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## Summary

What are the implications of new governance in terms of normative democratic theory? To answer this question, we need to distinguish between democratic values and the institutions that are claimed to embody democratic values. Democratic values include a concern for common or public interests, political equality and an acknowledgement of fallibility in decision making. Party systems in member states of the European Union can make a claim to have embodied these values to some degree, particularly the extent to which party competition provided an incentive to focus on issues of common public concern. However, those party systems operated under a specific set of conditions, including an unusual nationalisation of policy responsibilities. Where policy concerns are international and issues involve the need for functional representation outside of the confines of party competition, then new governance arrangements may meet the standards of democratic legitimacy. However, an adequate normative theory will still want to insist that criteria of fair representation and processes of deliberative accountability are imposed on the EU's system of governance.

This paper will be appearing in Carlo Ruzza and Vincent della Sala, *Governance and Civil Society* (Manchester: Manchester University Press, forthcoming).

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## I. Introduction<sup>1</sup>

The European Union is a system of multi-level governance. The European Union is often said to suffer from a democratic deficit. Is it by virtue of being a system of governance that the EU has this deficit? Might there be something about the practices and principles of governance that contributed to the democratic deficit? The purpose of this chapter is to investigate this claim.

Begin, however, by noting a paradox. Even if we assert that the EU suffers from a democratic deficit, there is a very obvious sense in which it does not suffer a deficit of political legitimacy. Its rule-making is carried out according to agreed procedures and only those empowered to make decisions do so. There are recognised processes for dealing with procedural disagreements. It is true that with a number of EU directives and regulations there are problems of compliance, but a similar phenomenon can be found in all political systems, including those that are indisputably legitimate according to democratic norms. The old structural-functionalists used to say that all political systems needed to perform the output functions of rule-making, rule application and rule adjudication (Almond and Coleman 1960). The EU performs all of these functions, and some would argue that it performs them better than many member states. If there is a problem of political legitimacy, then it seems to have few or no practical implications. Wherein then is the problem?

The problem is to be found in Scharpf's (1999) distinction between input and output legitimacy. The ability of the EU to formulate and implement rules effectively is a measure of its output legitimacy. This does not mean, however, that its inputs pass a test of democratic legitimacy. The principle of democratic legitimacy in the modern world is founded on the idea of representation. Hence, to say that there is a problem of democratic legitimacy is to say that patterns of governance lack practices of adequate representation or that the principles of representation that they rest upon are faulty in some way. However, the argument is complicated by the fact that we cannot simply transpose the norms of democracy from the member state level to the EU level, as has often been noted. The institutional, social and cultural conditions are simply not conducive to our doing so. Scharpf's own solution to this problem is to say that it is unrealistic to suppose that the conditions for output legitimacy can be recreated in the European Union.

This chapter takes a different tack, which is to make a distinction between democratic values and the practices and institutions that embody those values. The assumption will be that practices and institutions can only partially embody democratic values. There will always be a gap between the democratic ideal and the democratic practice. For example, a central democratic ideal is that of the political equality of individual citizens. In practice, the most tangible expression of this ideal is 'one person one vote' on the basis of a broad and inclusive franchise. Yet, it requires no great leap of the imagination to see that the political formula of 'one person one vote' is only a partial expression of the principle of political equality. What of the right of voices to be heard as well as the right of votes to be cast? What of the social and economic conditions under which political rights are exercised? What of structural sources of power that may shape the political agenda to the advantage of some citizens rather than others? In posing these questions, we need not suppose that there are any easy answers. But all are relevant to the question of how far political equality has been institutionalised adequately within the

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practices of representative democracies. They are noted here merely to suggest that any claim that an institutional arrangement embodies a set of values is bound to be partial and one-sided. To be sure, institutions may capture something that is important to the value, but we cannot suppose that they will capture all that is important.

If we admit this distinction between values and institutions, then we reconfigure the debate about the democratic deficit in the European Union. Accept that there is a democratic deficit in the European Union. Accept, even, that patterns of governance contribute to and reinforce that gap. It does not follow that the best or only way to rectify the problem of democratic values is to make EU decision making as much like decision making of member state governments as possible. For all the reasons that political scientists give, the conditions for familiar democratic practices at the European level are unlikely to produce the same results that they have produced at the national level. However, we may want to look for new practices that embody (of course only partially) the democratic values that are important. We may even find that in focusing upon democratic values rather than institutions we find a point of view that puts national democratic practices into perspective. However well they embodied values, the institutions could still be criticised. The problem, then, is not how to make the EU approximate the imperfect procedures of the national democracies, but how to determine the implications of democratic values for the EU's system of multi-level governance.

