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The European Union after the Lisbon Treaty: Revisions of Democracy and Identity

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Abstract

The European Union (EU) is not a nation, and it would thus be a mistake to expect the EU's path to democratic legitimacy to resemble a nation's path toward such a goal. But what sort of democratic identity does the EU possess, exactly? In this paper, I will offer a tentative theory of the nature of European democracy after the Treaty of Lisbon and how the question of democratic deficit can be addressed. Additionally, I will suggest a few ways in which this peculiar post-Lisbon European identity may serve to enhance and augment the democratic legitimacy of its member states, without impairing their cherished individual national identities.

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LAKE FOREST COLLEGE

Senior Thesis

The European Union after the Lisbon Treaty: Revisions of Democracy and Identity

by

Tea Thaning

April 17, 2015

The report of the investigation undertaken as a
Senior Thesis, to carry two courses of credit in
the Department of Politics and the Department of Philosophy

Michael T. Orr
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ABSTRACT

The European Union (EU) is not a nation, and it would thus be a mistake to expect the EU's path to democratic legitimacy to resemble a nation's path toward such a goal. But what sort of democratic identity does the EU possess, exactly? In this paper, I will offer a tentative theory of the nature of European democracy after the Treaty of Lisbon and how the question of democratic deficit can be addressed. Additionally, I will suggest a few ways in which this peculiar post-Lisbon European identity may serve to enhance and augment the democratic legitimacy of its member states, without impairing their cherished individual national identities.

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Introduction

The Archaic Nation-State and the Future of the European Polity

“If we want things to stay as they are, things will have to change.”¹

The European nation-state, which was once put on the pedestal as the true heir of political power, is no longer able to fulfill its task as the ideal structure of democracy. Within political theory, a wide variety of institutions and structures are considered based on their significant political impact, and yet, our common understanding of political power belongs to the traditional nation-state. Despite the reality that individuals no longer function only within a state, we expect all our political institutions to behave like states, prompting us to frown upon anything operating differently than the states we have grown fond of. States, therefore, remain the definition of democracy in an ever-integrating world. This disconnection between people’s interactions and our understanding of political democracy’s domain inhibits the development of institutions that represent and promote a healthy democratic society true to individuals’ relations. The polemic of the democratic deficit in the European Union rests on this customary position of the nature of democracy, and yet, the idea of a democratic Europe is not a utopian illusion. States themselves were not able to respond to the political needs of the European people. Democracy beyond the traditional nation-state does not require a democratic revolution or a re-writing of the tenets of democratic principles. What it does require is a review of nationalism as a foundation of political association and the

¹ Giuseppe Tomasi di Lampedusa, *The Leopard*, Trans. Archibald Colquhoun. (New York: Pantheon 1960), 29.

understanding that political tools can be valuable beyond their current use. The objective of this paper is to offer some suggestions for an interpretation of the EU as a new political tool with democratic possibilities for Europe outside of national borders.

In Europe, the attempt to provide stability between nations, in particular between Germany and France, initiated the European project, but this project continued and extended itself to include more representation as a consequence of people's extensive interactions across borders. Paradoxically, the criticism, going under the umbrella term of the "European Union's democratic deficit," condemns the EU's inability to address political issues the way states do. The concept of "democratic deficit" is used to explain the lack of communication and insight to the political process. Feeling of powerlessness among people right regards to their legislators, and the image of elite politicians in an ivory tower is often invoked. In other words, the people have not approved the power that the EU exercises. Much of the criticism is based on the fact that the EU lacks some basic aspects of politics institutions when compared to states. By re-visioning democratic legitimacy, the Union will no longer have to be apologetic for its awkward formal structure. It does not have to look like a state, because it has capabilities beyond a state. The ability comes out of a divorce between nationalism and political institutions, allowing a dispersed political community, united under the principle of democratic dialogue. At the same time, the EU must be responsive to its people. How the EU can approach more discussion by separating the idea of democracy and state will be discussed in this paper.

Nationalistic believers are now desperately holding on to the traditional ways of political discourse in the name of democracy. A surge of *souverainisme*, the movement to restore national independence,² colors the latest European Parliament elections. The nationalist movements' success depends on the upholding of the nation as an inherent

² Sofia Vasilopoulou, "Varieties of Euroscepticism: The Case of the European Extreme Right," *Journal of Contemporary European Research* 5, no. 1 (2009): 4.

and absolute entity. Europe does not hinge on nationalistic structures, despite the nationalistic movements' recent advances and successes with strong right-wing leaders like Marine Le Pen in France, Viktor Orbán in Hungary or Nigel Farage in The United Kingdom in the forefront. While it is not only right-wing parties that are critical of the Europeanization of politics, they are the clearest example of opposition targeting political identity as something that can move beyond state borders. Currently, these parties are also the fastest growing political movement within Europe.³ The right-wing success illustrates the general sentiment of EU-distrust, and the effectiveness of Eurosceptic propaganda suggesting that any power removed to the EU is power lost.⁴

Their understanding of a democratic deficit in the EU rests on the idea that states are the unsurpassed bearers of a people's voice. I will challenge this idea through the notion that nation-states have forced people to form their individual identity around said political structures, primarily by making people citizens of a particular country, a system encouraged by the Western, relatively homogenous, societies. By removing democratic structures from the complex and disputable ethnic, social, linguistic and cultural differences, and instead considering people's political sympathies and individual interests outside of traditional political settings, Europe can extend democracy to truly communicate with, respond to, and account to its citizens. If we realize that democracy does not derive from states, but has a grander application, connected to the individual's ability to shape his or her own life,⁵ and first then will we be able to consider ways of making a political structure that actually represents a people with a common interest, democratically. Few question the benefits of democracy, of belonging to a free society. It

³ Daphne Halikiopoulou and Sofia Vasilopoulou, "Support for the Far Right in the 2014 European Parliament Elections: A Comparative Perspective," *The Political Quarterly* 85, no. 3 (2014): 285.

