

Does the EU Suffer from a Democratic Deficit?

The rejection of the Lisbon Treaty by the Irish electorate has given new vigour to the debate on the European Union's widely perceived democratic deficit. Does the EU indeed have a serious democracy problem? What are the options open to the European political leadership and which of these should be acted upon?

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Still in Democratic Deficit

A solution is defined in logic as that set of conditions which are individually necessary and collectively sufficient to produce a desired outcome. So what then would it take to solve the democratic deficit, or for that matter, to make any polity democratic?

First, democracy requires that citizens should be able to understand themselves as authoring their own laws through representatives. Only then can they be said to be self-governing.¹

Second, democracy requires public control. This goes beyond the previous condition to require that citizens should also be able to control the administration of laws once they are made.

Third, democracy requires political equality. Without this there would not be a straightforward "rule by the people". Rather, there would also be an element of rule "of some of the people by others of the people". Political equality, in turn, comprises equality of votes (one person, one vote) and equality of voice (equal access of all points of view to the political agenda).

Fourth, democracy entails a right to justification. John Dewey observed that it is hard to see how any one would accept the harsh discipline of being outvoted by others without some justification being offered;² and, before him, John Stuart Mill argued that a primary purpose of representative government should be to ensure that those "whose opinion is overruled, feel that it is heard, and set aside not by a mere act of will, but for what are thought to be superior reasons".³

Fifth, democracy requires a people, or, in other words, a *demos* that is widely understood as entitled to make decisions binding on all. On top of that there

must be agreement on who is to be included in voting and opinion-formation, and the citizenry must have the capabilities needed to perform its role in the democratic polity.⁴

With these conditions in mind it is no surprise that the application of democracy to the EU has been so hotly debated. On the one hand, the Union makes laws. Indeed, on some calculations it makes 75% of the new laws binding on European citizens. On the other hand, some of the conditions for democracy seem to be missing. So are European societies locked into a contradiction? Have they become committed to beliefs that presuppose democracy is the only form of legitimacy available to institutions that make publicly binding decisions⁵ at a moment in their history when their core values – and the sustainability of their social, economic and environmental systems – have come to depend on solutions to collective problems that, in turn, presuppose a shared polity that is unsuited to democracy?⁶

A False Problem?

For some, though, the notion of a democratic deficit in the European Union is a false problem, not a contradiction or even a dilemma. Consider three variants of this argument.

¹ For the full development of this argument see J. Habermas: *Between Facts and Norms*, Cambridge, Polity Press.

² J. Dewey: *The Public and its Problems*, London 1927, George Allen and Unwin.

³ J. S. Mill: *Utilitarianism, On Liberty and Considerations on Representative Government*, London 1972 [1861], Dent.

⁴ J. March, J. Olsen: *Democratic Governance*, New York 1995, Free Press.

⁵ J. Habermas, *op. cit.*

⁶ F. Sharpf: *Governing in Europe: Effective and Democratic?*, Oxford 1999, Oxford University Press.

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ban crime, on one side, and Islamic fundamentalism, uncontrolled immigration from certain parts of the world on the other) constitutes a substantial common ground for sharing perceptions of what we need to be protected from, not only as individuals but also as Europeans.”³⁹

As Professor Ralph Grillo of the University of Sussex notes, “Already by the early 1990s, fundamentalism had become ‘Europe’s latest ‘other’ ’ ... Islamism is constructed as what Europe is not, and an exclusionary European identity is projected as its opposite.”⁴⁰ Margaret Thatcher even went so far as to refer to fundamentalism as the “new Bolshevism”.⁴¹ So far, however, such consensus has served mainly those who

³⁹ S. Garcia: Europe’s Fragmented Identities and the Frontiers of Citizenship, in: S. Garcia (ed.): European Identity and the Search for Legitimacy, London 1993, Pinter, p. 14, quoted in Ralph Grillo: European identity in a Transnational Era, in: Marion Demossier (ed.): The European Puzzle, op. cit., p. 78.

⁴⁰ Ibid.

⁴¹ Margaret Thatcher: ?, in: The Guardian, 12 February 2002, cited in R. Grillo, ibid., p. 78.

wish to exclude Turkey from the EU, limit immigration, and other such policies, but has not provided a new normative foundation for building a more communal EU.

If the EU is unable to engage in much stronger and more affirmative community building, if there is no significantly greater transfer of commitments and loyalties from the citizens of the member nations to the new evolving political community, the EU will be unable to sustain the kind of encompassing, significant, and salient collective public policies and endeavors it seeks to advance. The EU needs either to move up to a higher level of community or retreat to being a free trade zone enriched by numerous legal and administrative shared arrangements, but not much more.

The world is watching both because of the importance of the EU *per se*, and because several other regional bodies, in much earlier states of supranational development, want to learn the best ways to engage in community building when the members of the community are nation states.

Andrew Moravcsik*

The Myth of Europe’s “Democratic Deficit”

One hears everywhere today that the European Union suffers from a “democratic deficit.” It is unaccountable and illegitimate. It is a distant technocratic superstate run by powerful officials who collude with national governments to circumvent national political processes, with regrettable consequences for national democracy. Some critics focus on the extent to which EU institutions fail to provide for objective democratic controls, as measured by transparency, checks and balances, national oversight, and electoral accountability. Others focus on the extent to which EU institutions generate a subjective sense of democratic legitimacy, as measured by public trust, popularity and broad public acceptance. The two are linked. Lack of opportunity to participate in EU politics, it is said, generates disillusionment, distrust and dislike of the EU, which further reinforces ignorance and unwillingness to participate in EU politics. The EU is caught in a vi-

icious circle that may be fatal unless major reforms are undertaken to expand popular participation.

