行政院國家科學委員會專題研究計畫 成果報告

歐盟研究在亞洲：台灣、大陸、日本、南韓之比較(I) 研究成果報告(精簡版)

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「歐盟研究在亞洲—台灣、大陸、日本、南韓之比較 (I)」(NSC 96-2414-H-004-027)多年度計劃期中報告

德國學者Thomas König認為歐盟研究領域同時具備了「工匠藝術」與「科學」兩種特徵：歐盟研究既需要「能解決問題的工程師(engineers as problem solvers)」，也需要「企圖瞭解世界如何運作的科學家(scientists trying to understand how the world works)」。然而隨著政治學整體「科學」取向之發展越來越明顯，歐盟研究逐漸在政治學領域當中顯得落後、缺乏競爭力；不但在研究方法上被視為不夠「科學」，甚至因此連「解決問題的能力」也受到質疑。歐盟學者對於「解決問題」所展現的高度興趣已經導致歐盟研究陷入見樹不見林的極大挑戰。[1]

König 所指出之歐盟研究領域遭遇的瓶頸，對於位處歐盟研究邊陲的東亞國家歐盟研究學者而言，至少具有兩種啟發：首先，在政治學領域中，「為歐盟(或為會員國)政策尋找特定問題的解決方法」非但不是"唯一"的研究出發點，甚至不是個"理想"的研究著眼點。相反地，「瞭解世界(及歐盟)如何運作，並探悉其中所存在的因果機制」卻是能為歐盟研究領域增添競爭力的研究動機。這對身在亞洲、卻以歐洲作為研究對象的學者而言，是一種無形的鼓舞：從政治學的視角來看，能夠為解釋歐盟的運作有所貢獻的研究就是好的研究。然而另一方面，König 對歐美之歐盟研究領域所提出的省思卻也凸顯了亞洲的歐盟研究幾乎完全處於狀況外的窘境。亞洲的歐盟研究學者既不可能從「工匠、藝術、工程師」的角度提供解決問題的方法，卻也幾乎完全未能參與歐盟研究相關理論在政治「科學」領域/層次的對話。

各項國際評比所告訴我們，台灣在各方面—包括學術研究—的競爭力正在節節後退之中。身為台灣歐盟研究社群的一份子，能做的，就是持續盡一己之力，希望能對此領域有所貢獻。如果說歐洲國家以及美國在歐盟研究領域中理所當然佔了優勢，那麼與理所當然未佔優勢的其他亞洲國家相比，台灣歐盟研究的表現與發展趨勢究竟如何？若說亞洲國家在歐盟研究上受到先天的限制，鄰近的中國大陸、南韓、日本是否已經設法突破這些限制？他們是如何突破這些限制的？
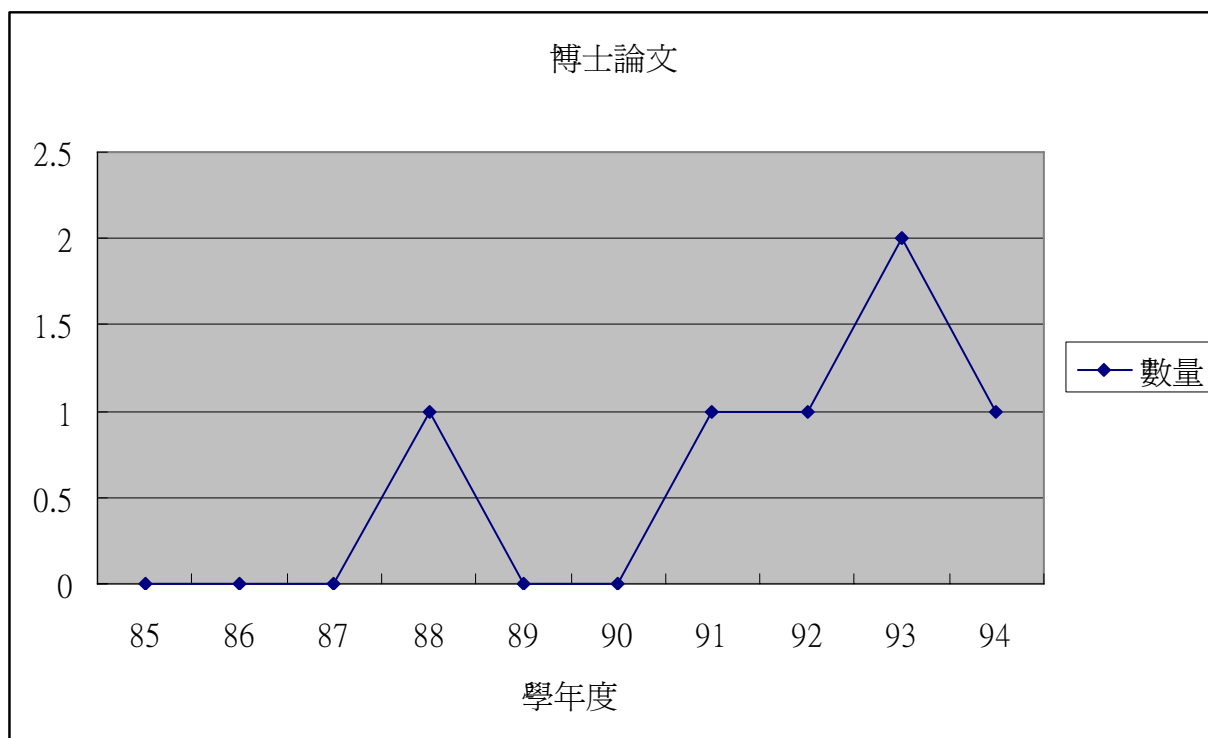
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[1] Thomas König, "European Research: From Engineering towards Science?" *EUSA Review*, Vol. 20, No. 2, Spring 2007.

本研究計劃受上述現象與問題啓發，自 96 年 8 月執行至今，約一年四個月。執行進度大致符合原計劃書內容所列之進度。除台灣博碩士資料蒐集統計(表一、表二)、台灣期刊資料蒐集統計(表三)、及中國大陸期刊資料蒐集統計(表四)的完成外，亦初步完成了日本期刊資料的蒐集統計(表五)。
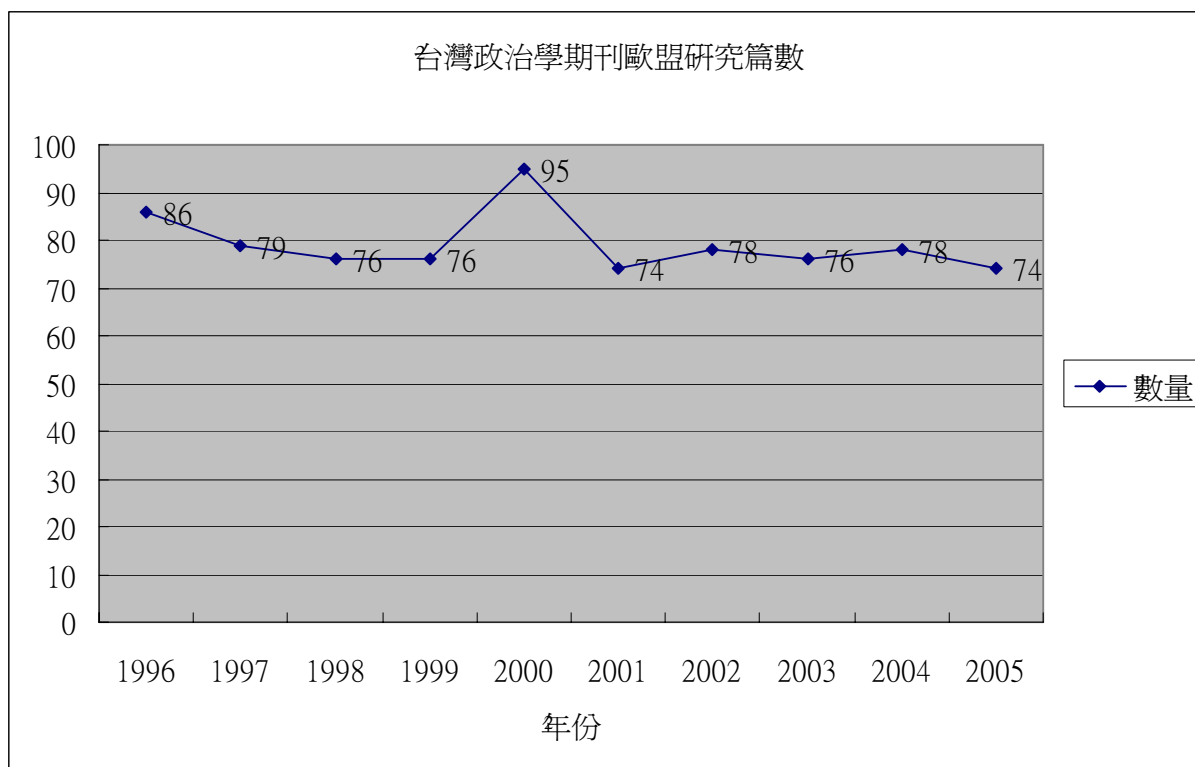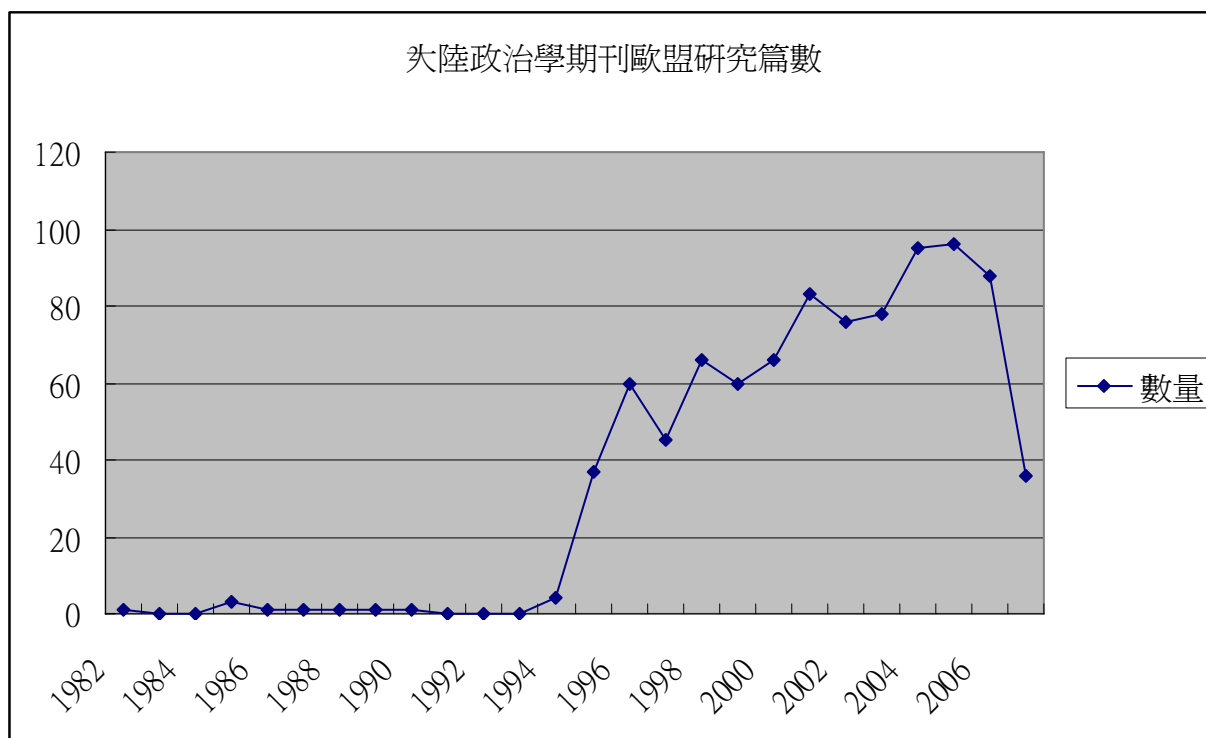
表一： 台灣政治學領域中碩士論文歐盟研究數量