⁴ Anđelko Milardović, "Euroscepticism in a Conflict of Ideologies of the Second Modernism," *Euroscepticism and European Integration* (2007): 64.

⁵ John Stuart Mill, *Utilitarianism, Liberty & Representative Government* (Rockville: Wildside Press LLC, 2007): 203.

is the idea of belonging to, and identifying with, a system that is harder to explain and justify.

The EU aiding the development of a social, collective movement beyond states, within Europe, and by including these movements in the political process we are able to look past otherness created by an arbitrary and flat sense of political identity. In other words, nationalities no longer represent a common and united group of people, and they therefore do not possess the best attributes for representing said groups of people. The EU is part of this transition, both by encouraging further beneficial interactions and facilitating regulations controlling these interactions democratically. Whilst Europe became more politically stabilized, after World War II, people were able to move beyond borders and find common interests, developing the social and political movement initiated by the states themselves. If the EU is able to absorb and channel these new attitudes and interests on a multi-dimensional level, allowing different levels of authority to process and execute different groups of people's interests, Europe will be better represented, and hence more democratic. It is important to stress that the theory is not moving to further increase pan-European sentiments, nor does it favor regional sectarianism,⁶ since both theories force a further division between people. Instead, a diversification of political identity enabling every individual to broaden the understanding of others' foundations would be encouraged. This is an argument for an empathic society, and a society where people specialize and express their interests, creating a more politically engaged society, which would foster a reduction in the sentiments of elite power in Brussels.

This paper, therefore, argues for the EU's ability to be democratic, and by extension suggests that EU can deepen the democratic society within Europe and the

⁶ Christopher Harvie, *The Rise of Regional Europe* (New York: Routledge, 2005), 91.

European people. Through the EU's aptitude of representing people as individuals rather than just citizens, organizations can address different interest groups and encourage a broad, multi-fashioned sense of social and political identity independent of inherent nationalistic division. Rather than seeing oneself in the context of being only a citizen, individuals can, by association with different groups, develop a broader sense of belonging and commitment. What the foundation and limits of this commitment are is the focus of this discussion.

At the same time, the critique regarding the democratic deficit has, historically, not been completely unfounded. The transition from an elitist structure centered in Brussels remains in people's minds for a very simple reason: the EU began as an opaque and exclusive structure focusing on reducing volatility through economic integration prior to paying attention to democratic accountability.⁷ Arguably, the criticism of its democratic deficit has encouraged the EU to increase transparency, direct communication and political tools for its citizens. By not being assured people's trust by means of nationalism, the EU has had to work on generating a concrete and open democratic community.

How can we normatively legitimize a democracy like the European Union that lies outside of the traditional notion of states and statehood-democracy? Are the political structures in place able to extend themselves to a broader understanding of a political community? In achieving an understanding of democracy outside of states, the EU can address the criticism of the "democratic deficit." The latest EU treaty, the Lisbon Treaty, ratified in 2009, offers some solutions to the problems of accountability direct communication between government and people. The treaty, besides clarifying and simplifying the EU, generally works to disperse political power and democratize

⁷ John Agnew, *Globalization and Sovereignty* (Lanham: Rowman & Littlefield Publishers, 2009), 114.

institutions. Emphasis is put on direct communication between individuals and Brussels, national governments and their courts, and regional spheres of political power, to name a few. This shows an attempt to widen the areas of political competence, and create an “intersectional society,” where the political process is spread to more sections of society, under the principle of subsidiarity.

Instead of providing protection, states restrict civic engagement and inhibit people’s efforts to define themselves, a modern society should be able to address internal conflicts and provide space for a wide sense of political participation and belonging. This was the goal of the Lisbon Treaty. The European states are experiencing pressures from two sides, from political issues from within and beyond state borders. They face transnational issues like immigration and the environment, which need a unified approach among regional and global actors, and also many people have the feeling that politics is moving out of the hands of the people and towards political elites. But the vision embodied in the Lisbon Treaty offers an end goal, of creating a flexible and empathic political atmosphere where both geographical locality and international interest groups are able to be politically effective. This requires a definition of democracy relying heavily on civil participation and non-commercial interests gaining political space. Simply undercutting the EU’s ability to act, because it does not have the characteristics of state democracy is no longer sustainable.

As a political tool to create stability and harmony in a time of turmoil, Hobbes saw the solution through strong governments, which would force the mob to organize.⁸ At the time he may have been right; strong states were able to provide Western Europe with law, order and economic stability. But states are arguably no longer deserving of the position of protectors of peace, for they have compelled a group of individuals to become

⁸ Thomas Hobbes, *Leviathan: Or, the Matter, Form, and Power of a Commonwealth Ecclesiastical and Civil*, (London: G. Routledge and Sons, 1894), 82.

one people, reducing them through a misconstrued sense of self-identity and forcing a power struggle between competitive spheres of influence. Commenting on Hobbes, Carl Schmitt saw a problem in giving legitimacy to the one with power. Legality, too, was needed.⁹ Territorial states no longer have the political arena to themselves, and it is now time for them to graciously acknowledge the contribution of other sources of power and the influences of other democratic movements. The question now is of cooperation between governments and people: who is supposed to move this project further, and how do we maintain legitimate governance? To maintain control, states actually have to give way to external forces, to the very ideas, knowledge and institutions that in the end undercut the internal control. A juxtaposition that Henry Teune calls “‘Gorbachev’s choice’ of sorts” because of the “constant trade-offs between internal control via inward closure for the sake of outward security on the one hand, and on the other hand, external influence through a semblance of internal openness.”¹⁰

The EU is, arguably, the next steppingstone for developed and secure European states, as it has the ability to promote representation and social commitment through a multitude of venues, at both the institutional and grassroots level. If democracy moves beyond electoral representation in a binary relationship between the rulers and the ruled, the EU could take advantage of a more engaged political society empowered to address questions at various levels, which ever is most effective level, while taking advantage of a strong civically engaged social body. But the institutional structures in place are now inadequate in producing democratic outcomes. Accepting that all individuals cannot be grouped into a single faction whilst patronizing individualism in the larger context is pivotal in creating a more politically engaged society.

