

Political Theory

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The Concept of New Democratic Legitimacy and the Future of the European Union

ABSTRACT. *Both academic research and political debate have focused on the European Union's much-mentioned but little-understood 'democratic deficit'. By contrast, this article shifts the emphasis to the issue of the EU's crisis of legitimacy. It begins by suggesting that neither the process nor the outcomes of EU-wide decision-making appears to command majority support. Is this lack of democratic legitimacy merely the result of institutional 'design faults' or does it reflect a wider and deeper crisis underpinning the EU's entire political project? My argument is that the dominant models of integration – neo-functionalism and liberal intergovernmentalism – rest on three errors: (1) the primacy of economic integration over political union, which has led to a market-state that is disembedded from society and a citizenry that is subordinated to the joint rule of the economic and the political; (2) a premature process of constitutionalisation that culminated in the rejection of the 2005 Constitutional Treaty and the flawed Lisbon Treaty; (3) the current institutional arrangements that concentrate power in the hands of supranational institutions and national governments at the expense of the Union's citizenry.*

The first section puts the question of democratic legitimacy in the context of the EU's current

slide towards disintegration. Section two provides an account of the EU's crisis of legitimacy and explores the main causes that have led to this predicament. Section three suggests that some of the origins can be traced to the inception of the European project in the post-1945 era. Section four argues that the prospect for a core EU (around the Eurozone countries) is rapidly receding. Section five outlines a new settlement that focuses on the idea of a Europe of nations, while the final section develops this thinking in the direction of a civic commonwealth that is grounded in the shared culture of European countries.

KEYWORDS: *crisis, legitimacy, civic consent, popular participation, subsidiarity, neo-functionalism, inter-governmentalism, commonwealth*

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Теория политики

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Концепция новой демократической легитимности и будущее Европейского Союза

АННОТАЦИЯ: *Весьма часто упоминаемый, но не до конца понятый «демократический дефицит» в отношении ЕС является одной из главных тем как научных исследований, так и политических дебатов. Представленная статья начинается с гипотезы о том, что ни сам процесс принятия решений в ЕС, ни его конкретные результаты не пользуются поддержкой большинства населения. Является ли отсутствие такой демократической легитимности результатом наличия неисправностей институционального дизайна ЕС или же речь идет о следствиях более глубокого кризиса самой идеи европейского политического проекта? С моей точки зрения, доминирующие модели интеграции – среди которых неофункциональный наднационализм и либеральная межправительственная модель – основаны на трех ошибках: 1) примат экономической интеграции по отношению к политическому союзу, что привело к установлению рыночной модели, при которой союз оказался не встроено в общество, а граждане подчинялись общим экономическим и политическим правилам; 2) преждевременный процесс конституализации, кульминацией которой*

стали отказ от подписания Конституционного Договора в 2005 г. и небезупречный Лиссабонский договор; 3) современные институциональные преобразования, способствовавшие концентрации власти в руках наднациональных институтов и национальных правительств в ущерб влиянию самих граждан Союза.

В первой части статьи поставлен вопрос о демократической легитимности в контексте сдвига ЕС в направлении дезинтеграции. Во второй части представлено состояние кризиса легитимности ЕС и выделены его основные причины, которые привели к современному состоянию. В третьей части автор делает предположение, что ряд таких причин может быть найден еще в самом начале возникновения Европейского проекта в послевоенное время 1945 г. В четвертой части автор доказывает, что перспективы для ядра ЕС (вокруг стран Еврозоны) заметно снижаются. В пятой части автор намечает новый порядок, в основу которого положена идея Европы наций. Последняя же часть статьи продолжает эту идею в приложении к принципу общего гражданского блага, основанному на общей культуре европейских государств.

КЛЮЧЕВЫЕ СЛОВА: кризис, легитимность, гражданское согласие, политическое участие масс, субсидиарность, неофункционализм, межправительственная модель, общее благо

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1. Discontent, disintegration and democratic legitimacy

Within the EU, the twin forces of integration and enlargement that defined the European project since its inception in the late 1950s have given way to a dynamic of disintegration. After the Brexit vote, a full or partial break-up of the EU is more plausible than at any point since the signing of the Rome Treaties in 1957. Member states either face the prospect of break-up (including Britain, Belgium and Spain), or else they are confronted with anti-establishment insurgencies that threaten the existence of the single currency and the functioning of the Union as a whole – for example the Front National in France or the Five-Star movement in Italy. Neither national institutions nor the community institutions of the EU itself have prevented the establishment of illiberal regimes in member states such as Hungary and Poland, including an assault on the freedom and independence of courts, NGOs, and the media, combined with growing ideological polarisation and political witch-hunts

(Krastev, 2016, p. 5–15). A slide into the extremism of the hard left and the radical right is no longer unthinkable. After decades of muddling through and failing to learn from major setbacks (in particular such as the rejection of the 2005 Constitutional Treaty by referendum in France and the Netherlands), the EU finds itself in an unprecedented crisis of prosperity, identity and above all legitimacy – the lack of popular consent for the political authority of the Union¹.

At the same time, public opinion in the EU is deeply divided – not just between different member states or demographic groups but also and more fundamentally about civic support for the Union. As a recent study found, “people support the idea of a united Europe, but are increasingly wary about its current direction”². In other words, there is continued commitment to the idea of Europe and the principle of membership in the EU, but what is lacking is consent for the current institutional arrangements and the policy direction. Since the failure of the 2005 Constitutional Treaty, there has been growing disillusionment with the Union and its apparent inability to make good on the promise of prosperity, peace and partnership. The 2008 financial crash and ensuing recession, combined with the conflict in Ukraine, casts doubt on the EU’s capacity to mediate the forces of globalisation and to act as an honest broker. The dysfunctions of the Eurozone and the impact of the migration crisis have contributed to a sharp upturn in euro-scepticism and outright hostility to the EU as a whole across different member states. Neither the process nor the outcomes of EU-wide decision-making appears to command majority support. The question that arises is whether this lack of legitimacy is merely the

1 Catherine de Vries and Isabell Hoffmann, ‘Supportive but wary: How Europeans feel about the EU 60 years after the Treaty of Rome’, eupinions #2017/1 (Gütersloh: Bertelsmann Stiftung, 2017). URL: https://www.bertelsmann-stiftung.de/fileadmin/files/BSt/Publikationen/GrauePublikationen/EZ_eupinions_2017_01_DT.pdf (Accessed 22.02.2017)

2 Pascal Lamy, ‘Europe needs a legitimacy compact’, International Herald Tribune, 9 July 2012. URL: http://www.nytimes.com/2012/07/09/opinion/europe-needs-a-legitimacy-compact.html?_r=0 (Accessed 22.02.2017)

result of the 'design faults' of the dominant model of European integration or whether it reflects a wider and deeper crisis of democratic legitimacy that underpins the whole project altogether.