This perception has dominated EU politics for the last decade. The belief that the EU’s “democratic deficit” must be redressed was among the primary justifications advanced by Joschka Fischer and other “founding fathers” for launching the EU’s recent and ill-fated constitutional project.¹ That is why it was designed with a symbolic “convention”, inspirational rhetoric and a major public relations push – all explicitly aimed at securing the involvement of disillusioned Europeans.² Rejection of the constitution (*cum* treaty) in referendums in France, the Netherlands and Ireland has only bolstered such perceptions. Commentators and politicians lined up to intone that “the people have spoken”. Deliberative democrat Jürgen Habermas, who previously called on fellow citizens to find a com-

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¹ J. Fischer: Vom Staatenverbund zur Föderation. Gedanken über die Finalität der Europäischen Integration. Vortrag an der Humboldt-Universität zu Berlin, Berlin 2000; P. Norman: The Accidental Constitution. The Making of Europe’s Constitutional Treaty, Brussels 2005; A. Duff: The Struggle for Europe’s Constitution, London 2006. This view is strongly supported by the interviews I conducted at the time.

mon identity around shared social values, now calls for Europe-wide referendums.³ Others call for European officials to be elected directly.⁴ Today the EU's democratic illegitimacy is all but taken for granted among European policy-makers, journalists, scholars and citizens.⁵

Yet the European "democratic deficit" is a myth. Such criticisms rest on a vague understanding of what the "democratic deficit" is, ignore concrete empirical data about whether one exists, and hold the EU to the impossible standard of an idealized conception of Westminsterian or ancient-style democracy – a perfect democracy in which informed citizens participate actively on all issues. This paper takes a different approach. It carefully specifies what is meant by public accountability and legitimacy, using six alternative understandings drawn from the EU's critics. It uses empirical evidence and the latest research to measure the state of EU democracy along these dimensions. And it assesses the results using reasonable and realistic standards drawn from the empirical practice of existing European democracies.

The result of this analysis is unambiguous: *across nearly every measureable dimension, the EU is at least as democratic, and generally more so, than its member states.* Efforts to "redress" the democratic deficit

through participation-enhancing institutional reform, moreover, are likely to be counterproductive. As the recent constitutional episode illustrates, they tend to generate greater public dissatisfaction and mistrust, as well as less representative policies.

The analysis below considers six alternative definitions of the "democratic deficit", capturing the full range of criticisms aimed at the EU today. Empirical evidence demonstrates that in each case the EU meets prevailing standards of real-world democratic governance. Regardless of how it is defined, the "democratic deficit" is a myth.

Political Accountability and the Democratic Deficit

The first three definitions of the "democratic deficit" considered here focus on objective measures of political accountability and limited government. Each focuses on claims that the EU has become an expansive technocratic superstate run by powerful officials who collude with their national counterparts to defeat the popular will and to circumvent national political processes and the popular will.

Is the EU an Encroaching "Superstate"?

Myth One: The EU is a powerful superstate encroaching on the power of nation-states to address core concerns of their citizens.

For some, the "democratic deficit" means the ever-expanding scope of EU governance encroaching on the rights and prerogatives of national citizens – in other words, an emergent European "superstate." In 1988, Jacques Delors famously predicted that "in 10 years ... 80 percent of economic, and perhaps social and fiscal policy-making" would be of EU origin.⁶ Today Delors' statement is often misquoted as a "factoid" in public discussion: one often hears that 80 percent of *all* European policy-making on *every* issue *already* comes from Brussels.⁷ This is one reason why many Euroskeptics – particularly those on the libertarian right – are concerned about what they see as the rise of a European superstate that aims to impose harmonized technocratic governance on diverse national

² European Council: Laeken Declaration on the Future of the European Union. Annex I to the Presidency Conclusions, European Council Meeting in Laeken, 14 and 15 December 2001; J. Fischer, op. cit.; A. Moravcsik: Europe Without Illusions, in: Prospect July 2005.

³ J. Habermas: Wacht auf, schlafende Mehrheiten für eine Vertiefung der Europäischen Union – Ein Interview mit Jürgen Habermas, 2008, available at: <http://www.perlentaucher.de/artikel/3795.html>. Habermas had previously suggested transferring high-salience issues, notably a European social policy, to the European domain in order to generate the conditions for ideal debate. J. Habermas: Why Europe Needs A Constitution, in: New Left Review, Vol. 11, 2001, pp. 5-26. Yet this puts the cart before the horse. Habermas believes common values make for useful deliberation. But he evades the fact that a viable common policy is required as well. There is little point in transferring a policy to the European level in an area where there is only violent disagreement. Europeans may, as Habermas points out, be social democrats as compared to Americans, but they neither agree on a common social policy in practice, nor want one in theory. (See e.g. Eurobarometer 68, p. 108; A. Moravcsik: In Defence of the "Democratic Deficit": Reassessing Legitimacy in the European Union, in: Journal of Common Market Studies, Vol. 40, 2002, pp. 603-24) Even social democratic critics agree on this. F. Scharpf: Governing in Europe. Effective and Democratic? Oxford 1999. For further discussion of what would be required see the "modest proposals" suggested by P. Schmitter: How to Democratize the European Union ... And Why Bother, London 2000; A. Moravcsik: In Defence of the "Democratic Deficit", op. cit., pp. 616-617.

⁴ A. Follesdal, S. Hix: Why There is a Democratic Deficit in the EU: A Response to Majone and Moravcsik, in: Journal of Common Market Studies, Vol. 44, 2006, pp. 533-62; S. Hix: What's Wrong With the European Union and How to Fix it, London 2008.

⁵ Cf. e.g. L. Siedentop: Democracy in Europe, New York 2001; A. Follesdal, S. Hix, op. cit.; J. Lodge: The European Parliament and the Authority-Democracy Crisis, in: Annals of the American Academy of Political and Social Sciences, Vol. 531, 1994, pp. 69-83.

⁶ Jacques Delors, Debates of the European Parliament, 6 July 1988, No. 2-367/140.

⁷ For some recent abuse of this incorrect factoid, see R. Herzog, L. Gerken: Europa entmachtet uns und unsere Vertreter, in: Die Welt, 13 January 2007; Lord Pearson of Rannoch, Lords Hansard, 27 October 2006, Column 1415-1416; Michael Bruter of LSE cited in: S. Lyall, S. Castle: Ireland Derails a Bid to Recast Europe's Rules, in: New York Times, 14 June 2008. For a response, see A. Moravcsik, A. Töller: Brüssel regiert nicht Deutschland, in: Financial Times Deutschland, 10 February 2007.

systems.⁸ Even moderate criticisms of the “democratic deficit” often rest on the view that an ever-increasing number of core national political issues are being transferred to Brussels.

