

Political Theory and/of the European Union: A Survey of the State of the Art

Richard Bellamy and Joseph Lacey

Introduction: Normative Ideals and Empirical Realities

From the very beginning of the integration process, political theorists and scientists alike have viewed the development of regional governance structures in Europe as a laboratory for exploring how far, and in what ways, the nation state, and the types of domestic and international politics to which it gave rise, not only can be, and are being, transformed but also should be so. Debate has focused on whether the European Union (EU) has begun to alter the old politics of nation states so as to produce a novel kind of supra-, trans- or post-national political system, in which politics takes on new forms (Held 1995: 107-13), or merely adapted the old politics to new circumstances (Bellamy and Castiglione 1998), and the degree to which such changes ought to be promoted – and if so in what direction. As a result, theorists have had to confront the underlying empirical assumptions of much normative political theory – in particular, the degree to which our contemporary understanding of democratic politics presupposes the nation state. If it does, and the EU represents a significant move beyond national politics, then we may need a parallel conceptual transformation of our views of constitutionalism, citizenship, representation and accountability. Alternatively, if such a move makes democratic and constitutional government no longer conceivable in terms that meet certain standard normative criteria, that might be a good reason for resisting certain kinds of integration.

As a result, the EU raises the issue of the relationship of general normative ideals to particular empirical realities. However, this relationship of ideal to real points in more than one direction. For example, some ideal theorists of a

cosmopolitan complexion argue that from the point of view of an ideal conception of justice we have no valid reasons for not treating all individuals with equal concern and respect, regardless of their nationality (Caney 2005: 121-25). Such attributes are as contingent and irrelevant as hair or skin colour. Globalisation and the growing interdependence between states, on the one hand, and the ever greater transnational migration of peoples, on the other hand, have not only reinforced the urgency of adopting cosmopolitan ideals, they also offer a real opportunity to put them into practice. Such theorists often view the EU as offering a potential step in a cosmopolitan direction and evaluate it accordingly (Linklater 1998: 7-8, 44-45, 193-204). By contrast, other theorists acknowledge both cosmopolitan ideals and the new global realities, yet also contend that the existing reality of nation states embodies and makes possible certain values and political practices that possess ideal normative worth (Miller 2007). Consequently, their preferred view of the EU is as a mechanism for rescuing the nation state from the challenge of globalization (Miller 1998), while facilitating a statist approach to the fulfilment of cosmopolitan duties between citizens of states rather than simply between individuals *per se* (Bellamy 2015).

As we shall argue in the next section, we can regard different normative accounts of the EU as operating at the intersection of an empirical account of the nature of globalization and a normative account of the nature of political community. This interaction between the empirical and the normative shapes the key debates on what kind of polity or organization the EU is or should become, and the resulting views on legitimacy, democracy, citizenship and constitutionalism that lie at the core of this volume.

Applying Political Theory to the EU: A Schematic Overview

Almost every type of theorizing has been placed in the service of almost every conceivable political interpretation of the EU (for overviews see Føllesdal and Koslowski 1997; Weale and Nentwich 1998; Friese and Wagner 2002; Bellamy and Castiglione 2003). Consequently, particular views of the EU cannot be easily associated with a given approach to political theory. Nevertheless, a key difference is provided by the notion of political community (Archibugi, Held and Köhler 1998). On the one hand, those who emphasise the intrinsic value of communities in shaping political identity in significant ways have stressed the importance of either national or European values and culture as a source of unity, and been concerned to ensure the EU balances integration with a respect for the continuing diversity of its component parts (Weiler 2001; Bellamy and Castiglione 1998; Bellamy and Warleigh 2001b). On the other hand, those who hold a more instrumental view of communities have been more inclined to evaluate the EU in terms of its efficiency in securing certain goods, such as enhanced productivity, increased security or the better protection of human rights (Majone 1998; Moravcsik 2002; Morgan 2004).

