

Three models of democracy, political community and representation in the EU

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ABSTRACT The EU's political system represents European citizens via three different channels: through the European Parliament; indirectly through their governments in the Council; and through domestic elections, which hold these last democratically accountable to national parliaments or citizens. However, these channels involve different and incompatible types of representation and forms of democracy, reflecting divergent conceptions of political community which, following Philip Pettit, we term solidarism, singularism and civicity respectively. The first channel seeks to represent the common good of a European people; the second the mutual self-interest of the single member states. We argue the first lacks social and political legitimacy, while the second proves insufficient to tackle collective European problems equitably or effectively. We propose reinforcing the third channel so as to modify these other two and produce a European 'demoi-cracy' able to sustain the form of representative democracy we associate with a civicity. We contend such a system fosters an 'ever closer Union among the peoples of Europe' by allowing the construction of shared policies that treat the different *demoi* with equal concern and respect.

KEY WORDS Community; democracy; demoi-cracy; EU; national parliaments; representation.

1. INTRODUCTION

Title II Article 10 of the Post-Lisbon Consolidated Treaty of the European Union (TEU) states that the Union is founded on the principles of representative democracy. It identifies three channels whereby European citizens are represented in the European Union's (EU's) political system: directly via elections to the European Parliament (EP); indirectly via their heads of state or government in the European Council or in the Council by their government; and in domestic elections which hold these last democratically accountable to national parliaments (NPs) or to citizens. One potential difficulty with this arrangement involves a possible tension between the representation of citizens, on the one hand, and of States, on the other, given no clear distinction exists between when and for what purposes citizens are represented as Europeans and as members of states, or of the connections between the two (Bolleyer and Reh

2012; Kröger and Friedrich 2013). Consequently, European-level decisions can be at odds with member state-level decisions and *vice versa*. This contribution explores a related but distinct aspect of this problem. We argue that not only do these three channels represent different subjects – citizens in the first case, states in the second, with the third largely unrelated to European issues, and hence providing no link between the other two – but also that each channel involves a different type of representation and form of democracy that reflect divergent conceptions of political community.

Such differences can be productive. For example, bicameral systems often employ different electoral systems and constituencies for each of the chambers, the idea being to bring different voices into the democratic dialogue with short-term and long-term, national and regional, majority and minority interests balanced against each other. Though systems of compound representation can be criticized for multiplying veto points and creating inefficiencies, they have been motivated by an underlying logic of preventing the capture of government policy by sectional interests and promoting among them a concern with the public interest. Our argument is that at present no such logic can be attributed to the EU political system because these three channels are not related to each other in a systematic and coherent manner. Instead, they offer incompatible images of the relations between individuals and states in Europe. Individuals are represented in the first channel as members of a European people, in the second by member states and in the third as members of their various domestic peoples. Each channel not only constructs the interest of a different public, but also conceives the public interest in different and ultimately incompatible ways – in terms of a common good, as mutual self-interest and as a shared interest – leading to contradictory policy proposals.

We shall argue that the first two conceptions of the European public interest are at odds with the EU's declared aim 'of creating an ever closer union among the peoples of Europe'. They misrepresent the 'public' of Europe both in their conception of that public – as a European people or simply a collection of states – and in the type of representation they employ and the form of politics to which it leads. The resulting problems seem epitomized by current attempts to resolve the euro crisis, where the proposed measures have failed either to promote a European interest sufficient to allow credit transfers between member states or to satisfy national interests as these are perceived by domestic electorates. The upshot has been policies widely criticized as suboptimal. We contend the solution lies in the European peoples being represented in a way that allows for greater interaction between them in the collective decision-making of the EU. In line with the TEU's meta democratic principle of 'equality', a form of representation is required that pays 'equal attention' to citizens as citizens of a Union of peoples rather than as either members of a putative European people or nationals of a member state. In sum, we need to promote a workable form of European 'demoi-cracy' (Nicolaidis 2003) rather than either a European 'democracy' or a system of democratic states where some tend to dominate others.