This always was, and remains, nonsense. Recent academic studies show that the overall percentage of national laws that originate in Brussels total no more than around 10-20% – and they are not increasing rapidly.⁹ Just a moment’s reflection reveals that the “Delors 80% myth” is absurd on its face. While a powerful force in trade, monetary and certain regulatory matters, the European Union plays little direct role in areas involving government spending or direct administration: social welfare provision, health care, pensions, active cultural policy, education, law and order, family policy, and most infrastructure provision – and this is most of what modern states do. None is a likely candidate to be “communitarized” anytime soon.¹⁰ Other areas of EU activity, such as immigration, defense, indirect taxation, foreign policy, consumer protection, remain modest compared to comparable national powers.¹¹ Even within core EU economic areas, studies reveal, Brussels only rarely dominates national activity.¹²

⁸ L. Siedentop, op. cit.; J. Gillingham: *European Integration, 1950-2003. Superstate or New Market Economy*, Cambridge 2003; J. Rabkin: *Law Without Nations: Why Constitutional Government Requires Nation States*, Princeton 2005; R. Herzog, L. Gerken, op. cit.

⁹ For discussions of quantitative studies, see A. Moravcsik, A. Töller, op. cit. Also Denis MacShane in Hansard, 8 October 2008, Column 297. Such studies of Britain, France, Austria, Germany, Denmark and the Netherlands are based on data of new legislative output, which generate the numbers I cite. Such studies raise complex methodological questions, but probably tend to exaggerate the EU’s impact on national life, since they overlook: (a) the stock of existing legislation; (b) trivial changes; (c) a large amount of domestic non-legislative (i.e. bureaucratic) rule-making; (d) the importance of fiscal reallocation and regulatory interpretation in de facto domestic policy-making. In any case, the rough magnitude of the overall result is not in doubt: in almost all issues, autonomous domestic legislation dominates policy-making.

¹⁰ Nor is there much evidence, even from committed social democrats, that the EU is undermining social standards in Europe. Cf. e.g. F. Scharpf, op. cit.; A. Moravcsik: In Defence of the “Democratic Deficit”, op. cit.; A. Moravcsik, A. Sangiovanni: On Democracy and Public Interest in the European Union, in: W. Streeck, R. Mayntz (ed.): *Die Reformierbarkeit der Demokratie. Innovationen und Blockaden*, Frankfurt 2002.

¹¹ The impression left by the overall scholarly literature on EU politics is quite misleading in this respect. Scholars tend to be drawn to “new” and innovative policies and institutions (selecting on the dependent variable of future possibility, rather than current reality). This has generated enormous literatures on EU activity in areas such as, for example, social policy and the Open Method of Coordination (OMC). Yet actual cooperation in social policy remains negligible. Similarly, OMC has generated an enormous legal, social scientific and policy literature, despite the fact that even its strongest advocates do not claim that they have yet had any significant impact on substantive policy outputs. E.g. J. Zeitlin, P. Pochet: *The Open Method of Co-ordination in Action: The European Employment and Social Inclusion Strategies*, Brussels 2005.

¹² See footnote 6.

This division of labor is striking: Not only does the EU do less, but what it does do is relatively unimportant to voters. Despite all the hand-wringing about globalisation, issues like trade liberalization, business regulation, phylo-sanitary regulation, stabilizing Macedonia, and other EU matters remain of relatively little interest to the average European – certainly as compared to national issues. (Even in Britain, where Europe is debated more hotly than anywhere else, only 4% of citizens report considering anything connected with the EU “important”.¹³) What voters care about are issues like taxes, labour policy, welfare, healthcare, pensions, education, transport, defence and immigration. These are what political scientists and polling experts call “salient issues”: those that shape voting decisions and fundamental political alignments.¹⁴

Reality: There is no superstate. EU policy-making is limited to around 10-20% of national decision-making, largely in matters of low salience to voters, while the national polities retain control over most other, generally more salient issues.

Is the EU a Runaway Technocracy?

Myth Two: The EU is an arbitrary, runaway technocracy operated by officials subject to inadequate procedural controls, such as transparency, checks and balances, and national oversight.

Even if we accept that the EU is active only within a relatively small range of issues, some critics of the “democratic deficit” remain worried. They fear that these few issues are subject to unfettered and arbitrary rule by national and supranational technocrats – a system Oxford’s Larry Siedentop calls “bureaucratic despotism” in Brussels.¹⁵

This despotic European “technocracy” is as much of a myth as the European “superstate”. First, the EU lacks the capacities of a modern state. It cannot tax and spend, coerce, or implement. Its tax base is miniscule, totaling under 2% of European public spending, over which officials enjoy little discretion, since broad spending priorities are laid down by interstate consensus or, occasionally, by the Parliament. The EU has no army, police or intelligence capacity. Its bureaucracy totals some 20-30,000 officials, of which perhaps 1/4 are actually decision-makers – an administration

¹³ A. Moravcsik: “Don’t Know? Vote No!”, in: *Prospect*, July 2008.

¹⁴ For further discussion of salient issues, and a distinction between them and important issues, see the discussion of Myth Six below. The only important exception – an exception that proves the rule, as we shall see in discussing Myth Three – is the monetary component of macroeconomic management.

¹⁵ L. Siedentop, op. cit.

equaling that of a medium-sized European city.¹⁶ Thus EU officials cannot, and do not, implement most of European regulations, even where the EU enjoys unquestioned legal competence. Instead they are forced to rely on far more numerous and expert national administrations.¹⁷ The only characteristic of the modern state possessed by the EU is the power to promulgate regulations – it is a “regulatory state” – even if it cannot implement them.¹⁸

Yet even in promulgating regulation, the EU acts under the procedural straightjacket of extreme transparency, exceptional checks and balances, and tight national oversight. Unlike the many unitary national parliamentary systems of Europe, the EU is a separation of powers system, more like the USA or Switzerland. Political authority and discretion are divided vertically amongst the Commission, Council, Parliament and Court, and horizontally among local, national and transnational authorities. The result: any basic constitutional change in the EU requires unanimous consent from 27 member states, followed by domestic ratification by any means of the members’ choosing – a threshold far higher than in any modern democracy, except perhaps Switzerland. The current travails of the relatively innocuous European constitution illustrate how tight the constraints are.