It will be useful to have an account of what is meant by the term 'governance' in what follows. Like other purported analytical terms in the social sciences, the notion has acquired a rather protean set of meanings and applications in recent years, but its use does point to some features of the policy making process in the EU which, though not unique, are characteristic of its mode of operation (Kjær 2004: 189-91). Firstly, the formulation and making of rules involves multiple actors in networks of relationships, where the networks are not ordered in a strict hierarchy. In particular, it is not possible to point to any one set of actors or institutions that are decisive in the making of rules, at least if we regard decisiveness in a positive sense (I do not know of governance theorists who have considered the position of veto players). In this sense, governance is rule making without government, as that has traditionally been conceived. It is part of this conception that the rule-making is achieved more through negotiation than authoritative imposition.

Governance is thus a mode of decision making in making rules. It is useful to keep separate this category considered conceptually from the empirical question of how far modes of decision making about rules at different times or places do or do not approximate to the ideal-typical mode envisaged. In other words, the claim that governance represents a new mode of decision making, typical of post-modern political systems for example, seems to me to be an entirely separate question from whether we can identify in principle a mode of decision making that exhibits governance features. Similarly, whether negotiated rule-making only works because it is conducted in the shadow of hierarchy is also an empirical question. By the same token, it is useful to distinguish the claim that governance is a mode of decision making from the claim that governance is multi-level, in the sense of involving political authorities and actors at regional, national and international levels. To be sure, having to make rules acceptable to actors at different levels of political organisation may be one of the causes for decision making approximating a governance mode rather than an hierarchical mode, but it is only one element in the equation. Another element, and one important to this volume, is the sense that non-state actors, and in particular those who claim to represent civil society, have a legitimate role to play in the making of rules. In short, the thought that networks of actors are important in rule making provides merely the logical space in terms of which we can consider any particular set of cases.

With these preliminaries out of the way, we can now pass on to the main arguments of this paper. Its structure is as follows. The next section offers a theory of democratic values. This is a normative theory, that is to say it is an explication of a set of principles in terms of which we can understand the point or purpose of democracy as a form of government. We shall then consider in the subsequent section the way in which it might be argued that post-1945 European democracies embodied these values, paying particular attention to the role of party competition and noting also the gaps between ideal and practice. A similar exercise is then performed for the EU system of governance, before concluding with an attempt to sketch what criteria of improved performance in terms of democratic values might be applied to the EU.

## II. A Theory of Democratic Values

The particular conception of democracy advanced here begins from the problem of justification. Why, if at all, should we regard democracy as a better form of government than its alternatives? Obviously the answer to this question depends in large part on the particular alternatives that we have in mind. As Dahl (1998) has argued, the performance of democratic governments relative to actually existing forms of political authority is judged to be good by a number of plausible criteria. Democratic governments enhance prosperity, maintain civil and political rights and contribute to the maintenance of international peace in a way that other forms of government do not. To be sure, these results are statistical. There is currently, for example, a vigorous debate in the literature on comparative political economy as to whether, at certain levels of economic development, authoritarian governments might not be better than their democratic alternatives at promoting prosperity. Yet, even if this particular debate turns out to favour the proposition that at certain levels of economic development authoritarian governments may be superior in this regard, this would not in itself be a very strong argument. *As a general rule*, it would be unwise for citizens to entrust their prosperity to authoritarian elites, even if on some occasions it might turn out to be true that such elites perform relatively well.

The problem, however, lies not with the historical record, but with the criterion of performance that is being applied. The sceptic might urge that a stringent justification of democracy, one that would make the justification robust with respect to a wide range of circumstances, involves testing democratic practices not against what has actually been attained by alternative systems, but against the best that we could imagine being attained. In other words, the strongest justification for democracy as a form of government would involve showing not simply that it performs better than tyrannies, but also that it performs better than relatively benign elite forms of government. I have argued elsewhere (Weale 1999: 47-53) that the most plausible alternative in this regard would be a judicialised form of government, in which the bulk of public policy was made as a result of an impartial judiciary applying principles to particular cases.

To defend and justify democracy we need to argue that this judicialised account of government is inadequate in that it ignores problems arising from obvious failures of government on any plausible account of why government is needed in the first place. So, if this is the best that the non-democrat can offer, it is not nearly good enough. Specifically, such a conception of political society would be subject to four types of failure were its even capable of being implemented. Firstly, any system of government which relies purely upon judicial decision-making in individual cases is bound to leave a penumbra of uncertainty around the lawfulness or otherwise of a great range of activities. Legislation is needed as much to clarify the allocation of rights and responsibilities as to change them. Secondly, in the absence of legislation, it is only possible to react to social problems once they have emerged rather than anticipate

them. Thirdly, judicialised individual decision making, even with a strong rule of precedent, lacks the capacity to deal with the cumulative, unintended effects of individual behaviour. Fourthly, under a liberal constitutionalist regime, individuals may plead their cause against other individuals, but they are powerless to alter the background conditions under which they interact with one another. In short, a purely non-teleological account of government is simply incapable of dealing with persistent and important social and political problems.