The argument proceeds as follows. We start by distinguishing three forms of representative democracy and three related conceptions of political community. If the first form of democracy is 'thick', concerned with the intrinsic promotion of a supposed common good, and the second is 'thin', oriented towards an instrumental protection of individual rights and interests, the third seeks to combine these two in ways that have become characteristic of most working liberal democracies. These three forms of democracy reflect three different political ontologies – what, following Philip Pettit (2005), we term solidarism, singularism and civicity – which conceive the relations between the members of a political community and the appropriate modes of representing them in contrasting ways. We contend that the capacity to promote public policies that give mutual recognition to the rights of individuals can only be found in the interactional form of representation characteristic of a civicity. Turning to the EU, we argue that the supranational, international and national channels of representation within the EU correspond respectively to the three forms of representative democracy and political community delineated above. We maintain that the social conditions are lacking for the solidarist account invoked by the EP and the Commission to represent the collective interests of a European people; while the singularist account that legitimizes bargaining between the member states prevents their governments moving beyond policies that can be portrayed as Pareto optimal. We propose that if European issues could be introduced into the national channel of representation that might in its turn modify the other two channels sufficiently to move them closer to the form of representative democracy typical of a civicity, the result would be a European democracy in which political representatives at all three levels would be socially and politically authorized and accountable for policies that show equal concern and respect to the different peoples of Europe. Such policies involve less than the common good of a European people but more than the mutual self-interest of the member states.

2. THREE MODELS OF REPRESENTATIVE DEMOCRACY

In formal terms, representation involves someone taking the place of someone else through a process involving both the authorization of the representative *by* the represented, and the accountability of the representative *to* the represented (Pitkin 1967). Authorization concerns the procedures and extent by and to which people transfer their power to either act or decide to other political and/or legal 'persons' or institutions. Accountability deals with the ways and degree by and to which the represented can control what their representatives do in their name. These two moments reflect the initial and the final stage of the representative relationship respectively and are central to the legitimacy of democratic representation.

How political agents enact this formal relationship substantively also matters. A representative may 'stand for' or 'act for' those they represent (Pitkin 1967: 61, 113). The first involves descriptive or symbolic representation, as in a

portrait or logo, and hence a degree of identification between representative and represented. The second can be as a delegate or a trustee. Historically substantive disputes about *how* representatives represent have centred on the delegate–trustee dichotomy, though a whole spectrum of possible relationships exists between the two (Pitkin 1967: 115–39). However, despite its limitations (Saward 2010), this dichotomy captures an important dilemma confronting democratic representation. As Pitkin noted, representation involves a paradox whereby it makes ‘present’ those who are ‘absent’. As such, it involves a relationship of relative independence between the representative and the represented (Pitkin 1967: 209). If the legitimacy of representatives tends to rest on their having a mandate of some kind, and so being in certain respects delegates, the activity of representation tends to involve their being able to act to in some ways independently, as trustees.

Our contention is that the manner in which representatives ‘act for’ their principals depends to a large degree on how they ‘stand for’ them, and that the extent and nature of the identification between the one and the other conditions how far and in what ways they can bridge the gap between delegation and trusteeship. For the different processes employed to select representatives to ‘act for’ citizens reflect a particular social relationship between representative and the represented and the way the one ‘stands for’ the other. How and why citizens are represented determines in its turn the view of the public interest that representatives will seek to construct and the political and social legitimacy they have to do so.

In this section we shall introduce three conceptions of democracy – what we shall call ‘thick’, ‘thin’ and ‘thick-thin’. We shall argue each involves a different understanding of how representatives may ‘act for’ citizens which corresponds to a different ‘political ontology’ or view of the relationships and structure in virtue of which individuals in a polity constitute a people, a nation, and a state’ (Pettit 2005: 157) which constrains how they ‘stand for’ them. Following Pettit (2005), we term these three ontologies ‘political solidarism’, ‘political singularity’ and ‘civcity’ respectively. We maintain that both the ‘thick’ and ‘thin’ models of democracy lead representatives to pursue a limited understanding of the public interest that in the one case subsumes the individual into the collective interest and in the other the collective into the individual interest. By contrast, the interactional form of representation typical of the thick-thin model balances the two.

Democratic politics encompasses two main tasks: the positive task of facilitating the equal participation of citizens in the construction of the public interest, and the negative task of protecting the interests of the ruled from being dominated and manipulated by their rulers via their control of the state apparatus. Both the participatory and the protective tasks figure in most theories of democracy. However, different conceptions of the democratic process tend to read either the second through first or *vice versa* (Macpherson 1977)

Thicker conceptions of democracy emphasize deliberation. Democracy serves an intrinsic purpose whereby the political community can discover and sustain

the common good. It aims at generating a general will, which has moral priority over the particular wills of individuals. As a result, the second, protective, task of democratic politics is conceived in terms of the first, participatory, task. The public interest is construed in positive terms, as the product of citizens identifying with each other and the polity.