⁹ Carl Schmitt, *Political Theology: Four Chapters on the Concept of Sovereignty* (Chicago: University of Chicago Press, 1985), 34.

¹⁰ Henry Teune, "Deterritorialized: Global Citizenships," in *The Future of Citizenship*, ed. Jose V. Cipro (Cambridge, MA: MIT Press, 2008), 238.

In a world so clearly composed of opposing forces antagonizing each other, nation-states, in the traditional sense, are upholding the identities of people who are no longer just a “people.” David Calleo points to divisions and complexities within countries as the source of this instability, noting that “the disquieting surge of racist and ethnic violence in many European countries, suggests that the continent’s peace and stability are not artless products of nature and should never be taken for granted.”¹¹ These internal tensions highlight Europe’s many regional and sectarian identities, and suggest that the current structure is inept in dealing with them. The internal issues European states face today could never efficiently be solved by independent and isolated political policy. Instead, Europe needs a reassessment of the foundations of national identity, adjusted to reflect the actual order and association of people. If political action were able to reflect how people of Europe associate; not only on a national level, but conscious of regional, ethnic, ideological and international interests and relations, the power struggle between righteous national factions blinded by their own nationalist pride would decrease. Yet, simply resorting to regionalism would arguably also increase the sense of “otherness,” and it can therefore not be the holistic answer. The EU is one way to address the need of this flexibility. The common idea of uniform public opinion leads to mediocrity, but by encouraging a multitude of opinions, Europe could encourage a more committed public.

Preventing public opinion from becoming a narrow and homogenous stream is the foundation for Mill’s *On Liberty*.¹² Already in 1869, Mill noted European nations’ fortunate diversity: “Individuals, classes, nations, have been extremely unlike one another: they have stuck out a great variety of paths, each leading to something valuable.”¹³ Mill’s

¹¹ David P Calleo, *Rethinking Europe's Future* (Princeton: Princeton University Press, 2003), 6.

¹² John Stuart Mill, *On Liberty*, 4th ed, (London: Longmans, Green, Reader, and Dyer, 1869), 101.

¹³ *Ibid.*, 130.

method of supporting individuality and diverse opinion was through local governments.¹⁴ Today, we are no longer dependent on small governments as the only avenues for people's voices to be heard. We have access to a plethora of tools that enable political participants to be heard and to be mobilized on much larger transnational levels. The EU, a pioneer when it comes to taking advantage of differences for cooperation, is now facing the challenge of justifying itself democratically because of these very differences. I will in this paper attempt to show why these differences are a potential and not a restriction to democracy transnationally.

The historical connection between the EU and its people is made in Chapter One. In Chapter Two, and Three I discuss the cornerstones of democracy and how supranational structures fit in a new understanding of individuals' involvement in the political life. The foundation is both deliberative, giving political space a large platform, and constitutional to support a neutral communal foundation to unite over. In Chapter Four, I discuss the constitutional development of the two most recent treaties and how they relate to a more widespread and dispersed sense of politics. The mechanisms that actualize this democratic transition to both constitutional and deliberate exist. How the EU advances the idea of this type of democracy through the Lisbon Treaty is discussed in Chapter Five. These mechanisms focus on dispersing political authority, in particular to the individual. These instruments and mechanisms include the Principle of Subsidiarity, the European Citizen's Initiative (ECI), and the empowered EU parliament. Finally, in Chapter Six, I consider the extent of this European process in terms of personal identity, and discuss whether a normative, democratic description can substantiate a social, European identity.

¹⁴ Ibid., 144.

Chapter One

The European Project: A Historical Background

“If Europe were once united in the sharing of its common inheritance there would be no limit to the happiness, prosperity and glory...”¹⁵

How are we to make sense of a united Europe? And, further, what are the prerogatives for this vision? The question of integrating Europe on a social and political level has followed Europe since the end of World War II, and has led to a transition from divided and antagonistic states to a common European Project. Through the years, the tone and vision, when discussing integration and cooperation within Europe, has changed, making the discussion of a common Europe difficult. Adding the issue of democratic representation to questions of where and what Europe is becomes a daunting challenge. When not knowing what the European future is, or where the boundaries of Europe actually are, the question of how Europeans ought to be represented and what the institutions ought to look like requires careful moves. The transformation the EU has experienced must be understood knowing that the EU and the European integration began as project without a final goal. All that was known was that European integration was needed to stabilize the region, but the European future was in flux. To put the development of the EU in perspective, I will consider the coming to be of the EU, and the integration's relationship to the traditional notion of nation-states. How can we make sense of European integration in retrospect?

¹⁵ Winston Churchill, "United States of Europe," Speech, (Zürich, 19 September 1946).

The Creation of A Common Europe

With the devastation after Second World War, Europe saw no other future than cooperation, prompting the first serious attempt of integration between states.¹⁶ While this was not the first common vision of Europe, right after World War II was the first time that this vision began to take concrete form. The first step was the creation of the Council of Europe, established in 1949. This construction did not establish any transnational institutions, rendering the Council ineffective as it had little ability to coordinate a common interest.¹⁷ The Council of Europe is still an active institution, separate from the EU, but in the early stages it was not enough to coordinate a European future. Within Europe, sentiments for further integration and the creation of new political structures to address the economic cooperation emerged. Already here, we can see tension between movements seeking extended cooperation and those holding on to the idea of nation-states and their absolute sovereignty. A variety of projects and visions were proposed as answers to the European question, and the victorious nations, both inside and outside Europe, continued to expand their models. The United States was particularly keen on the idea of free trade as a solution for Europe's recovery. American investment was necessary for this development, and the United States became an important contributor to economic recovery of Europe after the war. The meeting at Bretton Woods in 1944 was an early stage for the economic strategy and where the Marshall Plan was actualized.¹⁸ While this became the one major economic program between the United States and Europe, an array of agreement, economic, political and military, came in to being the years following World War II, most notably, North Atlantic Treaty Organization (NATO), Western Union, and the European Political Community (EPC).