Normal “everyday” legislation in Brussels must likewise surmount higher barriers than in any national system. Successively, it must secure: (a) consensual support from national leaders in the European Council to be placed on the agenda, (b) a formal proposal from a majority of the technocratic Commission, (c) a formal 2/3 majority (but in practice, a consensus) of weighted member state votes in the Council of Ministers, (d) a series of absolute majorities of the directly elected European parliament, and (e) transposition into national law by national bureaucrats or parliaments. Following that, implementation requires action by 27 sets of nation-state officials under oversight by national courts, under general guidance by the European Court of Justice, with any Commission action overseen by member state officials acting within the *comitologie* system.¹⁹

¹⁶ The member state officials in the sprawling Council buildings outnumber their permanent Commission and Parliament counterparts. Cf. D. Spence: *The European Commission*, London 2006; M. Kleine: *All Roads Lead Away From Rome? A Theory of Informal Institutional Adaptation*, Unpublished manuscript, Princeton 2008.

¹⁷ Competition and now monetary policy are exceptions. Cf. F. Franchino: *The Powers of the Union. Delegation in the EU*, Cambridge 2007.

¹⁸ G. Majone: *The rise of the regulatory state in Europe*, in: *West European Politics*, Vol. 17, 1994, pp. 77-101.

¹⁹ On the decision-making process, see S. Hix: *The Political System of the European Union*, New York 2005.

Such a set of barriers would be unimaginably high in a national context, where elected unitary parliamentary governments can often legislate effectively by a single majority vote and bureaucratic mandate.

One implication is that the EU is more transparent than most national systems. With so many actors in the mix, it is utterly impossible for Brussels to legislate secretly, quickly, or in the interests of a single narrow group. In addition, the EU has imposed state-of-the-art formal rules guaranteeing public information and input; studies show these protections are stronger than those of the USA or Switzerland.²⁰ It’s all in the *Financial Times*, or any one of the many publications and websites – including the EU’s own – that track legislation. The days when the Council deliberated in secret are long gone, if they ever really existed.

Such a system functions only where an extraordinarily broad policy consensus reigns, and it remains quite deferential to the exceptional concerns of individual states – functioning by *de facto* consensus rather than voting most of the time.²¹ Far from being a tool of tyranny or technocracy, as conservatives critics claim, it is close to the ideal type of Lockean or Madisonian “limited government.”

Reality: Far from being an arbitrary technocracy, the EU functions under greater restrictions on fiscal, coercive and administrative capacity, transparency requirements, narrower checks and balances, and a wider range of national controls than do the national governments of its member states.

Is the EU Electorally Unaccountable?

Myth Three: EU decisions are made by unelected officials not subject to meaningful democratic accountability.

²⁰ T. Zweifel: *Democratic Deficit? Institutions and Regulation in the European Union, Switzerland and the United States in comparative perspective*, Lanham MD, 2002; T. Zweifel: *International Organizations and Democracy*, Boulder 2005. Cross-national analysis of regulatory systems shows that EU transparency, public comment and access rules compare favorably with those of Switzerland and the USA. (For this reason, any scholar, journalist, or lobbyist has experienced that researching ongoing EU legislation is much easier than conducting similar studies on most national governments.) Another result of this, along with the absence of significant discretionary EU funding, is that the EU is less corrupt than most national systems. Even minor improprieties – such as the case of Commissioner Edith Cresson’s contract to a local notable – result in punishments unheard of in most, if not all, European domestic systems.

²¹ J. Lewis: *The methods of community in EU decision-making and administrative rivalry in the Council’s infrastructure*, in: *Journal of European Public Policy*, Vol. 7, 2000, pp. 261-289; D. Heisenberg: *The institution of ‘consensus’ in the European Union: Formal versus informal decision-making in the Council*, in: *European Journal of Political Research*, Vol. 44, 2005, pp. 65-90; A. Héritier: *Policy-Making and Diversity in Europe: Escape from Deadlock*, Cambridge 1999; M. Kleine, *op. cit.*

Even if one concedes that the EU's scope is limited, and its officials subject to tight procedural controls, some nonetheless worry that those who make EU decisions are not held electorally accountable for their actions. One can never, as the populist American phrase has it, "throw the bums out." The decision-makers are often bureaucrats, ministers, diplomats, and independent Brussels officials, who meet, sometimes in secret, in far-off capitals. Surely, then, there is a "democratic deficit" compared to more "political" national systems.

Again the charge is nonsense. Let's start with constitutional changes in the EU treaty. Any such major change is subject not only to approval by all governments, but to domestic ratification by any means member states choose. The recent referendum result in Ireland is just one example of how tight the constraint can be: a negative margin of less than 10% among a population totaling only 1% of Europeans has stalled continent-wide reform indefinitely.

In the everyday legislative process, democratic control is just as tight. Nearly every critical decision-maker – national leaders, national ministers, European parliamentarians, national parliamentarians – is directly elected. The most important formal body in the legislative process is the Council of Ministers, a forum where (elected) national ministers and their subordinate officials reach decisions, subject to any democratic constraint national governments see fit. Sweden and Denmark, for example, require *ex ante* parliamentary assent before national ministers vote in Brussels.²² The second most important body in the formal process, the European Parliament, is comprised of directly elected members: any European citizen can vote their representative out. Thereafter, European law is translated into domestic law by the same national parliamentarians, officials and governments who handle domestic statutes.

The only actors in the legislative process who are not directly elected, or directly responsible to someone who is, are European Commissioners and their officials. Ostensibly the Commission is a unique and important source of formal proposals: Euroskeptics make much of its power.²³ Yet the Commission's

²² My own interview data suggest that most EU issues are of little concern to Danish and Swedish legislators and citizens – thus supporting the argument below, under Myth Six, about the non-salience of EU politics.