At the heart of this question lies a further question about the foundations of legitimate government. In his book *Democratic Legitimacy*, the French political philosopher Pierre Rosanvallon makes the important point that growing distrust in the institutions of democracy is partly the result of a shift in the sources of political legitimacy (Rosanvallon, 2008; Goldhammer, 2011). For much of the modern era, legitimacy was about popular consent for rulers based on the social contract and the rules of behaviour it specified, notably delegation of powers to the sovereign in exchange for protection of life and property. Over the past half-century or so, new institutions and practices have expanded and multiplied the sources of democratic legitimacy. Among the most important changes are, first of all, judicial authorities at the national and the supranational level that challenge the power of the executive and the legislature; secondly, a vast array of bodies that mediate between the individual citizen on the one hand, and the state, on the other hand, including regulatory bodies such as watchdogs, independent commissions and Non-Governmental Organisations (NGOs). According to Rosanvallon, these new institutional arrangements can be conceptualised in terms of three values: impartiality (agencies that are independent of the three branches of government), reflexivity (constitutional courts and other judicial authorities) and proximity (intermediary institutions such as NGOs or pressure groups that defend the interests of minorities).

In relation to the EU, are these new sources of democratic legitimacy a way of compensating for the lack of traditional sources, such as competition for political office based on elections that are free and fair? Or is it the case that the EU lacks both sources – no elec-

toral competition and no new mechanisms involving impartiality, reflexivity and proximity? In fact, the latter seems to be true, as the Union is often associated with a set of normative values (liberal democracy, individual human rights), powers of regulation and even interference and a remoteness from the concerns of ordinary citizens. Moreover, the EU in its current configuration seems to undermine national forms of legitimacy, including parliamentary sovereignty, judicial oversight and the accountability of executive power vis-à-vis the people. What is worse, the EU might not even be in a position to protect national sources of democratic legitimacy from threats, such as financial oligarchy or authoritarianism that lead to a concentration of power in the hands of small elites and an attack on the independence of key institutions – including constitutional courts and NGOs in Poland or Hungary, which according to Rosanvallon are part of the new sources of democratic legitimacy.

This article focuses on the question of legitimacy in connection with the future of the European. The next section provides an account of the EU's crisis of legitimacy and explores the main causes that have led to this predicament. Section 3 suggests that some of the origins can be traced to the inception of the European project in the post-1945 era. Section 4 argues that the prospect for a core EU (around the Eurozone countries) is rapidly receding. Section 5 outlines a new settlement that focuses on the idea of a Europe of nations, while the final section develops this thinking in the direction of a civic commonwealth that is grounded in the shared culture of European countries.

2. The EU's crisis of legitimacy

Brexit and the influx of millions of migrants are not the sole cause of the Union's current crisis. What these developments highlight is the EU's fundamental predicament – economic interdependency without

corresponding social solidarity and political legitimacy. The ongoing and largely resolved Eurozone turmoil encapsulates this perhaps most clearly. The common currency has extended and reinforced the deterministic logic of neo-functionalism that underpins the entire European edifice set up by the 1957 Rome Treaty, notably the neo-functionalist idea that economic cooperation ‘spills over’ into political integration (Haas, 1958; Mitran, 1965, p. 119–149; Sandholtz, Stone Sweet, 1997, p. 297–317; Stone Sweet, Sandholtz, Fligstein, 2001). This ‘spill-over’ process combines elements of intergovernmental cooperation with supranational coordination in ways that redefine legitimate authority because sovereignty is now located not only at levels where there is competition for power and office based on election but also at levels where there is little, if any, parliamentary scrutiny or accountability to elected governments or citizens.

The project of creating a banking, fiscal and political union (that has still not been agreed by the 19 eurozone members) is in large part an expression of the same economic determinism that led to the single market and the single currency in the first place. Instead of a reciprocal recognition of diverse and mutually augmenting practices, neo-functionalism has tended to impose centrally determined, abstract standards on all member-states through top-down legal and regulatory harmonisation driven forward by the European Commission in concert with the European Court of Justice (ECJ). This has produced a kind of bureaucratic and managerialist homogenisation that is at odds with the purported aim of securing Europe’s unity-in-diversity (in *varietate concordia*). In other words, the very set-up of the EU combines two very different models of legitimacy: one that rests on the national, popular legitimacy of member-states – with elected governments that are accountable to their parliaments and voters. The other model is grounded in the suprana-

tional, technocratic legitimacy of Community institutions: (1) the Commission, which is neither fully accountable to the European Parliament (representing all the peoples) or to the European Council (representing all the member-states); (2) the ECJ, which derives its authority from intergovernmental treaties, and not from an overarching constitution that has popular consent.

With its focus on economic integration, the functionalist approach is compatible with methods of governance that are variously more intergovernmental or more supranational and with models that either favour a federal super-state or a free-trade area – or, in the case of the single market and the single currency, both at once (Majone, 2009). Neo-functionalism has produced an increasingly interdependent European economy, which is ever more disconnected from each national polity and society. The founding principles of solidarity and subsidiarity – which Europe inherited from the Christian Catholic fusion of Greco-Roman Antiquity with biblical revelation – have been enshrined in successive treaties. But in recent decades the EU has further retreated towards narrow national self-interest, centralisation and a concentration of power and wealth. Linked to this is the progressive evolution towards unilateral rights without responsibilities and commercial contracts devoid of social purpose, which have supplanted and undermined the civic ties and social bonds that hold together nations and peoples. Rather than commanding the assent of its people and offering the possibility for civic participation in a shared polity, the Union has fused elements of state ‘collectivism’ with market commodification – a secular ‘market-state’ that disembeds the economy from society and re-embeds the social in the economic, as I have argued elsewhere (Pabst, 2016, p. 109–128). As a by-product of economic and legal standardisation, the EU’s political structures lack firm foundations and finalities.

For all these reasons, the current turmoil in the eurozone intensifies and radicalises a very profound political crisis. The former French Commissioner Pascal Lamy puts this well:

The euro crisis shows that Europe's institutions of political integration do not correspond to the economic integration that has been built. This imbalance is not sustainable, and new forms of discipline, solidarity and legitimacy have to emerge. The euro crisis is actually three crises: one economic, one institutional and one of legitimacy. The economic component is the symptom – a dangerous combination of a lack of competitiveness, fiscal problems and shaky banks. The institutional component reflects the original sins in the design of the Monetary Union – Europe's insufficient central powers in supervision, resolution and risk-sharing that subsequent constitutional reforms have failed to address. Lastly, the euro is also plagued by a legitimacy crisis in which support for the common currency – and, more broadly, for the European project – is in decline³.