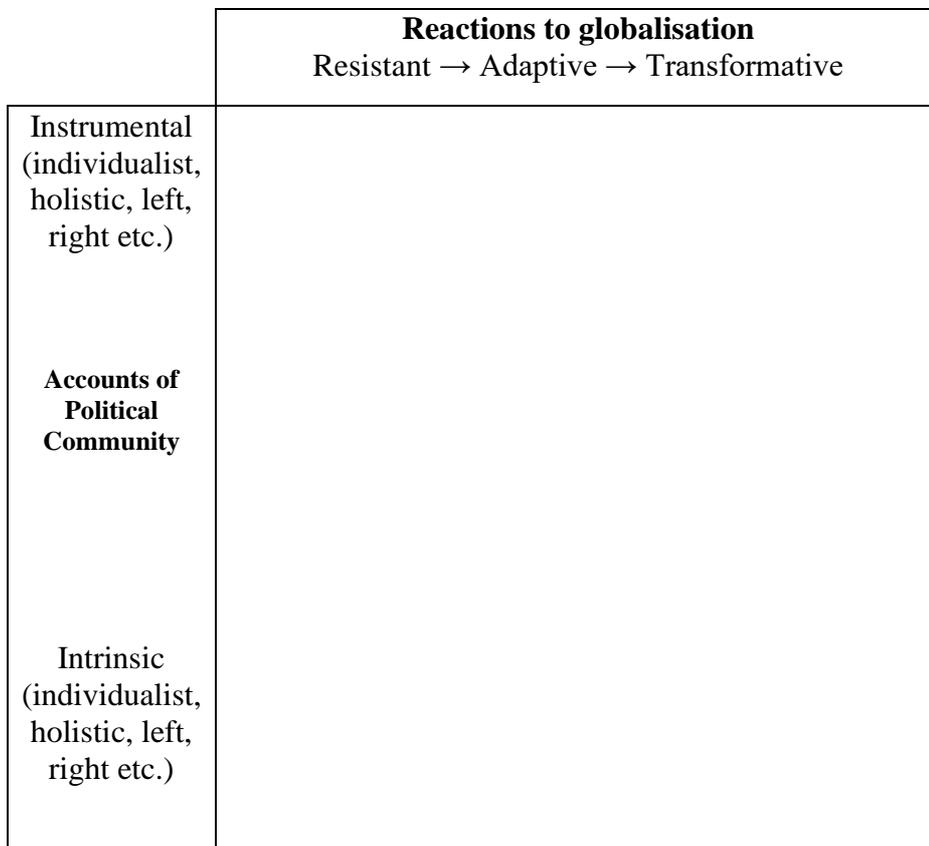
A wide range of theoretical approaches can be fitted within each of these two camps. The intrinsic approach may adopt a more hermeneutical point of view whereas the instrumental seeks for explanations on the model of the natural sciences, but each can be pursued in either an analytical or a more continental philosophical style. Each can also prioritize – both ethically and methodologically – either an individualist perspective, be it single persons or some collective agent such as a state, or a holistic view based on the functioning of the social and political system, the role of discourse, or some other whole. For example, intergovernmental and neo-functionalist accounts of the EU both offer instrumental accounts of European integration, but the former

focuses on the rational actions of individual agents – be they politicians or states, while the latter concentrates on the systemic features of an increasingly interconnected global economy. Likewise, even those who believe in the intrinsic importance of community can do so because of its role in promoting individual autonomy as a context of choice. Finally, there are left and right wing versions of each of these notions of community. Both conservatives and social democrats make appeals to the intrinsic value of community, for instance, just as not only certain libertarians but also rational choice Marxists have adopted instrumental accounts.

If the notion of political community shapes the normative ideals that theorists offer of the EU, their understanding of how this ideal might be translated into political reality is conditioned by their stance on the global processes of which the EU forms a part. Some theorists see globalisation as transforming the character of democratic politics towards a post-national and potentially global form of democratic politics, with the EU merely the most developed regional example of this shift (Held 1995, 111-13). Others regard the EU as a mere means whereby nation states have adapted to global pressures while retaining their actual, and for many a normatively inescapable, centrality (Hirst and Thompson 1996, 152-69). Meanwhile, a Eurosceptical group dispute the implacable nature of globalisation, and seek to resist it (Malcolm 1991). Thus, a liberal who takes an instrumental view of community and espouses a moral cosmopolitanism will only be moved to regard the EU as a necessary stage in the building of a political cosmopolitanism if they take a transformative view of the effect of global processes. Otherwise, they will be likely to regard inter-state arrangements as the best, or at least the only practicable, means for making their moral ideals a political reality.

The two dimensions of reactions to globalisation and accounts of political community (illustrated in figure one) provide the conceptual space within which we can locate different normative views of the EU. As a result, we can find transformative, adaptive and resistant versions of both views of political community (and their numerous variations).

Figure one about here



Thus, liberal nationalists, who see the nation state as a necessary context for welfare and democracy, have tended to be located in the bottom left hand corner on the interface between the intrinsic view of community and the resistant -adaptive response to globalisation (Miller 1998). For rather different reasons, so have ethnic nationalists (Smith 1992) and nationalist conservatives (Powell 1973; Malcolm 1991). However, utilitarians, who view the nation state as still being the functionally most efficient unit for most policies, would be located in the top left-hand corner (Goodin 1987-8, 685; Hirst and Thompson 1996). So, for quite different reasons, might a free marketer committed to a European-wide free market, but wishing to prevent the EU acquiring too much state-like power that might lead to economic intervention (Rabkin 1998; Vibert 2001). Both social democratic and libertarian theorists at the intersection between an instrumental approach and an adaptive response are relatively open to the EU so long as it can promote welfare and economic efficiency as they respectively understand it. Indeed, they tend to welcome signs of the EU overcoming the very affective and intrinsic relationships others so value, claiming either that it produces an openness to global redistribution (Van Parijs 1997 and in Rawls and Van Parijs 2003) or makes any such policies less likely (Hayek 1948). Yet, some radical libertarians might still desire to do away with the state altogether and so situate themselves in the top right hand corner. However, they would regard the EU as too close to the state form and so insufficiently transformative. Liberal or social democratic cosmopolitans arguing on either utilitarian or rights based grounds would agree. For them, a cosmopolitan system that stops at the EU level on any basis other than convenience risks falling into the bottom right hand, intrinsic-transformative, corner. EU immigration policy has prompted such fears (Soysal 1994; Kostakopoulou 2001).

As this rapid overview indicates, it is often hard to disentangle exactly what does the work in many normative arguments about the EU – ontology, methodology, empirical assumptions or ideological preferences. Theorists who differ on almost everything else can still converge on policy recommendations and vice versa. In this volume we shall look at the ways normative and empirical arguments interact in framing views as to how the EU might be configured and rendered legitimate, particularly with regard to developing appropriate democratic and constitutional mechanisms and a corresponding understanding of citizenship. As we shall see, numerous positions exist along both dimensions, with many of the most novel and interesting being those that combine aspects of the inter-, trans-, supra- and post-state perspectives.