²³ To be sure, Commissioners are named by member state governments, and increasingly reflect the partisan leanings of those who named them, but still have some autonomy once named. Cf. H. Kasim, A. Menon: European Integration since the 1990s: Member States and the European Commission, in: ARENA Working Paper 06/2004.

power has steadily declined in recent decades: Its *ex ante* agenda control has been usurped by the European Council, where (directly elected) national leaders meet to chart the EU's course, and its *ex post* control over the amendments and compromises has been assumed by (directly elected) European Parliamentarians.²⁴ The European Council is shearing off its informal foreign affairs and bureaucratic powers. Except in a few regulatory areas, such as competition policy, its authority is weak.

The dominance of directly elected politicians explains why the EU constantly responds to public pressure. In matters such as agricultural support, genetically modified foods, trade negotiations, services deregulation, labor market reform, energy policy and environmental protection, European policy responds to broad national electorates and powerful interest groups rather than national policy elites or Brussels technocrats.²⁵ Even in exceptional areas – EU enlargement, for example – where European leaders seek to pursue enlightened policies in the face of public skepticism, their actions today are both visible to all and clearly constrained by anticipated public reactions.

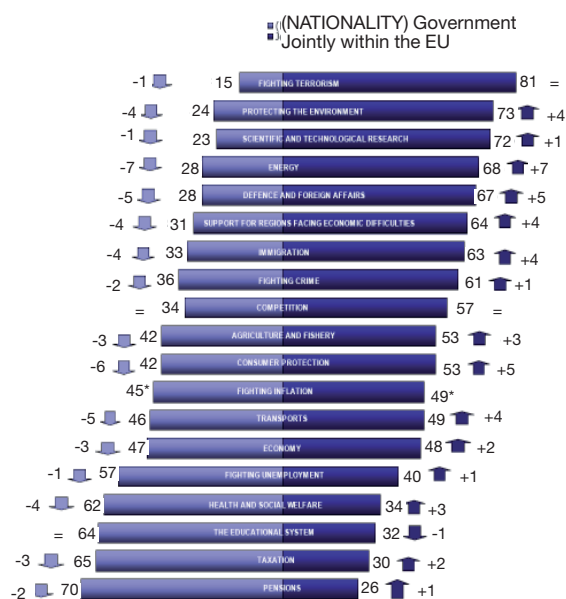
It is thus no surprise that Europeans today are getting the mix of EU and national policies that they say they want. Today, according to polls, "silent majorities" of Europeans favor stronger EU policies in areas such as defense, anti-terrorism, environmental, regional, immigration, crime, agricultural, consumer protection and anti-inflation policies. Similar majorities want member states rather than the EU to take the lead on pensions, health care, taxation, education, social welfare, and unemployment. Europeans favor balanced action on the economy and transport. (Cf. Figure 1) This approximates the institutional mix we observe on the agenda today.

Certain European decision-making institutions, to be sure, enjoy a unique level of insulation from direct democratic control. These include the European Central Bank, European Court of Justice, competition authorities, trade negotiators and fraud investigators. Yet there is nothing specifically "European" about these exceptions: they are *precisely the same governmental functions that national governments customarily insulate from popular pressure*. Publics everywhere insulate these activities such as central banking, constitutional

²⁴ J. Werts: The European Council, London 2008; M. Pollack: The Engines of European Integration, Oxford 2003; M. Kleine, op. cit.

²⁵ National positions on EU issues have long reflected the sort of political economic and regulatory concerns one would normally expect national leaders to espouse. A. Moravcsik: The Choice for Europe: Social Purpose and State Power From Rome to Maastricht, Ithaca 1998; A. Moravcsik: The European Constitutional Settlement, in: The World Economy, Vol. 31, 2008, pp. 157-82.

Figure 1
For each of the following areas, do you think that decisions should be made by the (NATIONALITY) Government, or made jointly within the European Union? – % EU27



Diff. Sp. 2007 - Aut. 2007 * New item

Source: Eurobarometer 68 (March 2008), p. 109.

adjudication, civil and criminal prosecution, and trade negotiation in order to achieve widely accepted public purposes: to assure expert decision-making, long-term vision, proper deference to individual and minority rights, and objective decision-making free from special interest pressure. The proper normative and policy-analytic question to ask about such acts of delegation is whether the resulting insulation of policy-making is greater than one observes in most national systems and, if so, whether there is a general constitutional justification of the sort mentioned above – protecting minority rights, offsetting special interests, improving the epistemic quality of decisions – for such insulation.²⁶ (The only European institution that lacks *prima facie* constitutional justification of this type is the European Central Bank, which is more independent than any national counterpart with no obvious technocratic or normative justification.) Overall, European institutions clearly lie within the norms of common Western constitutional practice.²⁷

²⁶ R. Keohane, S. Macedo, A. Moravcsik: Democracy-Enhancing Multilateralism, in: International Organization, Vol. 63, 2009 (forthcoming).

²⁷ A. Moravcsik: In Defence of the “Democratic Deficit” ... , op. cit., p. 621, for the argument that the ECB deserves closer scrutiny.

Reality: Nearly every individual EU decision-maker is subject to democratic accountability, and due to their large number, the overall level of direct accountability is greater than in national decision-making.

Points 1-3 demonstrate that the EU does not suffer from an objective “democratic deficit”. Far from being a technocratic superstate filled with arbitrary officials immune from procedural limitations and democratic constraints, the EU is narrowly constrained by its narrow substantive mandate, limited institutional power and tight requirements of democratic accountability – more so, in fact, than its constituent member states.

Political Legitimacy and the Democratic Deficit

A demonstration that EU institutions provide adequate public accountability and limited government does not satisfy all of its critics. Some understand the term “democratic deficit” to mean something different. Even if EU institutions are open, democratic, and procedurally fair, they protest, Europe is widely *perceived* as being democratically illegitimate. It is seen as too distant, insulated, and un-participatory to be properly democratic. Europeans seem neither to like nor trust the EU, and thus it lacks a “subjective” sense of democratic legitimacy. Some believe this contributes to apathy and a degradation of the democratic spirit necessary to bolster good governance. What is needed, it follows, is fundamental institutional reform to bring the public “closer” to EU policy-making, to enhance participation, and to increase involvement in European discourse.

Yet this understanding of the “democratic deficit” as “legitimacy crisis” lacks empirical support, just as arguments for the existence of a democratic deficit did – and institutional “fixes” for it are misplaced, if not counter-productive. Three forms of the argument for the existence of a “legitimacy crisis” deserve consideration.