碩士論文
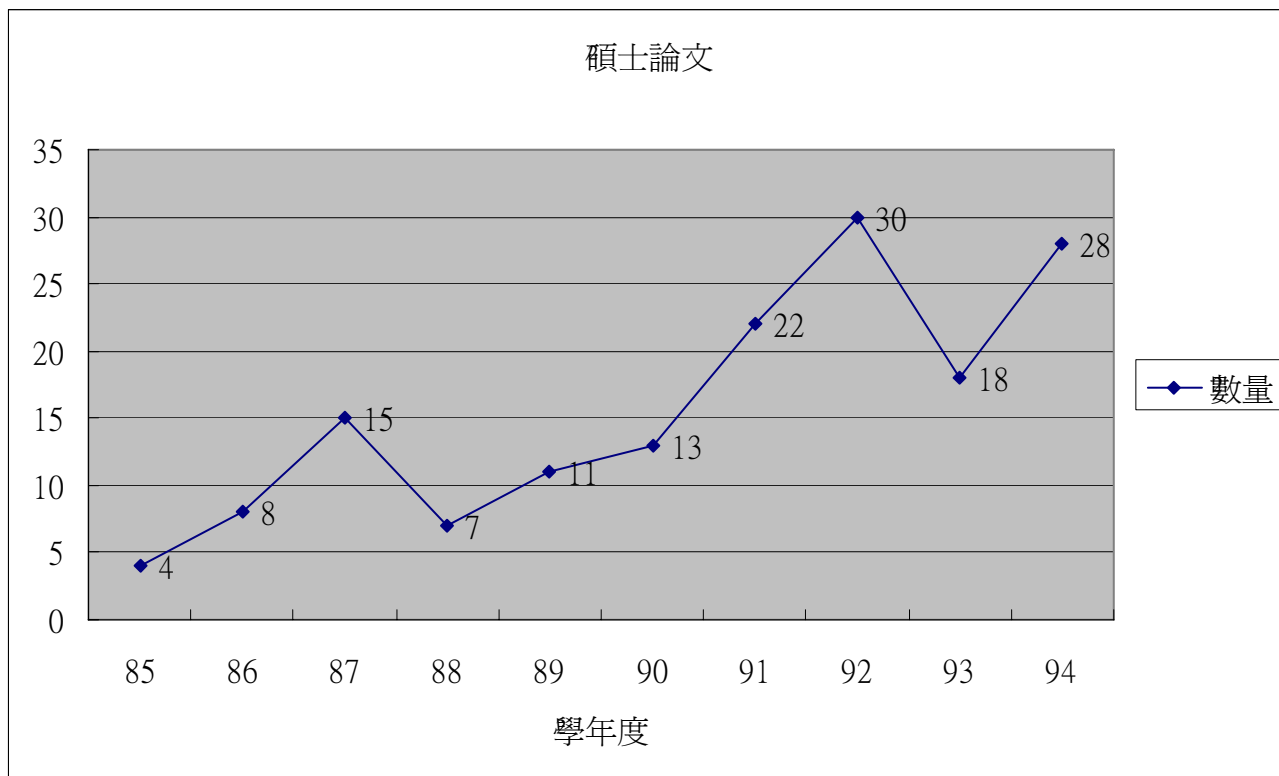
表二： 台灣政治學領域中博士論文歐盟研究數量

博士論文

表三： 台灣政治學期刊中歐盟研究數量

台灣政治學期刊歐盟研究篇數

表四： 大陸政治學期刊中歐盟研究數量

大陸政治學期刊歐盟研究篇數

表五：日本政治學期刊中歐盟研究數量

此外，計劃主持人於 2008 年 11 月赴北京完成了中國大陸方面的移地研究，走訪了北京大學、政法大學、中國國際問題研究所、中國社科院與歐盟研究學者進行深度訪談，對於中國大陸的歐盟研究有了較深刻的認識。台灣與大陸歐盟研究的異同也將是本年度後續計劃執行(日本移地研究)與下年度計劃執行(韓國移地研究)的重要基礎。

台灣與大陸的歐盟研究在各方面皆存在相當大的差異。在研究方法的嚴謹度上，無論是台灣或是大陸皆與歐美最主要的歐盟研究有相當差距。然相對而言，台灣受西方政治科學的影響較深，因此較重視理論架構；雖然理論的建構仍十分欠缺，但越來越多的期刊論文是以檢驗既有理論為目的。相對於台灣，中國大陸的期刊論文多數仍有深厚的政策分析色彩；許多的所謂「研究課題」乃是應中歐關係的發展而出現，因此研究內容對於政府對歐決策具較高參考價值。與此相關的是兩岸歐盟研究中研究主題取捨的差異：「計劃體制」、「任務指派」的慣性在中國大陸歐盟研究領域中仍舊持續發揮作用，因此許多研究課題是「上面交辦」的結果。台灣固然有所謂「前瞻熱門研究議題」供學者參考，但純粹屬引導鼓勵性質；即使同一學術單位內部之同僚，在研究主題的選擇上亦無上下從屬關係。台灣與大陸歐盟研究領域另一明顯的差異是在學者背景部份。如上所述，台灣受西方政治科學的影響較深，原因不外

台灣歐盟學者幾乎全數是在歐美留學多年取得博士學位。中國大陸情況則正好相反：文革所留下的對外接觸交流的空白在今天中國大陸歐盟研究領域中仍真切地存在；至今只有極少數歐盟研究學者是赴歐美留學多年並在當地取得博士學位。[2]

　　然而儘管海峽兩岸的歐盟研究看似實力懸殊，在與歐美交流的頻率與資源方面，中國大陸卻佔了極大的優勢。西方對於中國大陸的興趣與重視程度遠遠高於對台灣的關注自然是不在話下；無論是歐盟官員、議員、政府官員、智庫、大學、或其他相關機構與中國大陸的交流皆十分頻繁。中國大陸人口與商機使歐盟迫不及待爭取並促進大陸民眾、工商界、學生、以及學者對於歐盟的瞭解，並激發其對歐盟的興趣。於是龐大的資源在相對短暫的時間裡從歐盟大量注入中國大陸。歐盟在 1997 年與中國大陸建立了爲期四年的「歐盟-中國高等教育合作項目」(EU-China Higher Education Cooperation Programme)，規模之大是中共 1949 年建國以來在人文領域中首見。而繼 1997-2001 之「歐盟-中國高等教育合作項目」後，歐盟又再度注資一千萬歐元，於 2004 年建立了同樣也是爲期四年的「中國-歐盟歐洲研究中心項目」(EU-China European Studies Centres Programme [ESCP])。在歐盟的協助下，中國大陸全國各地現在已有 17 個歐盟研究中心；同時從教學、培訓、學生及學者交換、研究、出版、到藏書，中國的歐盟研究領域皆獲得了來自歐盟相當充沛的資源與關注。相較於中國大陸，台灣目前所得到的來自歐盟的關注以及實質資源就顯得十分有限了。

　　就與歐美學者之交流實質內容而言，兩岸著重的面向有明顯的差異：中國大陸學界一般對於學者「翻譯」國外學者的著作給予較高程度的肯定，因此歐盟研究學者也投注相當心力資源在翻譯國外著作上；最顯著的例子就是社科院周弘的「歐洲一體化譯叢」及趙晨所譯莫勞夫奇克的「歐洲的選擇」一書。此外主要的幾份常出版歐盟相關研究論文的學術期刊(如《歐洲研究》、《世界經濟與政治》等)亦不時出現所謂「海外專稿」或翻譯文章。在台灣，學者從事學術著作翻譯工作的情形已極少見，而主要學術期刊也幾乎完全看不到翻譯文章。雖然翻譯工作本身並非「創作」，但中國大陸的例子卻顯現出學者透過翻譯而與歐美主要學者開展了更深層的合作甚至合著關係，進而將雙方交流拉高到理論層次的對話。此一透過翻譯而發展出來的合作管道基本上在台灣並不可行；台灣學者與歐美學者的交流除一般透過邀稿而舉行

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[2] 但是具備短期國外訪問學者資歷者卻爲數眾多。

的學術研討會外，亦不乏透過投遞論文綱要而爭取參與有 "call for papers" 機制的主要國際學術研討會(如 APSA, ISA, EUSA)，一方面透過享盛譽的國際研討會與國外學者進行理論層次對話，另一方面也為撰寫中的論文尋求建議、批評、回饋；此在中國大陸較少見。這當中除了前述台灣學者較長期的歐美留學經驗外，亦與國科會及各校對於出國參與會議、發表論文之補助/鼓勵政策有關。同時台灣學術界對於 SSCI 與 TSSCI 的(過度)重視雖然有其問題與副作用存在，但是 TSSCI 的制度畢竟還是對學術期刊起了一定程度的品質控製作用，因此台灣學術期刊在匿名外審制度的貫徹執行以及避免因過高「內稿」比例而使學術期刊淪為單位各自出版園地的作法，似乎使台灣主要幾份與歐盟研究相關的學術期刊皆較中國大陸類似期刊水準更加整齊。

　　唯如前所述，中國大陸的改革開放所帶來的商機與跨越國界的問題(如環保)，使歐盟亟思透過各種途徑與中國大陸進行交流合作；雙方研討會與合著的書籍遂如雨後春筍般出現。近年來中歐交流的實體成果因此還包括 2007 年「歐洲策略論壇」(European Strategy Forum)所出版、由歐洲資深政策分析家Peter Ludlow主編的*The EU and China*；全書是以中歐雙方學者共同參與的中歐關係研討會為基礎。同年，Routledge出版了兩本相關書籍；其一是由美國的中國問題專家David Shambaugh、英國的中國問題專家Robert Ash、以及日本的中國問題專家Seiichiro Takagi合編的*China Watching: Perspectives from Europe, Japan and the United States*；其二是由David Shambaugh 與德國的中國問題專家Eberhard Sandschneider、以及中國社科院的歐洲問題專家周弘合編的*China-Europe Relations—Perceptions, Policies, and Prospects*，其中復旦大學戴炳然、外交學院朱立群、人民大學宋新寧等大陸歐盟研究學者皆有所貢獻。本書對中國大陸歐盟研究的發展及現況有深刻描述，戴炳然教授在 "European studies in China" 一文中一語道破了中國大陸歐盟研究的困境：「儘管中國大陸內部有一個非常強大且活動力十足的『歐洲觀察家』("Europe Watchers")社群，但是這些歐洲觀察家的看法與著作卻是出了中國即無人知曉；甚至連中國大陸內部的國際關係社群都不清楚這些歐洲觀察家的作品與看法。」[3]在某種程度上，這同樣也是台灣的歐盟研究所遭遇之困境。

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[3] Shambaugh, David, Eberhard Sandschneider and Zhou Hong (2007), p.4.

Public Sphere as the Missing Legitimating Link in the EU Governance

by

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I. Introduction

As a key policy maker for the European citizens, does the EU have a sufficient amount of democratic legitimacy? Scholarly analyses have led to a wide range of conflicting conclusions. Regardless of their conclusions, the commonality of the majority of the scholarly analysis on legitimacy is that the democratic legitimacy of the EU stands on two feet: (a) democratic representation inherent in the Union's institutional design (the *representation model*); and (b) the problem-solving capacity of EU governance (the *regulatory state model*).[1] I argue that, the precondition for either model to function well is absent in the European context. The assumption for both legitimating sources must be that a medium exists between the European political class and the citizens to allow the citizens to be informed and to make sense of the problems and decisions made at the European level. It is also through this medium that reasons can be given and assessed, preferences modified, and opinions formed. A crucial difference, therefore, distinguishing the EU from ordinary democratic countries is the *absence of a public sphere* in the EU. This absence of a public sphere can explain why both democratic representation and enhanced problem-solving capacity are not gaining legitimacy for the EU.

I begin by describing how *democratic representation* and *the EU regulatory state* are supposed work—and gain legitimacy—by design. I then provide a closer examination of both procedures that reveals the significant discrepancy between the actual practice and the ideal design. Pinpointing the problem, the discussion then focuses on the function of the public sphere—how the presence of which makes democracy possible at the national level and the absence of which makes democracy difficult at the European level. To demonstrate the extent to which a European public sphere is nowhere to be found, I use the case of "the Europe-wide debate on the future of Europe" and the consequent Constitution-making process. The conclusion suggests that not only is the problem of democratic legitimacy serious in the EU, but tackling it simply through institutional reform and enhanced problem-solving capacity can yield only limited results.