The earlier Franco-German strategy of introducing federalism through the backdoor failed. Originally federalism was designed to limit centralisation, not to promote it. At the same time, Europe is suffering a crisis of legitimacy that goes far beyond the well-known (but poorly understood) 'democratic deficit' (Majone, 1998, p. 5–28; Moravcsik, 2002, p. 603–624; Follesdal, Hix, 2006, p. 533–562). Here it is instructive to distinguish legitimacy and democratic deficit in some more detail. Every system of representation is in 'deficit' compared with the rigorous standards of democracy and representative government, not least political systems at the national level because no set of elected representatives can ever embody the general interest and there is an endemic

risk that representatives become an interest or even self-serving party. In the case of the EU, the 'democratic deficit' includes five elements: (1) an increase in executive power and a decrease in national parliamentary control; (2) a weak European Parliament; (3) no EU-wide elections fought on European issues; (4) the sheer distance of EU institutions from citizens in terms of electoral accountability and the difference with domestic democratic institutions, which contributes to a lack of understanding of the functioning and a lack of identity with the EU as a political project that is seen as legitimate; (5) an EU policy drift away from voters' preferred policies towards the interests of the Community institutions and thus a lack of majority support by citizens and even member-states (Follesdal, Hix, 2006, p. 534–537).

The fundamental point is that a 'democratic deficit' is not the same as a crisis of legitimacy, which concerns the lack of public trust and popular assent. Legitimate rule transcends formal arrangements and procedures such as clear constitutional settlements or periodic elections. It rests on three core capacities: (i) the ability to make a political system intelligible to its members; (ii) the ability to mobilise civic consent; (iii) the ability to interest and even to entertain citizens. The EU falls short on all three levels.

More specifically, there is an increasing institutional risk that national parliaments and the European Parliament will unwittingly succeed in discrediting each other, as Larry Siedentop has argued in his seminar book *Democracy in Europe* (Siedentop, 2001). The reason is that the increased powers of the European Parliament are not counterbalanced by its enhanced authority. By contrast, national parliaments retain authority but have less and less power. The widening discrepancy between power and author-

3 Pascal Lamy, 'Europe needs a legitimacy compact', *International Herald Tribune*, 9 July 2012. URL: http://www.nytimes.com/2012/07/09/opinion/europe-needs-a-legitimacy-compact.html?_r=0 (Accessed 22.02.2017)

ity constitutes a very dangerous dialectic that is gradually eroding popular support for European integration. Under pressure from political parties and the media to defend the national interest, governments convening as part of EU ministerial meetings seem increasingly unable to come up with decisions that can command consent. In turn, this creates a growing gap between Europe's ruling elites and its citizenry. This, combined the triumph of a liberal consensus between left and right masquerading as a pragmatic centrism, helps account for the recent upsurge in support for the radical right and the hard left that occupy the ensuing vacuum. Thus Europe is in need of a political project that can shape political debate and reconnect political classes to popular sentiment and public opinion alike. The Union's crisis of legitimacy predates Brexit, the migration emergency and the eurozone turmoil as it has been developing for at least twenty-five years – ever since the acceleration of the European integration and enlargement process following the fall of Communism and German reunification.

Crucially, the EU lacks what the Canadian philosopher Charles Taylor calls a 'social imaginary', i.e. "[...] ways people imagine their social existence, how they fit together with others, how things go on between them and their fellows, the expectations that are normally met, and the deeper normative notions and images that underline these expectations" (Taylor, 2004, p. 23–24). As Taylor defines it, a social imaginary "is in fact that largely unstructured and inarticulate understanding of our whole situation, within which particular features of our world show up for us in the sense they have. It can never be adequately expressed in the form of explicit doctrines because of its unlimited and indefinite nature" (Taylor, p. 25). In this manner, a social imaginary shapes the way those people who share it view their co-existence, notably the normative dimensions of individual or collective hope and the mutual

expectations that citizens have vis-à-vis each other. As such, social imaginaries involve common narratives, myths and practices, particularly how people behave towards one another. Beyond the 'democratic deficit', the EU faces a crisis of legitimacy and lacks a pan-European consciousness – that is to say, a European social imaginary that is missing from the social imaginary of most EU member-states and popular, civic engagement with the Union.

As Charles Taylor suggests, the theory of social imaginaries must conform to the reality, i.e. popular experience and assent to political rule – whether through constitutional settlements, in elected assemblies or other forms of political engagement. Now that the reality of social imaginaries has changed, the theory neither describes nor explains the experience of Europe's citizens. The EU used to have a certain 'imagined' social imaginary that rested on mutual market interest, state welfare and the peculiarly European social models. But the 'embedded liberalism' of the post-1945 era no longer captures the reality that most European citizens inhabit and face on a daily basis, except perhaps some Europeans in the Benelux countries or parts of Scandinavia. Linked to this is the danger of deconstructing not just the nation-state but also national identity and failing in the attempt to build the first transnational political community in history.

Indeed, one side-effect of the European project since 1957 has been to weaken the nation-state and to replace it with another kind of state, which has been variously described as a 'market-state' or a transnational or even post-national state (Cooper, 2007). In the case of Europe, the 'market-state' is characterised by three distinct features. First of all, it delinks the state from the nation and transforms the purpose of government from pursuing the public good to managing systemic risk – whether financial, economic, environmental or physical. Second, it undermines the social contract between the state

and the citizen in favour of different social contracts with distinct groups (whether ethnic communities or professional groups like bankers). As such, the citizenry as a whole lacks cohesion and identity. Third, it seeks to replace national myths and narratives with supranational substitutes. In short, the EU is suffering a crisis of legitimacy that takes the form of a crisis in social capital, i.e. a growing lack of trust between citizens and the state.

At the same time, the Community institutions are not alone: countries at the core and in periphery are in the midst of a democratic crisis too, with austerity hitting ordinary people disproportionately hard and sacrifices not being shared properly by all sections of the population. Moreover, countries such as Latvia, Hungary and Poland are disqualifying themselves from being members of the club because their nominally liberal democracies are becoming increasingly illiberal and undemocratic (Krastev, p. 5–15). In short, the Union as a whole faces an unprecedented crisis of representation and legitimacy, and the citizens recognise it more acutely – albeit inchoately – than do the ruling elites in Brussels or in national capitals.