Do Referendum Defeats Signal Public Dissatisfaction?

Myth Four: Negative referendum results in places like France, the Netherlands and Ireland expressed the fundamental dislike or mistrust of European citizens for the EU and its policies.

In the wake of the Irish referendum, Johannes Voggenhuber, Vice-chairman of the European Parliament’s Constitutional Affairs Committee, warned, “For the EU, the No signifies a crisis that threatens its existence.”²⁸ It is tempting to read referendum defeats in various countries as a considered public vote of

²⁸ T. Barber: Europe’s rocky road: An Irish rebuke leaves leaders be-
 reft of answers, in: Financial Times, 15 June 2008.

“no-confidence” in the EU. Most analysts do. Those who followed high-minded debates over referendum issues in *Le Monde*, *NRC Handelsblad*, or the *Irish Times* often assume citizens cast their votes for the reasons that were discussed there. Citizens have deliberated, and they have spoken.

Yet the truth is that there is almost no connection between voting behavior on referendums (or any other elections) and public attitudes on Europe. Almost no one in these countries votes – and in particular, votes “no” – on the basis of specific European issues or grievances.

Consider, for example, the recent Irish referendum, where 42% of “no” voters admitted to pollsters (thus surely an underestimate) that they opposed the treaty because they were ignorant of its content. (A popular slogan ran: “If you don’t know, vote no!”) A substantial group admitted voting “no” because they believed the constitution contained specific clauses that were not in it, e.g. the EU would be able to reinstate the death penalty, legalize abortion, conscript Irish into a European army, impose taxes by majority vote, force in floods of immigrants, imprison three-year-olds for educational purposes, and undermine workers’ rights – all matters *entirely* outside Brussels’ legal competence. The only genuine issue of significance that appears to have affected a significant number of “no” voters was the loss of an Irish Commissioner – and even this was taken out of context.²⁹ Other, general, EU issues appear to have played similarly little role, with the possible exception of agricultural trade liberalization.³⁰

The French and Dutch referendums of 2005 display similar dynamics, but also underscore another disturbing tendency: voters often use Euro-elections to cast protest votes on national issues: opinions about the ruling party, globalization or immigration involving non-EU countries, and other matters not involving the EU.³¹ Similarly, it has long been noted that elections to the European Parliament generate relatively low turnout and are hardly influenced by European issues.

²⁹ Millward Brown IMS: Post Lisbon Treaty Referendum, Research Findings, September 2008.

³⁰ This is an ironic result, since much of the misinformation was the work of Libertas, an opposition organization funded by anti-tax millionaire Declan Ganley – a militant opponent of the CAP who posed as a friend to Irish farmers long enough to secure their votes. A. Moravcsik: “Don’t Know?” ... , *op. cit.*

³¹ The only EU issue of any consistent weight was opposition to future Turkish enlargement, an event unconnected with the constitution, perhaps 15-20 years away, and in any case only a primary motivating factor in less than 10% of “No” votes. Even the close link between globalization and negative attitudes toward the EU, which some might interpret as the beginnings of a new cleavage, is more pronounced in France than elsewhere.

Instead voters use them as a chance to cast protest votes against national parties.³² In national elections in Western Europe, EU affairs have played almost no significant role for over a generation.

Even if we did take the referendum results seriously, we should remember that a vote against the constitution is a vote in favor of the status quo. This reflects an important fact: in no member state (not even the UK) does any significant portion of the electorate or any major political party favor withdrawal from Europe or any one of its major policies.³³ In Ireland today, for example, nearly 70% of voters have a “positive” (rather than neutral or negative) image of the EU.³⁴ As we have seen (see Myth Three), most Europeans favor the incremental changes in the EU proposed in the constitution. Whatever the referendums demonstrate, therefore, it is not a basic public antipathy toward the European Union.

Reality: Voting on European issues in referenda, Euro-parliamentary elections, and national elections, are not driven by any informed antipathy toward Europe.

Does Low Participation Cause Public Distrust and Dissatisfaction?

Myth Five: European institutions are disliked or mistrusted by publics because they do not encourage mass public participation. More public participation would enhance the EU’s popularity and public trust.

While some Europeans are coming to understand that referendums are a poor forum in which to debate concrete issues and grievances, many still believe that poor referendum results – and voter apathy in European Parliament elections – taps into a general dissatisfaction with the EU. Much public commentary and scholarship assumes that this disillusionment stems from the widespread perception that EU institutions are distant, elitist and non-participatory.³⁵

³² Political scientists refer to EP elections as “second order” national elections. K. Reif, H. Schmitt: Nine Second-Order National Election Results. A Conceptual Framework for the Analysis of European Election Results, in: *European Journal of Political Research*, Vol. 8, 1980, pp. 3-44. We should not exaggerate the low turnout for Euro-parliamentary elections. At around 50%, it is low by European standards, yet it is roughly average for a US presidential election.

³³ This status quo bias helps explain why the constitution was and remains a conservative document, containing little major reform – certainly nothing approximating what the French term a “grand projet”, akin to the single market or single currency. The constitution cum treaty adjusts voting weights and consolidates the foreign policymaking structure, while retaining (even strengthening) its intergovernmental nature. It moves a modest number of policies toward qualified majority, of which only home affairs is truly significant.

³⁴ Eurobarometer 68, Final Report, pp. 99-101.

³⁵ E.g. A. Follesdal, S. Hix, *op. cit.*

Little empirical evidence supports this view. Rather than speculating, consider what we learn from asking citizens what they actually think. Direct polling reveals that only 14% of Europeans currently have a negative image of the EU, while around half (49%, down 3% from the preceding quarter) see its image as positive and 34% (up 3%) are neutral.³⁶ Moreover, Europeans trust EU political institutions *as much or more* than their national political institutions. (Cf. Figure 2) (Trust fluctuates year-to-year but has generally remained high: in Autumn 2007 48% trusted the EU; Spring 2007 saw a record total of 57%.³⁷) This compares favorably with national institutions: The European Parliament is significantly more trusted than national governments, the EU (and UN) significantly more than national governments, and the European Court of Justice slightly more than national legal systems.

