

Without a True European Identity, Can the EU Ever Be Legitimate?

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TRISTAN THORN, JUN 9 2015

Since its inception, the legitimacy of the European integration project has been questioned; from European Communist parties claiming that the project was part of a capitalist plot, to the recent growth of Eurosceptic parties, like that of the United Kingdom Independence Party and the Danish People's Party. (Leconte, 2010, p. 101; The Economist, 2014). The salience of the issue of legitimacy has been further intensified by the financial crisis in 2007 (Nicolaidis and Youngs, 2014, p. 1403). Another prominent issue relating to legitimacy, especially in reference to the EU, is identity (Eriksen and Fossum, 2004). The debate surrounding legitimacy and governance has generally presumed the presence of a pre-existing identity; it is for this reason that the EU presents such a complex dilemma for the study of legitimacy (Goodhart, 2007, p.571). Likewise, the assessment and concept of legitimacy is complex; this is further complicated when assessing the legitimacy of a transnational organisation like that of the EU. Therefore this essay's first aim is to outline the competing definitions of legitimacy and explore the roles of input and output legitimacy in shaping the EU. Secondly, the essay will critically analyse theories of integration and identity and consider traditional forms of legitimacy. Thirdly, the essay will argue that a true European identity is needed to legitimise the EU, although this is multifaceted and difficult to achieve.

The definition, and measurement, of legitimacy is a widely contested subject. Early definitions of legitimacy have been based upon the role of the state; from John Locke's (2001) argument that a government is not legitimate without the consent of the governed; to Weber's (1978) assertion that obedience is not sufficient to signify legitimacy. Lord and Beetham (2001) state that there are three dimensions to legitimacy; the first is that performance must meet the needs and values of citizens, second is the requirement for public control with political equity, thirdly there should be a shared sense of identity. Legitimacy therefore needs to fulfil the wants and needs of the citizens, whilst also effectively implementing what has been requested. This balance is expressed through input and output legitimacy, input legitimacy democratises participation; while output legitimacy stems from the social acceptance of an institution because of the benefits it produces (Curtin and Meijer, 2006; Cerutti, 2008, p. 11).

Input legitimacy emphasises government by the people; it was appropriately expressed by Abraham Lincoln during the Gettysburg address a 'government of the people, by the people, and for the people' (Shore, 2006, p. 717). Legitimacy is therefore derived from the government's ability to solve problems that require collective actions. One of the core problems with input legitimacy is the threat of tyranny by the majority (Scharpf, 1999, p. 7). The masses may not share the values of elites, like aversion to the death penalty, which could lead to the violation of the individual rights of certain citizens (White, 2010, p. 111). Likewise, citizens are not necessarily qualified to choose the most effective, or rational, policy option on each detailed aspect of the running of the state (Moravcsik, 2002, p. 614). Another, more contemporary, issue with input legitimacy is that it requires a unifying identity (Cerutti, 2008, p. 13). This is because political decisions can produce both winners and losers in society; therefore a unity is needed for losers to accept decisions which do not align with their own interests (Kaina and Karolewski, 2013, p. 9; Decker, 2002, p. 263; White, 2010, p. 105; Dahl, 1989, p. 161).

Output legitimacy is based upon political decisions which effectively promote the common welfare of the constituency in question (Scharpf, 1999, p. 6). Consequently, to ensure the advancement of state interests it may be necessary to bypass democratic consent. This is justifiable if doing so increases the performance based 'outputs' of the state,

Without a True European Identity, Can the EU Ever Be Legitimate?

Written by Tristan Thorn

which in turn benefit and uphold the individual rights of citizens (Bellamy, 2013, p. 500). This is necessary because state sovereignty does not operate in a vacuum; it is influenced and affected by external actors, states and economic markets. Economic actions and strategic choices have therefore always been limited by actions taken outside of the state (Dahl, 1994, p. 24). The global impact of political decisions can be found in the policies of the British and German governments in the 1960s and 1970s that failed to implement environmental protection measures; leading to the formation of acid lakes and consequently high fish mortality in Scandinavia (Zürn, 2000, p. 189). The Scandinavian countries affected by these political policies had no democratic input in the decision making process and therefore suffered a democratic deficit (Habermas, 2003, p. 90; Zürn, 2000, p. 188). The necessity of output legitimacy has been demonstrated, and further intensified by the process of globalisation (Habermas, 2003, p. 90). It can therefore be considered reasonable, and legitimate, to develop international institutions to counter these transnational issues which directly affect citizens.