Herein lies the reason for political extremism and popular alienation from the European project. The breakdown of national social imaginaries is the source for radicalisation on both the left and the right, chief of all the excesses of multiculturalism and post-national citizenship whereby foreign minority claims seem to take precedence over indigenous majority interests. As a result, growing numbers of citizens across Europe question representative democracy and the institutions of both state and market that collude with special interests at the expense of ordinary people. But since there is no widely shared European social imaginary or European citizenship, people end up rallying around the nation-state and national myths (or populist versions that are filling the ideological void). Without a proper democratic

mandate, neither national governments nor the supranational decision-making bodies of the EU will be able to command popular assent and address the legitimacy crisis that threatens the post-war European project as a whole.

3. Europe's post-war project

To have a better understanding of the EU's present predicament, it is necessary to revisit the origins of the European integration process. The post-war European project came into existence to resist the three forces that had devastated Europe in the late nineteenth and the first half of the twentieth century: economic nationalism, the free-market ideology of laissez-faire capitalism, and the state corporatism of the communist, fascist and national-socialist regimes. Europe's founding fathers like Robert Schuman, Konrad Adenauer or Alcide deGasperi were more inspired by Christian social teaching than by secular ideology (Kaiser, 2007; Wilton, p. 13–32). They inaugurated cooperation between former enemies in agriculture, coal and steel, and they built new alliances among trade unions, businesses and the churches. Underpinning this new economic model was a substantive conception of the common good based on bringing hitherto estranged interests into a new negotiated institutional settlement – in particular between central, regional and local government as well as among employers, trade unions and the public sector. Especially in the Federal Republic of Germany, the social market economy that was supported by both Christian and Social Democracy embodied many principles of Catholic social teaching and cognate ideas in the Protestant tradition (Luitwielerin, p. 50–69).

One way to characterise the post-1945 European project is in terms of a triple triad. First, vocation, value, and virtue: a vocational labour market in Germany, the

Netherlands and parts of France and Italy (combined with regional banks and local government) sustained a more balanced and diversified economy that tended to produce goods and services of value serving the needs of people. This model also provided many incentives to virtue rather than vice: shared benefit, generosity, and a high degree of trust and cooperation instead of greed, selfishness, distrust, and conflict. The experience of the *trentesglorieuses* was as much to do with post-war reconstruction as it was about a new balance of rival interests in pursuit of the common good.

Second, solidarity, subsidiarity, and status: the early European project focused on real, interpersonal solidarity between agriculture, manufacturing, industry, and services. The much-maligned Common Agricultural Policy (CAP) – in its original version – defended small-holding farms and their important social and cultural role against industrialized agriculture and its links to big food-processing and wholesale businesses, which squeezed farmers and independent shops. Co-determination in industry represented subsidiarity in action and was also a cornerstone of cooperation between countries that had been at war for much of the previous two centuries. The status of workers and peasants was central, affording them not just an income to feed themselves and their families, but also a public recognition of their vital contribution to society.

Based on a process of reconciliation between Germany and its erstwhile enemies, the post-1945 settlement gave rise to a new era of peace, prosperity, and partnership – the third triad. Europe sought to learn the lessons of centuries of war between rival colonial powers and sovereign states by inaugurating a new kind of cooperation with the aim of bringing about an ‘ever closer union of peoples and nations,’ as the preamble of the 1957 Rome Treaty states. In an attempt to avert the bloodshed of inter-state war and

stop unmediated economic competition from turning into conflict, Europe’s founding fathers sought to build a different type of polity, which can be described as a ‘subsidiarist’ and ‘reciprocalist’ commonwealth that pools sovereignty and embeds states and markets in strong intermediary institutions in order to counterbalance global capital and centralised bureaucracy. To an extent the European post-war project managed to provide a balance between free trade and protectionism through regional and structural funds in ways that tempered both nationalism and the impersonal forces of unmediated globalisation.

However, at the heart of post-war Europe was also an ambiguity from the outset – the primacy of economics and politics over society and culture. This primacy goes back to the ‘Monnet method’ of supranational integration that was already enshrined in the 1957 Rome Treaty, which is also known as ‘neo-functionalism’ – the idea that ever more economic exchange and legal uniformity will over time produce political unification (as I have already indicated). Monnet’s neo-functional approach fused Napoleonic directives with German ‘Ordo-liberal’ thinking, which since the late 1960s has differed from Catholic Social Thought in that it privileges legal positivism and procedure over coalitions of interest in a quest for the common good (Lachman, p. 89–108). Europe’s ‘original sin’ was to fail to develop a shared political economy that would extend the virtues of the German social market model to the rest of the EU, while correcting the vices of Ordo-liberalism – too much emphasis on central rules and regulations, too little emphasis on the social purpose of investment and competition.

Germany has managed to preserve many elements of the social market, including worker representation on boards, regional banks, farm subsidies, an industrial policy, and a vocational labour market. But neither the Christian nor the Social Democrats re-

sisted the neo-liberal takeover of German Ordnungspolitik, especially the pursuit of austerity and price stability that in the context of the Eurozone privileges deflation and depression (Pabst in Cardinale, Coffman, Scazzieri, 2017, p. 183–215). The tragedy of the EU is that Germany has exported its ethics and politics rather than its economy: Kantian morality of context-less duties, Weberian statecraft void of virtue, and Bismarckian quasi-military management of citizens through centralized welfare. Reinforced by French dirigisme and bureaucratic diktat, the Franco-German marriage has engendered a Europe that is abstract, administrative and alien vis-à-vis its citizens just because it is founded more upon formalism, legalism and rationalism than it is upon substantive unity, judgment, and a fuller conception of reason. A richer rationality re-connected with habit, feeling and faith can correct the instrumental rationality of both capitalism and bureaucracy.

To Europe's 'original sin' one can add the 'cardinal vice' of the 1985 Single European Act so beloved of Margaret Thatcher and her successors as British Prime Minister. Far from creating a free market liberated from French dirigisme, it progressively replaced Europe's Common Market, which rests on the mutual recognition of national diversity (with some basic minimum standards) that is negotiated predominantly by the individual member-states, with a Single Market that promotes top-down harmonization giving all power to the Commission and the Court of Justice. In practice, the EU put in place a regulatory regime that imposes uniform standards across all member-states (Majone, 1994, p. 77–101). By contrast, before the creation of the Single Market EU directives required some minimal harmonisation of

European law but also had the effect of banning restrictive regulation in countries that interfere with the four freedoms (people, goods, services, and capital). Ironically, the UK's insistence on enlarging the EU rapidly and on extending the Single Market to evermore sectors reinforced the unmediated movement of capital and labour by weakening the mutual protection between regions and nations that European project originally provided. In this way, Britain's approach to Europe helped to create the very conditions for the Brexit vote when a significant number of British voters rebelled against the sheer volume of immigration as a result of the free movement of labour – combined with concerns about the loss of parliamentary sovereignty and a threat to settled ways of life (Pabst, 2016, p. 189–201).