¹⁶ John McCormick, *Understanding the European Union*, 5th ed., (New York: Palgrave Macmillan, 2011), 49.

¹⁷ *Ibid.*, 48.

¹⁸ *Ibid.*, 50.

The biggest losers of World War II, Germany and France, were the most willing to engage in European economic integration beyond mere aid and cooperation. Europe needed integration. The signing of the Economic Coal and Steel Community (ECSC), also called the Schuman Doctrine, for the economic benefit of France and Germany, took place between six ministers the 9th of May 1950. This agreement Luuk Van Middelaar calls “the signing of a blank sheet of paper.”¹⁹ Where this new form of interaction would take Europe was not clear. The signing of a blank sheet has since then led to discrepancies between visions of Europe and the vision of a common Europe. The suggestion was a development of common interest for Europe, unlike what was realized in the Council of Europe, which mainly coordinated the states’ wishes.

The Schuman Doctrine stated that the European Community, by fostering cooperation between Germany and France, would open up for cooperation between other European countries.²⁰ In essence this was a peace project for Europe. In the early stages of the Union, the “inner circle,” the ministers and European diplomats like Robert Schuman and Jean Monnet, considered any division an impediment, while member states in general feared a pan-European identity, and therefore worked against the movement.²¹ But already in this early stage of the European Project, there was an understanding of the community, or union as an on-going project: the Schuman Doctrine’s first principle says, “Europe will not be made all at once, or according to a single plan. It will be built through practical achievements which will first create real solidarity.”²² Whether the nature of the cooperation was meant to be primarily economic or geo-political is not clear, but EU cooperation would eventually stand for much more than economic profit.

¹⁹ Luuk Van Middelaar, *The Passage to Europe: How a Continent Became a Union* (New Haven: Yale University Press, 2013), 42.

²⁰ Pascal Fontaine, *A New Idea for Europe. The Schuman Declaration-1950-2000. European Documentation, 2000* (2000), 15.

²¹ Luuk Van Middelaar, *The Passage to Europe*, 227.

²² Pascal Fontaine, *A New Idea for Europe*, 15.

The discussion centered on stability, based on economic strength and collaboration, but the consequences for the dynamics of the people turned out to have wider implications.

One stage of the development envisioned a “United States of Europe.”²³ The Treaty of Rome in 1957 maintains that the states were seeking an “ever closer union.”²⁴ Here, Habermas points out another the key to the Union’s existence, a less positive one, namely indifference from the public.²⁵ He argues the Union was possible because of apathetic masses that accepted the outcomes of the policies, and thus passively legitimized the Union after it came into place. Overall, the initial stages seem to have been less focused on democracy, and more on economic stability. The Treaty of Rome only had a quasi-exclusive arrangement, with an appointed Commission, a Council of Ministers and a Court of Justice.²⁶ Divisions of powers were in order, something that came out of wider-reaching decision-making powers and political areas, but there was little connection to European citizens. The only representative approach the Treaty of Rome came through the Committee of Permanent Representatives of the Member States.²⁷ This committee moved beyond infrequent meetings of diplomats and gradually led to an expansion of questions the Community addressed.

The Community and the European vision actually led to a “Union” in 1991, through the signing of the Maastricht Treaty, or the Treaty on European Union. This was the first steppingstone for the EU as a political structure with direct obligations to the people. Here questions of citizenship and a single currency become relevant.²⁸ And, with Maastricht, the discussion of EU democracy and its democratic deficit took form. Only

²³ Jürgen Habermas, "Why Europe Needs a Constitution," (London: *New Left Review*, 2006): 17.

²⁴ Luuk Van Middelaar, *The Passage to Europe*, 226.

²⁵ Jürgen Habermas, "Democracy, Solidarity and the European Crisis," in *Roadmap to a Social Europe*, ed. Anne-Marie Grozelier et.al. *Social Europe Journal*, (2013): 4.

²⁶ John McCormick, *Understanding the European Union*, 54.

²⁷ Luuk Van Middelaar, *The Passage to Europe*, 46.

²⁸ Dimitris Chrysochoou, *Democracy in the European Union* (New York: IB Tauris, 2000), 215.

when the vision, that a few “elites” had constructed, extended to directly affect individuals, would the European Project attract any major public attention. Shortly afterward, as the issues of political and social identity emerged, it became clear that the EU must seriously address the question of political identity and belonging.

With the enlargement of 2004, including ten Eastern European and Mediterranean states, the EU demonstrated it “was no longer an exclusive club for wealthy west Europeans.”²⁹ This was the second test of the European Project as a democratic movement. After the enlargement, the EU included groups of people that historically had belonged to very different systems, and it showed that, to work, the EU must be based on principles other than natural ideas of belonging. As the EU continues to grow, this is a notion that must remain if the EU wants to maintain its democratic value and political significance.

The latest treaty, the Lisbon Treaty, signed in December of 2007 and ratified December 2009, seems to address the need to maintain a structure unlike a nation-state while upholding a democratic structure.³⁰ This treaty acts as an extension of the Treaty of European Union, by only adding sections and amendments. Most of the changes are institutional and act to democratize. For example, the number of members in the European Parliaments was increased, qualified majority voting in the Council of Ministers are most extensively used, and the EU attained personality, meaning it can act as one force.³¹ As the Union grew more diverse it became more obvious that it contained no natural and strong mechanisms of unity, but that the Union needed to control political areas. Thus, the discussion of democracy outside of national borders developed.

²⁹ John McCormick, *Understanding the European Union*, 64.