All this is to say that some legislative rule-making capacity is needed in any social system in order to meet certain common or collective interests that would otherwise be ignored or neglected. The argument has been phrased in terms of government, but it carries through to any mode of authoritative rule-making that takes the form of governance. This is because the focus of the argument is on the purposes that are served by authoritative rule-making and the extent to which a particular form of rule-making fails to meet those purposes. In short, neither government nor governance in themselves are regarded as good. Rather they are important insofar as they enable conditions in which goods like order, security and stability can be provided so that citizens can lead valuable lives.

How then are we to understand the notion that it is the purpose of a system of governance to protect certain shared or widely dispersed interests among the members of society? Potentially there is a great deal that could be said on this question. Indeed, whole volumes of political theory could be devoted to answering it. Extensive discussion will short-circuited here discussion simply by offering a stipulative definition. In particular, we can say that governments protect interests when they ensure the provision of certain classes of goods to members of society. There are three main classes into which these goods fall: public goods, in the strict sense developed in economic theory; those goods that Rawls (1999) termed ‘primary goods’; and the political goods associated with having disputes about the previous two categories of goods settled in a peaceful and relatively civilised way.

However, even with a critique of judicialised modes of decision making in place, we are not yet at the point of saying that the legislative or rule-making capacity should be democratic. Indeed, the history of the European Union itself highlights the possibility of a political order between a pure liberal constitutionalism but not at the point of democratic legitimacy. Consider the European Union before the first direct elections to the European Parliament in 1979. There we had a system of governance in which there was clear rule-making capacity lodged in the Commission and the Council of Ministers, and based upon the provisions of the founding treaty. Hence, the development and application of Union rules was in the hands of a non-elected and non-representative bureaucracy and politicians who were only indirectly accountable to their electorates for the decisions that they took. Moreover, much policy development in the Union took place through the teleological jurisprudence of the European Court of Justice. Weiler (1999: Chapter 5) has shown, for example, how the growth of EU competences was brought about through a judicial process in which the authority of the European Court of Justice was internalised by the judicial actors within the member states. At least up to 1979 therefore, and arguably thereafter for a number of years, the EU resembled the ideal of a liberal constitutionalist regime in dispensing with parliamentary rule-making. Yet, it differed from the ideal-typical liberal constitutionalist order in having both a clear rule-making capacity and a teleological jurisprudence that sought to advance the purpose of integration as established in the founding treaties.

What, in terms of political legitimacy, is wrong with such a regime? What normative arguments are there for introducing the principles of representative government into the conduct of EU governance? The account offered here says that such a regime fails to advance common

or general interests in ways that are consistent with the principle of political equality and the acknowledgement of fallibility.

The claim that human fallibility is connected with democratic norms is the distinctive contribution that Karl Popper (1945) made to democratic theory. Popper's general theory of knowledge was fallibilistic. We cannot know that propositions and theories are correct. We can, however, subject them to critical scrutiny and we can trust most those views that have survived such scrutiny. Yet, even the most respected theories, supported by the strongest authorities, may turn out to be false. Transposed to the realm of politics and law-making, this approach suggests the need to institutions of open public discussion and criticism. Rule-making is inadequately conducted if the assumptions and purposes that policy-makers have in mind cannot be subject to public scrutiny.

Note, however, that the principle of fallibility alone does not get us to democratic institutions for at least two reasons. The first of these is that the appeal to fallibility may simply be used as part of a liberal argument to reduce the role of government to a minimum in some areas of social life, as it was by John Stuart Mill (1859) in his plea for complete liberty of freedom and discussion and an end to the tyranny of public opinion. In the face of this possibility, the role of public criticism and discussion needs to be tied to the practice of democracy through the thought that such discussion and criticism should lead to the adoption of a common purpose (rather than Mill's 'experiments in living'). In other words, the free discussion is linked to the idea that there are some irreducibly common purposes about which collective decisions have to be made.

The second reason why, if we are to establish the relevance of democracy to the making of common rules, we need something more than an appeal to fallibility is that fallibility alone will not get us to open and public discussion. It is perfectly consistent with the recognition of fallibility to hold that mistakes can be made but that only a limited circle of persons are capable of recognising and correcting those mistakes. Such 'closed circle' fallibilism is not an implausible position where highly technical issues are at stake. It is however much less plausible where we are discussing issues of public policy, which typically involve technical considerations but which also raise issues of value and principle on which different views can be legitimately taken. It is at this point that the principle of political equality buttresses the argument from fallibilism, leading towards a democratic conclusion. For these purposes at least, the principle of political equality may be rendered as the claim that we should recognise everybody with whom we communicate as a potential source of argument and reasonable information, again one of Popper's insights (Popper 1945: 225).