Connected with the increasingly unrestrained flow of capital and low is the EU interpretation of the principle of subsidiarity. In Article 5 of the EU Treaty and other texts, subsidiarity implies that the Union is obliged to take action wherever it has an advantage in terms of scale or effect. Not only does this invert the burden of proof and raise question over who has the legitimate authority to decide⁴. But it also hollows out the primacy of society over the economy, as Karl Polanyi argued in his seminal book *The Great Transformation* (Polanyi, 2000). From the family via intermediary institutions all the way up to the nation, the primacy of the social over the economic is central to Christian social teaching (and cognate traditions such as guild socialism or One Nation conservatism) (Milbank, Pabst, 2016, p. 69–90). As a result of EU legalism and proceduralism, subsidiarity has become an engine of centralisation when it was supposed to be a device for devolving power to people. Thus EU centralism

4 Philip Booth and Diego Zuluaga, 'Subsidiarity needs to take its rightful place in the EU', *Reimagining Europe*, 24 February 2016. URL: <http://www.reimaginingeurope.co.uk/subsidiarity-needs-to-take-its-rightful-place-in-the-eu-2/> (Accessed 22.02.2017)

is neither necessary nor inevitable. It was the outcome of contingent political decisions to fuse Anglo-Saxon free-market economics with continental bureaucratic statism, which successive EU member-states and the Community institutions in Brussels have taken to new levels. It is this European 'market-state' that lacks political direction, economic vitality, social cohesion, and civic consent and that was rejected in the Brexit vote.

4. The demise of core Europe

Brexit and the continual conflict in Ukraine seem to provide a golden opportunity to turn the EU into a politically integrated "Core Europe" with a diffusion of peripheral states, including countries such as Greece that would leave the euro. Does the UK's departure in 2019 not remove a recalcitrant country that has been bent on blocking further integration ever since it joined the then-EEC in 1973? And do events in Ukraine not underscore the need for greater unity in the face of destabilisation along the EU's external border, from the Baltics to the Balkans? Faced with an anti-EU insurgency across member states old and new, is this not the time for another 'great leap forward', as with the Single European Act after the crisis in the 1970s and the Maastricht Treaty following the end of the Cold War?

The last time the EU attempted such a great leap forward towards full political integration ended in the failure of the 2005 Constitutional Treaty, which both the Dutch and the French people rejected comprehensively. Far from lurching towards the super-state that Eurosceptics have always feared,

the reality is that the EU is paralysed by the deep divisions that already existed within it long before Ukraine and Brexit – between net contributors and net recipients, between old and new member states, between those pursuing a federal state and those favouring a union of nations or perhaps simply a free trade area with some common standards. Even the Brussels-based community institutions have recently changed their tune. Donald Tusk, the President of the European Council, has spoken of the 'existential crisis' facing the EU. Already ahead of the vote in favour of Brexit, he told a gathering of Christian Democrats on 30 May 2016 that, obsessed with the idea of instant and total integration, we failed to notice that ordinary people, the citizens of Europe, do not share our Euro-enthusiasm. Disillusioned with the great visions of the future, they demand that we cope with the present reality better than we have been doing until now. [...] The spectre of a break-up is haunting Europe and a vision of a federation doesn't seem to me like the best answer to it⁵.

The death of the federalist dream of creating a European super-state has long been in the making, as the analyst Charles Grant has observed⁶. Not even the Eurozone countries are willing to agree on a full banking union – never mind a fiscal or a political union. Since the defeat of the Constitutional Treaty in 2005, power has flown from the supranational level back to the intergovernmental level. Echoing Margaret Thatcher's 1988 Bruges lecture, the German chancellor Angela Merkel argued in the same place in 2010 that the future of the EU lies with a better division of labour between the EU institutions and member states and with greater coordination by the

5 Donald Tusk, Speech at the event marking the 40th anniversary of European People Party (EPP), 30 May 2016. URL: <http://www.consilium.europa.eu/en/press/press-releases/2016/05/30-pec-speech-epp/> (Accessed 22.02.2017)

6 Charles Grant, 'Unnoticed by Brexiteers, the idea of an EU super-state is quietly dying', Daily Telegraph, 16 June 2016. URL: <http://www.telegraph.co.uk/news/2016/06/16/unnoticed-by-brexiteers-the-idea-of-an-EU-super-state-is-quietly-dying/> (Accessed 22.02.2017)

latter in order to take the lead and leave the implementation of decisions to the former⁷. In conceptual terms, this means deploying the “union method” of co-ordinated action by national governments (Overdevest, 2002). This contrasts with the “community method” of automatic supra-nationalism favoured by the former President of the European Commission Jacques Delors and, before him, Jean Monnet. All the major decisions on Eurozone bailouts and the migration crisis have been made by Germany and other big member states, with the support of others. Neither the Commission nor the Court of Justice has been able to push for further integration.

At the centre of a less federalised EU, geographically as well as politically, is Germany. Ukraine and Brexit have thrust Berlin into an even more pivotal position, but just as expectations of greater German leadership have increased, so too have fears of German power (Kundnani, 2014). In response, German politicians from both main parties talk about ‘leading from the centre’. In practice this involves a kind of hub-and-spoke EU where policy is driven primarily by a search for consensus and a concern to preserve the Union – not “a utopia of Europe without nation-states or a utopia of Europe imposing its own values on the external world”, as Tusk warned. For all of these reasons, the prospects of a Core EU are rapidly receding.

Moreover, the Brexit vote highlights a fundamental crisis of the EU that goes beyond British opposition to mass immigration and the loss of parliamentary sovereignty. The Czech foreign minister Lubomir Zorawski put this well:

Brexit is a symptom of a wider crisis of trust and the collapse of the EU’s political capital. The UK may well be a special case, but the concerns that animated the Leave vote – particularly over the downsides of globalisation – are echoed in other member states. Brussels institutions, in particular the European Commission, share some of the blame. The bodies that are meant to instil a sense of common purpose have become a symbol of alienation. Instead of protecting the unity of the EU, they have contributed to national division and public mistrust, especially in their response to the refugee crisis⁸.

This sentiment is shared across the Union, including among former advocates of Euro-federalism, such as the German finance minister Wolfgang Schäuble, who rejected calls for further integration both before and after the Brexit vote. He stated unambiguously that “this is not the time for visions; if the Commission doesn’t work with us we ourselves will take things in hand”⁹. With the Euro-federalists weakened and in a minority, the realists and pragmatists are prevailing in their attempts to cut short any discussion of ‘more EU’, a new treaty, or even a European government.