II. Democratic Representation as Source of Legitimacy

To the extent that the EU is considered democratic, the institutional design that allows citizens to elect their own representatives plays a central role. The European

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[1] Caporaso 2005; Dehousse 1998

Parliament, the Council, and national parliaments are the institutions that have, in theory, enabled the EU to be responsive to the needs of member states and their citizens. If the essence of democracy is the power of the citizens to "throw out the rascals" and vote in representatives they trust, then the "rascals" that the European citizens have supposedly been empowered to "throw out" through democratic elections should be found in these three institutions (Figure 1).
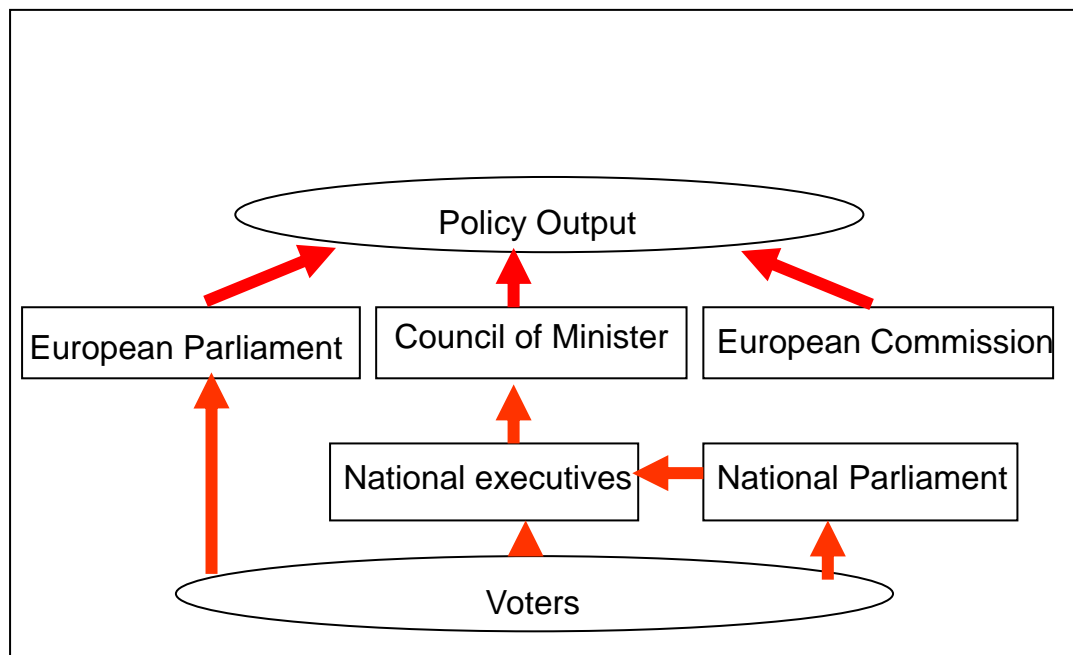

Figure 1: EU representation model

1. The European Parliament

The classic definition of the 'democratic deficit' is that the national executives have gained legislative power at the expense of national parliaments.[2] When acting in the capacity of the Council, the national executives suddenly become legislators. The growth of the legislative power of the EP, however, did not match what was lost in the national parliaments. To the extent that the concentration of the legislative power in the executives was seen as the most damaging to European democracies, the parliamentarization of EU governance emerged as the most effective solution. As a result, not only were the powers of the European Parliament increased formally through treaty reform, evidence also shows that, in practice, the European Parliament is acting increasingly closer to what it is supposed to be according to the design.

2. The Council and national executives:

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[2] Dehousse 1998, 598; Williams 1991

A common defense of the democratic legitimacy of the Council is that the scrutiny of national executives by national parliaments does not go through any qualitative change simply because issues dealt with are European in nature. "[F]rom a principal-agent perspective the relationship between principal (the executive) and agent (minister) can be conceptualized in the same way. The chain of delegation may be longer, slippage may be greater…. But these are empirical relationships to be investigated rather than qualitatively different circumstances."[3]

The problem arises exactly because of the combined role of the ministers as both the legislator of the EU and the international negotiators of their home countries. As a rule, international negotiations are conducted in secrecy. As a rule, legislation in democratic countries requires transparency. Negotiations in the Council had for a long time been treated—especially by the intergovernmentalists—as not different from any other international negotiations. More recently, however, the activities of the Council have become commonly considered as more akin to the legislative process in any given democratic country. The Amsterdam Treaty, hence, stipulates that (Article 151(3)) "when the Council acts in its legislative capacity, the results of votes and explanations of votes as well as statements in the minutes shall be made public."

In addition to increasing transparency, the changes in voting methods in the Council are also commonly considered as a major improvement in effective law making. Some consider unanimity to be incompatible with democracy both because the smallest state is given the power to block every decision and because the inefficient, lowest-common-denominator solution resulted from unanimity compromises the welfare of the citizens.[4] The authors of the series of Treaty reforms since the Single European Act seems to accept this view and consider the reduced use of unanimity as not only a necessary measure to enhance efficiency in decision-making but being more compatible to democracy. The areas to which QMV apply have expanded steadily in every treaty reform since the SEA. Even though in practice, ministers still seek consensus even in areas where QMV should apply, in theory, QMV is a powerful method to prevent gridlock in legislating.

3. National Parliaments:

The legitimacy that the Council can claim to have depends significantly on the

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[3] Caporaso 2005, 65.
[4] Lenaerts & De Smijter 1996, 189.

ability of national parliaments to scrutinize. For decades, however, national parliaments were barely visible in the European decision-making process. Some scholars argue that at the moment the member states joined the EU, national parliaments had "signed away" their power to influence policy outcomes, giving up their ability and even intention to effectively sanction against governments in the EU context.[5] As a result of such criticism, both the European Union and the national parliaments took actions to increase the influence of national parliaments. The Protocol on the role of national parliaments in the European Union approved in Amsterdam provided that all Commission consultation documents should be forwarded to the national parliaments.[6] On their part, the national parliaments also took initiatives to enhance their influence in European affairs. By the early 1990s, parliaments of all member states have set up committees specializing in EU affairs, allowing them to more effectively monitoring decisions taken by their ministers.[7] In Austria, Denmark, Finland, France, Germany, Sweden and the United Kingdom, laws were passed to ensure the involvement of the national parliament in the EU decision-making process at the national level. The governments are obliged to inform the parliament about the stance it will take in the Council in these countries.[8] Since the early 1990s, various measures were also taken to facilitate the cooperation between the European Parliament and the national parliaments. Most notably was COSAC—the Conference of Bodies Specialized in Community Affairs in the Parliaments of the European Union—that brings together representatives of the European Affairs Committees of the national parliaments and members of the European Parliament.

III. Regulatory State as Source of Legitimacy

The representative mechanisms discussed above is mainly 'input-oriented' (or procedural democracy). In contrast, the regulatory-state model focuses on the "output-oriented legitimacy" (or consequential democracy).[9]

To the extent that EU governance enjoys some legitimacy, the effective problem-solving capacity of the EU no doubt plays a central role. The EU is at a better position than the member states to resolve many of the problems faced by the

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[5] Norton 1995, 187; Martin 2000: 150; Lenaerts & de Smijter 1996: 185.
[6] Dehousse 1998, 607.
[7] Caporaso 2005, 64.
[8] Martin 2000, 160; Lenaerts & de Smijter 1996: 187.
[9] Scharpf 1999, 6.

states because of the transnational nature of these problems.[10] Among other things, the supranational institutions of the EU are able to eliminate the problem of low credibility of intergovernmental agreements by monitoring and enforcing policies in individual member states. Moreover, given that regulation is a highly specialized type of policy making that requires a high level of technical and administrative discretion, institutions such as the European Commission and the European Central Bank are better equipped to undertake the task at the supranational level (Figure 2).[11]
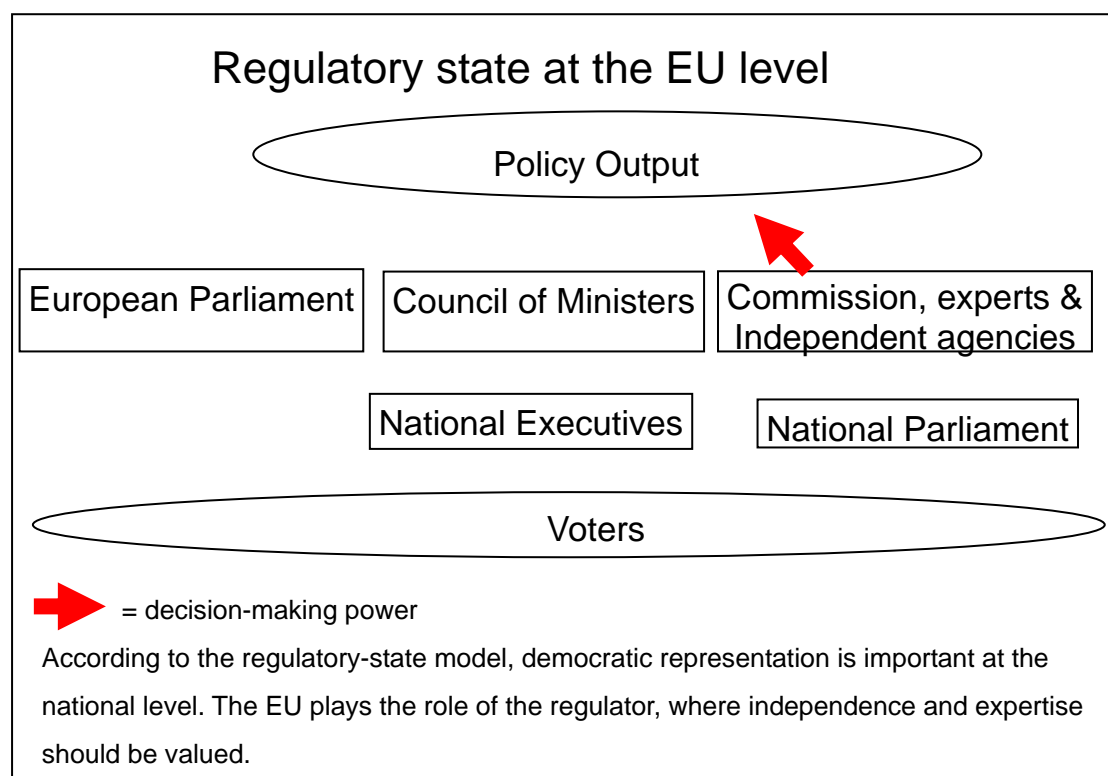

Figure 2: Regulatory-state model

Delegating power to non-parliamentarian bodies such as the European Central Bank and the Commission is far from 'undemocratic' but is consistent with the practice of most advanced industrial democracies.[12] In fact, these regulatory institutions fulfill their roles exactly through their independence and autonomy from particular group interests and the pressures of votes. This impartiality required to make the commitments of the Member States credible is the role the European Commission in particular and the EU in general was asked to play. The relative

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[10] Such as policing financial markets, controlling the risks of new products and new technologies, protecting the health and economic interests of consumers, reducing environmental pollution, etc. Majone, 1994, 85.
[11] Majone 1994, 1998, 1999.
[12] Moravcsik 2002, 611-3.

insulation of Community regulators from the short-run political considerations is exactly the comparative advantage of EU regulation.[13] Crucial to this understanding of the legitimation of EU governance is the separation of politics and economy: "Redistributive policies can be legitimated only by majoritarian means and thus cannot be delegated to institutions independent of the political process; efficiency-oriented policies, on the other hand, are basically legitimated by results, and hence may be delegated to such institutions."[14] While the regulation of economic activities falls largely within the domain of the EU; the Member States continue to be the focus of collective loyalty for their people and hence "the real arena for democratic politics."[15] From this perspective, the legitimacy problem of the EU is not any different from the legitimacy problem of any independent agencies existing in any democratic states. Just like independent agencies in democratic states, the EU, with its primary role as a regulator of economic activities, should not be expected to gain its legitimacy through majoritarian democracy. The standards of legitimacy and accountability applied in assessing EU governance should reflect this fact accordingly. Critics who argue that the EU suffers from the 'democratic deficit' have mistakenly equated democracy with majority rule. In regulating economic activities, policy making institutions do not have to be directly accountable to the voters or to their elected representatives.