Political Theory of the EU: An Emerging Field

The vast majority of authors in this volume can be located somewhere on the continuum of normative positions presented above. However, this does not mean that all – or even most – of those writing about the EU from a normative perspective have explicitly articulated a full philosophical conception of what the EU is and ought to be. On the contrary, most normative contributions on Europe focus on more particular themes rather than engaging in grand theorising, even if they invariably and inevitably rely implicitly on some such theory to a greater or lesser extent. Indeed, almost all the articles in this volume operate at a conceptual level that lies midway between the articulation of a fully-fledged normative model for the EU, on the one side, and a highly circumscribed normative analysis of particular EU policies and programmes, or decisions of the Court of Justice of the European Union, on the other. Nevertheless, every article raises basic questions essential to meaningful normative reflection on

any political system that claims to be legitimate and considers how far, if at all, not only the answers but also the questions may differ within the EU context.

Ever since the project of European integration was re-invigorated with the Single European Act in 1987, leading to further important integration steps and forms of constitutional consolidation with the Maastricht, Nice and Lisbon treaties over the next two decades, there has been widespread agreement that the EU is in fact a political system (Hix and Høyland 2011; Lacey 2016). By this we mean that it is a political organisation that makes authoritative or binding decisions for a circumscribed set of actors (member states and their citizens). At the same time, while there has never been any doubt that the EU *claims* legitimacy (and is in fact at pains to do so), the extent to which these claims are warranted has been a core element of contention among not just academics but also political actors and, increasingly, society at large.

Therefore, studying the EU with a normative interest brings up some standard themes concerning democracy, citizenship, community, and constitutionalism, among other topics. Although these themes are familiar from the well-established normative literature on the nation-state, the historically idiosyncratic EU context in which they arise casts them in a very different light. Consequently, as we noted above, one factor motivating the establishment of an emerging sub-field that may be called “political theory of the EU” arises from the challenge of re-theorising traditionally nation-state-centred normative categories in a political entity that is not itself a nation-state, yet exists precisely because it has been invested by its member states with a unique combination of political authority over these self-same states. However, another factor prompting the emergence of this sub-field relates to power. Not only is there is no political entity in the international arena that even comes close to equalling the

EU's power and organisational effectiveness *qua* political system, but also much of this power has rapidly accrued over the last few decades, with far-reaching consequences for European citizens and the wider world. As a result, a sense of urgency attaches to the normative questions raised by the EU. This urgency has motivated not only philosophically minded social, legal and political theorists to address the normative foundations of the EU but also scholars from economics, history, law and sociology as well as political science, many of whom are professionally more fact-driven and typically less concerned to tackle normative issues. The contributions to this volume reflect this diversity of disciplinary backgrounds.

Themes of the Volume

Before providing an overview of the articles in this volume, we set out in more detail the rationale behind our choice of themes, which has to do with those kinds of normative question that tend show up for political systems in general. These themes do not exhaust the issues with which political theory is concerned any more than this volume offers comprehensive coverage of scholarly work on political theory and the EU. However, we would claim them to be central to most normative assessments of contemporary political systems, and as such have shaped debates about the EU.

Any political system must have, at base, a legally articulated account of how the rules are made and to whom they are supposed to apply. This account furthermore will yield a conception of how the regime (or rule-making body) and its political community (or formal membership) are supposed to relate to one another. The setting of membership boundaries and the assignment of duties among the regime and political community represent the fundamental normative commitments of the

political system, though the extent to which they are also descriptive of actual practice or merely aspirational is a primarily empirical concern.

The location of sovereignty is perhaps one of the most fundamental normative questions arising for a political system, asking as it does where political power should be invested, in terms of both power-wielding institutions and their corresponding territory (Bellamy 2003). Throughout European history, a range of different institutional models have been proposed and implemented, with the idea of investing power in either absolute or republican monarchies being especially popular until parliamentary and presidential democracies became the norm from the nineteenth century onwards. The territorial question suggests two major issues. On the one hand, it is necessary to determine the scope of the demos, that is, the political community over which power may be legitimately exercised. Ethnic conceptions of political community, employing linguistic proximity or other markers of cultural identity, have been often used to justify territorial expansion. Examples of this would be the expanding borders of the Soviet Union and the Third Reich's attempt to create a *Grossdeutschland* with the annexation of Austria. A more civic alternative to territorial expansion relies on a voluntaristic view of the legitimate demos, whereby distinct political communities can freely decide to join together under one larger authority out of mutual interest and a commitment to shared political principles. Belgium, the United States, and the EU are just a few examples that arguably come close to this model, although this is not to suggest that ethnic reasons may not also play some role in determining the eventual composition of such political communities.

On the other hand, the demos may have internal boundaries among which power must be distributed. Few political systems have ever been ruled entirely from

the centre, with local and/or provincial government typically playing an important role in day-to-day affairs. The key issue, however, is the formal status of the peripheral units within the political system. Does the centre maintain ultimate sovereignty such that it can impose its will on the peripheral units at any time? Or do the peripheral units also have their own sovereignty rights that protect them from certain infringements by the centre? Federations in addition to political systems that place the principle of subsidiarity (whereby political decisions are taken at the administrative level as close to the citizen as possible) at the heart of their constitutions are examples of this devolution of sovereignty. And indeed, there are many interpretations of the principles of federalism and subsidiarity in both theory and practice, which may be judged more or less legitimate.