Instead of creating a super-state, Brexit is much more likely to move the EU in the direction of a Europe of nations akin to Charles de Gaulle’s vision of a ‘Europe des patries’, with a more inter-governmental Union in which national capitals call the shots. None of this indicates any imminent move towards a Core Europe of any description. On the contrary, Brexit has made disintegration the dominant dynamic, and this is set to continue in 2017 and beyond, as anti-EU insurgencies try to take power

7 Angela Merkel, Speech at the opening ceremony of the academic year of the College of Europe in Bruges on 2 November 2010. URL: <http://www.bruessel.diplo.de/contentblob/2959854/Daten/> (Accessed 22.02.2017)

8 Lubomir Zorawski, ‘EU institutions must share some of the blame for Brexit’, Financial Times, 1 July 2016. URL: <https://www.ft.com/content/9dbaabb6-3eab-11e6-8716-a4a71e8140b0> (Accessed 22.02.2017)

9 Wolfgang Schäuble, Interview with Der Spiegel (in English) 10 June 2016. URL: <http://magazin.spiegel.de/SP/2016/24/145211166/index.html>; idem., Interview with Welt am Sonntag (in German), 3 July 2016. URL: <https://www.welt.de/politik/deutschland/article156764556/Schaeuble-will-EU-Kommission-schwaechen.html> (Accessed 22.02.2017)

in the Netherlands, France, and Italy. Even if Marine Le Pen loses the French presidential elections and Martin Schulz is elected as German chancellor, there is no mainstream political support for a Core EU. In fact, the EU is deeply divided and paralysed between three poles: an Atlantic pole composed of Scandinavia, the Baltic States, Poland, and some other Central European countries; a continental pole consisting of Germany, France, Spain, Italy, and the Benelux; and a Eurasian-leaning pole involving countries that are more positively disposed towards Russia, including Slovakia, Hungary, Bulgaria, and (post-EU accession) Serbia.

5. A new settlement for the EU

After Brexit, the EU could either evolve into a super-state (composed of the Eurozone core), or lapse into a glorified free-trade area, or disintegrate altogether. Confronted with the threats of terrorism, economic depression in the Eurozone periphery, and the impact of mass immigration, the EU faced an existential crisis well before Britain's decision to leave because the dominant neo-functionalist model of integration and enlargement eroded the social-cultural foundations upon which the European polity rests (Pabst, p. 109–128). In recent years, the dynamic of disintegration reached a new level, as Schengen and the Euro have served to undermine civic consent and public trust in the European project and thereby exacerbated the crisis of legitimacy.

For this reason, turning the EU into a mere free-trade zone is the wrong answer to Brexit because increasingly unfettered free trade between sovereign nations will perforce require the creation of a super-state to prevent any national protectionism from re-emerging, which is why the common market based on mutual recognition has mutated into the single market with top-down harmonisation. Such a super-state would also

exacerbate the corrosive effects of globalisation on national identity and the economy precisely because the modern state – whether at the national or the supranational level – is constituted through its centralising tendency to suppress regional and linguistic differences in ways that over time provoke a popular backlash.

A loose confederation of sovereign states as demanded by euro-sceptics in some of the new EU member-states such as Poland or Hungary might avert centralisation but it would be powerless to counteract protectionist reactions or provide a strong European presence in the world. Thus the only genuine alternative to centralisation and disintegration is the transformation of the EU into a proper commonwealth of nations and peoples – a multinational association that shares risks, rewards, and resources based on blending contribution with solidarity and pooling sovereignty (according to a substantive conception of subsidiarity) in areas where collective action provides mutual benefits for all. Up to a point the EU is already a plural polity of overlapping and concentric circles, multiple jurisdictions, polycentric authority, and hybrid institutions that can resist both a centralised super-state and a fantasised free-trade area.

However, the Brexit vote provides an opportunity to build a new European settlement that addresses legitimate popular fears about the impact of global capital and mass migration on the EU as a whole – not just Britain – by reforming free movement of labour and enhancing the legitimacy of EU institutions. The main problem with free movement of people within the EU is that it is unsustainable in an era of major economic dislocation and mass inward migration from outside Europe. With Schengen already suspended indefinitely, now is perhaps the final chance to revise the rules governing the free movement of labour before the EU disintegrates. No member-state wants to curtail the ability of citizens of one country

to study, seek work, or retire in another, but there are several countries – including Germany – that want to overhaul the provisions on access to benefits and the automatic right to remain in another member-state without a job (and without the capacity to support yourself in the absence of state assistance). A different response to Brexit is to transform social security in all EU countries – especially Britain – in the direction of a contributory system wherein contribution is the basis for entitlement and non-remunerated activities such as caring for relatives or voluntary work in the community are honoured.

In the short and medium term, member-states such as the UK that face pressures on public services, housing and health could be allowed to use an ‘emergency brake’ on inward migration for a duration of seven to ten years, which is how long the temporary derogation used by Germany lasted following the 2004 EU eastern enlargement. While the governments of Poland, Hungary and other central and eastern European countries might object, such an emergency brake and other safeguard measures are already part of EU treaties, and they help new member-states to limit brain-drain. Such a deal could even keep Britain in the single market and avoid a full withdrawal that would be mutually diminishing. In exchange for access to the single market and a 10-year limit on immigration, the UK would still make a contribution to the EU budget (albeit at a reduced rate) and lose its influence over the rules on the single market if it chose to become an associate member.

Amid the crisis of legitimacy, the EU needs to renew the founding vision of a reciprocalist and subsidiarity polity that re-connects supranational institutions much more closely to nations, regions, localities, communities, and even neighbourhoods. Central to such a transformation is a change in the current balance of power that gives the unelected European Commission the sole right to initiate laws, while the Council

of (nationally elected) Ministers decides but does not execute policies. The first reform should be to recognise the council as the supreme executive power of the EU and to restore the commission to its original role of a European civil service that acts as a secretariat to the council in an advisory function, overseeing the implementation of common regulations and mediating among competing national and sectional interests. Second, the judicial activism of the European Court of Justice could be curtailed by further limiting the cases it hears and restricting its power to that of an arbiter, not a missionary which serves to transfer competencies from member-states to the commission. Third, the European Parliament lacks legitimacy because it is disconnected from national political classes. The lower chamber of elected members could be supplemented by an upper chamber composed of representatives from national parliaments, professions, regions, and cities (by fusing the existing Regional Committee of the EU with its Economic and Social Committee). A Parliament that represents European society – not just individual constituents – can command greater civic assent while also better exercising its primary purpose of scrutinising legislation and holding the executive to account.