The argument to this point can be summarised as follows. We cannot begin to evaluate the claim that there is a democratic deficit in the EU without a general theory of democracy. A suitable conception of democracy is best derived by considering the principle of democracy against the most plausible alternative in normative terms. That putatively plausible form of non-democratic government would be a form of liberal constitutionalism. Liberal constitutionalism, however, in its pure form incurs the disadvantages of any political system that lacks a general rule-making capacity. This inability to establish collective common purposes to meet common interests can be rectified in a non-representative system as it was in the EU between 1958 and 1979, that form of governance itself suffers from certain disadvantages, most notably that it ignores the claims of fallibility and political equality.

Conceived of in this way, democracy is a form of government, the purpose of which is the meeting of certain common interests but in which it is recognised that those with the power to make decisions are liable to make mistakes and in which all forms of political power should

be subject to the principle of political equality. How and in what ways did democracies post-1945 embody these values?

### III. Democratic Government

To say of post-1945 governments that they are democratic is to say that their institutions and practices embodied to an acceptable extent democratic values, and in particular to say that those institutions enabled the pursuit of common interests acknowledging the constraints of political equality and fallibility. Moreover, since we are dealing with representative governments, we have to examine the extent to which the system of representation embodied those values. Obviously, to characterise the set of post-1945 democratic governments as a whole involves a number of generalities, and allowance has to be made for variants in many cases and at different times. However, it is possible to pick out some common features of representative governments relevant to the extent to which they embodied the values of democracy.

The prime institutional mechanism of representation at the state level is that of elections, but elections themselves should only be seen to provide democratic legitimation once we also see them as involving a whole variety of linkage mechanisms between citizens and governmental decisions. The key institution here is the political party, or at least those political parties that are not professional ‘anti-system’ parties. Political parties are important because, in their competitive struggle for the vote of the people, they provide a linkage mechanism between citizens and the state. They formulate programmes that are representative of broad movements of opinion and interest; they mobilise opinion and movements; they help define alternatives; they articulate arguments in the legislative process; and they provide an alternative team of government in waiting should the present incumbents fail.

The historical processes by which European societies came to institutionalise party competition as a means of democratic consent are complex and vary in great detail from country to country. In some cases, the rise of the mass party can be seen as a democratisation of a parliamentary competition between teams who fought one another for executive office. In other circumstances the institutionalisation of party competition seemed to all the participants a preferable alternative to the threat or continuation of a civil war. In some cases, the process was imposed by the allied forces after the Second World War. In yet other cases, democratic party competition was emulated by democratising movements in previously authoritarian societies. Yet, whatever the particular historical process, the most important feature of such institutionalisation, from the point of view of a theory of democratic political legitimacy, is that it provided a practical means by which, in some sense, government by consent, at least in the extended sense in which I have characterised it, could be institutionalised.

In what ways does the system of party competition in European states serve the democratic values of common interests, political equality and the acknowledgement of fallibility?

First, the system provides an incentive for decision makers to focus on common interests since competitive elections requires winning parties to secure broad support among members of the population. In essence, this is simply an updating of the protective argument for democracy that James Mill (1822) advanced as the basic reason as to why democratic government was better than autocratic government (Weale 1999: 45-6).

Secondly, the system of party competition contributes to the construction policies promoting public interests in another way. The process of determining common interests is not something that can take place in the abstract but requires the articulation of sectional or social group interests. Even in the case of pure public goods, like flood protection or defence, there can be differences of view about how the cost of supply is to be allocated among different



possible groups of citizens, and where political issues are distributive in character, there is a clear need for groups to define and refine the sense of their own interest. Where political parties have close links to particular social groups, the system of party competition provides the framework in which the articulation of these interests takes place. The clearest and most persuasive model of the historic basis upon which such interest articulation has taken place is provided by the Lipset-Rokkan (1967) model of European party systems, according to which the party systems of European societies freeze cleavages dominant at significant stages of political development. Political parties, then, are not primarily to be thought of as free-floating political entrepreneurs, seeking office to their own advantage. Rather they are representatives of different social groups and they are the vehicles by which political alliances among those groups are forged, for example as with the famous case of the worker-agrarian alliance in Sweden in the 1930s.