It has already been indicated that all political systems will have a text that tells a story of governance and a story of the political community as well as their relationship to one another (Nicolaïdis 2012: 250). This is usually called the constitution, which may be an explicit text that is identified as the founding document or else a set of general principles that can be seen as implicitly running through the wider legal system. A formal constitution, however, should be carefully distinguished from constitutionalism which has connotations relating to liberal and republican conceptions of the ideal constitution (Bartolini 2010: 19), including as they generally do substantive citizens' rights protections – possibly articulated in a Bill of Rights – as well as an institutional design defined by checks and balances which aim to prevent tyrannical power or government that is non-responsive to citizens' interests.

The central point of contention over foundational legal texts tend to be what values and principles should be given the privileged position of constitutional status. This issue is of crucial importance for the effectiveness of a regime: constitutions are

designed to provide stability for the political system, which entails that it should not be too easy to change them. Building too much legislation into a constitution, such that even relatively minor legislative changes require expending significant political resources, could introduce terrible inertia into political decision-making, rendering a political organisation inflexible and ineffectual in the face of changing political and socio-economic circumstances. An overly lean constitution, by contrast, can give governments too much power to abuse values and principles that perhaps should receive the protection that constitutionalisation tends to provide. Depending on their severity, such abuses may in turn serve to destabilise the political system over time.

Constitutions that articulate democratic institutions are increasingly seen as giving rise to the only legitimate form of political system. While democracy is undoubtedly a contested concept, it is so only in a bounded sense, by which we mean that there is some basic minimum to which the vast majority of scholars ascribe despite their larger differences (Lord 2012). Effectively, this minimum consists of certain institutions of competitive democracy (e.g. Schumpeter 2003 [1943]; Przeworski 1999; Posner 2003), which involve little more than the institutionalisation of open and regular elections, such that citizens can choose their leaders and then replace them at a later date if for whatever reason a sufficient majority of citizens are dissatisfied with this leadership. This minimal account already includes a number of broadly agreed upon values, not least the political equality of citizens in being able to select their leaders and run for election themselves should they so decide.

Less minimal conceptions of democracy emphasise that democracy is not only about choosing leaders, but also involves achieving some ideal of collective self-rule. For example, both republicans and deliberative democrats emphasise the importance of citizen engagement with the authorities, not only during election periods but also in

the intervals between these periods. Republicans (e.g. Bellamy 2001, 2007; Pettit 2012) draw attention to democracy as a system that is not just competition between elites, but also contestation between citizens and their elites. Through a robust civil society set up to monitor government performance, and, on some accounts, courts capable of protecting citizens' rights from improper government legislation, republicans believe that a full democracy requires that citizens be given the capabilities required to enact contestation in their interests.

Deliberative democrats are more well-known for insisting upon the need for citizens to become co-deliberators with the government, through mediated dialogue in the public sphere and by giving citizens and their organisations a seat at the table as legislation is drafted (Chambers 2012; Habermas 1996; Mansbridge 2003). There are also participatory democrats, who emphasise many of the same features as deliberative democrats, but place an additional focus on assembly-style government in localities and the work place, as well as institutions of direct democracy such as referendums (Pateman 1970; Barber 1984).

This highly stylised account does not do justice to the many sophisticated scholarly articulations of a good democracy. For example, there are those who combine elements of republican values with a more participatory agenda (McCormick 2011). What is clear, however, is that one's conception of democracy will determine just how well one believes that a political system realises all the normative requirements of democracy. Those who embrace a competitive conception of democracy, perhaps viewing the other accounts as overly demanding, will surely have less to complain about in a political system that does not go far beyond achieving relatively free and fair elections than those who regard contestation, deliberation and participation by citizens themselves as essential for a regime to count as democratic.

Whatever one's conception of democracy, there are certain conditions related to the political community that will make the functioning of a democratic political system more or less difficult. Fluency of communication in a common mediated public sphere, a sense of shared political identity, and the presence of civil society organisations capable of representing citizen interests in a non-electoral capacity are especially relevant here. In fact, for the vast majority of normative scholars who hold a conception of democracy somewhat thicker than that of competitive democrats, a well-functioning public sphere, a common political identity and robust forms of extra-electoral representation will be especially important for achieving a high standard of democratic legitimacy.

However, these supposed conditions for a well-functioning democracy may be at least partially undermined in several different ways. One of these alleged conditions is linguistic homogeneity. If significant populations within a political community do not share the same language, it becomes more difficult for politicians from different linguistic backgrounds to communicate well with all members of the political system, whereas citizens themselves will be less able to deliberate with one another and mobilise contestation or create polity-wide civil society organisations. These difficulties are thought to arise precisely because of the increased transaction costs of pursuing political communication and action across linguistic lines (Van Parijs 2011). Indeed, precisely because of these costs, the polity is at risk of being divided into different societies with their own distinctive political identities and modes of public discourse. Due to the natural desire for citizens to access information and participate politically in their native language (Kymlicka 2001), it is very likely that a political system with significant linguistic differentiation will produce as many media systems as there are widely spoken languages, while linguistic proximity to

electoral candidates may become one of the most reliable predictors of voting behaviour.