6. Europe's Civic Commonwealth: an alternative vision for the future

To build a proper polity that can transform the European market-state, the Union needs to address three fundamental errors. First of all, the primacy of economic integration over political union, which has led to a market-state that is disembedded from society and a citizenry that is subordinated to the joint rule of the economic and the political. Second, the premature process of constitutionalisation that culminated in the rejection of the 2005 Constitutional

Treaty and the flawed Lisbon Treaty. Third, the current institutional arrangements that concentrate power in the hands of supranational institutions and national governments at the expense of the Union's citizenry. What underpins these three errors are the two dominant methods of integration and enlargement, namely the supranational Community method (that rests on the logic of neo-functionalism) and the intergovernmental method (that is grounded in the logic of liberal institutionalism).

The former imposes an EU constitutional and institutional settlement from above, while the latter denies the import of constitutional norms and reduces cooperation to largely technical transactions. Both approaches favour formal, procedural values and process over substantive notions and policy. That is why the EU is associated with abstract standards and top-down harmonisation that brackets the plural search for the common good, human flourishing and the dignity of the person altogether out of the picture. So both crude federalism, which is based on the supranational Community method, and narrow 'sovereignism', which draws on the intergovernmental method, are unable to bring about a proper polity that can blend unity with diversity by upholding universal principles which are embodied in particular practices. On the contrary, the dominant models and methods continue to fuel the centrifugal forces that exacerbate both integration and enlargement fatigue and risk breaking the Union asunder.

By contrast, Europe's diverse Christian heritage has the potential to renew and extend the shared social imaginary on which a vibrant market economy and democracy depend. In a remarkable report on "The Spiritual and Cultural Dimension of Europe" published in 2004, a reflection group com-

posed of European statesmen and intellectuals debunked the neo-functional myth that economic integration will lead to political union and that market forces can produce politically resilient solidarity: "The original expectation, that the political unity of the EU would be a consequence of the European common market has proven to be illusory [...] To function as a viable and vital polity, the European Union needs a firmer foundation"¹⁰. Rightly rejecting any arbitrary list of abstract values, the group argued that the role of Europe's common culture, which is a variety of traditions that are both intertwined and in tension with one another, grows in significance as the old, secular logic of integration unravels. Crucially, the shared cultural bonds, which bind Europeans together, draw on the Christian fusion of biblical revelation with Greco-Roman Antiquity in order to promote notions such as peace, reconciliation, solidarity and subsidiarity.

Moreover, Christianity has bequeathed to Europe and the rest of the world a number of perennial principles such as the dignity of the person, the virtue of free association and the distinction of religious from political authority that avoids both aggressive secularism (masquerading as secular neutrality) and fanatical theocracy (masquerading as religious guidance). In the absence of such and similar principles, all the contemporary profession of values associated with democracy and liberalism will sound increasingly hollow. Indeed, the professed pragmatism of many European elites masks a dangerous moral relativism, as Pope Benedict XVI has argued:

A community built without respect for the true dignity of the human being, disregarding the fact that every person is created in the image of God, ends up doing no good to anyone. For this reason it seems ever more

10 Reflection Group, 'The Spiritual and Cultural Dimension of Europe', Vienna/Brussels October 2004. URL: http://ec.europa.eu/research/social-sciences/pdf/michalski_281004_final_report_en.pdf (Accessed 22.02.2017), p. 6.

important that Europe be on guard against the pragmatic attitude, widespread today, which systematically justifies compromise on essential human values, as if it were the inevitable acceptance of a lesser evil. This kind of pragmatism, even when presented as balanced and realistic, is in reality neither, since it denies the dimension of values and ideals inherent in human nature. When non-religious and relativistic tendencies are woven into this pragmatism, Christians as such are eventually denied the very right to enter into the public discussion, or their contribution is discredited as an attempt to preserve unjustified privileges. In this historical hour and faced with the many challenges that confront it, the European Union, in order to be a valid guarantor of the rule of law and an efficient promoter of universal values, cannot but recognize clearly the certain existence of a stable and permanent human nature, source of common rights for all individuals, including those who deny them. In this context, the right to conscientious objection should be protected, every time fundamental human rights are violated¹¹.

Therefore universal values and principles like freedom, equality, solidarity and the will of the majority require firm foundations and transcendent finalities that mediate between the individual and the collective – otherwise liberal democracy slides either into moral relativism or political absolutism (or indeed both at once). The Union needs to eschew abstract standards, formal values and the priority of process over policy in favour of a mutual recognition of particular practices, universal principles such as the common good and the primacy of both constitution-

alism and 'mixed government' (rather than liberal market democracy). This can command proper popular consent and thus help to improve the EU's lack of legitimacy.

Up to a point, Europe remains a vestigially Christian polity that reflects the mediated universalism of Christianity's fusion of biblical revelation with Greco-Roman Antiquity. Indeed, Europe's polity is characterised by hybrid institutions, overlapping jurisdictions, polycentric authority and multi-level governance that are different from the characteristically ancient or modern concentration of power in the hands of a sovereign – whether an absolute monarch or a revolutionary republic. Drawing in part on the work of Rémi Brague, the Italian Cardinal Archbishop of Milan Angelo Scola has remarked that the origins of this distinctly European model go back to a long tradition which views Europe not as foundational but rather as the continuous unfolding of the Hellenistic fusion of Jerusalem with Athens (Brague, 1999; Gougenheim, 2008)¹². In the 'long Middle Ages' (c 500–1300), Hellenised Christianity integrated and transformed other European traditions such Germanic law or the Celtic language.

Connected with this blending of diverse cultures within an overarching framework is the Judeo-Christian distinction of religious from political authority. Based on this distinction, a free 'complex space' emerged between political rule and society wherein politics is not monopolised by the state but pertains to the public realm in which individuals and groups participate (Milbank, 1997, p. 268–292). Indeed, the Church – together with local communities and profes-

11 Pope Benedict XVI, Address to the Participants in the Congress promoted by the Commission of the Bishops' Conferences of the European Community on the 50th Anniversary of the Treaty of Rome, 24 March 2007. URL: http://www.vatican.va/holy_father/benedict_xvi/speeches/2007/march/documents/hf_ben-xvi_spe_20070324_comece_en.html (Accessed 22.02.2017)

12 Cardinal Angelo Scola, 'The Christian contribution the European Integration Process', lecture delivered in Cracow, 10 September 2010. URL: <http://english.angeloscola.it/2010/10/07/the-christian-contribution-to-the-european-integration-process/> (Accessed 22.02.2017)

sional bodies like guilds or universities – tended to defend the freedom of society against political coercion. It thereby helped protect the autonomy of Jewish, Muslim and other religious minorities. In addition to complex debates about the relative balance of state and church or the ‘mix’ of different sources of law (canon, common and civil), the presence of Jewish communities and Muslim-ruled lands on the Iberian peninsula ensured that ‘Christian Europe’ at its best was never a clerically dominated monolith but rather a realm of political argument within and across different faith traditions. Just like Christianity was never exclusively European, so too Europe is not an exclusively ‘Christian club’.