‘Thick’ democracy presupposes an organic unity among the *demos*, and a natural conception of the common good. This unity of interests can be represented in the descriptive and symbolic ways Pitkin (1967) describes as ‘standing for’. Representatives ‘act as’ the represented by virtue of certain personal characteristics that allow them either symbolically or descriptively to express the commonality of interests of those they represent. The governing body, be it an elected parliament or an unelected council, gains its authority by reproducing internally the same kind of unity (of the nation, for instance) that allegedly characterizes the political body at large. Democratic representation reflects a unity of interests that already exists before the political process is in place and which deliberation among representatives merely seeks to clarify and express.

This understanding of democracy presupposes an ontology of ‘political solidarity’. Citizens are conceived as part of a corporate body, whose standing, interests and judgements are both separate and independent from them: they are ‘incorporated’ into the body politic, which can then act in their collective name. A conception of political relations mainly found today in legal notions of corporate personality, it characterizes theories of democracy, such as Rousseau’s, that seek to identify the common good with the popular will (Rousseau 1997). This view assumes citizens and their representatives possess a sympathetic identification with each other and an underlying agreement on ethical principles. They regard themselves as forming a stable collective unit with common goals.

By contrast, thinner conceptions of democracy emphasize the protection of private rights to liberty and the aggregation of separate individual interests. Democracy serves an instrumental purpose. The ruled seek to maximize the exercise of their private rights – either by protecting them or combining with fellow citizens who have similar or convergent interests – and to minimize the capacity of others – especially the rulers and the state – to interfere with them. Thus, the positive, participatory, task of democratic politics is conceived largely in terms of the negative, protective, task. The public interest is construed as the product of a system that maximizes the possibility of each affected agent to block those interferences with their individual rights they deem unnecessary.

The thin conception’s understanding of representation oscillates between privileging either a substantive sense of accountability or the formal processes of authorization. On the one side, it focuses on the capacity of representatives to deliver certain policies or objectives, while denying that authorization implies a real transfer of power. On the other side, it stresses the constraints imposed by the authorization of representatives, but has a limited view of the process of accountability. Adapting Pitkin (1967: 139), the one interprets the role of representatives as ‘acting for’ in the generic sense of acting ‘in the interest of’;

while the other conceives representatives as ‘substitutes’ who act ‘under instructions’.

Elitist versions of this thin conception, such as Schumpeter’s (1954), deny that the democratic selection process is properly representative. Leaders recruit their electors through charisma or the policy package they offer rather than being authorized by them as their representatives. Schumpeter refuses any possibility of a transfer of authority. In Adam Przeworski’s words, ‘Our institutions are representative. Citizens do not govern’ (2010: 15). The representative’s responsibilities and responsiveness to the represented is no more than a technical mechanism through which the electors express satisfaction or dissatisfaction with the way in which they have been governed or expect to be governed. Yet, the process of accountability gives liberal élites an incentive ‘to act in the interest of a broad section of the electorate. By contrast, on the substitution and mandate views, the rulers are authorized to represent the interests of the ruled. When acting as substitutes, representatives employ their own judgements as to how the interests of those they represent might best be pursued. Their role is to maximize a return to their diverse supporters. Authorization gives them the right to do so until it is withdrawn. When mandated, representatives are authorized to act ‘under instructions’ from the represented, who are conceived as forming a discreet interest group with a shared view on how it should be promoted. However, whether the stress is on accountability or authorization, the conception of the public interest that issues from these thin views consists of Pareto optimal improvements or the lowest common denominator. On the élite view, this arises from competing élites striving to win a majority through aggregating individual interests and appealing to as broad a constituency as possible. On the substitution view, it results from substitutes seeking a return for the diverse interests of their backers. On the mandate view, it stems from the delegates of different interests seeking to block any collective decision that might not advantage their principals.

The ontology underlying this account of representation is ‘political singularism’. Formal processes of accountability and authorization are vital because people are assumed to be so distinct that no representative can ‘stand for’ another. Originating in the natural rights tradition, claims against governments and others are grounded in rights that inhere in individuals by virtue of their humanity rather than their social status. Political society is simply an aggregate of separate individuals with no politically significant relationship to each other apart from their various mutual contractual agreements. They enter these agreements solely to protect their rights and further their interests. Democracy consists of selecting politicians able to pursue these tasks and removing those who fail through incompetence or corruption.

Each of these two conceptions of democracy has advantages and related disadvantages. The thick conception supports public goods but at the expense of potentially overlooking the pluralism of modern societies. Consequently, social and cultural diversity may be undervalued, with certain private rights overridden and cultural and other minorities marginalized. By contrast, the

thin conception emphasizes individual rights but at the expense of so multiplying veto points that it proves hard to move beyond the *status quo*. Given that power and resources are unequally distributed in society, this arrangement may entrench and potentially enhance existing privileges and inequities. It also risks failing to provide adequately for the public goods on which many rights depend – from the police and legal system to welfare, health and education. Most working democracies seek to balance the two models by making democracy thick enough to promote the public good, but sufficiently thin to allow for the protection of individual and group rights.