Another factor that may affect the enactment of good democratic practice is the distribution of sovereignty mentioned earlier. If, as in a federation, there are sub-units with their own sovereign rights then it can become more difficult for these units to make decisions together on occasions when their preferences collide. And in cases where territorial sovereignty and linguistic division are commensurate with one another, as in Belgium and Canada for instance, the effect on democratic decision-making can be highly adverse. The linguistically-defined territorial units (French and English in Canada and Dutch, French and German in Belgium) results in semi-sovereign entities existing with their own public spheres, each with a distinctive political identity and preferences that do not align in fundamental ways, sometimes causing the political system to destabilise.

In these kinds of circumstances, that are in some way relevant to the EU given the sovereign status of member states and the high level of linguistic diversity among them, a key debate emerges about the limits of democracy in very diverse contexts (Lacey 2017). Is it possible to sustain a democratic political system where citizens lack a common public sphere of communication? How thin can a shared sense of political identity be if an acceptable level of democratic quality is to be reached? These are not strictly normative questions, but how we think about such issues will play a major role in framing our prescriptive views about the ways the political community and regime should be shaped or re-shaped. For example, in diverse societies, is there a responsibility to create a unified public sphere by promoting certain kinds of language learning or ensuring the existence of a shared (if

nevertheless multilingual) media system? And should the limits of political integration be set at the limits for viable democratic practices?

Another mainstay of political theory, which is important for the normative analysis of political systems analysis, is the idea of citizenship, which relates to both the rights and duties of citizens within the political system. Classically, civil, social and political rights and duties have been distinguished (Marshall 1950). Civil citizenship refers to those rights and duties pertaining to individual freedom (e.g. protection of property, free speech, freedom of conscience); social citizenship demarcates those entitlements and obligations relating to those resources required to be a fully participating member of society (e.g. education, minimum income); and political citizenship indicates those rights and duties concerning the political process. What these respective rights and duties ought to be will depend on the nature of the political system. And, indeed, the failure of this system to secure certain rights and promote the corresponding duties that are thought to constitute good citizenship may serve as the basis for a normative critique of the political system.

A grand theory of justice, like that put forward by John Rawls (1971), can in many ways be seen as an exercise in defining the rights and duties of citizens in an ideal political system. However, the question of redistributive justice which most closely relates to the idea of social citizenship has become an especially dense field. Classic debates on the adequate range of social welfare requirements continue to develop as interest expands to more neglected areas, such as justice for future generations and for surviving groups of historical injustices.

While this volume has a section on citizenship, which includes pieces that reflect on redistributive justice, the final article in this volume notes that, despite the proliferation of normative debates on redistributive justice, there has been very little

research done on this theme with specific regard to the EU and its idiosyncratic make-up (Sangiovanni 2013). While there are many political theory themes that require further exploration in the EU context, research on just redistribution in the present or in a more ideal EU is indeed especially underdeveloped.

Overview of the Volume

The first section of this volume, **The Normative Turn in EU Studies: The Issue of Legitimacy**, is the shortest. Here we present two general reflective and overview articles written shortly after the time when research on political theory and the EU had begun to rapidly gather pace. Erik O. Eriksen and John Erik Fossum's article outlines three legitimation strategies for the EU, each of which is tied to particular understanding of European integration. These strategies include deepening the collective self-understanding of European citizens and either scaling up or scaling down the integration ambitions of EU policy makers. By contrast, Richard Bellamy and Dario Castiglione provide a critique of the predominant ways in which legitimating strategies of the EU have been pursued. They are keen to demonstrate that very often such strategies attempt to prescribe a form of EU regime that is incompatible with the conditions of the European political community. In doing this, the paper attempts to outline a framework for approaching normative questions of the EU that suitably contrasts with the authors' objects of criticism.

The next five sections each present a series of articles that discuss more specific topics. Section Two, **Conceptualising Sovereignty in the EU**, presents some of the most well-articulated views on how to conceive of and justify the distribution of sovereignty in the EU. Daniel Elazar, one of the foremost scholars of federalism, attempts to understand the EU within the frames of federalism and confederalism.

Meanwhile, Olivier Costa and Paul Magnate's piece represents one of the few systematic efforts to present a conception of the EU as a consociation, despite the fact that the term consociation is often used to describe the EU. Nicole Bolleyer and Christine Reh understand the EU as a multilevel polity and attempt to investigate the conditions of legitimacy for such a political enterprise. Their central claim is that the mismatch between the supranational value configuration and those value configurations at the national level presents a formidable obstacle to legitimising the EU as a multilevel polity. This section concludes with a view that is becoming increasingly popular (e.g. Bellamy 2013; Besson 2006; Cheneval and Schimmelfennig 2013; Lacey 2017): namely, Kalypso Nicolaidis's suggestion that the EU should be understood as a *demoi-cracy* that is defined by a political community constituted by both states and citizens, founded on the fundamental principles of non-domination and mutual recognition.

The third section, **Constitution and Constitutionalism in the EU**, contains articles addressing the debate over whether the EU has or needs a constitution. This debate was prompted by the decision at the Laeken European Council in December 2001 to promote a debate on the future of Europe through the medium of a European Convention – itself a response to the growing challenges to the legitimacy of the EU with the increasing competences and salience of the EU for citizens following the Single European Act, the creation of the single market and the agreement to establish the Euro with the Maastricht Treaty. The result was the ill-fated Treaty establishing a Constitution for Europe, which was signed on the 29 October 2004 by representatives of the then member states. However, the project was abandoned when the Treaty failed to be ratified in referenda in France and the Netherlands in May and June 2005.