Through what means, then, can the non-majoritarian, regulatory European state be held accountable? Non-majoritarian sources of legitimacy include expertise, procedural rationality, transparency, and accountability by results. When the delegation is precise, narrowly defined, and meet these criteria, then the independent regulatory agencies can be said to have been held accountable, for the electorally accountable political principal are given the power to minimize the danger of bureaucratic drift.[16] In considering the requirements of expertise, procedural rationality, transparency, and accountability by results, the regulatory state model emphasizes *reason giving* by the agencies for their decisions.

Therefore, for the regulatory state model, which sees the EU as a regulatory state, the legitimacy problem can be relatively easily tackled by adhering to careful delegation in the management of agent-principal relationship. From this perspective, the democratic deficit as understood in the conventional, majoritarian sense is both inevitable and democratic. It is inevitable because if maintaining national

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[13] Majone 1994, 94.
[14] Majone 1998, 28.
[15] Majone 1998, 14.
[16] Majone 1998, 28.

sovereignty is what the citizens want, then the democratic deficit understood in the majoritarian sense is a price they have to pay for maintaining national sovereignty. This democratic deficit is then 'democratic' because it is only an inevitable consequence of the choice the people have made. In other words, within the EU, "economic and political integration not only move at different speeds but also follow different principles—supranationalism in one case, inter-governmentalism in the other." As a result, the development of institutions cannot measure up with parliamentary democracies that we are familiar with.[17]

IV. Legitimating Effects discounted: the Representation Model

The literature contributing to the representation model invariably emphasizes the importance of increasing the power of the elected officials, whether it is the European Parliament or the national parliaments. The focus is the relative power among the EP, the national parliaments, and the Council, and little is said about *the relationship between the voters and their representatives*. Little attention was given to the degree to which these institutions actually and effectively *represent* the people. Representative democracy can work only if the voters are given the power to "throw out the rascals." While enhancing the powers of the EP and national parliaments does help citizens to make more informed decisions when casting votes, such improvement can only be marginal. It would make more sense to talk about increasing the power of the parliaments if the knowledge/information level of the European citizens is more comparable to the levels within the domestic contexts (Figures 3 & 4). Empowering the parliaments cannot be equated with empowering the people when the people are not equipped to form opinions and preferences about the candidates.
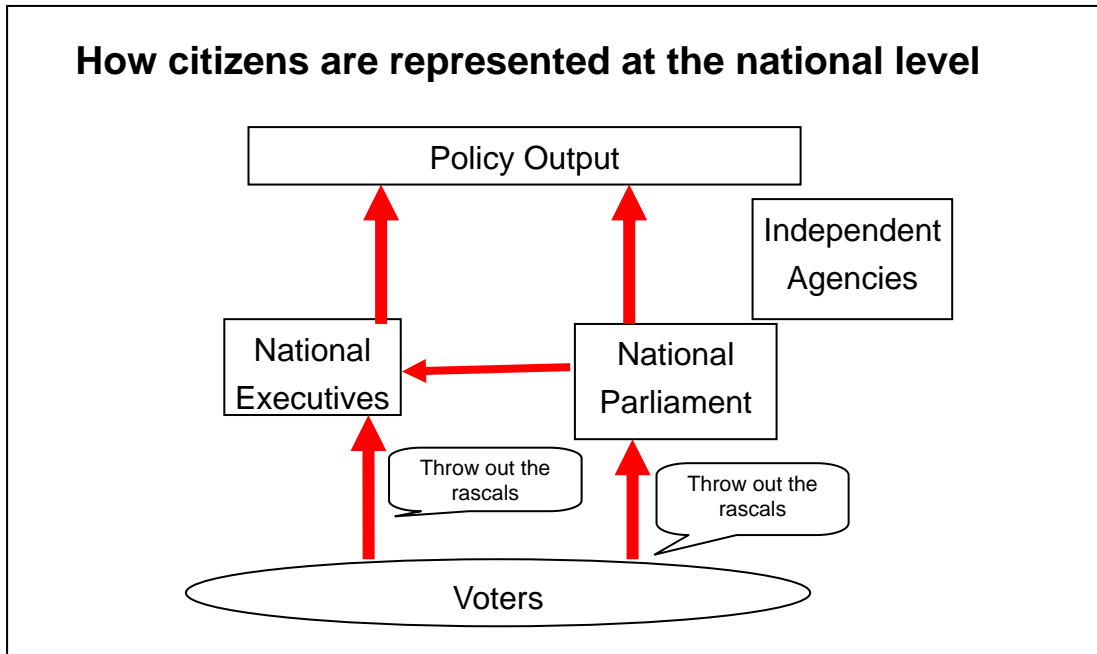
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[17] Majone 1998, 7.

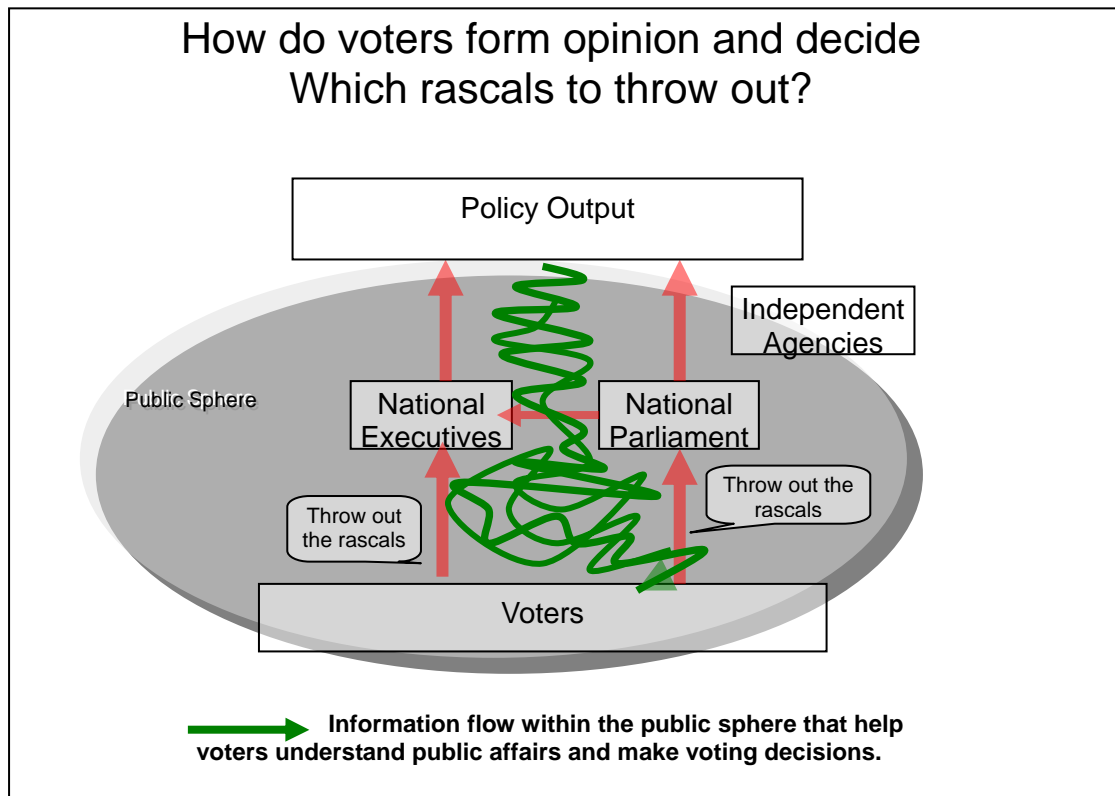Figure 3: Representation in domestic context

Figure 4: Representation in domestic context with information flow

From this perspective, the claimed legitimating effects of well-designed representative institutions are seriously discounted by the fact that the voters remain ill-informed and disconnected from the debates and discussion on European Affairs. In the following I compare the *ideal* chains of representation and accountability as described by the representation model and the *actual* chains of representation and accountability in the real world.

From a voter's perspective, the design of EU's representative institutions is very complicated. For one thing, the assignment of competencies is far from transparent.[18] Even when a voter is able to see clearly how powers are distributed and who is responsible for what, the design of the representative institutions of the EU is more an ideal than reality. In the case of the Council and national parliament, it is unrealistic to expect voters to throw the elected officials out of national government and national legislature solely on the ground of European issues. Even in the case of the EP—the one case where voters can rest assured that when they get rid of a MEP, the punishment is solely for the purpose of European affairs—voters do not exercise this right but cast votes instead with reference to domestic politics.

The European elections are hardly determined by European issues at all. Instead, the elections are fought by domestic parties on national rather than European manifestoes, and candidates are selected by domestic party executives. Party competition does not yet exist at the European level. Being "second-order" elections, the European elections often end up being more like the confident vote of the ruling parties in individual Member States. Consistent with the mid-term election phenomenon, the domestic ruling parties often fare worse than opposition and smaller parties in EP elections.[19] When candidates do not compete on European issues, voters are deprived of the opportunity to understand European affairs through elections. Even for voters who are more familiar with European issues, when where a candidate stands on a particular European issue is not even a concern in the campaign, voters are not given true choices between different approaches to EU governance. Given the mismatch between the institutional blueprint and the actual elections, it is not surprising that many MEPs, once elected, "not much is heard from them in the Member States."[20] In the longer term, when parties do not compete at the European level, rival policy agendas for EU governance cannot be formed other than according to national cleavages. This severely undermines the intended function of the EP

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[18] Christin, Hug, and Schulz 2005, 490; Mair 2000.
[19] Thorlakson 2005, 469; Kritzinger 2003.
[20] Papadopoulos 2005, 449.

according to design.[21]

Next let us consider the degree to which the Council can represent or be held accountable to the citizens of the Member States. In general, ministers are judged foremost by their ability to deal with domestic issues. In terms of their positions taken at the EU, even with the rule of transparency properly enforced, national ministers will still enjoy a high level of liberty. As long as a medium between the citizens and European politics is absent, the voters are unlikely to vote out the ruling parties on the ground of European issues. In fact, contrary to the intention of the institutional design, and because of the difficulty for citizens to understand European affairs, national executives have long used the EU as the scapegoat for any unpopular policies. As to the argument that, gathering in Brussels and acting in the capacity of the Council do not in anyway change the way national executives are controlled by national parliaments, the shift to majority voting in the Council makes the argument no longer true. The veto power of each Member State used to be the single most legitimating element of the integration process,[22] the shift to majority voting now makes it even easier for national executives to get away with their actions or inactions. When the ministers can be outvoted in the Council, the power of the national parliaments to hold the executives accountable for the final policy product is seriously undermined. It also becomes even more unpractical to expect voters to hold their governments responsible for final EU legislations. Under QMV, the executives of nation A can actually be responsible for policies that are unpopular in nation B, but there is no way to hold the former answerable to the latter. Under such circumstances it is also even easier for national executives to use scapegoat strategies.

If the power of the European voters to remove unsuitable elected officials from either the EP or the Council exists only in theory, can voters hold members of national parliaments responsible for EU policy output? National parliamentarians do not consider it worthwhile to put energy into European affairs. Given how little voters understand and care about European affairs, such efforts would not be effective in catching voters' attention and winning votes. "No demand, no supply" can largely explain the "it's not my job" mentality among national parliamentarians. When the media and the voters are not interested, the national parliamentarians have no incentives to pursue the task of forcing the ministers to disclose all their positions and decisions taken in the Council.

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[21] Hix 1998; Marsh 1998.
[22] Weiler 1991.

In other words, scholars have been coming up with "top-down" strategies that ensure the disclosure of information at the European level to people at the national level. When what is equally important is the need to facilitate a more general demand for knowing what is being dealt with at the European level. Only when this "bottom-up" need is present, can the top-down strategies of information disclosure be meaningful (Figure 5).