This thick-thin model of democracy is sustained by a rather different, relational view of representation. Neither the thick nor the thin views consider democratic representation as a dynamic and interactive *relationship* between the represented and their representatives. In the thick view, representatives act ‘as’ the represented by virtue of certain supposed intrinsic similarities. In the thin view, representatives act ‘for’ the represented either like the executive of a public company charged with maximizing the returns to shareholders, or by virtue of a mandate. In all these cases, representatives depend on the revealed preferences of their principals. However, a relational view interprets the relationship between representatives and the represented in more dynamic terms. As we noted, representatives are both dependent on the represented, who authorize them and hold them to account, and independent actors in their own right. Such independence not only results from them having to make decisions to meet unanticipated circumstances between elections but also from their being able to persuade voters and recruit a following during them. In Iris Young’s words, the moments of authorization and accountability involve ‘a cycle of anticipation and recollection between constituents and representative’ (2000: 129), in which both sides of the representation relationship are engaged in mutually constructing what and who is represented, how and by whom.

A thick-thin conception of democracy has this relational dynamic at its core. The process of representation forces citizens to dialogue with each other and obliges them to portray their various rights claims and individual interests in public terms in ways that can relate to those of others. Representatives neither appeal to the passive assent of the unreflective, naked preferences of citizens, nor merely reproduce their particular sectional interests, or the alleged pre-political interests of a collective body. Rather, the incentives are such that they need to employ public reasons that can be avowed and shared by a broad cross-section of the citizenry. Such public reasoning leads citizens to reflect upon their interests in ways that help construct shared interests (Sunstein 1991). As Bernard Manin (1997: 196) has noticed, contrary to Schumpeter’s view (Schumpeter 1954) the competitive party system has tended to play just this role in facilitating the emergence of a popular general will within elections by making politicians construct programmes of government with broad enough appeal to attract the median voter.

The relational reading of the representative process conceives the public interest as constructed via an ongoing dialogue between the particular interests of citizens. This dialogue occurs both vertically, between the represented and their representatives, and horizontally, among representatives themselves or various sections of the public. In this way, it combines both the intrinsic democratic qualities of ‘thick’ democracy, with its focus on the common good, and the instrumental qualities of ‘thin’ democracy, with its emphasis on protecting individual rights and furthering particular interests, so as to construct shared interests that balance both considerations.

This form of democratic representation assumes a political ontology akin to what Pettit calls a ‘civcity’ (2005: 167). This ontology involves aspects of the other two views. Like political solidarism, citizens within a ‘civcity’ regard themselves as forming a people with certain common interests and values. However, like political singularism, they also have distinct interests, make divergent rights claims and so differ over many public policies. Citizens combine both perspectives by seeking to resolve their disagreements and differences in public terms that can be seen as plausibly, if for some contentiously, as treating them with equal concern and respect. For example, if a government within a civcity offers a given group a tax break, be it the very poor or the very rich, they will be expected to show how this measure both is equitable and contributes to the welfare of the rest of society. They cannot simply insist that this group is entitled to this money as a privilege and regardless of its effects on others. The measure must treat others in society with equal concern and respect by giving equal weight to their rights and interests, and their views regarding them. Of course, how far the proposal does meet these criteria will be disputed by many, but the fact of free and fair elections forces the government to dialogue with citizens and justify its position to them.

To work, a civcity must possess many of the social conditions identified by pluralist theorists as necessary to the form of democracy they term polyarchy (Dahl 1998: 90). First, while the members of such a society possess diverse interests and values, these must be to some degree cross-cutting. As a result, the danger of a permanent majority or minority is reduced and all are roughly equally affected by collective decisions. Citizens have incentives to seek fair outcomes that show people’s different interests equal concern and respect. This condition fosters reciprocity and compromise and facilitates convergence on shared interests and values. Second, it requires a shared public sphere, sufficient to make a genuine public debate possible (Miller 2009: 212). This condition enables different sections of the political community to communicate with each other, and enhances the transparency and responsiveness of government to public rather than sectional concerns. It will be easier to have a discussion among the public as a whole if there are shared cultural instruments, such as a common media – newspapers, blogs, television and radio programmes – that address and are accessible by all, not least because they are in a common language all can understand. Such instruments help the various groups within a society to inform and respond to each other and make it harder for

governments to play them off against one another and pander to one group at the expense of another.