The section begins with a key essay by Jürgen Habermas, the most important intellectual exponent of this initiative. That is followed by a piece from Pavlos Eleftheriadis, who argues that the values underlying the development of a European legal order must be based on a kind of Kantian cosmopolitan constitutionalism that aims at the creation of a republican federation of states. By contrast to these previous articles, the jurist Dieter Grimm, who was one of the earliest critics of the very idea of the constitution (Grimm 1997) repeats and develops his early criticism of the way the constitutionalisation of the Treaties has undermined democracy within the member states. Sergio Fabbrini's contribution understands the EU constitutional architecture as a compromise between intergovernmental and supranational conceptions of the EU. He reflects upon how the euro crisis has fundamentally challenged this constitutional compromise, leading to the necessity of Treaty reform.

This leads us smoothly to the fourth section, which addresses **The Democratic Deficit Debate** - one of the most discussed themes in EU studies. The EU's alleged 'democratic deficit' has been a central concern of both policy-makers and scholars from the early 1990s onwards, when the difficulties in ratifying the Maastricht Treaty signalled an end to an assumed 'permissive consensus' with regard to the integration process on the part of the citizens of the member states (Hooghe and Marks 2009). However, the new consensus regarding the existence of a deficit was itself called into question by a number of scholars, most particularly Giandomenico Majone and Andrew Moravcsik, who in their turn offered a robust defence of the democratic legitimacy of the EU. If Majone argues that the EU does not need democratic legitimation so long as it deals only with regulatory rather than redistributive issues, Moravcsik contends that far from suffering from a democratic deficit the EU is overburdened at almost every legislative stage with accountability

mechanisms and institutional checks and balances. Their views quickly became themselves a matter of debate. In a key critique of both scholars, Simon Hix and Andreas Follesdal deployed the competitive view of democracy, outlined above, to argue that the EU's competences and claims to authority demand at least the minimalistic form of legitimation required by this conception of democracy. So long as elections to the European Parliament fail to offer credible version of democracy of this minimal kind, they maintain a democratic deficit persists. Fritz Scharpf hones in on a somewhat less explored issue, specifically the hollowing out of republican principles of democracy in the member-states themselves by the pursuit of liberal principles at the European level. Richard Bellamy and Sandra Kröger's award-winning article addresses just this issue. They argue that the key democratic failing of the EU is less a democratic deficit in the EU's central institutions and more a democratic disconnect between the EU and domestic democratic institutions that enable the collective self-rule of established identities. They advocate an empowerment of national parliaments in the EU legislative process to give citizens and their representatives a deeper democratic connection with the EU.

Section 5 deals with **The European Public: Communication and Identity.**

These articles pay particular attention to the normative problems arising from the nature of the European political community. In an influential article, Erik Eriksen argues that democracy in the EU requires an overarching public sphere, but that currently what is on offer is a more modest variety of segmented and policy-specific public spaces. Klaus Eder's piece applies a theory of identity as the narrative construction of boundaries to the EU, where the construction of a European identity is understood to be a relatively open affair between competing narratives. The next piece by Joseph Lacey takes up both the theme of communication and identity,

exploring their connection with legitimacy in the EU. Contrary to the view that insists upon the tight connection between democracy and a unified public sphere (Van Parijs 2011: 28), the author draws upon the case of Switzerland to argue that multilingualism does not necessarily place limits on democracy since certain democratic practices can actually be a solution to the problems of communication and identity in linguistically demarcated contexts. Given the importance of civil society organisations for democratic communication between citizens and governing bodies, the section concludes with an article by Beate Kohler-Koch, which reflects upon the role of these organisations in the EU. She questions the legitimacy of civil society organisations in the EU context, classifying them as “astroturf” entities that are helped into existence by and ultimately designed to serve the European authorities, rather than emerging organically from grassroots mobilisation among the European public.

The final section is dedicated to the theme of **European Citizenship**. The status of citizenship of the EU was introduced with the Maastricht Treaty in 1992 but was linked expressly to citizenship of a member state, with the Amsterdam Treaty further specifying it was to ‘be additional to and not replace national citizenship’. Many commentators have regarded that specification as regrettable, undermining the potential for union citizenship to catalyze the creation of a new kind of post- and supra-national civic bond that transcends both national sentiments and state borders. Cris Shore, an anthropologist, offers a critique of the flawed teleological and neo-functional thinking underlying this goal, while explaining its appeal for many working in the Commission. This thinking has been particularly prevalent within the legal profession following the declaration that “Union citizenship is destined to be the fundamental status of nationals of the member states” in the *Grzelczyk* case in 2001, a dictum the Court of Justice has repeated ritually in almost every subsequent

case involving EU citizenship rights. The aspirations behind this argument are partly called into question by Rainer Bauböck, who offers a more nuanced view that sees EU citizenship as an important supplement to, but not as supplanting and being limited by the fuller citizenship offered by membership of a member state. Rather, on this view, EU citizenship forms part of a multilayered system of governance in which states continue to play a core role. Nevertheless, in her contribution Yaesmin Soysal maintains that European citizenship has given citizens important social rights that challenge the monopoly of states in these areas. In particular, she emphasizes that access to social rights through free movement undermines the dependency of such rights on political rights and membership of a state. The next paper is a path-breaking piece by Andrea Sangiovanni, who sets out a framework for what solidarity in the EU might entail and how it might differ from that found within the member states. He suggests that solidarity follows from the reciprocal creation and maintenance of collective goods, and that the type of good might vary at the international and at the national level. This provides a novel way of thinking about free movement within the EU and its relationship to the differential participation of citizens in the EU's multi-level system.