³⁰ Finn Laursen, *The EU's Lisbon Treaty: Institutional Choices and Implementation* (Farnham: Ashgate, 2012), 3.

³¹ *Ibid.*, 6.

The Decline of the Nation-States and the Giving of Way to a Common Vision

The nation-state, as the preeminent political structure, has a fairly short democratic history. We can trace a transformation from small city-states in Athens to vast empires like the Ottoman Empire to the French Republic, some with instances of democracy. While states can be seen as fairly resilient, they are not completely independent of societal changes, and they are definitely not the sole inheritors of democratic principles. France, for example, experienced five democratic republics after the French Revolution. In the article "Power and Interdependence in the Information Age," Robert O. Keohane and Joseph S. Nye Jr. note that many modernists were surprised to see how long states lasted as the primary political instances, while having the odds against them. Withstanding the exclusive structure, states maintain a prominent role, even in an age of interconnectedness, with most economic and social interactions functioning outside of the states.³² Immigration is one example. Europe is facing an increase of refugees crossing Mediterranean Sea in insufficient boats.³³ There are large numbers of refugees, and while I will later discuss the effectiveness of the EU in this case, it is clear that the Southern European countries cannot solve this human crisis independently. The question of refugees literally goes beyond borders and must be approached from a transnational perspective.

Territorially states are in some sense depleted, and yet, they are our primary venue of political association. By underlining the temporal nature of nation-states, I aim to demonstrate democracy's ability to function outside of the conventional state, but also to stress the importance of extending the democratic community to whatever social structure it encompasses. This takes us to the emerging of the EU as the unique political

³² Robert O. Keohane and Joseph S. Nye Jr., "Power and Interdependence in the Information Age," *Foreign Affairs*, 77, no. 5 (1998): 81.

³³ Harriet Sherwood, "Europe Faces 'Colossal Humanitarian Catastrophe' of Refugees Dying at Sea," *The Guardian*, June 2 2014.

experiment it is. Every state has its own individual history and reasons for emerging, but since my aim is to understand the EU in the context of European states, I have to look beyond these internal reasons, and focus on the common picture of the European states, and their common future.

The Cost of Nationalism: The Rise and Decline of Nation-States

James Tully wrote in *Strange Multiplicity* about the transitions states have made in order to accommodate historically excluded sections of society, like women and ethnic minorities.³⁴ A state, which has to include more groups and continuously interpret itself to maintain momentum, is not naturally inclusive, by virtue of being based on a system of belonging and socio-political identity. The state being versatile makes up for its inherent exclusion. Traditional nation-states were not only inherently exclusionary, but their very survival depended on it. The system had a structural sovereignty issue, where the small nation-states defied the great powers to gain self-identity through the claim of territory, which helped the beginning of the World War I. Self-affirmation came at the cost of otherness and differentiation. Only after this, national self-determination is victorious. Stein Rokkan notes that the “waves of conquest and occupation, penetration and retrenchment, produce a complex distribution of ethnic/linguistic groups across Western Europe.”³⁵ This is even more true in Eastern Europe. The justification for these states seems to be stability, but in fact nationalism made many of the postwar states extremely unstable.

Thomas Hobbes’ *Leviathan*, one of the earliest works of social contract theory, argues for absolute sovereignty as a necessity for a state’s existence. His ideas fell closely in

³⁴ James Tully, *Strange Multiplicity: Constitutionalism in an Age of Diversity* (Cambridge: Cambridge University Press, 1995), 3.

³⁵ Stein Rokkan, *State Formation, Nation-Building, and Mass Politics in Europe: The Theory of Stein Rokkan: Based on His Collected Works* (Oxford: Oxford University Press, 1999), 150.

line to the aim of the Westphalia Peace Treaty of 1648, namely a principle of non-intervention and international security. The treaty ended the Thirty Years War, a particularly bloody time in European history colored by religious wars. The aim was to enforce stable borders and a mutual acceptance of each other's absolute sovereignty. Hobbes points to the benefits of a social contract, where a ruler insures the following of one single source of power and one set of rules. Absolute rule and a single hierarchy of domestic authority prevent competition, diffidence and the pursuit of glory, and in turn ensure security of individuals.³⁶ Only one set of rules enables the government to enforce protection against others and outsiders, without conflict of interest. "A common authority is created when everyone in a state of nature agrees to submit their Will, every one to his Will, and their Judgments, to his Judgment."³⁷

Rokkan builds on Hobbes and his territorial configuration when he explains the need for strong and standardized nation-states.³⁸ The nation-state did not create the homogenous society, but fed off it, and added the configuration of the nation through a consolidated territory, in defiance of others. The idea of nation-states and popular sovereignty Rokkan describes as time bombs.³⁹ In the early 20th century, with peripheral territories under the influence of major powers, came the idea of independence. It was a moral justification for self-determination that drove the internal conflicts.

Nation-states are identified as the problem of popular sovereignty, through the principle that is based on exclusion and expansion. This, I believe, explains the reasons for the states' need for collaboration outside of the already set structures, and why this tensions between collaboration and nationalism exist.

³⁶ Thomas Hobbes, *Leviathan*, 82.

³⁷ *Ibid.*, 227.

³⁸ Stein Rokkan, *State Formation, Nation-Building, and Mass Politics in Europe*, 155.

³⁹ *Ibid.*, 162.

Changes in the way Europeans Associate; Cooperation as a Response

After World War II, along with the European countries losing their colonies, the states were more engaged with each other. Arguably, this is the realization that nation-states are unstable in themselves, and needed engagement beyond the own borders. It solves the problem of weak nation-states, economically, at least. While still being a model created by a few states, what grew out of it was a consideration for the other, not as opponents or a threat, but as a potential. In the process of developing the EU's emerging, we must consider another side of the states that began the process. Why was it crucial for the European states to cooperate after the World War II? Did the integration take place as a result of corporatism and a driving beneficial market or was there a grander understanding even for the nation-states themselves. During the earlier movements, statesmen were very much in control of the movements and the interactions between states.