Of course, parties also do compete with one another for office, and they are forced to spell out a programmatic stance towards issues of public policy through their election manifestos. Empirical analyses of these manifesto commitments across the parties of Europe shows them to be organised in a left-right pattern – or at least that is the best single account that it is possible to give (Budge *et al.*, 2001: 59). One explanation for this finding is offered by Budge and Keman (1990: 36) with their claim that the scale of demands implied by the programmes of socialist or progressive parties is so great that all parties need to take up a view in relation to the socialist-bourgeois coalition. However it comes about, it can be argued that in terms of democratic values the organisation of political opinion into programmatic blocks helps clarify the political choices that a country faces.

One further consequence follows from this finding that political competition can be understood in terms of the competition between left and right. It is possible to show that European governments typically include representatives of the median voter in winning coalitions or single party governments where these exist (McDonald, Mendes and Budge 2004). In this way, elections bestow a median mandate. This finding is important because it relates to political equality as a value. Although it is not straightforward, it is possible to show that the preferences of the median voter come closest to what can plausibly be regarded as majority opinion when there is more than one alternative to be considered. Moreover, the majority position itself captures an important aspect of political equality, since a rule of majority decision making respects the right of all citizens to have an equal say in the making of decisions on public matters (Ackerman, 1980: 277-89; Waldron, 1999: 148; and Weale, 1999: 129-31). Although there is an obvious sense in which competitive elections can only be a rough form of majority, to the extent to which elections capture some features of majority rule, they can be said to be consistent with the principle of political equality.

It is therefore possible to argue that representative government at the national level, secured through electoral competition among political parties contributes towards upholding some elements of the values that have been identified here as being central to democracy. Without the debate on political choices fostered through elections, there would be no capacity to define and advance putative common interests. If the practice of one person, one vote is in place, then the election takes place in circumstances of political equality, and political equality is further served by the extent to which the policy orientation of governments coincides with that of the median voter. Note, in particular, that these desirable features of representation in practice are achieved through a *system* of party and electoral competition rather than by the specific actions of any sub-set of political actors. No one needs to have intended or designed that electoral competition take a left-right form, or that governments include parties represen-

tative of the median voter. The values are served through the interaction of those within the political system.

#### **IV. EU Governance and Democratic Values**

If we allow that the previous section offers a characterisation of the way in which the electoral competition in European countries can serve democratic values, what are we to say of the EU's system of governance? Can it too be characterised in such a way that it is seen to serve democratic values?

The starting-point for any answer must, in line with so much commentary, stress the negatives. European elections are second-order events. There is no European demos, and no common public space within which the competition of party programmes can take place. Executives responsible for decision-making in the EU do not emerge from teams of parties that have fought elections on matters important to citizens, and to the extent to which the Council of Ministers is important, the accountability of its members is indirect and typically of low political salience. It is true that empirical work shows parties in the European Parliament vote along ideological, rather than national, lines, and that the left-right cleavage describes the typical pattern of their contest. But it is not at all clear that this element of their functioning, detached from the broader system of representation characteristic of the member states, has the same significance or positive role in fostering democratic values.

If we pass from these negative features to what are often thought to be positive features of governance, we do not necessarily find an enhancement of democratic values. The dispersal of authority within a system of multi-level governance cannot produce the sort of political representation that competitive elections secure. Since governance means rule-making without government, the process of party competition through elections cannot lead to anything that could be regarded as an institutionalised embodiment of the general will of citizens. In any case, however much parties in the European Parliament vote along ideological rather than national lines, they do not perform the social group linkage function that parties at the national level perform. Moreover, the tools of governance are limited (for good reason) at the European level. It does not make much sense to have an intellectual discussion about the appropriate choice of policy instruments for any problem, if there are political and treaty constraints on the instruments that are available. For example, environmental policy analysts can make a good case for saying that economic instruments are required to play a central role in successful environmental policy strategies, but they waste their sweetness on the desert air, if the EU lacks the powers to impose a carbon-energy tax. Such problems are compounded in the economic sphere, when the rules for monetary policy operate at a different level of governance from those of fiscal policy.

Do these considerations mean that the forms of representation embodied in the European system of governance cannot be made to serve democratic values? Not necessarily, and for at least three reasons. Firstly, the discussions that the Commission carries on with representatives from interest groups and civil society is a form of functional representation, that is to say a group interest or opinion that is detached from territory. Within member states, functional representation has always been practised, but its theoretical understanding has been poorly related to the general account of representation through electoral competition set out in the previous section. Indeed, in some cases as in strongly corporatist political systems like Austria, there was concern that functional representation would displace the authority over important issues of economic and social policy. If there was any account of functional representation, it was based on the idea that those with a special stake or intense preference about par-

ticular issues had a legitimate interest in voicing their views to those responsible for making the decision. How these special interests were to be balanced against the general public interest was unclear, however, and in practice a mixture of bargained compromise, historic commitment and political accommodation prevailed, whether we are talking about agriculture, workers in the public services, commerce and industry or professional associations.