The presence of both conditions creates a *demos* in which citizens regard the democratic system offering a public and fair mechanism for the equal consideration and promotion of their values and interests (Christiano 2010). The weaker these conditions are, the more socially and culturally segmented a society, the greater the likelihood the political community will move from a civicity to singularism and democratic politics will take an individualist and protective turn. It is this problem that currently confronts the EU (Dahl 1998: 114–17).

3. REPRESENTATION IN THE EU: ONE PEOPLE, MANY STATES, OR SEVERAL PEOPLES?

This section relates the supranational, intergovernmental and domestic channels of representation outlined in the TEU to the three conceptions of representative democracy we associated above with solidarism, singularism and civicity respectively. We shall argue that the second channel possesses a stronger social basis and greater political legitimacy than the first, but suffers from the generic risk of ‘thin’ democracy of potentially producing inequitable and sub-optimal solutions to collective problems. To overcome this dilemma, we explore whether the EU can develop the qualities of a civicity. We doubt it can at the supranational level and critique post-national models of democracy that assume it could. Instead, we suggest enhancing the influence of the third, domestic channel as a way of so modifying the other two channels that the EU’s political system operates as a thick-thin model of European *democracy*, capable of formulating shared European policies that treat the peoples of Europe with equal concern and respect.

We start with the supranational channel of representation. The EP, as a common channel for representing the European citizenry, potentially offers a European-wide perspective. Yet, European elections continue to be second order and dominated by domestic issues (Hix and Marsh 2011), while the activities of civil society organizations remain similarly tied to the national context, even among the few interest groups possessing the incentives and resources to become more Europeanized (Beyers and Kerremans 2007). Members of the European Parliament (MEPs) represent national parties and constituencies and are largely unauthorized and unaccountable as promoters of pan-European concerns. To so act, they are forced to appeal to an ontology of solidarism and claim that, as a collective body, the EP ‘stands for’ and can ‘act as’ a putative European people. For example, though analysts of the EP generally acknowledge the weakness of the formal legitimacy provided by the electoral process, many counter that it nonetheless mirrors the broad distribution of ideological positions found across the EU (Hix 2008). As such, it can reflect the common concerns of Europeans despite having no clear mandate to ‘act for’ them or even the capacity to mobilize European public opinion and provide

the catalyst for forming a European public interest on either specific or general issues.

As we shall detail below, no European *demos* with the requisite solidarist qualities of strong mutual identification, agreement on principles and shared collective interests exists. However, these qualities do characterize the majority of political actors within EU institutions (Shore 2000). Indeed, this underlying concurrence of views and backgrounds facilitates the highly consensual decision-making typical of the EU policy process. EU policy-makers generally justify articulating such apparently unfounded solidarist assumptions on two related grounds. First, they maintain that the EU tackles largely technical and organizational matters that are issues of ‘good’ governance (Shore 2011: 291–3). EU policies are deemed to provide public goods most rational actors would regard as beneficial to any view of life, such as the resolution of co-ordination problems, better and cheaper utilities, or a clean environment. Such policies can be assumed to reflect the collective interest of European citizens, while their efficient and effective delivery is largely a matter of expertise (European Commission 2001: 3–8). Second, as a consequence, the means chosen for providing these goods requires a technocratic rather than popular consensus, such as can be achieved through mechanisms such as the Open Method of Co-ordination (OMC) which become exemplars of ‘thick’ deliberative democracy (European Commission 2007). The role of the EP within this system, even under co-decision, is to legitimate rather than legislate, since policy proposals are drafted by the Commission (Burns *et al.* 2000). Opposition to the EU is regarded as resulting from ignorance and misinformation. Measures purporting to promote democracy and participation invariably turn out to be what is euphemistically called ‘public diplomacy’ and ‘information actions’ aimed at forging a European *demos* among ‘opinion multipliers’ and ‘young Europeans’ (Shore 2004).

The euro crisis has shattered this vision of solidarist ‘organic’ democratic governance. Moreover, the main actors in responding to the crisis have been the member state governments, with the EP in particular largely sidelined. Within the intergovernmental channel the forms of representation and decision-making conform to the ‘thin’ democratic model appropriate to the political ontology of singularism. National governments and their ministers operate largely as authorized substitutes and very occasionally as mandated delegates of domestic interests, though with limited electoral accountability for what they do at the EU level given the low salience of Europe in domestic elections. The assumption is that their judgments can be relied on to maximize the interests of their citizens. True, those judgements can only be challenged by defeat in either a parliamentary vote or a referendum, so that only a significant miscalculation of public opinion is likely to be successfully contested. Yet, as primarily domestic politicians, their main incentives lie in promoting national rather than European interests. To a large extent, the national governments ‘act for’ their principals in the manner of the executive of a joint stock company relative to its shareholders – acting on their own judgment to maximize the several

interests of those they serve without assuming a collective interest other than as private investors in a common enterprise.