How citizens are actually "represented" in the EU

Policy Output

European Parliament

Council of Ministers

Commission

National Executives

National Parliament

Public Sphere

Public Sphere
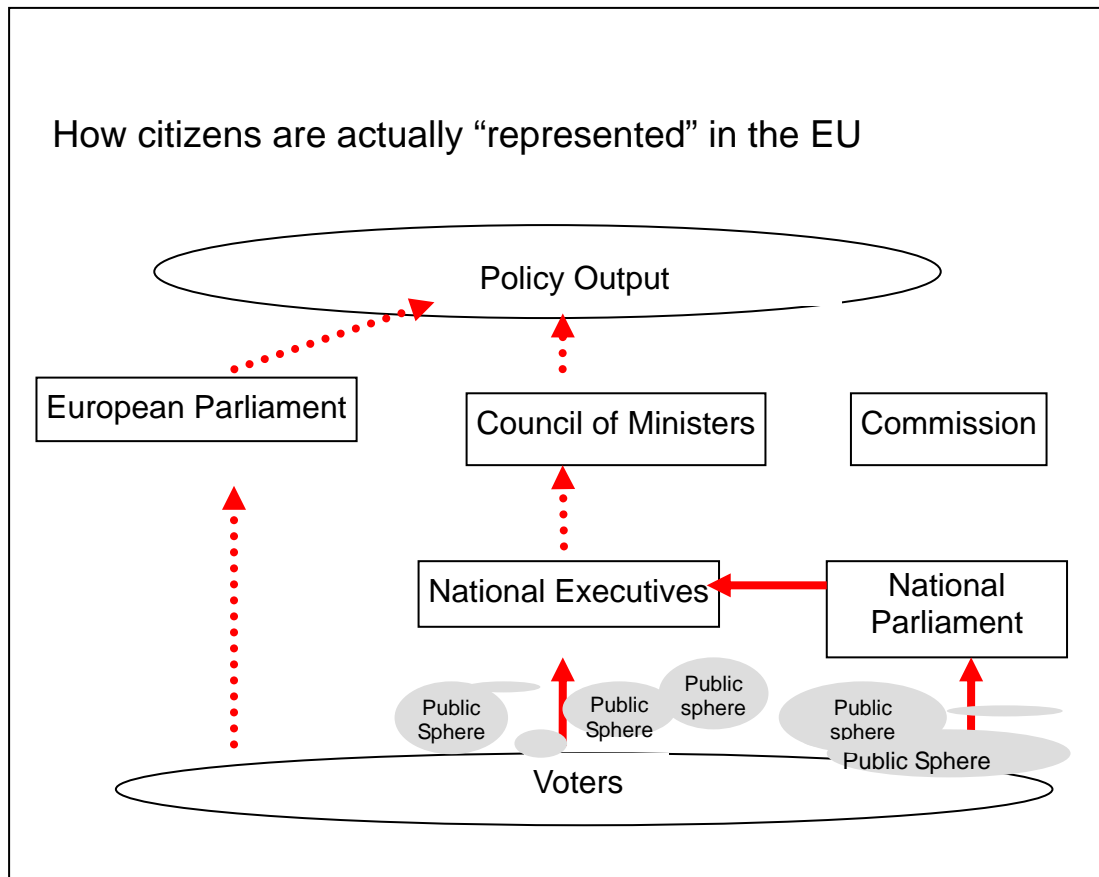
Public sphere

Public sphere

Public Sphere

Voters

Figure 5: A closer look reveals that voters are not being "represented" at the EU level when the European public sphere is absent.

V. Legitimating Effects Discounted: the Regulatory State Model

If the institutional representation model has focused on the power distribution between the parliaments and the executives and neglected the actual influences of the voters, is the regulatory state model compatible with a stronger public participation? Advocates of the regulatory state model believe that specialized agencies are more capable than majoritarian bodies to focus public attention on controversial issues and to enrich public debate.[23] In this section I argue that it is more difficult to hold the regulators accountable than envisioned by the regulatory state model.

The representative mechanisms in EU governance are de-emphasized by the regulatory state model. It is the institutions that are removed from electoral returns, such as the Commission, that should receive the most attention when assessing the democratic legitimacy of the EU. There are at least three problems with this view, and they help paint a much bleaker picture of the EU regulatory state model as far as legitimacy and accountability are concerned.

Problem one: it is naive to think that economy and politics are separate, and that the former has less to do with democracy than the latter. Politics *is* often about economy. Regulatory policies are not political innocent.[24] The regulatory state model acknowledges that efficiency-enhancing policies often have redistributive impacts, yet it insists that this problem can be easily resolved if the efficiency gains are large enough to compensate the losers. The question then, is who should be given the right to determine that the efficiency gains are "large enough" and who the losers are and how they should be compensated? The regulatory state model suggests that the EU is a perfect arena to sort out these questions. The separation of the two stages of decision-making—problem-solving and bargaining over the distribution of the gains—makes it possible that Member States that are negatively affected be compensated in some way.[25] In other words, in this model, elites, or mainly national executives, not only identify problems but get to decide how the costs and benefits should be distributed among citizens. This would have been more feasible if "nationality" is the only cleavage in the competition of resources, which, even for Majone, is not the case. The regulatory state model appears to project a governing structure where cleavages can be "managed" but not actively participate or be represented in policy making. While the importance of independent regulatory agencies cannot be denied, such agencies must operate within a context where the

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[23] Majone 1999, 9.
[24] Caporaso 2005.
[25] Majone 1998, 28.

"public" exists and serves as the general basis and the starting point of the power delegation.

     Problem two: While the independent regulators are by design not directly accountable to voters or to their elected representatives, ultimately, being the agents of their political principals, the independent regulatory agencies still must be answerable to electorally accountable bodies. Here, it is difficult to reconcile the dismissive view held by the regulatory state model of the importance of a well-functioning representative, majoritarian institution with the claim that independent agencies can be accountable to elected officials or legislators. If majoritarian institutions do not even have a justified place in the European regulatory state, then the so-called "electorally accountable bodies," to which the independent agencies are supposed to answer, can hardly be expected to be themselves effectively accountable to the European voters. This leads us back to the problems of the representation model, which the regulatory state model thought was irrelevant or could be bypassed. A certain congruence between the electorate and the policy makers is required if the chain of accountability is to work. While Majone is correct in objecting the equation of majority rule and representation with democracy, this can hardly lead to the conclusion that when representation does not exist, democracy can still be seen as functioning well, even if the matters concerned are economic in nature. The functional importance of non-majoritarian institutions is undisputable only in *supplementing*, not *replacing*, the electorally accountable branch of government. Drawing on the American experience, Majone wants us to think of the EU as the "regulatory branch" of the Member States. Even in the U.S., however, the fourth branch cannot have worked successfully had the representation and majority rule not been well developed in the political system.
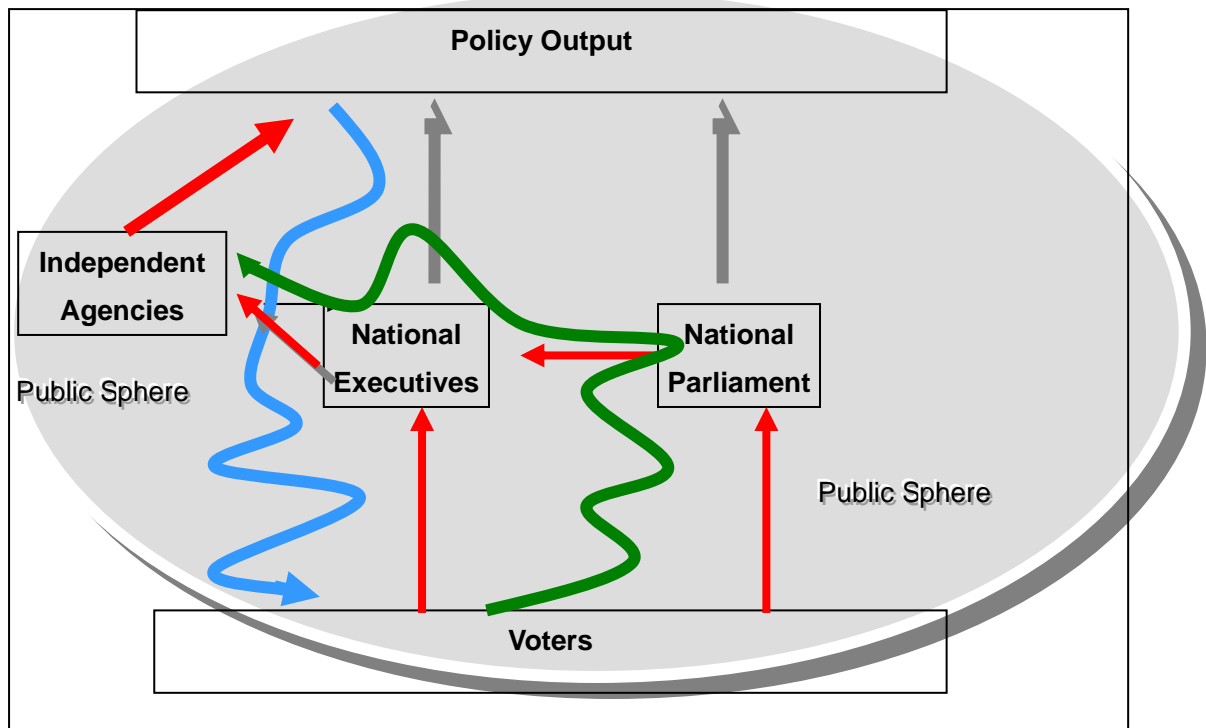
Figure 6: Regulatory-state at national level

Problem Three: In spite of the need to be independent, regulators need to have a grasp of the general mood among the general public. The people should be the ultimate reason why regulation was necessary in the first place. The need and the will of the people, however difficult to define, should be the base upon which a regulatory state is created (Figure 6). The relevant social constituency of the regulatory state model is, however, extremely narrow: "voice is restricted to problem-solving in functional domains, or to actors who consider their relation to, and involvement with, the EU in utility terms, through the calculus of costs/benefits. The silence of the majority can be seen either as the expression of a permissive consensus or as the indifference of a public that has not developed any particular interest in the EU."[26] The regulatory state model emphasizes the importance of "reason giving" by the independent agencies as well as open and "public" scrutiny. It suggests the American APA (Administrative Procedure Act) as a way for the EU to ensure the accountability of independent agencies. The problem is, when a medium does not exist between the European people and the policy world, the "public" that is supposed to provide input and scrutiny actually lacks the ability to understand problems, form opinions, let alone to scrutinize and provide input to the regulations. Since the regulators must remain impartial and shielded from voters and special interests, the scrutiny and input should come from the unidentified general public. The disclosure of the data, methodology,

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[26] Fossum and Trenz 2005, 18.

reasoning, and evaluation of consequences can only become meaningful to the public if there exists a medium consists of news analysis, op-ed, commentary, in-depth report, which can help the public to understand and assess the impact of the new regulations. Such medium does exist in the U.S., and in each of the member state of the EU. At the EU level, however, the "efficiency" of the European regulatory state is in fact gained at the expense of public participation. The regulatory state model, in other words, fails to answer how institutions "are anchored in the legitimacy of democratic mechanisms which link institutions to the public."[27] These problems do not lead to the conclusion that independent agencies are not important. Rather, a medium between European politics and the voters must first exist before the European regulatory state can obtain legitimacy as expected by Majone et al. (Figure 7).
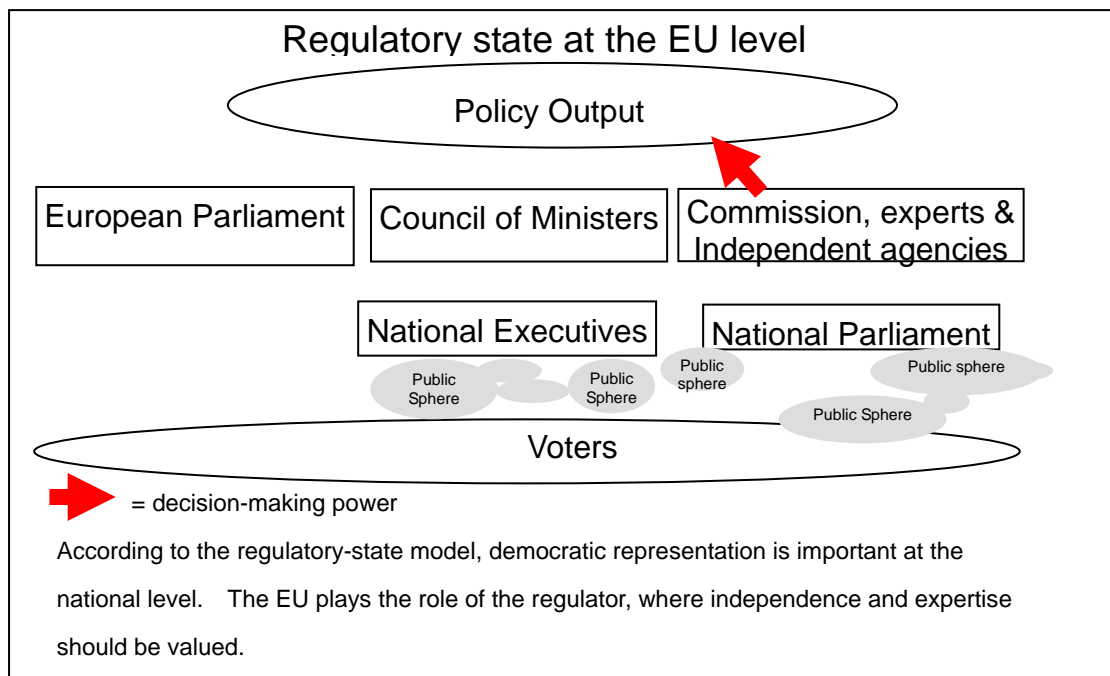
Figure 7: A closer look reveals that the EU regulatory state is not effectively held accountable.