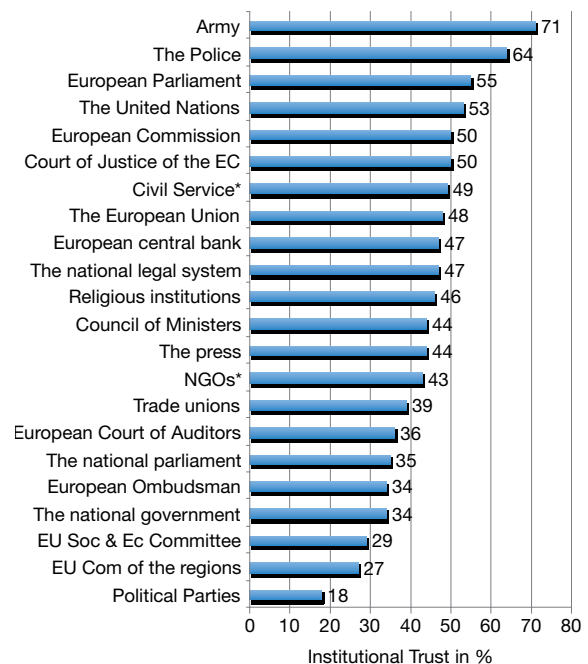
Even if there were a problem with trust in EU governance, moreover, it would almost surely be unrelated to the fact that EU institutions afford less *direct* public participation than national governments and more indirect democratic control. This is because, despite what many believe, *participation in democratic institutions does not foster public trust*. Studies of the democratic political systems of the EU reveal no positive correlation between political participation and trust. (Cf. again Figure 2) Indeed, the correlation, if any, appears to be *inverse*: in Western democracies, citizens tend to trust and favor non-participatory institutions (e.g. the military, courts, the central bank, bureaucracies) *more than* “political” ones (e.g. the national government, parties and politicians, NGOs, the press). Thus it is precisely those political actors most closely involved in EU politics who enjoy the greatest public trust. This may be one reason why the EU is more trusted than national governments.

Certainly there is no reason to believe that encouraging more participation in EU policy-making will generate trust or popularity. Rather the reverse is likely to be true, though not because of any antipathy towards Europe. Institutional reform to “democratize” Europe is likely to be counterproductive, generating opportunities for Euroskeptical demagoguery, rather than more public trust.

³⁶ Eurobarometer 68, Final Report, p. 100.

³⁷ These results appear stable. Table 1 is quite similar to parallel 2001 data analyzed elsewhere. See A. Moravcsik: What Can We Learn from the Collapse of the European Constitutional Project?, in: Politische Vierteljahresschrift, Vol. 47, 2006, pp. 219-41, and full discussion of this line of argument there.

Figure 2
Institutional Trust Among EU-27 Publics (2007)



Sources: Eurobarometer EB 68, Final Report, Chapter I-3.3, II-3.2, 3.3. * Civil Service and NGO questions were not repeated in the 2007 study, so are inserted from 2001 EU-15 data from Eurobarometer 56.2 (October/November 2001). Other results are otherwise broadly similar. Responses are from the question: "... For each of the following institutions, please tell me if you tend to trust it or not to trust it?".

Reality: European political institutions generate as much or greater popular trust than national ones, probably in part because they are non-participatory. Institutional reform would likely reduce the EU's public trust and popularity.

Do EU Institutions Stifle Legitimate Political Participation?

Myth Six: Voters fail to participate actively and intelligently in European politics because existing EU institutions disillusion or disempower them. Institutional opportunities should be created to increase participation.

If Europeans have ample opportunity to debate European issues and influence EU policy-making – via national elections, elections to the European Parliament, referendums, and public debate – why do they resolutely refuse to do so? We have seen that referendums, Euro-parliamentary elections and national elections do not generate voting or serious discussion on the basis of European issues. Some critics of the “democratic deficit” argue that the problem lies in the tendency of EU institutions to stifle active,

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intelligent public participation. By providing insufficient opportunities for participation in EU politics, institutions disillusion and disempower European citizens, dissuading them from active involvement in its politics. Publics come to believe participation would have no impact on policy and further resent the EU for it. A vicious circle sets in. The solution to this problem, many argue, is to reform EU institutions so as to provide for more public participation, via pan-European elections, referendums on a simplified constitutional text, or direct elections for the Commission.³⁸

This final interpretation of the democratic deficit has no more empirical support than its five predecessors. Institutional opportunity is not the binding constraint on public participation. As we have seen (Myths Three and Five), opportunities to influence EU politics abound, yet Europeans refuse to engage in political learning, organization-building, mobilization and voting behavior *no matter what the institutional forum*. This lack of interest is not driven by a perception among citizens that efforts to influence policy via European institutions are inefficacious or futile. Polls tell us citizens are fully aware of – indeed perhaps exaggerate – the increasing importance of the European Parliament, and yet they turn out for direct elections to it in low and declining numbers, and treat them as “second-order elections” in which protest votes are cast on national issues – something scholars find baffling.³⁹ Surely citizens must believe that voting in national elections for national politicians – say, Margaret Thatcher, Helmut Kohl or Nicholas Sarkozy – makes a difference for the EU, and yet the British, Germans and French almost never take account of European matters in such elections. And it is downright absurd to argue that the outcomes of referendums, such as the recent one in Ireland, have no impact, or are unclear in their consequences. Institutional design is not the problem.

Non-participation and apathy result instead from citizens’ attitudes toward European issues. From the perspective of citizens, the critical fact about EU politics is that it is boring. Few Europeans know or care about the substantive content of the issues involved.⁴⁰ Recall (Myth One) that almost all the “salient” issues in

European politics remain national.⁴¹ In roughly declining order of importance, the only issues able to mobilize public organization, voting behavior, are: social welfare provision, pensions, health care, macroeconomic management, taxation, education, infrastructure spending, family law, law and order, immigration, defense spending, and the environment.⁴² There is good reason to believe that European citizens refuse to participate meaningfully – regardless of the institutional forum – because the issues they care about most are not handled by the EU. They are rational, choosing to allocate their time and energy to other matters.⁴³

It follows that *efforts to mobilize voters around European issues will be counterproductive*. Consider the last decade of “constitutional” politics in the EU. The constitution contained no major reforms. It was, rather, a public relations exercise, an effort to appeal directly to voters – to mobilize, politicize, and thus to inform them through a high-profile, idealistic document.⁴⁴ Without salient issues, however, voters (unlike the Euro-policy wonks and parliamentarians who designed the scheme) had no rational incentive to become engaged in the process, or to inform themselves about the document when it had to be ratified. They were confused by the document’s content and purpose – doubly so because of the striking incongruity between its modest content and its grandiose rhetoric. Without salient issues, as we have seen, rational voters either act on the basis of ignorance or import national issues they do care about.