The political singularism of the intergovernmental channel severely constrains the political solidarism projected by the supranational channel, making it difficult for European institutions to escape national controls (Moravcsik 2008: 334). EU legislation requires a far higher degree of consensus than in any national political system. It must secure consensual support from national leaders within the European Council to be placed on the agenda, a proposal from the majority of the Commission, a formal two-thirds majority – but in practice a consensus – of weighted member state votes in the Council of Ministers, a series of absolute majorities within the EP and the assent and active support of the 27 national administrations, legal systems and parliaments responsible for its implementation. Treaty changes require unanimity between the national governments and ratification by NPs and in an increasing number of cases national referenda as well.

These constraints mean that EU governance mainly provides a mechanism for a singularist type of representation – that is, for democratic rule between and for different states, rather than of and for a people. Yet it also suffers from the limitations and drawbacks typical of such arrangements. First, because agreement is so difficult, it has a *status quo* bias. It proves hard to reform or drop policies that have outlived their usefulness or failed, or to respond to crises or fast-changing situations. The high consensus requirements not only make European solutions to common policies difficult to agree on, but also can inhibit experimentation and innovation at both the national and the European level to improve or adapt those policies once they are agreed. Second, such inflexibility applies even more to the independent institutions – to a degree the Commission and especially the European Central Bank (ECB) and the Court of Justice of the European Union (CJEU) – that monitor particular policies outside of the political process. These bodies risk either applying uniform rules dogmatically to very different situations, or attempting to address such variations and cope with novel circumstances by exercising discretion in ways that may depart from what was intended by the contracting parties. Either way, if their power and competencies have a basis in the Treaties, as is the case with the ECB's remit to maintain price stability at all costs, say, or the CJEU's power to interpret EU law, then it will be near impossible to reverse or effectively challenge their decisions.

The assumption has been that the EU provides solutions to prisoner's dilemmas, where a collective agreement is in everybody's interest but there are temptations to free ride or disagreements over the most appropriate solution (Scharpf 2009: 183–4). In both cases, Pareto improvements can be expected. Thus, in areas such as environmental protection or deregulation, that only prove generally beneficial if all adopt them but that powerful interests at the national level can effectively lobby to block, the EU has operated as an effective self-binding mechanism for tying the member states into mutually beneficial policies. However, the more the EU extends into policy areas where no such win-win

solutions exist because of variations between the member states, the more contentious action by the EU will be.

The central dilemma of the EU emerges at this point. European élites embraced a neo-functional logic, whereby integration was viewed both as producing endogenous ‘spill-overs’ into ever more sectors and bringing in its wake greater political unity and solidarity (Haas 1958). Mobilizing pan-European democratic support for integrationist measures was thought unnecessary. A permissive consensus legitimated élites ‘standing for’ European citizens until such time as the benefits of integration had forged an active consensus among a European people. However, an ever closer economic and legal union has proceeded against a background of ever greater political and social diversity, not least because of enlargement. Consequently, greater integration has tended to reinforce rather than undermine the EU’s political and social ontology of singularity. As we saw, those EU bodies, such as the EP, the Commission, the CJEU or the ECB, which have a role as promoters of common European interests that in principle might balance the singularist ontology with a solidarist one, have a limited capacity to do so. Structural funds apart, the EU bodies do not have the competence to make significant direct transfers between different member states or groups of people. Their policies are regulatory and biased towards enhancing a single market from which all private actors – be they states or individuals – are presumed to benefit.

Thus, the ECB cannot engage in an effective rescue of the debtor states without violating the no-bail-out clause, Article 125(1), of the Lisbon Treaty. To act in this and other ways would require a Treaty change that would likely attract a German veto, given that Germany would be called upon to underwrite such measures. Since the German government represents its citizens in EU affairs according to the ontology of singularity, their loan must be guaranteed in the simplest manner through decreased spending by the recipient states. Likewise, the CJEU has the remit of promoting the four freedoms. Many have regarded the introduction of Union citizenship and the new European Charter of Fundamental Rights as marking a move away from the market bias of the EU (e.g., Kostakopoulou 2008). Integration through law would no longer simply be integration into a single free market. But the CJEU has little ability to act otherwise. For example, though it has declared that ‘a certain degree of financial solidarity’ now exists between the member states,¹ the limits to that solidarity have been all too evident in the initial responses to the euro crisis. The Court can only liberalize and deregulate, it cannot create new European-wide social and economic policy regimes. As decisions such as *Laval*² and *Luxembourg*,³ on the one hand and *Swartz*⁴ and *Watts*⁵ on the other indicate, the rights of citizens at the Union level are the rights of private individuals to produce, trade or consume but with no correlative duty to contribute to public goods or provide for social welfare. These are member states’ responsibilities. Yet, by conceiving the EU as a whole as simply a collection of rights-bearing individuals along the lines of the ontology of singularity, the CJEU effectively undermines their ability to meet these obligations. The

social solidarity of the requisite kind proves entirely alien to this perspective (Scharpf 2009: 190–98).