VI. Functions of Public Sphere

As the above sections demonstrate, neither the representation model nor the regulatory-state model can effectively tackle the legitimacy problem faced by the EU. The absence of a medium between the European people and the European politics is blocking the legitimating effects both models are believed to have. This medium,

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[27] Ward 2004, 3.

existent in any system that can be called democracy, is a public sphere (Lu 2008). The public sphere (PS) is a realm of our social life that hosts myriads of public forums, links small, private circles of discussion into larger, public conversations. Woven by a variety of media—print, electronic, and face-to-face encounters—it occupies the space between the scattered, ill-informed, and poorly developed private opinions on the one hand, and the approximated public opinion on the other. By synthesizing streams of communication and sustaining the public competition of private arguments, the PS helps to channel relevant societal problems into topics of concern that would allow 'the general public to relate, at the same time, to the same topics' (Habermas 2001: 17). Even though the media are multiple in a PS, the exchanges taking place are inter-communicating. 'The discussion we may be having on television right now takes account of what was said in the newspaper this morning, which in turn reports on the radio debate of yesterday, and so on. That's why we usually speak of the PS, in the singular' (Taylor 1995:259). What takes place in a PS is a collective effort of truth-seeking both in the sense of objectively/scientifically determining cause-and-effect relationships and subjectively/normatively building/renewing the value-system of a society (Risse 2000). The PS gives deliberation a 'spatially and temporally extended form of publicity' (Bohmann 1996: 43), which helps to relieve the constraint of 'deliberative economy' where the legitimacy of deliberative results remain questionable due to the fact that participation in a given time and space can never be broad enough to include all. With the presence of a PS, the idea of legitimacy can be detached from 'a head count of (real or imaginary) reflectively consenting individuals' (Dryzek 2001: 657).

The PS is important not just to those who have much to say and who want others to listen. Being a social space sustaining a shared way of comprehending the world both in terms of facts and values, it is important to those who feel they have little to say as well. In a PS, therefore, 'actors not only communicate among themselves but also address their communication to a third other, i.e. to an audience.' (Trenz and Eder 2004:9). The information, analysis, and viewpoints made readily available in a PS help the silent individuals to make sense of the overwhelmingly complicated public affairs. The PS is hence not just where the political agenda is settled, but also where individual preferences are shaped (Neyer and Schröter 2005:6).

To better understand the PS, it may be helpful to distinguish its functions between horizontal and vertical ones. Horizontally, the PS performs society-making functions by connecting citizens with one another. Vertically, it allows public opinion to steer public policies, hence connecting the society with the state.

The literature of deliberative democracy illuminates how the PS, inherently deliberative in its operational logic, serves to connect citizens with one another. Unlike aggregative democracy, which aims at gathering individual preferences and transforming these preferences into a collective choice in as fair and efficient a way as possible, the deliberative approach arrives at collective decision-making through open and un-coerced public reasoning among equals. In aggregative democracy, citizens are treated as atomized individuals. Since the interests of each individual are sacrosanct, there is no need for citizens to leave the private realm of personal interests to interact with others with similar or dissimilar preferences. Deliberative democracy, in contrast, envisions a distinct idea of a *public* formed from the interaction of citizens. Reaching a collective decision is a process of reason-giving whereby the initial preferences of individuals are subject to modification. The point of public deliberation, thus, is not to discover the 'correct' answers, but to ensure that as many points of view as possible are considered (Miller 2000; Cohen and Sabel 1997; Young 2000; Bohmann 1996; Cohen 1989; Manin 1987).

Beyond generating public opinion, social solidarity, and identity, a PS also has the vertical functions of empowering the citizens to hold the state accountable and to challenge, inflect, and steer public policies (Fraser 2005:40; Taylor 1990:98). 'The public sphere is not prior to or independent of decision-making agencies but is created and formed in opposition to them—as a vehicle to test the legitimacy of legal provisions and as a counterweight to governmental power' (Eriksen 2000:55). In fact, what gave birth to the emergence of the bourgeois PS in the 18th Century in the first place was precisely the need of the private people (the bourgeois) to come together to confront the absolutist state through the public use of reason (Habermas 1989: 27; Taylor 1995: 217-8). Within the bourgeois PS, 'the best rational argument and not the identity of the speaker was supposed to carry the day' (Forbath 1998:982). The emphasis of reason and de-emphasis of status effectuated an equal relationship between policy-makers and policy-receivers and made the notion of self-rule plausible. Hence, in taking their decisions, parliaments and courts must concentrate and enact what has already been emerging out of debate among the people. At the same time, the legislative deliberation that is made public further informs public opinion and allows it to be maximally rational (Taylor 1995:264).

VII. Democratic Legitimacy of the EU and the Lack of a European Public Sphere

Based on the above description of a public sphere, it does not seem that the EU has a public sphere of its own. At the top of the European governance structure, political elites from different countries have become better and better integrated, whereas at the bottom, the European peoples remain divided. From the European Council to the Council, the COREPER, and the countless comitologies, EU institutions have served as an important apparatus to facilitate transnational integration for political elites as well as for professionals. In contrast, mechanisms for facilitating integration at the level of the European public are lagging far behind. Studies have shown that, as a result of socialization taking place at the European level, states and state agents tend to switch from following logic of consequences to logic of appropriateness.[28] "[S]ocialization effects blur the principal-agent distinction. The ironic description of the German representative at COREPER as 'permanent traitor' instead of 'permanent representative' highlights this point as well. To the extent that national agents develop distinctive identities and supranational allegiances, they become detached from their national constituency."[29]

The extra tier of governing body not only treats the Union as a single political unit when it governs, but it is also extremely proactive and imposing. The governed, in contrast, are bound to be passive due to the fact that, confined in the national boundaries of each Member State, the peoples are isolated from one another. "Integration has not…fostered the normative qualities necessary for the nurturing of a European civicness at the grassroots. Notwithstanding the contrary rhetoric, recent treaty reforms…. have failed to rectify this democratic deficiency. Rather, the EU project became even more technical, reflecting the prevalence of a new regulatory aetiology of 'post-parliamentary governance' based on 'expertology', 'managerialism', and 'technocratic elitism'."[30] From this perspective, the EU has indeed acquired some strong characteristics of a state, but strictly at the elite level.

That Europe lacks a PS is not a view shared by all. The existence of European audio-visual spaces (newspapers, television, internet), academic debate, cross-border social movements, NGOs, and identity politics indicates, to some, that a European public sphere (EPS) is 'not totally missing' (Eriksen 2000; 2005; Eriksen & Fossum 2002). If we heed the functional aspects of the PS highlighted in the previous sections, however, it becomes clear that the mere free flow of 'flat' information and voice

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[28] Checkel 2005, 804.
[29] Zürn and Checkel 2005, 1073.
[30] Chryssochoou 2001. 7; Andersen and Burns 1996.

utterance in a cross-national space do not by themselves constitute a PS. Rather, the claim that an EPS is present must be supported by empirical evidence showing that the knowledge of, dialogue among, and power to influence European public policies by the citizens have not only increased but also transcended the national boundaries. Surveys show that the knowledge of citizens about the EU did not correspond to the rapid growth of competencies in the EU and increased only marginally over the past decade in spite of the increased European news-reporting (Figures 8).

Figure 8: Self-perceived knowledge of the EU
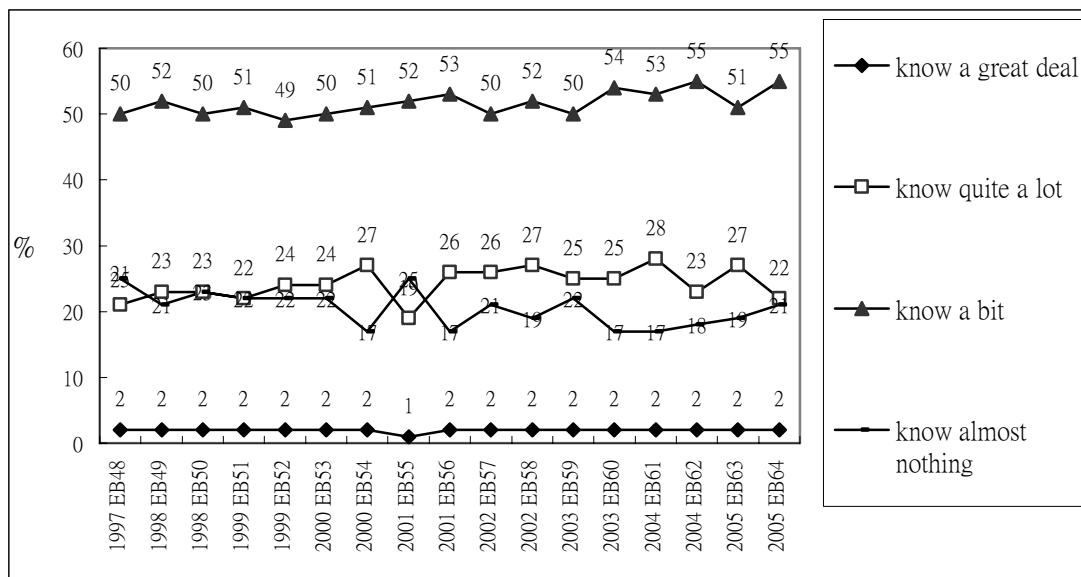
Source: Standard Eurobarometer 48-64

Similarly, the awareness of the EU institutions through media improved only marginally over the past seven years (Figure 9). The percentage of respondents that had heard of the Council of Ministers—arguably the most powerful institution in the EU—rarely exceeded 65%.