It is of course a striking feature of the domains in which the EU has particular responsibilities that they tend to be just those areas in which negotiation and bargaining with functional representatives is a feature of democracies at the national level. Since integration has taken place in large part through the single market programme, we should expect functional representation to play a significant role in decision making. For example, it is difficult to set product and process standards without the involvement of producer interests who have specialist knowledge about the workings of their sector. Similarly, rule-making is the typical mode of policy-making in fields like environmental policy and here again those subject to the rules in particular sectors have a legitimate interest in expressing an opinion, just as representatives of civil society groups can claim a legitimate stake in the process. Within national systems such representation is not formalised in any routine way, but it can be argued that it is nested in the system of political representation springing from electoral competition and in that sense receives legitimation. But by extension of our earlier argument, such a line of defence is not available at the European level, despite the centrality of functional representation to the work of the Commission.

A further consideration applies to functional representation inasmuch as it involves civil society groups. It can be argued that one of the causes behind the rise of such groups, both at the national and the European level, is a decline in the strength of attachment between political parties and the social groups whom they traditionally represented. This is partly due to a change in the underlying occupational structure, as the proportion of people working in manufacturing industries declines, and partly due to a decline in the force of the ideological struggle between socialism and capitalism. If Budge and Keman are right, and the socialist-bourgeois contest spills over into a whole series of public policy questions, it follows that a decline in the salience of that contest will weaken traditional party attachments. Moreover, there has been a decline in the mass base of parties and a corresponding growth of parties based on personality (like Forza Italia or the Pym Fortuyn List), with a growing professionalisation of the tasks that any political party needs to undertake (Crouch 2004: 64-75). In other words, organisational and social structural changes are altering the conditions under which the traditional model of party government operated, even at the national level.

This relates to the second reason why we cannot pass an entirely negative judgement upon the rise of governance from the viewpoint of democratic values. The growth and influence of civil society groups can be interpreted as a response to the constraints of political discourse conducted as a contest between left and right. There are potentially a large number of issues that cannot easily be fitted into this one dimensional representation of political alternatives. The most obvious example is that of environmental concerns. In many party systems up to the 1980s, major parties of both the left and the right may have disagreed on many issues, but their disagreements were contained within a broad framework of productivist values, emphasising the importance of growth in commodity production, committed to intensive agriculture and placing relatively low value on international development and fairer international trade. In short, where the party system is predominantly materialistic, we should expect those holding post-materialist values to seek political expression outside the party system. Of course, in some cases, the post-materialist groups could attach themselves to green and soft left parties, but this option was not available in all systems, and in any case would not be attractive to

those who support mainstream parties on many issues but not on questions to do with the environment, conservation or international development. In this sense, the growth of Friends of the Earth, Greenpeace, WWF and other environmental groups is the result of the unfreezing of the Lipset-Rokkan cleavages.

It can also be argued that environmental issues in particular do not lend themselves to a politics of aggregation in a way that is typical of other issues in the politics of post-1945 European states. The solution to many environmental problems, this line of reasoning asserts, does not rest on bargaining to a compromise but on greater understanding of what the problem is and deliberation about the best way to solve the problem. The United Kingdom's Royal Commission on Environmental Pollution has argued this as a general matter in connection with the setting of environmental standards, particularly where issues of social judgement are concerned. Thus, in cases where standards have to be set for pollutants with no known safe level of exposure, there is a need to find processes that will enable members of the public to express their values about what is a tolerable risk. More generally, it is important to take public values into account not only in determining solutions to problems but also in defining what the character of those problems is (RCEP, 1998). One might gloss this line of argument by saying that the more policy choice becomes a matter of social learning and deliberating to a conclusion, rather than a matter of negotiating a compromise between competing interests, the less central is the aggregating role of political parties and the more central are practices of dialogue between policy makers and representatives of civil society.

It is important not to get carried away by this argument. It is possible to find examples of policy making that have been premised upon a deliberative and consensual ideal about process and which have ended up mired in zero-sum economics and the politics of aggregation. Perhaps the most obvious one in the context of environmental policy is the case of auto-oil standards, where the Commission facilitated a policy dialogue leading to a particular policy solution, only to find it overturned by some muscular and traditional industry lobbying (Weale, Pridham, Cini, Konstadakopoulos, Porter and Flynn (2000: 404-5). Nonetheless, despite such cases, there clearly is an argument for promoting social dialogue where standard-setting inevitably involves a judgement about public values, and for many cases of environmental, health and safety rule-making, this is quite common. Party representation is likely to be badly adapted to these sorts of questions, and a social dialogue in practice turns into a consultation with civil society groups. This is not the sort of numerical representation that is typical of party representation in parliaments, but can be thought of as representation founded in dialogic competence.