Is it possible to overcome this impasse? Is it either desirable or feasible to shift the EU towards an ontology of civicity capable of sustaining a more relational form of representation? Those who contest the desirability of enhancing EU democracy have hitherto done so by arguing that the current system of ‘thin’ democracy suffices for the functions the EU performs (Majone 2001; Moravcsik 2002, 2008). A judgement already contestable following the Single European Act (Follesdal and Hix 2006), even its proponents grant that the debt crisis of the eurozone has revealed the limits of the current system of governance (Majone 2012). The effects of decisions by the ECB or politicians and bureaucrats in Brussels are apparent not just to experts or special interest groups, but to all citizens through their impact on savings, mortgages and public services.

The problem is whether a sufficient basis for an ontology of civicity exists for this proposal to be feasible. *Prima facie*, this possibility seems doubtful. As we saw, a civicity depends on cross-cutting values and interests and a shared public sphere. However, the EU encompasses too much social, economic and cultural diversity and lacks the necessary common public culture for a viable European *demos*. Moreover, these cultural and social divisions are largely of a segmental kind and correspond broadly to national cleavages between the 27 member states. For example, if one takes views on abortion as indicators of social values more generally, then the difference between Ireland, which only permits abortion if the life of the mother is in danger, and Sweden, which allows abortion on demand, is immense. Social divisions between the member states are as great. Per capita income in Denmark is getting on for five times that of Lithuania – almost three times the difference between Delaware and Mississippi, respectively the richest and poorest states of the USA.⁶ Meanwhile, despite the spread of English as the *lingua franca* of the educated classes, news and other media remain firmly national and regional in focus and only Europeanized to a limited extent that mainly benefits government élites (Koopmans 2007). Empirical evidence suggests a European identity to be marginal and fragmentary (White 2011).

Advocates of a fully fledged post-national EU parliamentary democracy contend these difficulties can be overcome. First, they counter that Europeans share basic constitutional values (Habermas 2001). After all, every member state is a signatory of the European Convention of Human Rights, with the EU itself likely to accede soon. Yet, these rights have been configured differently in each country to reflect domestic democratic preferences regarding welfare, privacy, religion and so on, often in incompatible ways (Bolleyer and Reh 2012: 476–8). Second, they argue that a transnational civil society is emerging, which currently lacks representation within national systems. Yet, the evidence for this development is meagre. Only 12 million EU citizens reside in another MS to that of their nationality – 2 per cent of the EU population, mainly from professional backgrounds – and even this group is only modestly de-nationalized in outlook and identity (Favell 2008). Likewise, membership of

pan-European civil society organizations is very low – most depend for their funding on EU grants and offer at best ‘proxy’ representation of assumed interests (Warleigh 2001), while European parties have failed to emerge in electoral as opposed to parliamentary terms.

Of course, segmental divisions exist in the member states too, most of which contain minority national and other groups. However, the main pressures across Europe to resolve this problem are not to shift power upwards, to the European level, but for ever greater devolution of political, legal and economic powers downwards to linguistic, ethnic and religious minorities. Consequently, Europe is becoming more rather than less segmented. Contrary to post-nationalist arguments, an abstract commitment to similar liberal democratic values has not of itself generated a willingness or capacity to deliberate on them in common.

So long as the *demoi* of the EU remain predominately national or even sub-national, the danger of seeking to create an EU demos is that it will result in consistent minorities and majorities split along national lines. The result will be that the most realistic models of supranational democracy continue either to invoke an élite based ontology of solidarism, or to involve a complex system of multilevel compound representation that remains rooted in the ontology of singularity. Thus, James Bohman concedes that his proposed shift from national to transnational democracy involves a change in forms that ‘may sometimes seem like *less* democracy’ (Bohman 2007: 21; emphasis original). Indeed, when he refers to the deliberative aspects of this new form it is invariably to agents that have neither formal authorization from nor accountability to any given *demoi*, such as those allegedly promoted by the Open Method of Co-ordination (ibid.: 85–6). However, such instruments lack the relative independence and reciprocal influence that we argued is essential to representative democracy within a civicity. Likewise, suggestions for a supranational system involving multiple *demoi* (e.g., Fabrini 2010; Lavdas and Chrysochoou 2011) end up multiplying veto points with all the drawbacks of gridlock, entrenching inequalities, and under providing public goods that we explored earlier (Miller 2008).