Figure 9: Awareness of the EU institutions: Have you ever heard of….
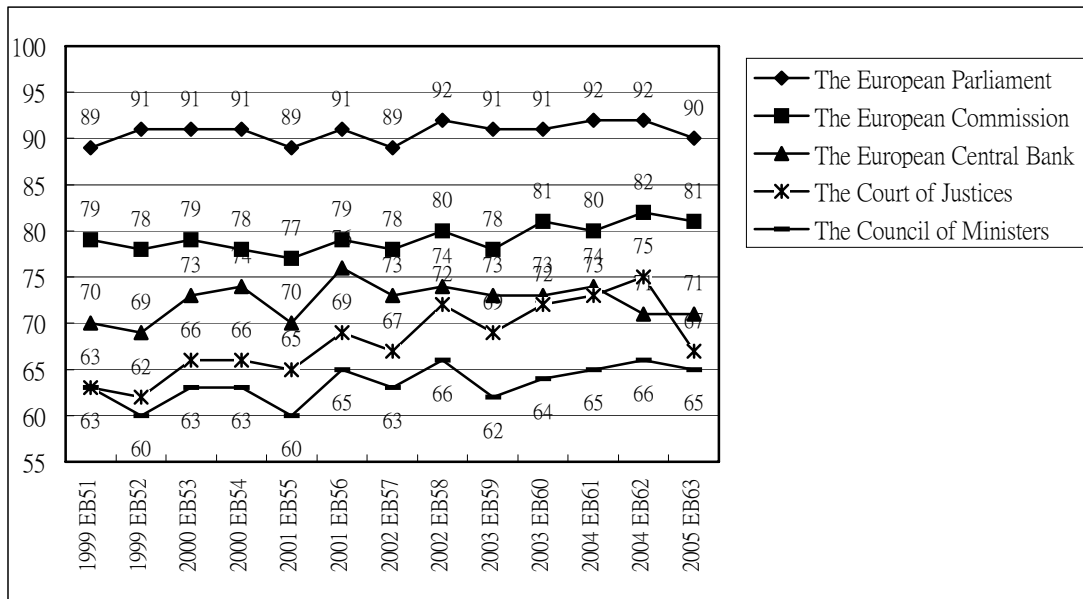
Source: Standard Eurobarometer 51-63

Compared to the 37% of the respondents in a recent European Voice survey who said they do not understand the way their national governments operate, 64% of the respondents said they do not understand the way the EU institutions operate. More significantly, a large majority (82%) feels that the EU institutions communicate poorly with them (European Voice 2006). Overall, the Europeans do not seem to be satisfied with the amount of EU news covered by national media (figure 10). In spring 2004, when the European Convention was concluding its work, as many as 42% of the respondents felt that the media coverage of the EU was too little. There is no steady improvement of citizen perceptions towards the amount of media coverage on the EU over time.

Figure 10: Assessment of amount of news coverage of EU affairs
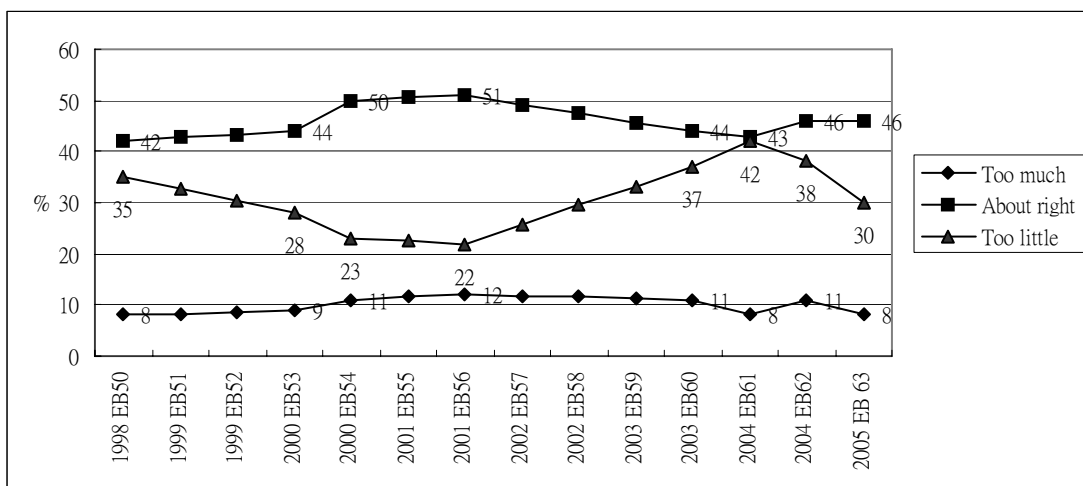
The indifference of the citizens towards EU affairs is also evident in surveys that asked citizens how much attention they paid to a list of issues. Invariably over the years, EU affairs ranked behind social issues, the environment, sport, culture, the economy, politics, and foreign-policy/international affairs (Figure 11). When asked about the frequency of talking about national or local issues in a recent survey, 44% answered 'everyday', 8% answered 'hardly ever'. When asked about the frequency of talking about European issues, in contrast, only 7% answered 'everyday', and 29% answered 'hardly ever' (European Voice 2006; Table 1).

Figure 11: How much attention do people pay to news in the following areas?
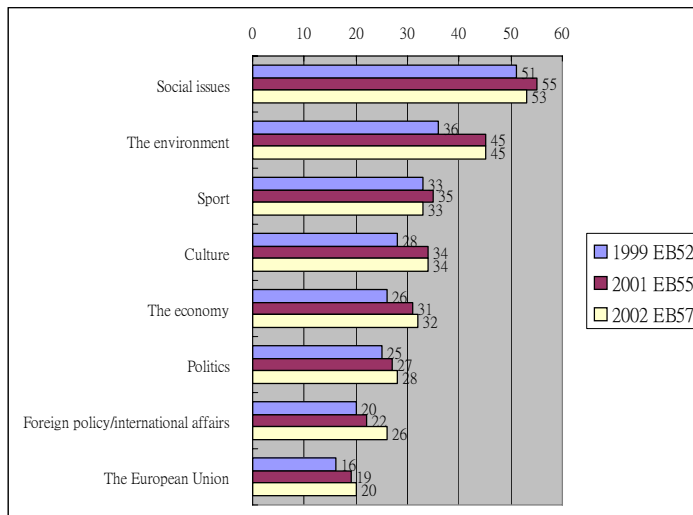
Source: Standard Eurobarometer 52, 55, 57

Table 1

	How often do you talk about national or local issues?	How often do you talk about the European Union or European issues?
Everyday	44%	7%
Once a week	33%	29%
Once a month	12%	29%
Hardly ever	8%	29%
Never	2%	6%

Source: European Voice 2006

The current form of debate and information dissemination in the EU is therefore a long way from the kind of public deliberation seen in a PS with the horizontal function of society making and the vertical function of policy steering. If the horizontal, society-making functions of a PS are absent in the European context, it is even less likely that, vertically, the European communicative space is present to act as a sounding board and empower the citizens to challenge, inflect, and steer public policies. Consequently, none of the EU institutions can, even if it intends to, enact what has already been emerging out of debate among the people. Some see the absence of an EPS as a natural result of the low saliency of issues dealt with at the European level: When the EU begins to deal with issues that are the more immediate concerns of the citizens, the contentiousness of the EU politics will lead to the emergence of an EPS (Moravcsik 2005:374). Implicit in this argument is an elitist bias that takes the policy-makers' exclusive agenda setting power for granted. It misreads the lack of means for citizens to participate in the EU affairs as apathy by choice: Where a PS does not exist; citizens are unable to understand, sort out, and determine the salience of issues and the desirability of placing new issues on the EU agenda. The prevailing journalistic styles of reporting EU news, which inform citizens about legislation only after their adoption and leave out the vital details of what influences had been exerted and by whom, only reinforce the perception that public opinion matters little (Schlesinger and Kevin 2000:216).

VIII. The Case of the Constitutional Treaty

The 2002-2005 "Europe-wide debate" and the consequent Constitution-Making process is, together, a good example for what the absence of an EPS can mean for both the European elites and the European citizens (Lu 2008). Throughout the course of the Constitution-making process, the citizen knowledge level about the CT remained low. A comparison between surveys conducted in June 2003 and October 2003 shows that once the intensive media coverage of the Convention died down, citizen knowledge of the Convention dropped from 45% in June 2003 to 39% in October 2003 (Europe-Flash EB No 142/2:5). Only four countries out of 25 had a majority of respondents having heard of the Convention even after the presentation of the Convention's work to the European Council. As to the objective knowledge about the Convention, the type of text elaborated by the Convention remained unknown to most European citizens. Even during the period when the referenda in France and the Netherlands were attracting a lot of media attention, the interests and knowledge of citizens in the other Member States remained low (Eurobarometer 63:138). While the

number of citizens who had never heard of the Constitution decreased by fifteen percent between Autumn 2004 and Spring 2005, with the exception of France and the Netherlands, the corresponding increase in the number of citizens who *had* heard of the Constitution was found mainly in the group that 'knew very little about' (up 14%) rather than the group that 'knew the contents of the Constitution'. The entire Constitution-making process, in fact, barely made any difference in citizens' self-perceived knowledge of the EU (Figure 1).
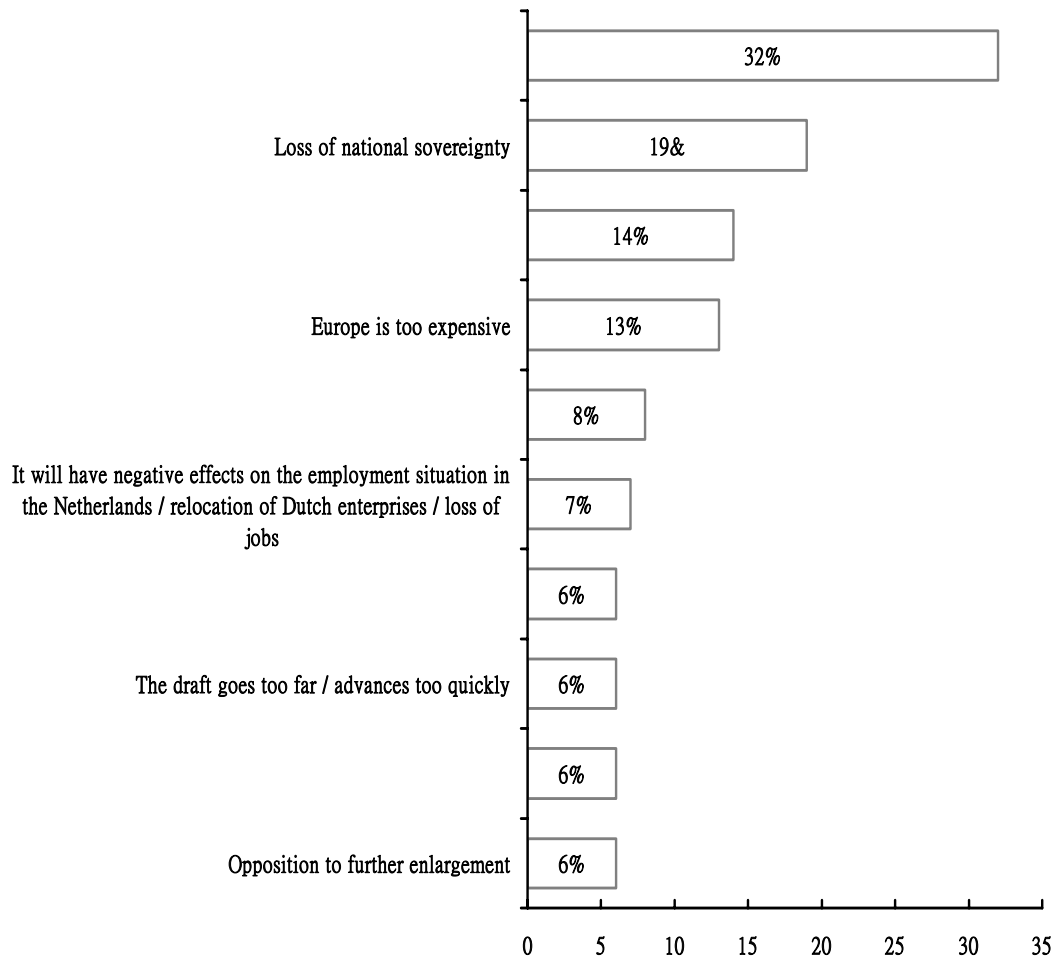
On first sight, the debates in France and the Netherlands prior to the referenda appear to be good evidence that citizens did participate in the European-wide debate. A closer look, however, reveals that the debates that seemingly involved ordinary citizens had come too little too late. They were neither an integral part of the 'debate on the Future of Europe' nor of the drafting process. In fact, the CT was not even necessarily the focal point. The exploitation of the campaign by domestic parties not only failed to invoke the European perspective in voters, but also had the effect of 're-nationalizing' the debate that was made European by the elites.