Moreover, Christendom in East and West has blended the principle of free association in Germanic common law with the Latin sense of equity and participation in the shared *civitas*. In this manner, European Christianity has defended a more relational account (in terms of objective rights and reciprocal duties, not merely subjective individual entitlements) that outflanked the dialectic of the individual and the collective that we owe to the American and the French Revolution. Ultimately, Europe’s unique legacy of faith and reason provided the basis for European claims to an ‘organically’ plural universalism. The mark of this variant of universalism is that it avoids both moral relativism and political absolutism by offering a free, shared social space for religious and non-religious practice – the ‘realm’ of civil society that is more primary than either the central state or the ‘free’ market. As the ‘corporation of corporations’, the European polity rests on common civic culture and social bonds that are more fundamental than either formal constitutional-legal rights or economic-contractual ties (or some sinister fusion of both).

So what sets Europe apart from the other global ‘poles’ is the autonomous space of civil society and the intermediary institutions

that mediate between the individual, the state and the market. The aforementioned report by the Reflection Group on the spiritual and cultural dimension of Europe puts this well:

Europe itself is far more than a political construct. It is a complex – a “culture” – of institutions, ideas, expectations, habits and feelings, moods, memories and prospects that form a “glue” binding Europeans together – and all these are a foundation on which a political construct must rest. This complex – we can speak of it as European civil society – is at the heart of political identity. It defines the conditions of successful European politics and the limits of state and political intervention (Reflection group, p. 9).

Contrary to common misconceptions, the EU at its best is neither a federal super-state nor an intergovernmental structure. Instead, European nations pool their sovereignty and are more like regions within a pan-national polity that combines a political system *sui generis* with elements of a neo-medieval empire (Hix, 2005; Zielonka, 2006). The German constitutional court, in a landmark ruling on the Lisbon Treaty in June 2009, emphasized that the Union is neither just an international organisation nor a federal super-state but rather a voluntary association of states – unlike the USA since the civil war. The mark of the European polity is that it limits both state and market power in favour of communities and groups. This associational model combines vertical, more hierarchical elements with horizontal, more egalitarian aspects, with overlapping jurisdictions and a complex web of intermediary institutions wherein sovereignty is dispersed and diffused. By contrast, the US is a commercial republic where civil society is equated with proprietary relations and market-based exchange (Hamilton, Madison, Jay, ed. Ball, 2003). In other parts of the world, civil society is subordinated to the administrative and symbolic order of central state power.

Thus, Europe's greatest 'gift' to its people and the rest of the world is to offer a narrative that accentuates the autonomy of associations vis-à-vis both state and market and re-embeds both politics and economics within the civic and social bonds of civil society.

Faced with the current crisis of legitimacy, this suggests that the EU needs a better model of shared sovereignty and reciprocal power by building a subsidiary polis that connects supranational institutions much more closely to regions, localities, communities and neighbourhood. In turn, this requires a much greater sense of a common demos with a mutual ethos and telos. In line with its own best traditions, Europe could do worse than to renew and extend its political project around the following principles and practices: first, a commonwealth of nations and peoples rather than a market-state of 'big government' and 'big business'; second, the pursuit of the common good in which all can share – beyond the maximisation of individual utility or collective happiness (or both at once); third, a series of political transformations that not only acknowledge the recent failures and the current crisis but also reconfigure the key institutions in accordance with Judeo-Christian and Greco-Roman notions of constitution rule and 'mixed government'.

Rosanvallon's points about new sources of democratic legitimacy notwithstanding, popular consent in the Western tradition (including the Eastern Roman Empire and the Byzantine Commonwealth that encompassed Russia) has always tended to revolve around a 'mixed constitution' – with both 'aristocratic' and 'monarchical' elements. The former means groups of 'wise men and women' and the latter has to be in some fashion embodied in one person, as it still is today, throughout the world, in the mode of presidential and prime ministerial functions. But instead of a constitutionally guaranteed interplay of these three elements, the EU model has tended to empower oligar-

chy and an overweening executive (in the form of the European Commission) that exceeds whatever democratic mandate it might have. Thus the EU requires a proper constitutional settlement that has popular participation and civic consent at its heart in order to foster democratic legitimacy.

More specifically, one of the clearest weaknesses of the EU's political system is the established modality of direct elections to the European Parliament, which has broken the link between national political classes and the European project, giving national politicians and national parliaments an excuse to get involved less than they should do and might otherwise have done. Linked to this is another structural weakness, namely the evolution of the Commission from being a pan-European civil service in support of national governments towards a supranational institution that concentrates both legislative and executive powers in its hand. Both European Parliament elections and the designation of the Commission drive a wedge between EU and national politics and deepen the growing gap between the Union and its citizenry.

For these reasons, the EU should create a parliamentary system of bicameralism – with a lower house representing the people and an upper house representing cities, regions, nations, professions and faiths. For its part, the Commission should revert to being a high-level European civil service that supports the work of the EU's bicameral legislature and the EU's executive – the Council of Ministers and the European Council (and possibly nationally elected politicians on secondment to the EU to ensure the day-to-day running of the EU's executive). In this manner, a bicameral system and an executive rooted in national politics can once again bind national political classes to the European project. The objection that the EU already has a certain kind of second chamber in the form of the Council of Ministers ignores its role, which is to relate the European project to national

governments but not to national parliaments and national polities in the manner that is needed.

Crucially, a bicameral parliament and the participation of nationally elected politicians in the EU executive would go some ways towards building a mixed government that is in line with the best traditions of European constitutionalism – notably the rule of law, limits on sovereign power, the interplay of the ‘one’, the ‘few’ and the ‘many’ as well as the distinction of powers without however an absolute separation (as in revolutionary regimes of the USA and France), which ends either in paralysis or in the primacy of the executive over the other branches of government (again as in the USA and France). What a proper European policy requires is a much stronger measure of popular assent, coupled with civic participation (through local, regional and professional assemblies like town-halls or guildhalls) and the guidance of ‘the wise’ (based on the representation of faiths and professions). Only a commonwealth of nations and peoples with some shared social imaginary will be able to embed markets and states in the interpersonal relationships of trust and cooperation on which social ties and civic bonds ultimately rest.

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