We believe a better strategy is to treat the national *demoi* of the member states as the basic building blocks and deliberative contexts of a European democratic association (Christiano 2010). Such an association takes the democratic peoples of Europe as its starting point, and seeks to promote an ever closer Union between them based on principles of political equality and mutual respect. Two criteria govern such a Union (Pettit 2010). First, it seeks to establish and preserve the conditions provided by the ontology of civicity under which the citizens of each member state can be part of a representative democracy based on a shared conception of the public interest. Second, such an association must be under the equal control of the component democratic polities. These criteria seek to prevent any member state dominating another, promote collaboration to tackle common problems and allow citizens to move and trade freely between member states on equal terms without undermining their separate political systems. They justify member state-level representation in the EU on

thicker grounds than those provided by a singularist ontology. They also support the positive and negative roles now accorded NPs within EU decision-making (Article 12 TEU).

The positive role arises from NPs receiving EU legislative proposals and having European Committees to scrutinize them and the decisions made by ministers. They may also send reasoned opinions to the Commission and engage in an informal political dialogue. National politicians currently lack the same legitimacy to act flexibly and to construct the public interest at the European level that they possess at the domestic level. The domestic politics of the member state is only very indirectly linked to the EU system of governance. No dynamic relationship exists between representatives and those they represent when it comes to European issues. Worse, their decisions regarding Europe are increasingly perceived as undermining the established democratic practices within the member state (Mair 2011). Enhancing the influence of parliaments in the European sphere may help foster an interactive relationship between the national *demoi* and their respective governments over EU policy-making, thickening the thin democracy of the intergovernmental channel. It may thereby enhance the capacity for ministers and governments to 'act as' the agents of the national *demoi*, empowering them to operate more proactively than hitherto, without losing the trust of their citizens.

The negative role relates to the powers NPs possess to police subsidiarity. Though this remains weak owing to the high threshold requirement, it does legitimize criticism of the EU for overreaching its competencies. For example, it offers a democratic grounding for Scharpf's (2009: 199–200) proposal that the European Council be able to challenge CJEU interpretations of primary and secondary European law that overstep the intent of the Treaties, as has arguably been the case in a number of decisions relating to Union citizenship. It offers a 'thin' civic check on the 'thick' solidarist aspirations of EU institutions, forcing them to give equal respect and concern to the democratic preferences of the peoples of Europe.

These measures provide a more relational foundation for political representation at the EU level. They enhance the democratic legitimacy of decisions that are not Pareto optimal, but have the wider European interest in view; while enhancing the scrutiny of national governments and subjecting them to greater accountability when they engage in the definition of what the European interest entails. Both roles have also engendered greater co-operation between NPs and with the EP through the Conference of Parliamentary Committees for Union Affairs (COSAC) (Cooper 2012). They create the basis for a European civility, whereby national *demoi* may construct shared interests in ways characterized by equal respect and concern.

4. CONCLUSION

We have argued that the EU is caught between a weak form of 'thick' representative democracy at the supranational level, based on an ontology of solidarity,

and a strong form of 'thin' representative democracy among the member states, based on an ontology of singularity. Strengthening the former is implausible, but leaves the EU unable to articulate a European interest that goes beyond the mutual interests of the member states. We proposed overcoming this impasse by making member states representatives more authorized and accountable on EU affairs via an improved dialogue with their NPs. In this way, the EU political system might develop the resources of an ontology of civicity within and between its component *demoi*.

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NOTES

- 1 *Grzelczyk v. Centre Public d'Aide Sociale d'Ottignies-Louvain-la-Neuve* [2001] ECR I-6193, para. 31.
- 2 *Laval v. Svenska Byggnadsarbetareförbundet* [2008] IRLR 160.
- 3 *Commission v. Luxembourg* [2008] ECR I-4323.
- 4 *Schwarz and Gootjes-Schwarz v. Finanzamt Bergisch Gladbach* [2007] ECR I-6849.
- 5 *Watts v. Bedford Primary Care Trust* [2006] ECR I-4325.
- 6 Data refers to 2010 from <http://databank.worldbank.org/ddp/home.do?Step=12&id=4&CNO=2> (accessed 20 November 2012).

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