

The EU's lack of shared interests will continue to inhibit the creation of genuine democratic culture

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*How can the EU survive in a post crisis world, given the asymmetry of its decision-making apparatus? **Andreas Follesdal** argues that this, along with other issues that beset the aimed democratisation of European institutions, hinders the creation of a real culture of democratic accountability and legitimacy.*



Many reflective scholars voice concern about persistent features of the EU that hinder realistic *democratic* control, concerns whose urgency has increased dramatically with the euro crisis and the responses to it. A remarkable feature of these contributions is how much they differ in their diagnosis and hence prescriptions.

To illustrate, for [Majone](#), the 'Community Method' is part of the problem, whilst for Habermas more of the 'Community Method' is part of the solution. The more fundamental concern is arguably the normative legitimacy of the EU. One influential strand of proposals has been to address the alleged legitimacy deficit by increased measures of democratic deliberation and accountability. I suggest that we need to reconsider our democratic standards, especially if the EU keeps features of an asymmetrical federal order with different constituent parts enjoying different levels of influence and power.

Symptoms (alleged and real) and diagnosis

Some symptoms of a democratic (and or legitimacy) deficit such as low voter turn out seem open to alternative diagnoses, so that some such statements are contested and perhaps unduly critical. Other symptoms merit more concern

The Power of the Commission and the Practice of 'Open Method of Coordination'

Several scholars have noted persistent institutional features that prevent effective direct and indirect democratic control of important agents in the EU. Giandomenico Majone's recent book *Europe as the Would-be World Power: The EU at Fifty* urges a downsizing an EU that has expanded far beyond what Majone had recommended. He also diagnoses some of the fundamental structural flaws, especially the dominance of the Commission. Similar skepticism is due the 'Open Method of Coordination' (OMC) as a mode of decision-making whereby the Commission facilitates agreement among the states to 'soft' guidelines and targets. This runs counter to those who have high hopes about OMC as an innovative alternative to hierarchical political accountability, on the grounds that it is better at promoting deliberation, problem-solving, and [participation by all groups](#).

I submit that the claims made in favour of OMC remain unsupported. One [early commentator](#) correctly claimed that 'if the structure of the network in terms of interest representation is well balanced, the network will tend to open up policy-shaping opportunities for a variety of diverse actors without interests being realized at the cost of third parties'. However, critics question whether such conditions ever hold, and if so, how they are maintained. In addition, several questions remain about the 'deliberative quality' of the processes.

Lack of Political Community/European Identity

Several authors lament the lack of a murkily defined 'European identity'. Why? First, ordinary citizens are sometimes asked to refrain from benefits in order to benefit other members of the citizenry out of a sense of solidarity (of an 'us') or compassion. Second, those who lose out in majoritarian decisions of EU bodies must still be expected to comply, and the motivation for this may stem from a belief that the system is fair, and that their turn will come in due course. Such complex motivations may be referred to as a shared 'identity'.

These conditions are a crucial challenge to prescriptions for massive redistribution in response to the euro crisis. Third, law-makers and treaty-negotiators must be trusted to not only to promote their own constituency, but to also consider the interests of other Europeans, a 'we' beyond state borders. The details of the requisite European identity remains contested, such as whether 'constitutional patriotism' would be required, and what *unique* European features to add, if any are required.

Poor Democratic Institutions

Several observations are taken to suggest a low quality of democratic governance in the EU. Several necessary components of a halfway defensible democracy appear to be missing in the EU—such as sufficient popular control over executive and legislative bodies; a sufficiently well-functioning set of parties competing for votes on the basis of deliberation and contestation; or a shared sense of the objectives of the Union. Some of these may be temporary, or others may not indicate a lack of democratic institutions at all. Some such lacunae may diminish over time, thus some pessimism may be overdrawn.

Yet persistent federal features of the EU will continue to hinder the institutions and culture required for standard democratic rule; in particular the *asymmetric* elements of the Union, and intra-EU mobility. The standards for stability and criteria of a sufficiently well-working democracy in the EU should be informed by similar discussions of stability and democracy in multilevel political orders generally.

In political orders with federal elements the distinction is less clear between stable constitutional frames and the politically contentious conflicts among political parties within them. In these political orders, constitutional issues are more often on the political agenda, risking stability and unity to a greater extent. Persistent federal features of the EU will continue to hinder the institutions and culture required for standard democratic rule; in particular the *asymmetric* elements of the Union, and intra-EU mobility.

Prescriptions

Several prescriptions are more questionable than would first appear.

'The EU isn't undemocratic, so don't try to fix it!'

The first prescription worthy of mention is one argued for by some authors: let it be!