The balance between input and output legitimacy is of particular importance to the legitimacy of the EU. In a democratic nation state both input and output legitimacy coexist together, even complementing each other (Scharpf, 1999, p. 12). Although the effectiveness of output legitimacy can appear at odds with the responsiveness of input legitimacy; both are largely dependent upon one another (Cerutti, 2008, p. 10).

When the EU was founded its core aim was to establish peace and unity in Europe (Kolowski, 1999, p. 155). In the aftermath of the Second World War the bond between the European nation states was based upon material interest, and inter-security needs (White, 2010, p. 105). At the time, state leaders were particularly wary of populist sovereignty and ideological conflicts. As the agenda of the institution was considered to be of little concern to the people of Europe, democratic input was not given prominence (Innerarity, 2014, p. 309). The EU was considered to be working alongside nation states, as opposed to replacing them, therefore democracy was not considered a necessary part of the original framework of the EU (Kolowski, 1999, p. 156). Questions of democracy and legitimacy were answered through the indirect accountability of the democratically elected member state governments (Lord and Beetham, 2001, p. 444; Nicolaidis and Youngs, 2014, p. 1404). It is therefore not overly surprising that the EU has been criticised for being bureaucratic and elitist; and as a result strikingly dissimilar to traditional democratic theories of legitimacy (Follesdal and Hix, 2006, p. 536; Parijjs, 1997).

The question of democracy in the EU is therefore significant; the principle of rule by the people is considered important by any democratic regime, and is therefore of basic constitutional significance. (White, 2010, p. 105). The amalgam of institutions such as; the European Parliament (EP), the European Commission, the European Council of Ministers, the European Court of Justice and the European Monetary Institute conveys the reason why some have claimed that the EU is not entirely accountable to its relevant demos (Parijjs, 1997). The actions of executives in the EU are not easily answerable to national parliaments (Follesdal and Hix, 2006, p. 535). Despite increases in the power of the EP, the EP elections are still less than democratically satisfactory for the legitimacy of the EU. EP elections are generally treated as second order elections, in which citizens express their views on the performance of their domestic government, as opposed to choosing an appropriate candidate to represent them in Europe (Follesdal and Hix, 2006, p. 535; Decker, 2002, p. 261; Holzhaecker, 2007, p. 261). Furthermore, the democratic rigidity of the European parliament has in turn led to the increasing prominence of Eurosceptic protest parties (Decker, 2002; The Economist, 2013). The presence of an opposition, and therefore alternative view to the status quo, is a core feature of a democratic institution (Follesdal and Hix, 2006, p. 548). Without this quasi-official opposition within the EP, protest parties will call for the total, and unequivocal, exit from the EU system, as opposed to reform and compromise. Ironically, it is likely that if the EU were to apply for membership of EU, it would be rejected for being insufficiently democratic and therefore unable to meet the requirements of the EU constitution (Zürn, 2000, p. 183).

The EU may have short comings in the way of input legitimacy; however the EU has aimed to balance this with its drive for effectiveness and output legitimacy. The constitutional checks and balances within the EU, as well as the indirect democratic input of the member state's national governments, helps to ensure that nearly all cases are transparent, effective and responsive to the demands of European citizens (Moravcsik, 2003; Majone, 1998, p. 12). Although the EU is not necessarily a system of Westminster style parliamentary sovereignty, it is one of separation of powers. The Commission, Council of Ministers and European Court provide necessary checks and balances; likewise the officials of the EU are subject to great deals of public scrutiny and transparency; much more so than

Without a True European Identity, Can the EU Ever Be Legitimate?