Later, with the decline of the Soviet Union, Europe experienced a spark of social movements, like the singing revolution in Lithuania⁴⁰ or the human wall between Vilnius and Tallinn.⁴¹ The movement in Lithuania was nationalist, but was also an early civil movement and a demonstration that the European people demanded greater democratic involvement. It was no longer the government speaking for the public and articulating its demands, but the individuals themselves who wanted a say. Singing became that symbolic mechanism. The human wall further signifies the transnational unification of people against authoritarian states. People across nations created a wall, going from the Baltic capitals to show solidarity and political engagement. Both states and people themselves wrestled with the concept of political identity and association beyond the nation-state and

⁴⁰ Anu Narusk, "Forgotten Tunes of the Singing Revolution," ed. Mosklewicz & Tigerstedt (*NAD PUBLICATION* no.36 1999), 68.

⁴¹ Vladas Gaidys and Danute Tureikyte, "Agoral Gatherings in Lithuania; an Example of the Baltic Way," *Journal of Mental Changes* 2, no. 2 (1996): 25.

the relation between the self and one's state. This cooperation showed the interest of the state was not always the interest of the people, and that people could have common interests that did not depend on the decline of another.

Oneal and Russett note Kant's prediction of the importance of interdependence between states two hundred years ago.⁴² Although an old assumption about states' need of close relationships as a peacekeeping method, the idea that states would lose prominence is newer. It is, therefore, important to stress the idea that states are only a step in the process of identifying a self and the question of states' relevance should be made based on their effectiveness in providing citizens and societies the possibility to participate in the political process.

Implications of a Traditional Understanding of Democracy

While states do not have inherent access to democracy, a supranational project like the EU, faces another set of problems. Before moving on to those democratic issues, an elaboration of what democratic means for nation-states is in order.

By arguing for one ruler, Hobbes emphasized the need for supremacy, for it is better to be subjugated to one power than to be under the threat of everyone else. The discussion in *Leviathan* might have centered on one sole authority, but the application to sovereignty is relevant primarily as states are considered to have the highest order of authority. They separate themselves from other states by their autonomy, and through state supremacy, the validity of the international community is reduced. In traditional binary democracy a people are, through the vote, able to consider themselves citizens of a particular country and able to identify the leadership with the authority and power to execute legislation over said country. Or, as Habermas put it: "the government is

⁴² John R Oneal and Bruce Russett, "The Kantian Peace: The Pacific Benefits of Democracy, Interdependence, and International Organizations, 1885–1992," *World Politics* 52, no. 01 (1999): 1.

represented as an apparatus of public administration, and society as a market-structured network of interactions among private persons.”⁴³ It is a single road between the people and the elected. The relationship between a state and its people defines the boundaries of a state and enables the state to be considered the sole proprietor of democracy. The electoral process has been the primary medium to clarify this relationship, for it legitimizes the process of the government and by extension the government itself. It presumes the people to be a whole and have the ultimate authority, which in turn legitimizes the system.⁴⁴ The traditional understanding of popular sovereignty, as Bernard Yack sees it, where monarchs and representatives claimed legitimacy, is now moving towards indirect popular sovereignty, where the people as a whole plays a more central role.⁴⁵

It is *convenient* to consider democracy as the people articulating their will through one united voice. Not only has the vote been the defining feature of a democracy, but it is also the primary tool for people to become active members in said community, and it is not necessarily the strongest or most democratic way however. It seems the association between the people and their state is effective to the extent that it has colored and shaped the common understanding of democracy. As a mechanism for the democratic society, the electoral system arguably encourages citizens to recognize themselves as participants through the voting process. But it has wrongly transformed citizens into one ‘united people’ with only one political task: voting. In such a system, authority and governance is at the center, and politics is not a social or communal business.

When thinking about the procedural argument for democracy, in general, and in a historical context, we focus on the relationship between the rulers and the ruled. A clear

⁴³ Jürgen Habermas, "Three Normative Models of Democracy," *Constellations* 1, no. 1 (1994): 1.

⁴⁴ Bernard Yack, "Popular Sovereignty and Nationalism," *Political theory* (2001): 518.

⁴⁵ *Ibid.*, 519.

set of constituents and territory, governed by a specific government with clear statutes, has historically been the significant criteria for an effective democratic system. Our sense of democracy has developed with time, first as we have seen participation change through movements. If the principles of democracy are fully based on the principle of representation to a formal institution and only through the electoral vote, we are not only limiting the system itself, but also the spectrum of actions possible. Readdressing who the people are and how they associate, leads to a democratic life more conscious of people at their individual level. If we readdress democracy, as a normative concept outside of democratic statehood, the idea of statehood will be correctly seen as a construction. Yack suggests this by arguing for a de-nationalized political power: nationalism, as a cultural dimension could stop being a source of division,⁴⁶ but rather become a space for diversity and sharing of history. This, in turn, will then allow societies to approach issues of otherness and alienation.

But with a new concept of the individuals' role, complemented with new technology and stability, this understanding of democracy is turned on its head. With a changing social structure, the boundaries of association do not always follow the boundaries of the states. The association between a government and its people primarily travels through the electoral process, which itself must be reconsidered, for it does not effectively address the participants in the ways they themselves act in a modern and globalized society. Continuing to rely on the idea of democracy as popular control of a government, I here aim to problematize the relationship between the state and the citizens, as the definition for democracy. While Europe, in particular, approaches a more regional type of society, the boundaries of and divisions between different levels of

⁴⁶ Bernard Yack, "Popular Sovereignty and Nationalism," 532.

government must be reexamined. This opens up the possibility of creating a political and democratic society that centers on and engages the citizens.