The third reason why we cannot simply transpose in normative terms our conception of representation from national systems to the EU is that international decision making has a different structure from national decision making. It can be argued that the period between 1945 and 1975 saw a remarkable nationalisation of public policy responsibilities in the welfare state. When we observe the development of social security, health, education and environmental policy in the post-war period, we are typically not observing the transition from private market arrangements to public state arrangements, but rather the transition from public or semi-public sub-national arrangements to greater nationalised responsibilities. For example, in the field of health policy, there were often municipal or industry based arrangements that secured protection to individuals and their families against the financial consequences of ill health. The welfare state transferred the financial responsibility to the national level, or provided other forms of national subsidy or regulation. Similarly, environmental policy was quite heavily developed in all liberal democracies before its fuller development at the end of the 1960s

and beginning of the 1970s. It is just that the powers and responsibilities were typically exercised at a sub-national, rather than national, level (Weale 1992: 186-7).

In the sphere of economic policy, the fixed exchange rate regime of Bretton Woods and the controls on international capital movements that went with it gave the sense that governments were in a position to manipulate aggregate demand almost at will. The economic constraints that existed presented themselves, under these arrangements, as balance of payments problems. Even so, there was a sense in which it could seem that even if democratically elected governments could not take direct control of the commanding heights of the economy, they could engage in sufficient 'steering' to manipulate economic aggregates within a wide range according to popular preference. Such a conception is not possible under a regime of free capital movements and a common European currency.

The one area where there was a clear and unambiguous internationalisation of policy making of a major kind was in the realm of defence and security, where commitments to NATO defined international obligations of an unprecedented kind. But this, of course, is an area of policy that seldom formed a salient part of electoral competition and in which there were only sporadic outbreaks of popular concern about decisions, as with the siting of cruise and perishing missiles in Europe. In short, matters that were international were not a matter of popular concern and matters of popular concern were not, by and large, international.

It would take a lot of research to show that this nationalisation of policy responsibility was causally related to the functioning of mass democratic competitive politics operating in a relatively secure international environment (at least as compared to the pre-war situation) and underpinned by unprecedented sustained economic growth, but for the purposes of normative theory a coincidence is as good as a causal relation. From the point of view of the theory of democratic legitimacy, there is a clear sense in which political parties competing with one another in a programmatic way over choices to be made nationally enjoy the institutional conditions within which they can deal with the supply of public goods. When in office, they have at their disposal the full range of policy instruments - including public finance, administrative rule-making and voluntary exhortation - and they are in a position to balance off competing demands against one another. Of course, it is always possible for governments under such conditions to strike the wrong balance among competing demands, but that is quite a different matter from saying that the system was constructed in such a way that the job could not be done at all.

By contrast with this situation, the European Union is inextricably involved in policy issues that have an international character, even if not all the issues with which it deals are strictly international (agriculture and bathing water quality being two obvious and oft cited examples). Environmental policy again provides a paradigm example. Many, by no means all, environmental policy issues involve questions of international interdependence, whether we are thinking about transboundary air pollution, pollution of major European rivers or the movement of hazardous waste. Moreover, once a single European market is created, policy makers cannot avoid dealing with the implications for international trade of product standards that some countries may wish to impose upon goods. If ever there is a case where the logic of spillover operates it is in this field (Weale, Pridham, Cini, Konstadakopoulos, Porter and Flynn (2000: Chapter 1).

In these conditions, issues of democratic accountability become more complex. Where transboundary issues are specific or limited in scale, it makes sense to think about the accountability of representatives in terms of their accountability to their own citizens. The electoral mechanism provides the institutional link and the task of national decision makers at the in-

ternational level is to bargain to the best advantage of their own populations. This conception of accountability will not work where interdependence is strong for both practical and principled reasons. The practical reasons are that, in situations of international interdependence, decision makers are involved in on-going regimes of decision making that develop their own standards and principles of action, such that participation requires acceptance of internationally generated norms and obligations. The principled reason is that in on-going schemes of international obligation, democratic countries owe to one another obligations of fair play and reasonable dealing that may mean a compromise with the unconstrained promotion of the national interest. Under these conditions, the notion of democratic representation becomes both more complex conceptually and more difficult to deal with politically.