Future efforts toward forcing participation in the context of widespread popular apathy would simply hand the European issue over to extremists. Again the constitutional debacle is an instructive example. Ideologues, Euro-enthusiast or Euro-skeptical, were among the only citizens who cared deeply about

³⁸ S. Hix, *op. cit.*

³⁹ J. Blondel, R. Sinnott, P. Svensson: *People and Parliament in the European Union: Participation, Democracy, Legitimacy*, Oxford 2008.

⁴⁰ A. Moravcsik: *Why Europe Should Dare to be Dull*, in: *European Voice*, Vol. 12, 2006.

⁴¹ By salient issues I do not mean those issues that are, in some objective sense, “important”. Obviously many European issues have a significant redistributive impact. In these cases citizens make their views known by traditional means: through interest groups, national parties, and such. By salient issues, I use the term as voting behavior and polling experts do: to designate issues that citizens consider important enough to motivate the sort of major shifts in mass voting, political learning or political organization that would be necessary to generate a shift of organization, allegiance, education, and behavior required to politicize EU decision-making at the mass level. Hix and Follesdal miss this distinction entirely in their JCMS article, accusing those, such as myself, who argue that EU issues are “non-salient” of necessarily holding the view that EU policies lack socially redistributive consequences – a view of politics so absurd that it does not require rebuttal. Cf. A. Follesdal, S. Hix, *op. cit.*

⁴² Even by the end of this list, with issues like defense, we have reached the tail of the distribution, with relatively few voters actually casting ballots on this issue.

⁴³ For further discussion, see A. Moravcsik: *Why Europe ...*, *op. cit.*

⁴⁴ Cf. footnote 2 for references.

the outcome. The resulting debates, dominated by believers in a centralized “ever closer union” on the one side and skeptics of Europe on the other, ignored the pragmatic middle favored by most Europeans. A small Eurosceptic minority, excluded from politics everywhere for a generation – the UK being only a partial exception – saw the chance of a generation and grabbed it. As we saw in the discussion of Myth Four, such groups easily manipulated the public with ideological appeals. This sort of ignorant, ideological demagoguery and debased democratic deliberation is hardly something either political philosophers or common citizens would consider desirable in their own domestic politics, where referendums are rarely held and are often unconstitutional. In the context of low-salience issues, any future effort to induce greater participation is inherently condemned to generate (at best) continued apathy and (at worst) another explosion of plebiscitary populism.

Reality: Voters fail to deliberate meaningfully about EU affairs not because they are prevented from doing so, but because they do not care enough about the EU’s (non-salient) issues to invest sufficient time and energy. By generating uninformed debate, encouragement of more participation is likely to be counterproductive.

Conclusion: A Return to Reality

There is no “democratic deficit” in Europe. Whether we define it as an absence of public accountability or as a crisis of legitimacy, the empirical evidence for the existence of a “democratic deficit” is unpersuasive. Certainly Europe is no worse off, overall, than its constituent member states. Reform to increase direct political participation, moreover, would almost likely undermine public legitimacy, popularity and trust without generating greater public accountability.

The policy conclusions are equally clear. Radical critics of the democratic deficit like Habermas and Hix, in seeking to cure the faults of populist democracy by importing even more populist democracy – either through pan-European elections or by introducing salient issues like social policy to the EU in defiance of European public opinion – are defying both political science and common sense. Rather than toying with radical democratic reform, Europe should embrace the mode of indirect democratic oversight currently employed, whereby national governments representing national parties manage EU policy via the European Council, the Council of Ministers, and the directly elected European Parliament.

For those who care about maintaining healthy national democracies, there is something normatively comforting about current democratic arrangements rooted, first and foremost, in elected national governments.⁴⁵ The issues that matter most to voters remain overwhelmingly national, both in word and deed. Citizens continue to define their partisan allegiances on the basis of salient (thus largely national) issues, but have good reason to trust politicians and parties to represent their interests in Brussels. This system has worked well for a half century – and continues to do so. Despite the misguided constitutional experiment, the EU has just completed an extraordinarily successful period of 15 years: the completion of the Single Market, the establishment of a single currency, the expansion of the Schengen zone, the enlargement to 27 members, and deepening of crime prevention, foreign and defense policy cooperation – to name only a few recent achievements.⁴⁶

To some, this sanguine view might appear to be unorthodox and extreme, even deliberately provocative. But it is not. It rests on elementary political science and basic common sense. As applied to national political life, there is nothing controversial about the empirical claims on which it is based. At home, we do not generally treat referendum defeats on non-salient issues as threats to the basic legitimacy of the political system. We do not view indirect democratic accountability via ubiquitous constitutional institutions like constitutional courts, central banks, regulatory authorities and foreign policy authorities as illegitimate or undemocratic. We do not expect non-salient issues alone to motivate informed voting or meaningful democratic mobilization. We do not believe that increased political participation will be a panacea for the ills of political systems.

Only within the curious rhetorical universe of EU politics does all the conventional wisdom – familiar to first-year political science undergraduates and newspaper columnists alike – go out the window. It is time we stop holding the European Union to a democratic double standard, a standard no nation-state can meet, on the basis of innuendo. We should view European politics as normal everyday politics, and judge it on the basis of hard evidence. When we do, the “democratic deficit” will be exposed for the myth that it is.

⁴⁵ A. Moravcsik: *The European ...*, op. cit.

⁴⁶ Some have speculated that the European Union is unstable, but this claim seems more theoretical than empirical. Cf. e.g. A. Etzioni: *The EU as a Test Case of Halfway Supranationality*, in: *EUSA Review*, Vol. 17, 2004.