Reduce the EU's competences, and instead develop a 'Club Good' model for the EU

Majone draws creatively on the theory of clubs to argue that the EU should have its powers shorn, and that it should focus on a programme of 'differentiated integration', creating collaboration among the willing states, in different

combinations and in different sectors. But while there are several benefits of such a model, how should parties go about establishing and delineating the competences of each club under conditions of complex interdependence?

Give the EU a global mission/a raison d'être as a shared identity

In response to the legitimacy deficit, De Búrca advocates that the EU should exercise significant global leadership. This seems a plausible place to look, particularly in light of the tragedies in Bosnia and Kosovo. But the list of candidate global problems must be pruned in two ways: The EU should only take on problems it is likely to help solve. The EU's recent track record regarding the euro thus counsels caution. Second, considerations of subsidiarity urge modesty. The EU should stick to objectives for which it can plausibly claim comparative advantage over the efforts of member states. Moreover, successful resolution of this carefully selected set of problems will often impose burdens unevenly among member states – thus this will not reduce the need for democratic accountability, deliberation, and contestation, but will rather require more of the same.

Centralise more powers and reconceptualise the EU as 'solidarity'

Jürgen Habermas has recently argued on the basis of the Euro crisis that the EU should be reconstructed into a political Union, with less powers in the hands of the member states and an attendant elaboration of interstate solidarity. Habermas chooses to elaborate only some of several – mutually compatible – explanations of the emergence of the Euro crisis: undemocratic central decisions, coupled with myopic state government responses. This is strikingly different from (though not incompatible with) the diagnoses of other analysts, e.g. that the eurozone is an non-optimal currency area.

Increase the European Commission's accountability

Several authors including Weiler propose steps to make the Commission more accountable, and seek to lay to rest the long-standing claim that the Commission will be 'an international (supposedly) a-political transnational administration/executive'. I agree that we should instead acknowledge that 'the European interest' is contested, and that the Commission's conscious or less reflective choice to pursue certain interpretations above others must be more public—and contested.

Consider Mechanisms from the Federal Tradition

Improvements to the decision-making institutions of the EU should be informed by the experiences in the federal tradition, where sovereignty in the sense of the final say on various political issues is *divided* between a centre and the member units. The good news is that a more legitimate EU from this perspective need *not* require citizens to transfer their political loyalty to the EU, but rather to foster political loyalty toward several political orders, as in federations.

The bad news is that comparative studies of federalism warn of a higher level of ongoing *constitutional contestation* concerning the constitution and its values and interpretation than in unitary political orders. Stabilizing mechanisms are even more important in these states, to prevent citizen disenchantment and the disintegration of the political order.

Prognosis

The challenges to bring the EU into conformity with democratic theory and practice are twofold: it is not only the EU that needs to be reformed, but also our democratic standards, since some persistent features of the EU go to the core of assumptions for democratic rule. At stake are both questions of *demos*, and questions of *impact*. Central premises for many theories of democracy are that those who are equally affected by shared institutions, should have an equal say in how they are run and modified. Several aspects of the EU challenge the relevance of these assumptions, especially if it remains differentially integrated.

Asymmetric Union: Not Similar Impact On All Affected

In 'asymmetrical' political orders such as the EU member units have pooled different competences. Thus citizens and authorities of different member units are correct in holding different views about the objectives of the central unit.

This lack of shared objectives raises concerns for attempts to identify recommendations for a more democratic EU: who should have influence on which decisions, and what should guide their choices? There is currently little in the way of a shared 'meta-ideology' about the objectives of the EU. If the Union continues to be asymmetric, this deep disagreement will remain.

A European party system which could foster such cross-cutting loyalties is underdeveloped. But we may expect *polarizing constitutional politicization* about the polity and the regimes of the EU for a long time to come, with no *finalite* of agreement. Moreover, federal orders also suffer a higher risk of instability of two kinds: they tend toward fragmentation—indeed secession— or complete centralization.

Conclusion

A differentially integrated—or asymmetric— EU will continue to hinder the institutions and culture required for standard democratic rule. This would seem to be true regardless of whether the EU ends up as a strongly centralised federal political order as Habermas suggests, or as a '*Europe à la carte*' à la Majone. We may take some meagre comfort by comparing the EU to other political orders with federal elements – but federations also tend to be less stable, and the requisite dual loyalty often insufficient. Thus, the appropriate standards of democratic governance may have to be revised in light of the multilevel nature of the EU.

The Union may still fall short of such ideals, and reforms to improve its democratic quality may not be easily within reach, particularly in the face of urgent crisis. Nevertheless, to *not* urge reforms to make the EU more responsive to the best interests of its citizens would be even worse.

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