Conclusion

As will be clear from our own contributions to this collection, we do not agree with all the pieces here by any means and disagree with each other on a number of points. Our aim has been to reflect the diversity of points of view on the EU rather than to present a single perspective. However, what all the contributors share in common is the belief that the EU represents both a necessary yet also a deeply problematic political construct in an increasingly interconnected world. Necessary, because neither

effective and authoritative governance, nor democracy and social justice can be provided to individuals through the sole medium of nation states given global processes. Problematic, because as yet our conceptual thinking seems to fall short of what is required to make any of these possible within the context of the unprecedentedly complex and novel construct that is the EU. Political theory may have begun to apply itself to the EU, so that we can talk of political theory *and* the EU, but a sufficiently developed and comprehensive political theory *of* the EU remains very much work in progress.

References

Archibugi, Daniele, David Held and Martin Köhler ed. 1998. *Re-Imagining Political Community: Studies in Cosmopolitan Democracy*. Cambridge: Polity Press.

Barber, Benjamin. 1984. *Strong Democracy. Participatory Politics for a New Age*, Berkeley: University of California Press.

Bartolini, Stefano. 2010. Taking “Constitutionalism” and “Legitimacy” Seriously in *EU Federalism and Constitutionalism: The Legacy of Alterio Spinelli*, edited by Andrew Glencross and Alexander H. Trechsel. Plymouth: Lexington Books, 11-33.

Bellamy, Richard 2015 ‘Between Cosmopolis and Community: Justice and Legitimacy in A European Union of Peoples’ in S. Tierney (ed), *Nationalism and Globalisation: New Settings, New Challenges*, Oxford: Hart, 207-232

Bellamy, Richard 2013 ‘An Ever Closer Union of Peoples: Republican Intergovernmentalism, Democracy and Representation in the EU’, *Journal of European Integration*, 35. 5: 499-516.

Bellamy, Richard. 2007. *Political Constitutionalism: A Republican Defence of the Constitutionality of Democracy*. Cambridge: Cambridge University Press.

Bellamy, Richard 2003. Sovereignty, Post-Sovereignty and Pre-Sovereignty: Reconceptualising the State, Rights and Democracy in the EU. Pp. 167-89 in *Sovereignty in Transition*, ed. Neil Walker. Oxford: Hart.

Bellamy, Richard 2001. The “Right to Have Rights”: Citizenship Practice and the Political Constitution of the EU. In Bellamy and Warleigh 2001a: 41-70.

Bellamy, Richard and Castiglione, Dario 2003. Legitimizing the Euro-‘Polity’ and its ‘Regime’: The Normative Turn in EU Studies. *European Journal of Political Theory*. 2: 7-34

- Bellamy, Richard and Castiglione, Dario 1998 Between Cosmopolis and Community: Three Models of Rights and Democracy within the European Union. In Archibugi , Held and Koheler 1998: 152-78
- Bellamy, Richard, and Alex Warleigh 2001a. *Citizenship and Governance in the European Union*. London: Continuum.
- Bellamy, Richard, and Alex Warleigh 2001b. Cementing the Union: The Role of European Citizenship. In Cerutti and E. Rudolph 2001: 55-72.
- Besson, Samantha. 2006. Deliberative democracy in the European Union: Towards the Deterritorialization of Democracy in *Deliberative Democracy and its Discontents*, edited by Samantha Besson and Jose Luis Marti Marmol. Aldershot: Ashgate, 181-214.
- Caney, S. 2005 *Justice Beyond Borders: A Global Political Theory* Oxford, Oxford University Press
- Cerutti, Furio, and Enno Rudolph ed. 2001. *A Soul for Europe: Vol. 1 A Reader*. Leuven: Peeters
- Chambers, Simone. 2012. Deliberation and Mass Democracy. *Deliberative Systems: Deliberative Democracy at the Large Scale*, edited by Jane Mansbridge and John Parkinson. Cambridge: Cambridge University Press.
- Cheneval, Francis and Schimmelfennig, Frank. 2013. The Case for Democracy in the European Union. *Journal of Common Market Studies*, 51 (2).
- Føllesdal, Andreas and Koslowski, Peter eds. 1997. *Democracy and the European Union*, Berlin: Springer.
- Friese, Heidrun and Wagner, Peter. 2002. Survey Article: The Nascent Political Philosophy of the European Polity. *The Journal of Political Philosophy*. 10:3: 342-64.
- Goodin, Robert 1987-8. What is So Special About Our Fellow Countrymen? *Ethics* 98: 663-86.
- Gowan, Paul. and Anderson, Perry. eds. 1997. *The Question of Europe*. London: Verso
- Grimm, Dieter. 1997. Does Europe Need a Constitution? In Gowan and Anderson 1997: 239-58
- Habermas, Jürgen. 1996. *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*, translated by William Rehg. Oxford: Polity Press.
- Hayek, Friedrich. 1948 The Economic Conditions of Interstate Federalism, *Individualism and Economic Order*. London: Routledge