In France, the choices of politicians to put their weight behind either Yes or No were determined more by domestic party politics than by the content of the Constitution. The campaign saw the unfolding of a power struggle among and within political parties—particularly within the Socialist Party between Laurent Fabius and François Hollande. Fabius' move to champion the No campaign, for instance, was seen as a calculated decision to rally the radical left to position himself as the left's candidate for the presidential election (Financial Times, 2005). That the debate was dominated by national rather than European concerns was also demonstrated by the fact that both camps exploited the strategy of Anglo-Saxon bashing. While Chirac insisted that saying yes to the Treaty is saying no to the Anglo-Saxon liberalizing agenda, the No camp threatened that saying yes to the 'pro-America British plot' is saying yes to ultra-liberalism and surrendering to the invasion of the 'Polish plumbers' and the 'evil forces of globalization'. The No camp also cunningly equated saying yes to the CT with 'saying yes to Chirac.' As to the degree to which citizens perceived they had been informed, according to a survey conducted in November 2004, only 4% felt they were 'very well-informed', while 27% felt 'very poorly-informed' (CSA Survey conducted on November 16-17, 2004). With regard to citizen interest in the debate leading to the referendum, 27% of the respondents said they were interested, while 71% were not (CSA Survey conducted on December 9, 2004). As the referendum approached, however, the interest level of the public did eventually pick up (Sofres Survey conducted between March and May 2005).

In the Netherlands, the campaign was noticeable for the 'non-debate'. The inexperience of the government in running a referendum contributed to the underestimation of the efforts required to win the referendum (Harmsen 2005). A post-referendum survey shows that 'lack of information' (32%) was a far more important reason given by the 'no' voters than 'fear of the loss of national sovereignty' (19%) for opposing the Constitution (Figure 12). To the extent that the debate did take place, the dissatisfaction and pessimism with domestic politics, stagnant economy, and the future of the society became the core concerns, while the CT *per se* received little attention (de Beus 2006). Even after the referendum campaign, most citizens could be described only as 'somewhat interested' in European affairs, with less than 4% saying they were 'very interested' (Aarts & van der Kolk 2006). Similar to the situation in France, all major parties (representing 85% of parliamentarians), the employers association, the trade unions, and mainstream newspapers all stood behind the yes campaign, turning the referendum into a confrontation between the Dutch political elite and citizens (The Economist, May 21, 2005).

Figure 12: What are all the reasons why you voted 'No' at the referendum?

Reason	Percentage
	32%
Loss of national sovereignty	19&
	14%
Europe is too expensive	13%
	8%
It will have negative effects on the employment situation in the Netherlands / relocation of Dutch enterprises / loss of jobs	7%
	6%
The draft goes too far / advances too quickly	6%
	6%
Opposition to further enlargement	6%

Source: Flash EB 172

The results of the referendums demonstrate that, while it was hoped that the Constitution-making process could serve as a catalyst for creating solidarity among the citizens (Habermas 2001; Closa, Fossum, and Menéndez 2005), in the absence of an EPS, it is unrealistic to expect citizens to suddenly change their habits and become engaged the moment the political elites summon them to participate in a European-wide debate. Given that a PS is where *private* people come together to reason, an EPS could be fostered neither top-down nor overnight. There is little wonder, then, that the one-shot attempt to create an EPS by bringing citizens onboard early on in the process of Constitution-making was unsuccessful. A document produced with a high degree of 'transnationalness' and concerned with collective problems was, therefore, still tested by citizens in an almost exclusively nationalistic way.

IX. Conclusion:

The Constitution-making process has highlighted the problem that, even when the European elites tried all they could to engage the citizens and ask for their input and participation, when in place of a public sphere is a big vacuum, meaningful communication cannot take place in this black hole. The lack of a public sphere is a crucial feature that distinguishes the EU from any other democracies. While the problem of no EPS was made more visible during the Constitution-making process due to the "deliberative" nature of the process and the effort made to create a Europe-wide debate, the absence of a public sphere is in fact a constant that has long been undermining the legitimating effects of democratic representation and regulatory state at the EU level. If the inevitable corollary of the findings of this paper is that policy makers should, as Commissioner Walstrom already have, begin to think about ways to facilitate the emergence of an EPS, that policy implication is not the initial goal of this paper. The initial aim of this paper was to simply point out the discrepancy between what scholars have described the way democracy works in the EU, or have prescribed how it should work, and the failing of democracy in the EU given the blocking effects of the absence of a public sphere. Hence, even if it becomes clear that it is not possible—or desirable— for an EPS to emerge, the validity of this research is not undermined, since the focus of this paper is solely on the effects of not having a public sphere. That an EPS will never begin to form or become desirable will not change the fact that the legitimating effects of good institutional design for democratic representation and of enhanced problem-solving capacity are being discounted due to the absence of a public sphere. For this reason, it seems difficult to foresee a reversal of the de-democratization process that has been inflicted by the integration process for a long time to come.

References

Andersen, S. S. and Burns, T. 1996. The European Union and the Erosion of Parliamentary Democracy: a Study of Post-parliamentary Governance. In *The European Union: How Democratic Is It?* Edited by Andersen, S. S. and Eliassen, K. A. London: Sage.

Bohmann, James. 1996. *Public Deliberation: Pluralism, Complexity, and Democracy*. Cambridge: MIT Press.

Caporaso, James. 2005. The Emergence of the EU Supranational Polity and its Implications for Democracy. In *Democracy and Federalism in the European Union and the United States—Exploring Post-National Governance*, edited by Sergio Fabbrini, 57-75. London: Routledge.

Checkel, Jeffrey T. 2005. International Institutions and Socialization in Europe: Introduction and Framework. *International Organization* 59:801-826.

Christin, Thomas, Simon Hug and Tobias Schulz. 2005. Federalism in the European Union: the View From Below (If There Is Such A Thing). *Journal of European Public Policy* 12 (3):488-508.

Chryssochoou, Dimitris. 2001. In Defence of the Civic: The Search for a European *res publica*. *ARENA Working Paper* 12.

Cohen, Joshua. 1989. Deliberation and Democratic Legitimacy. In *The Good Polity: Normative Analysis of the State*, edited by Alan Hamlin and Philip Pettit, 17-34. Oxford: Basil Blackwell.

Cohen, Joshua and Charlies Sabel. 1997. Directly-Deliberative Polyarchy. *European Law Journal* 3 (4): 313-342.

Dehousse, Renaud 1998. European Institutional Architecture after Amsterdam: Parliamentary System or Regulatory Structure? *Common Market Law Review* 35: 595-627.

Dryzek, John S. 2001. Legitimacy and Economy in Deliberative Democracy. *Political Theory* 29 (5):651-669.

--------. 2000. Deliberative Supranationalism in the EU. In *Democracy in the European Union—Integration through deliberation?* Edited by Eriksen and Fossum, 42-64. New York: Routledge.

Eriksen, Erik Oddvar (2000) 'Deliberative Supranationalism in the EU', in Erik Oddvar Eriksen and John Erik Fossum (eds) *Democracy in the European Union—Integration Through Deliberation*, pp. 42-64. London: Routledge.

-------- (2005) 'An Emerging European Public Sphere', *European Journal of Social Theory*, 8 (3): 341-63.Eriksen, E. O. and Fossum, J. E. 2002. Democracy through Strong Publics in the European Union? *Journal of Common Market Studies* 40

(3):401-24.

Forbath, William E. (1998) 'Habermas's Constitution: a History, Guide, and Critique', *Law and Social Inquery* 23 (4): 969-1016.

Fossum, John E. and Hans-Jörg Trenz. The EU's Fledgling Society: From Deafening Silence to Critical Voice in European Constitution Making. *ARENA Working Paper* 19.

Fossum, John Erik and Agustin José Menéndez. 2005. The Constitution's Gift? A Deliberative Democratic Analysis of Constitution Making in the European Union. *European Law Journal* 11 (4):380-410.

Fraser, Nancy (2005) 'Transnationalizing the Public Sphere', in Max Pensky (ed.) *Globalizing Critical Theory*, pp. 37-47. Oxford: Rowman & Littlefield.

Habermas, Jürgen. 1989. *The Structural Transformation of the Public Sphere—An Inquiry into a Category of Bourgeois Society*. Cambridge: Polity Press.

--------. 2001. Why Europe Needs a Constitution? *New Left Review* 11:5-26.

Hix, Simon. 1998. Elections, Parties and Institutional Design: A Comparative Perspective on European Union Democracy. *West European Politics* 21 (3):19-52.

Kritzinger, S. 2003. The Influence of the Nation-State on Individual Support for the European Union. *European Union Politics* 4 (2):219-241.

Lenaerts, K. and de Smijter, E. 1996 The Question of Democratic Representation: On the Democratic Representation Through the European Parliament, the Council, the Committee of the Regions, the Economic and Social Committee and the National Parliaments. In *Reforming the Treaty on European Union—The Legal Debate*, edited by Jan A. Winter, Deirdre M. Curtin, Alfred E. Kellermann, and Bruno de Witte, 173-205. The Hague: Kluwer Law International.

Lu, Chien-Yi (2008). "Constitution-Making and the Search for a European Public Sphere," in Finn Laursen (ed.), *The Rise and Fall of the Constitutional Treaty*, (Leiden: Martinus Nijhoff Publishers),pp.431-452.

Mair, P. 2000. The Limited Impact of Europe on National Party Systems. *West European Politics* 23 (4):27-51.

Majone, Giandomenico. 1994. The Rise of the Regulatory State in Europe. *West European Politics* 17 (3): 77-101.

--------. 1998. Europe's 'Democratic Deficit': The Question of Standards. *European Law Journal* 4 (1):5-28.

--------. 1999. The Regulatory State and its Legitimacy Problems. *West European Politics* 22 (1):1-24.

Manin, Bernard. 1987. On Legitimacy and Political Deliberation. *Political Theory* 15: 338-68.

Marsh, Michael. 1998. Testing the Second-Order Election Model after Four European

Elections. *British Journal of Political Science* 28:591-607.

Martin, Lisa. 2000. *Democratic Commitments—Legislatures and International Cooperation*. Princeton: Princeton University Press.

Miller, David. 2000. *Citizenship and National Identity*. Cambridge: Polity Press.

Moravcsik, Andrew. 2002. In Defence of the 'Democratic Deficit': Reassessing Legitimacy in the European Union. In *Journal of Common Market Studies*, 40 (4):603-24.

Moravcsik, Andrew (2005) 'The European Constitutional Compromise and the Neofunctionalist Legacy', *European Journal of Public Policy* 12 (2): 349-86.

Neyer, Jürgen and Schröter Michael (2005) 'Deliberative Europe and the Rejected Constitution', Paper presented at the Conference 'Law and Democracy in Europe's Post-National Constellation', EUI, Florence, 22nd-24th, September.

Norton, Philip. 1995. Conclusion: Addressing the Democratic Deficit. *Journal of Legislative Studies* 1 (3):177-93.

Papadopoulos, Yannis. 2005. Implementing (and Radicalizing) Art. I-47.4 of the Constitution: Is the Addition of Some (Semi-)Direct Democracy to the Nascent Consociational European Federation Just Swiss Folklore? *Journal of European Public Policy* 12 (3):448-467.

Risse, Tomas. 2000. "Let's Argue!": Communicative Action in World Politics. *International Organization* 54 (1):1-39.

Scharpf, Fritz W. 1999. *Governing in Europe: Effective and Democratic?* Oxford: Oxford University Press.

Taylor, Charles (1990) 'Modes of Civil Society', *Public Culture* 3 (1): 95-118.

-------- (1995) *Philosophical Arguments*. Cambridge: Harvard University Press.

Thorlakson, Lori. 2005. Federalism and the European Party System. *Journal of European Public Policy* 12 (3):468-487.

Trenz, Hans-Jörg and Eder, Klaus (2004) 'The Democratizing Dynamics of a European Public Sphere', *European Journal of Social Theory* 7 (1): 5-25.

Ward, David. 2004. *The European Union Democratic Deficit and the Public Sphere—An Evaluation of EU Media Policy*. Oxford: IOS Press.

Weiler, Joseph H. H.. 1991. The Transformation of Europe. *Yale Law Journal* 100:2403-2473.

Williams, Shirley. 1991 Sovereignty and Accountability in the European Community. In *The New European Community: Decisionmaking and Institutional Change*, edited by Robert. O. Keohane and Stanley Hoffmann, 155-76. CO: Westview Press.

Young, Iris Marion. 2000. *Inclusion and Democracy*. Oxford: Oxford University Press.

Zürn, Michael and Jeffrey T. Checkel. 2005. Getting Socialized to Build Bridges: Constructivism and Rationalism, European and the Nation-State *International Organization* 59:1045-1079.