## V. Implications

So far, it has been argued that there is a theory of democratic values consistent with an account of political representation that bears a reasonable approximation to the conditions of party competition in post-1945 states in Europe. Many analysts have noted that the practices of representation that were exhibited in these systems cannot be applied sensibly to the European level. The argument pursued here is a normative complement of that. If a theory of democratic values implied representation through electoral competition at the national level, it cannot only mean simply that at the European level, because values incompatible with those practices are involved. One obvious response to this line of argument is a Eurosceptic one. If accepted conceptions of democracy cannot be made to fit the EU, then democracies cannot be part of the EU. The difficulty with this line of argument is that a retreat to democratic nationalism would not preclude the need for international co-operation in Europe, and the most likely alternative to the EU would be a series of functionally specific international regimes, whose practices of civil society representation are likely to be even less democratically open than those of the Commission and the EU more generally.

The problem is also a complex one, and there is no pretence here to have any competence in matters of institutional design. Indeed, in some ways we can be suspicious of the thought that there is a grand institutional design that can be discovered and the principles of which can be followed. Rather, it seems to me, that we are at a position equivalent to that at the end of the nineteenth century before the system of institutionalised party competition emerged as a viable form of democracy. It was not possible to predict exactly what shape emerging democracies might take, an uncertainty that might have fed into the liberal and elitist distrust of mass democratic movements. So rather than predict or prescribe, This final section aims to indicate what criteria of evaluation might be appropriate to practices of governance in relation to civil society organisations and European citizens more generally. We may not be able to predict what will happen or formulate sensible prescriptions for how institutions might look. We can, however, think about the democratic standards that we should want to apply to particular proposals or institutional innovations. Two are offered by way of illustration.

Firstly, for any institutional proposal to improve governance, one needs to ask whether it will promote or hinder the striking of a fair balance of representation in the social interests that are present in practices of rule-making. One feature of electoral competition is that it provides competitive parties with an incentive towards policies that are going to be beneficial for large numbers of people. The principle of ‘one person, one vote’ gives precedence to the weight of numbers in the formulation of party programmes and so the representation secured contains a check on the extent to which governments depart in their rule-making from widely shared interests.

Functional representation does not have this characteristic. In itself, this does not matter, since the principle of functional representation is that those with a special stake in decision making on a rule should have an opportunity to have their voices heard. However, the difficulty comes in knowing when a special interest is likely to pass into a privileged interest. Even since Olson's (1965) work on the logic of collective action, there have been general theoretical reasons for thinking the relatively small concentrated interests were likely to gain disproportionately from lobbying activity compared to large scale and diffuse interests (compare McLean, 2000). Particularly in the context of rule-making about production and product standards, it seems reasonable to think that there will be occasions in which manufacturers, who are relatively small and concentrated, will have interests that are at odds with consumers or citizens in general, and in these circumstances some rebalancing of representation is necessary. This is presumably part of the logic by which the Commission itself funds groups in the European Environment Bureau. On the basis of empirical work, opinion seems divided as to how serious the imbalance of influence is in the rule-making process. But from the normative point of view, one would want to ask of any particular procedure how far it threatened a fair balance of interest representation if the values of political equality and the common interest are to be served.

The second area in which a concern for democratic values might appear is in the way in which information and argument is provided relevant to rule-making. To the extent to which governance as a mode of rule-making seeks to replace the weight of votes with the weight of argument, it tends towards a more deliberative style of policy making. This feature also stems from the claim that many issues dealt with by the EU do not fit easily into a simple left-right dichotomy, for if issues are separable from broader considerations of political orientation, there is more room for decisions to be made in particular cases on the merits of arguments specific to those cases. In this context, the Popperian stress upon fallibility suggests the need to have in place arrangements that allow interested parties, civil society representatives and the general public to examine the decision premises of particular measures in order to challenge and critically evaluate the arguments for policy options that are being advanced.

Thus, one question that can be asked of changes in the policy making procedures is to what extent they facilitate the critical examination of the evidence and argument that has led to a policy conclusion. Is data being provided that supports the policy proposals being offered? Have alternative ways of achieving policy goals been considered and why has the favoured alternative been chosen over the rejected one? How robust are the assumptions to plausible changes in conditions and circumstances? Is it possible to identify and counter-act any unwanted side effects? In short, the emphasis is less upon the legal crafting of the rules, important though that is, than upon the chain of reasoning that is supposed to lead to the conclusion that a particular rule is the right one to adopt.

It is important to note, in conclusion, that these two principles of evaluation need at least on some occasions to be considered in tandem. The implications of a more open process in the reasoning leading to rules and policies is akin to a generalised freedom of information requirement. But there is no reason to think that the willingness to invest in appraising information is uniformly distributed in society. The precedent of freedom of information legislation would suggest that the Olsonian logic of collective action comes into play, and that it is corporate actors who have a strong incentive to assimilate and process the information rather than citizens at large or their representatives. In short, the question of countervailing power in structures of governance can no more be ignored than it could be in structures of government.

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