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many member state governments (Moravcsik, 2003). The saliency of majoritarian decision-making has also been in general decline since the late 20th Century (Moravcsik, 2002, p. 613). Complex systems of indirect representation and balances between branches of government have grown in prominence. Institutions such as domestic police forces and departments of justice have maintained great legitimacy with little democratic input. Despite the growing, and accepted, role output legitimacy plays in governance the EU continues to be compared to a utopian form of the Westminster model of democracy (Moravcsik, 2002, p. 605; Majone, 1998, p. 10).

The arguments against the traditional legitimacy, and democratic shortfalls, of the EU can provide a compelling critique. However, herein lays one of the core issues with the debate surrounding the legitimacy of the EU. The academic debate surrounding legitimacy is not easily, nor necessarily, applicable to a transnational organisation like that of the EU; therefore evaluating the legitimacy of the EU is a problematic endeavour (Koslowski, 1999; Innerarity, 2014; Cheneval and Schimmelfennig, 2013; Moravcsik, 2002; Decker, 2002). The EU has been described as; an unfinished project, a post-national entity and a quasi-federal entity to name but a few (Shore, 2006, p. 716). Although the EU may carry out many of the functions of a state, it still lacks some of the traditional prerequisites of a traditional state; for instance the means of coercion and the powers of taxation (Shore, 2004, p. 32; Majone, 1998, p. 9; Cheneval and Schimmelfennig, 2012). Additionally, the EU is constrained both fiscally and administratively; employing fewer people than a modest European city (Moravcsik, 2002, p. 608). Nevertheless, the EU should not be absolved of its responsibility to meet the same criteria for legitimacy as that of a liberal democratic state (Lord and Beetham, 2001, p. 444). As previously mentioned, both input and output legitimacy are dependent upon one another (Cerutti, 2008, p. 10). Since its inception the EU has expanded both territorially and in its governmental capacity; for this reason the EU must strive for greater legitimacy (Lord and Beetham, 2001, p. 449).

Market integration of the EU has been pursued much more rapidly than social or political integration; this form of expansion is not sustainable in the long term (Leconte, 2010, p. 115). Economic benefits and tacit consent are unlikely to be relied upon if the EU continues to expand into poorer nations; leading to richer states beginning to suffer economic losses (Eriksen and Fossum, 2004, p.441). The last 5 years of economic crisis has conveyed the growing influence of the EU in the affairs of membership states (Innerarity, 2014, p. 308). Elites have borrowed legitimacy from the EU to impose strict economic regulations. Much like the International Monetary Fund and World Bank, the EU is conflating economic governance with legitimacy (Nicolaidis and Youngs, 2014, p. 1405). This has been demonstrated in Greece in which there have been large scale protests in response to German bail out conditions (Sandholtz, 2012, p. 107). By perceiving public opinion as a principal obstacle to economic growth and integration the EU is adhering to its image as a project of the elite (Innerarity, 2014, p. 311). Criticism would be of less significance if the EU's policies were proving to be effective; however the Eurozone is continuing to struggle. This has further intensified the demand for participation, irrespective of the quality of the decisions made (Shore, 2006, p. 717). The rise in euroscepticism is not limited to the economic losers; it has also been argued that national identity and sovereignty is undermined by the growing influence on the EU (Hooghe and Marks, 2007, p. 125; Hooghe, 2007, p. 9).

Identity is an important and divisive issue especially when debating the legitimacy of the EU. It poses significant problems to the subject; identity is generally overlooked when discussing traditional forms of legitimacy. The importance of identity to the EU is therefore a largely contested, and multifaceted, subject. The complexity of the subject of identity is further compounded by the capricious, and malleable, nature of how one defines their identity (Kaina and Karolewski, 2013, p. 40; Brubaker and Cooper, 2000, p. 34). Nevertheless, it has been widely argued that Europe is lacking an identity; and therefore the EU will always struggle to legitimise itself (White, 2010, p. 117; Bogdanor, 2007; Jolly, 2005; Cheneval and Schimmelfennig, 2013, p. 337; Scharpf, 1999, p. 9).