Chapter Two

Democracy Beyond the Nation-State

“As soon as someone says about affairs of State what do I care? the State has to be considered lost”⁴⁷

Today, a democratic structure must address different problems and questions than the old systems, requiring greater sensitivity concerning the ambiguous boundaries of a modern society. While the geo-political system continues to change, a more globally understood definition of democracy has become indispensable. This search should be seen as a restriction of nation-states, and not democracy’s capability as an adaptable tool for good governance or as a response to the many national parliaments questioning the EU’s ability to be democratic. This chapter lays out the justification for a more extensive and broad vision of a constitutional and pan-deliberative democracy, and why the traditional sense of democracy restricts a politically accountable and engaged EU.

A New Structure of Democracy

Democracy in Europe has the potential to enable a strengthened local control through a broadening of the political landscape and a mobilization of the civil society. In other words, any structure outside of state and regional boundaries requires a relocation of power, but does not necessarily move it hierarchically upwards. Individuals continue to reorganize themselves in a social context, but the view of democracy as bound to the nation-states has become dated impeding an optimized political organization accounting for a global community. A revision would allow for more effective coordination between actors. If democracy is understood as people having effective control over policy and

⁴⁷ Jean-Jacques Rousseau, *Rousseau: 'The Social Contract' and Other Later Political Writings* (Cambridge University Press, 1997), 113.

legislation, and states do no longer represent a united people, the states cannot be solely responsible for endorsing a democratic society.

The philosopher and EU scholar Jürgen Habermas, who envisioned a common European political identity, has partially developed the idea of a participatory democracy, rather than a representative one.⁴⁸ The interactions are not only between state-representatives but also between the individuals, NGOs, regions, as well as states. This, I consider to be the necessary addition to traditional democracy. Beyond that, a foundation resting upon the understanding that the democratic structure is not only for an economic benefit, but rather, the states have inherent connection and the exchange between them that reaches beyond financial matters. The foundation here must still be legal and clarified constitutionally.

With a broadened scope of democracy, social and political structures, have the potential to affect policy and legislation at the most local political level possible. While the EU cannot be defined in terms of financial profitability, I must discuss the advantages of incorporating a versatile sense of political belonging, and why it is important to tie engagement to a pluralist constitutional foundation. This definition leans on Jürgen Habermas deliberative democracy of right as connected to a constitution, which the people are part of,⁴⁹ but reconsiders the extent of a defined popular sovereignty through the unity of one people. The pluralist constitutional model, “the current legal reality of competing constitutional claims of final authority among different legal orders and the judicial attempts at accommodating them,”⁵⁰ together with a developed sense of political identity and the political influence of individual groups and movements, encouraged

⁴⁸ Jürgen Habermas, "Why Europe Needs a Constitution," 19.

⁴⁹ Simone Chambers, "Deliberative Democratic Theory," *Annual Review of Political Science* 6, no. 1 (2003): 310.

⁵⁰ Miguel Maduro, "Three Claims of Constitutional Pluralism," *Constitutional Pluralism in the European Union and Beyond* (2012): 3.

through the political organization effectively addresses the perceived democratic deficit in the EU. In doing this, we must also consider the limitations, consequences and potential issues for a constitutional and deliberative democracy with focus on an intermingling of political identities and political venues.

By extending democracy beyond states and national sovereignty, one can more easily visualize a legitimate and viable broad concept of democracy in a diverse, engaged society – a deliberate society. The political structures are now so large that a national identity cannot function as the unifying factor; instead, people’s political associations must diversify and cannot be represented by one body. This is not a new argument. The most famous democratic argument for a large and diverse society is laid out in *Federalist 10*.⁵¹ Tensions between large polar factions are argued to harm the efficiency of the society, by making the factions immobile. A traditional political body assumes unity and connection based on one type of political, national, social or other excluding identity, this is something the EU could never achieve, or want to achieve. The justification must come from elsewhere. If a solidified citizenship to a distant political power is the only path to the EU, cynicism and apathy will grow among its citizens. From this negative vision, the common conception of Europeanism and EU’s lack of connectedness is constructed. The unity must therefore come from another type of foundational structure, arguably a normative structure inviting diversity through a flexible political identity and a broad sense of civil participation. The unity must be inclusive and not discarding any cultural, social or economic groups. What has lately emerged, as the force of democracy, is deliberation with a strong legal foundation, or constitutional foundation.

⁵¹James Madison, "The Federalist No. 10," November 22 (1787).

Deliberative Democracy: An Addition

I here expand on the idea of deliberation as an addition to a European legal foundation by emphasizing democracy's ability to influence and affect processes from an individual perspective. In doing so, I also have to problematize the idea of democracy in terms of people's relation to their states. What is this deliberative foundation and what is the reason it does not come naturally to people's understanding of the EU?

Deliberate democracy relies on information sharing among individuals and between individuals and their government. It equally relies on the idea of a uniform political identity through the principle of deliberation itself. A necessary factor for this type of deliberation is applying a reasonable argument when considering legislation. Individuals, as well as legislators, must be part of this process. Communication and information sharing is central to any modern society, but ought to be more heavily relied upon as a form of political policy, where the activity of the public determines the democratic value. Many European Union scholars see deliberation as an important tool for the democratic development of the EU. Habermas develops this through his "discourse principle" and firmly connects deliberation to popular sovereignty. He notes:

"Politics" is conceived as the reflective form of substantial ethical life, namely as the medium in which the members of somehow solitary communities become aware of their dependence on one another and, acting with full deliberation as citizens, further shape and develop existing relations of reciprocal recognition into an association of free and equal consociates under law.⁵²

Here, deliberation depends on individuals' desire to participate, belong and improve their society. Ideally, it implies an extension of an individual's empathy to include. But, there are several reasons why we do not consider the EU to be a people's movement in which the individuals have a strong and final say. Why? Firstly, as laid out

⁵²Jürgen Habermas, "Three Normative Models of Democracy," 1.

earlier, the construction of the EU took place behind closed doors among an elite and was generally opposed by the peripheral states. It was a project envisioned by a few, and executed by even fewer. It is easy to see why the states and their individual citizens would feel left out. The sole act of transferring political power upwards and away from the individual must then be deemed undemocratic. Many decisions are not made by unanimity of states, creating the feeling of an over-arching executive body.⁵³ These are aspects that the EU is desperately trying to address and remedy. The Lisbon Treaty was a big step towards an opening up of the political process. This is a trend we can continue to expect.

