to recognize it as 'democracy'. Others might find its uses limited; deliberative democracy is more than capable of reconciling differences of principle rather than policy preference, but even 'sincere reasoners (may) . . . find themselves in principled disagreements' (Gaus 1997: 231). This means that arbitration institutions will be necessary; deliberation will sometimes require some form of political decision-making institution, to be used sparingly but occupying the apex of the system. Deliberative democrats often consider that if no mutual accommodation can be reached the proposal in question should fall. If this happens regularly, however, citizens are likely to question the worth of the system, no matter how greatly they influence it (Gaus 1997). This is especially problematic for the EU, which does not have great reserves of legitimacy on which to draw *in extremis*.

Furthermore, a well-known feature of the EU system is its ability to produce unanticipated outcomes to policy decisions through the intervention of opportunistic actors (Pierson 1996); deliberative democracy would need to reduce the potential for such outcomes to occur in order to retain credibility (Lord and Beetham 2001). Moreover, there are likely to be limits to the amounts of time and resources individuals are prepared to commit to deliberation:

'deliberation fatigue' is a real possibility if there are no intermediary or representative mechanisms to channel the fruits of deliberation into the policy-making process. However, this should not be taken to mean that uniform solutions to EU problems are always necessary. Deliberation could be a very useful means of indicating where and how vague principles like 'proportionality' (the idea that the EU should act only to the minimum extent necessary to secure an objective), subsidiarity (whereby responsibilities are allocated to either the (sub)national or the EU level) and flexibility (the idea that integration need not be uniform but may instead require differentiated structures and policy regimes) should be operationalized (see Warleigh 2002).

Thus perhaps the chief virtue of deliberative democracy here is its reliance upon, and signalling of the need for, a more participatory political culture. As the EU becomes much more clearly a process of *political* unification, the need for a reform process that draws heavily on active citizenship is clear if citizens are to be socialized into the EU system and thereby enable it to develop in ways they consider legitimate. The recent process of civil dialogue and the 'constitutional convention' hold some promise in this regard.[6]

Conclusion: drawing lessons in democratization from the EU

The main lessons about democratization from the EU case should not be considered as a prescription automatically to be applied in other cases, but more a broad-brush indication.

The initial lesson is that EU democratization must produce a substantive rather than a Schumpeterian form of democratic governance. Institutional aspects of democratization, while certainly in need of further attention, are merely part of the complex problematic; indeed, a rather greater part is the absence of a Europeanized civil society. Without this, democratization will be impossible, for the existence of a public sphere is what makes it possible for institutional reform processes to deepen and resonate with the citizens subject to it (Pérez-Díaz 1998). However, in the EU's case this represents a particular challenge: civil society

must 'Europeanize' (i.e. take on a specific EU rather than narrowly national element) in a context of a sustained legitimacy crisis and evidence of popular disaffection.

The second lesson is that deliberative democracy has a vital role to play in aiding this process of democratization-via-civil-society-Europeanization. Deliberative democracy places its emphasis on participation and input legitimacy. This is precisely the prescription needed by the contemporary EU, even if the nature of the Union as a polity places limits on the extent to which 'pure' deliberative democracy can be applied. Democratizing the EU requires the successful execution of a quadruple balancing act in which various sets of interests are entered into a process of dialogue and equilibrium generation. This should be conceived as a *process* that requires experimentation and creativity. The EU is an evolving polity, whose final contours are not yet clear and which appears to be subject to increasing differentiation in terms of its policy regimes and decision-making modes, as well as both its member states and their nationals. The struggle to democratize the EU is thus likely to be ongoing, perhaps requiring application of the deliberative method in different ways in order to reflect the changing status and composition of the Union and its citizenry.

The third lesson follows logically: it speaks to the need to reconsider the links between the 'domestic' and the 'international'. The EU is a particularly 'deep' form of regional integration. As such it reflects with great clarity a more general trend in contemporary politics, in which, thanks to globalization and interdependence, it is difficult to separate issues of domestic democratization from others like 'global justice' or 'ethical foreign policy'. In EU member states, national reform is restricted to some extent by EU norms such as the (albeit challenged) primacy of EU law. For the EU as a whole, democratization involves issues of political identity construction. These offer a laboratory for the study of how different communities can become part of a collective political culture.

Finally, and optimistically, the EU case suggests that democratization is a difficult, rather than an impossible, project. The Union has by no means succeeded in meeting all the challenges posed by its 'democratic deficit'. However, the latter crisis has acted as a catalyst for thought about

why democracy matters, and how it can best be reconfigured, in the EU. This thought increasingly points towards the need for creative solutions and the adaptation of existing theories and practices of democracy to a contemporary context characterized by increased societal pluralism and a more diffuse system for the exercise of public power. Innovation is the key to democratization of the European Union. So perhaps the main lesson to be drawn here is that democratization is possible, but only if we are prepared to think 'outside the box'.

Notes

1 EU studies have taken a 'normative turn' in recent years. This is, first, a response to the perceived democratic deficit and the official attention that has begun to receive. Secondly, it reflects trends within EU integration theory, which has been going through a period of revision and reflexive thought combining normative with meta-theoretical issues. Thirdly, it follows increased interest from scholars outside the international relations and political science traditions, alerted by the Treaty on European Union to the EU as a polity-in-the-making and investigating it as a novel site of democratization.

2 These agreements were made on an extra-treaty basis in 1985, and incorporated into EU law by the Treaty of Amsterdam (agreed 1997; ratified 1999).

3 Eurobarometer under the aegis of the European Commission regularly samples citizens' opinions from all member states.

4 Some of these particularities are described as part of the 'quadruple balancing act' and are thus not revisited here.

5 Codecision is one of the three principal legislative procedures of the EU, which vary in the degree of power granted to the EP. Codecision gives the EP the right to both amend and veto legislation, making it the legislative equal of the EU Council.

6 The Convention on the Future of Europe was established in September 2001 by the EU member states' heads of government. The members of the Convention represented the member states' heads of government, but also the various national parliaments, the European Parliament and the European Commission. Their task was to deliberate on four specific issues (the separation of powers between the EU and national levels; the simplification of the various EU treaties; the status of the Charter of Fundamental Rights, which had been 'attached' to the Treaties by the Nice Treaty of 2001; and the role of national parliaments in the EU system). To that end, the Convention produced a Draft Constitution for the EU, on which the subsequent round of EU Treaty Reform (to take place in late 2003–early 2004) is based.