It has been claimed that a major barrier to the creation of a European identity is the limited amount of shared history, culture and tradition between Europeans (Shore, 2004, p. 35; Goodhart, 2007, p. 569; Zürn, 2000, p. 200). Similarly, there is no shared common language in which to communicate in (Delanty, 2005, p. 15). Although these seem to be in direct contrast to the identity shared within nation states, these very identities were themselves created before the advent of democracy. For instance multilingual countries such as Canada, Switzerland and India have embraced democracy; despite their language differences (Decker, 2002, p. 265). This is to say that, in the future, an identity could be created within Europe. The top down approach used by the EU has placed saliency on symbols, positive

Without a True European Identity, Can the EU Ever Be Legitimate?

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self-images and a transfer of identity; for instance the use of a flag and national anthem (Kaina and Karolewski, 2013, p. 34; Bruter, 2005, p. 97). These techniques are reminiscent of the nationalism within a nation state regarding its strength and aggressiveness. This sort of top down identity can become overbearing, and construed as collective brainwashing, which in turn creates a greater inequality between the citizens and elite (Kaina and Karolewski, 2013, p. 40). Furthermore this sort of nationalistic 'us vs them' identity threatens to exclude non-native, or minority, citizens.

A shared ethnic identity based upon a shared Christian heritage and history could be possible within Europe (Eriksen and Fossum, 2004, p. 437). This religious history was briefly mentioned in the draft of the Charter of Fundamental Rights of the European Union (2000) in which the preamble of the charter stated that "Taking inspiration from its cultural, humanist and religious heritage". The statement however was met with opposition and later changed to the "spiritual and moral heritage" of Europe. By revitalising traditions and memories of common European values; the EU may be able to secure a more solid basis for integration. The territorial boundaries for expansion will also be more readily defined with a clearly defined bounded community (Eriksen and Fossum, 2004, p. 443). While some European states, like Norway and Switzerland, have refused membership; others, such as Turkey, have yearned for membership whilst having a questionable affiliation to Europe (Decker, 2002, p. 264). This is important because regional and territorial ties are largely related to national identities; and therefore it would be reasonable to assume the same for Europe if it were to establish an identity similar to that of the nation state (Decker, 2002, p. 264).

Despite the potential for a more defined and established identity through cultural and religious heritage there is a possibility for discrimination and racism (Delanty, 2005, p. 16; Kohli, 2000, p. 148; Linklater, 1998, p. 30). The Soviet Union was traditionally considered the primary threat to Europe, and therefore the crux of the 'other' threat to European people. (Fligstein and Polyakova, Sandholtz, 2012, p. 113). The apparent threat from the Soviet Union has recently replaced by the fear of Islam. There are over 15 million Muslims residing in Europe, which would be excluded from the Christian identity narrative (Delanty, 2005, p. 14). Similarly native minorities, like that of the Roma population, have not escaped the status of an 'other' despite a long history and heritage within Europe. Instead of fostering cohesion and trust; an identity based upon the threat of the other will lead to a culture of fear and insecurity. If this trend were to continue the aim of democratic legitimacy would be replaced by a legitimacy based upon security, power and control (Kaina and Karolewski, 2013, p. 15). The sort of identity based upon collective self-glorification and nationalism may have been engaging during the emerging national identities in the 19th Century. However, the modernisation of global communications and diversification of accessible information means that citizens are less likely to be attracted to, or persuaded by, such myth making and manipulation (Kohli, 2000, p. 128).

A reconceived version of the ethnic based identity is a civic identity, which considers identity as more of a constructed product than an inherited trait. While ethnic identity requires the citizen to have been born within a culture; civic identity allows a citizen to assume a national identity by agreeing to become a member of the society (Fligstein and Polyakova, Sandholtz, 2012, p. 112). It is therefore argued that identity, and civic solidarity, did not precede the nation state; rather it was the state that crafted and propagated this identity (Decker, 2002, p. 263; Habermas, 2003, p. 98; Zürn, 2000, p. 196). A civic identity benefits the EU in that it does not force a person to choose between the identity of their nation state, or Europe. Identity within Europe could therefore be based upon shared values and beliefs, for example human rights (Zürn, 2000, p. 196). This sort of civic identity is gradually emerging through inter-state travel and multi-lingual capabilities (Fligstein and Polyakova, Sandholtz, 2012, p. 114; Scheuer, 1999, p. 44). For instance a cosmopolitan identity is gaining prominence within the civil service of the EU (Shore, 2004, p. 37). For this identity to foster there would need to be a developed communication sphere, so as to allow citizens to influence and debate the governance of the EU (Habermas, 2003).