- Held, David. 1995. *Democracy and the Global Order: From the Modern State to Cosmopolitan Governance*, Cambridge: Polity Press
- Hirst, Paul. and Thompson, Graham. 1996. *Globalisation in Question: The International Economy and the Possibilities of Governance*. Cambridge: Polity Press
- Hix, Simon and Bjørn Høyland. 2011. *The Political System of the European Union, Third Edition*. Houndmills: Pelgrave Macmillan.
- Hooghe, Liesbet and Gary Marks. 2009. A Postfoundationalist Theory of European Integration: From Permissive Consensus to Constraining Dissensus. *British Journal of Political Science*, 39 (1): 1-23.
- Kostakopoulou, Theodora. 2001. *Citizenship, Identity and Immigration in the European Union: Between Past and Future*. Manchester: Manchester University Press.
- Kymlicka, Will. 2001. *Politics in the Vernacular: Nationalism, Multiculturalism and Citizenship*. Oxford: Oxford University Press.
- Lacey, Joseph. 2016. 'Conceptually Mapping the European Union: A Democratic Analysis', *Journal of European Integration*, Vol. 38 No. 1, pp. 61-77.
- Lacey, Joseph. 2017. *Centripetal Democracy: Democratic Legitimacy and Political Identity in Belgium, Switzerland and the European Union*. Oxford University Press.
- Lehning, Percy and Albert. Weale. 1997. *Citizenship, Democracy and Justice in the New Europe*. London: Routledge.
- Lord, Christopher. 2012. A Democratic Audit Framework. *Rethinking Democracy and the European Union*, edited by John Erik Fossum and Erik Oddvar Eriksen. London: Routledge, 39-56.
- Linklater, A. 1998 *The Transformation of Political Community: Ethical Foundations of the Post-Westphalian Era*. Cambridge: Polity Press
- Malcolm, N. 1991 *Sense on Sovereignty*, London: Centre for Policy Studies
- Mansbridge, Jane. 2003. Rethinking Representation. *American Political Science Review*, 97 (4), 515-26.
- Majone, Giandomenico. 1998, Europe's Democratic Deficit: the Question of Standards. *European Law Journal* 4: 5-28
- Marshall, Thomas H. 1950. *Citizenship and Social Class, and Other Essays*. Cambridge: Cambridge University Press.
- McCormick, John P. 2011. *Machiavellian Democracy*. Cambridge: Cambridge University Press.

Miller, D. 2007 *National Responsibility and Global Justice*, Oxford: Oxford University Press

Miller, David 1998. The Left, the Nation-State, and European Citizenship, *Dissent*, Summer: 47-51.

Moravcsik, Andrew 2002. In Defence of the Democratic Deficit: Reassessing Legitimacy in the EU. *Journal of Common Market Studies*. 40: 603-24

Morgan, Glyn 2004. *The Idea of a European Superstate: Public Justification and European Integration*. Princeton: Princeton University Press

Nicolaïdis, Kalypso. 2012. The Idea of European Democracy in *Philosophical Foundations of European Union Law*, edited by Julie Dickson and Pavlos Eleftheriadis. Oxford: Oxford University Press, 247-74.

Pateman, Carole. 1970. *Participation and Democratic Theory*. Cambridge University Press.

Pettit, Phillip. 2012. *On the People's Terms: A Republican Theory and Model of Democracy*. Cambridge: Cambridge University Press.

Piris, Jean-Claude. 2011. *The Future of Europe: Towards a Two-speed EU?* Cambridge: Cambridge University Press.

Posner, Richard. 2003. *Law, Pragmatism and Democracy*. Massachusetts: Harvard University Press.

Powell, Enoch 1973. *The Common Market: Renegotiate or Come Out*. Kingswood: Elliot Right Way Books

Przeworski, Adam. 1999. Minimalist Conception of Democracy: A Defence. *Democracy's Value*, edited by Ian Shapiro and Casiano Hacker-Cordon. Cambridge: Cambridge University Press.

Rabkin, Jeremy 1998. *Why Sovereignty Matters*. Washington DC: AEI Press

Rawls, John and Van Parijs Philippe 2003. Three Letters on *The Law of Peoples* and the European Union. *Revue de philosophie économique* 7: 7-20

Rawls, John. 1971. *A Theory of Justice*. Massachusetts: Harvard University Press.

Rose, Richard. 2013. *Representing Europeans: A Pragmatic Approach*. Oxford: Oxford University Press.

Sangiovanni, Andrea. 2013. Solidarity in the European Union, *Oxford Journal of Legal Studies*, 33 (2), 213-41.

Soysal, Yasemin 1994 *Limits of Citizenship: Migrants and Postnational Membership in Europe*. Chicago: The University of Chicago Press

Schumpeter, Joseph. 2003 [1943]. *Capitalism, Socialism & Democracy*. London: Routledge.

Smith, Anthony 1992. 'National Identity and the Idea of European Unity'. *International Affairs* 68: 55-76

Van Parijs, Philippe 1997 Basic Income and the Political Economy of the New Europe. In Lehning and Weale 1997: 161-74.

Van Parijs. 2011. *Linguistic Justice for Europe and for the World*. Oxford: Oxford University Press.

Vibert, Frank 2001 *Europe Simple, Europe Strong: The Future of European Governance*, Cambridge: Polity Press

Weale, Albert and Nentwich, Michael 1998. *Political Theory and the European Union*. London: Routledge.

Weiler, Joseph. 2001. European Democracy and the Principle of Toleration: The Soul of Europe. In Cerutti and Rudolph 2001: 33-54