The media would need to play a major role in the development of a civic identity. The present media outlets in Europe largely focus upon national issues and the domestic politics of the native state (Schlesinger, 1999, p. 271). The future European media sphere would need to place greater prominence on a European news agenda; as opposed to connecting it to the general international news. It would also need to become part of the everyday news consumption of average Europeans (Schlesinger, 1999). A civic identity based upon elite cosmopolitan does not however appease the 'losers' of the European project. For civic identity to really gain ground European news must also engage with the European population at large; this would be most effectively done through the utilisation of television (Schlesinger, 1999, p. 271; Bellamy, 2013, p. 506). However, the elite cosmopolitans considered to be at the forefront of civic

Without a True European Identity, Can the EU Ever Be Legitimate?

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identity tend to prefer print news editions (Schlesinger, 1999, p. 271). Through freedom of movement the elite has been able to take advantage of increased job prospects and easier cross border travel (Hix, 2008, p. 59). A simple cost benefit analysis of the EU will inevitably lead to many citizens, which do not utilise cross-border travel, to side against it. Similarly, the extent to which an identity based upon rights can be truly cohesive is questionable (White, 2010 p. 109). Human rights, though popular in Europe, are hardly exclusive to Europeans; whilst more exclusively European rights are not shared by all Europeans (Eriksen and Fossum, 2004, p. 444).

Therefore it is not enough to rely exclusively upon the current cosmopolitan elite to provide the basis of a European identity. Simply put, the liberal democratic states rely upon the popular views and opinions of their citizens, and as such they will be unable to ignore a eurosceptic majority (Fligstein and Polyakova, Sandholtz, 2012, p. 111). For the future development of the EU there needs to be Europe-wide political competition and contestation. As mentioned, increasing the powers of the EP has not led to a democratic surge of support or participation within the EU (Hix, 2008, p. 86). A common problem of multilevel politics is that the national representative represents both their government in international negotiations and within the national sphere. As a result the actor can scapegoat or claim credit for either action. For instance an economic crisis is blamed upon the global economy, whereas an economic boom is the result of a national economic policy (Zürn, 2000, p. 204). By linking parties to the EU they will be forced to consider policies relating to the EU and their native constituency (Follesdal and Hix, 2006; Zürn, 2000, p. 205; Fossum and Eriksen, 2004). However, calls to transform the EU into a fully-fledged parliamentary system involving the direct election of the President of the European Commission would be premature (Hix, 2008, p. 86). The European leaders should look to the emerging cosmopolitan elite for identity and therefore legitimacy (Leconte, 2010, p. 271). By increasing competition between political parties the EU will slowly be able to increase direct democracy and participation in the EU.

Both legitimacy and identity pose significant and complex problems for political science; their application to a developing transnational organisation like the EU further complicates the two subjects. It is argued that the effectiveness of the EU, combined with the representation provided by the EP, is sufficient for legitimising the EU. However, the EU has gone far beyond its original purpose of ensuring peace and unity in Europe. If the EU is going to continue to expand and sustain itself it is of need of input legitimacy. And for input legitimacy to succeed the EU will need a cohesive and engaged identity in Europe. It would be tempting to use the already present ethnic identity within Europe, which is based upon a shared cultural Christian heritage. The pursuit of an ethno-centric identity is however dangerous; it would exclude a range of citizens, while encouraging discrimination and fear. Therefore the EU should focus upon developing a cosmopolitan identity based upon rights and shared values. This should be fostered by encouraging political competition and an engaged communicative sphere in which the governance of the EU can be contested and discussed. This sort of identity should reach further than just the European elite and seek to engage with all aspects of society so that legitimacy can be achieved.

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Without a True European Identity, Can the EU Ever Be Legitimate?

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Without a True European Identity, Can the EU Ever Be Legitimate?

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