A second problem to be addressed is the political areas the EU considers. These are not the most salient, or topical, for the majority of people.⁵⁴ The EU addresses transnational issues, questions of wide application and with solutions requiring transnational action. Generally, these issues take a low priority in national elections and debate. Ironically, this is the very reason the EU is needed – it is another platform for political issues, but, it also means the people are not comfortable with many of the issues debated, since they fall outside the everyday political discussions. There are therefore limits to how effective referenda or votes can be. In reality, the European Union is an opportunity to move away from this disengaged way of thinking about democracy. And people's apathy towards these questions only emphasizes the need for a new platform like the EU.

This takes us to the third issue. If people see themselves as nationals, there is not an incentive to concern themselves with a larger variety of political issues. People in a large global society cannot be promised they will have a direct effect on political

⁵³ Luuk Van Middelaar, *The Passage to Europe: How a Continent Became a Union*, 47.

⁵⁴ Andrew Moravcsik, "Reassessing Legitimacy in the European Union," *JCMS: Journal of Common Market Studies* 40, no. 4 (2002): 535.

questions. However, there should still be an incentive to visualize political influence and inclusions.

Finally, while informed individuals can make informed decisions about a variety of topics, one cannot put the entire burden on individuals themselves. Informed citizens can also expand their empathic boundaries by broadening their own sense of political and social belonging and identity. Schumpeter's argument concerning the ignorant public, unequipped to rule, stands as a strong criticism to the traditional sense of democracy.⁵⁵ People who are not personally committed to the political structure will not bother to make themselves informed. It is not even rational to do so, since there is such a small return on the effort. Throughout this chapter, I attempt to address this problem by reconsidering the relationship among individuals within a community. It is irrational to think that participation would exist in a political society that has removed any personal, independent or passionate engagement, and has eliminated the possibility for people to identify themselves in those actions.

Implications of Deliberate Democracy in the EU

So what does deliberation actually mean in the context of the EU? It is the dispersing and widening of the political platform for individual citizens. By encouraging individuals to be democratic agents for a personal cause, and not completely dependent as constituents of the state, individuals can specialize and function in a democratic society by joining a particular cause of interest. This removes the pressure to have an omnipotent understanding or an interest in every issue. A removal of the compulsory structure where each citizen has to have a holistically formulated idea on a wide range of issues to which they have no personal interest or tie is therefore desired. The society can then highlight a wide range of specific interests or concerns, which would otherwise be rejected. This

⁵⁵ Joseph A Schumpeter, *Capitalism, Socialism and Democracy* (London: Routledge, 2013), 252.

partially addresses Schumpeter's concern of an oblivious population, as it gives people an option while expanding ways people can actually participate.

Most critiques depend on using deliberation as the only function of democracy. This is not the case; deliberation would only be the procedure of civil participation in EU democracy. Philippe C. Schmitter defined democracy by the terms *concept*, *procedure* and *principles*, arguing that seeing democracy through only one of these lenses would show an incomplete view of democracy and not the holistic phenomenon.⁵⁶ Habermas concentrated on the aspect of democracy as a procedure,⁵⁷ for this is how citizens can actualize their popular sovereignty. I will extend this idea through the discussion of a constitutional principle.

Habermas does include the notion of soft law, the notion of informal and non-binding law, and he argues for an all-encompassing identity supported through this law, and by creating a strong, united political foundation.⁵⁸ He can therefore afford to rely upon on deliberation as the founding aspect of democracy since he suggests an all-encompassing identity.⁵⁹ The unification of a political society, through a common political identity, I argue, cannot be dependent on a system based on one identity. The society is continuously defining itself by expanding its spheres of influence and borders, through the inclusion of new states. In this, the society must have a weak or soft structure. The weakness, or softness, comes from the necessity to encompass a variety of social identities. The legal formulation making way for this political association must therefore be at the core. Since deliberation is only an addition to our understanding of democracy, through which people can explore and refocus how they unite and position themselves

⁵⁶ Philippe C Schmitter and Terry Lynn Karl, "What Democracy Is... And Is Not," *Journal of Democracy* 2, no. 3 (1991): 114.

⁵⁷ Jürgen Habermas, "Three Normative Models of Democracy," 3.

⁵⁸ Jürgen Habermas, "Democracy, Solidarity and the European Crisis," 4.

⁵⁹ Jürgen Habermas, "Why Europe Needs a Constitution," in *Developing a Constitution of Europe*, ed. John Erik Fossum Erik Oddvar Eriksen, Agustín Menéndez (London: Routledge, 2004), 4.

within a community. Democracy in the EU is not dependent on the deliberative aspect, but should rather be seen as a possibility acquired through the extension of the political community. Possessing only one over-arching political identity is bound to be weak and unable to support the legitimacy of democracy. The whole point of adding deliberation is to open up path that individuals can take to engage themselves individually. If people are then forced to only pursue one type of identity, to fulfill the criteria of solidarity and unity, as they are the only democratically binding agents, then all deliberation is rendered useless. In an attempt to have an over-arching identity, the desires to unite and associate act counterproductive and streamline European identity. When defining democracy as the ability for individuals to make their voices heard in a variety of groups, and have a potential say in the legislative process, primary focus must be put on the links between the political decision and the individual citizen as an actor for different groups and ways that he associate.

Deliberate democracy attempts to readdress the question of democracy being centered on the vote. Without a constitutional foundation safeguarding the democratic process too much pressure is put on deliberation as a uniting force. The problem with this structure is that it aims to eradicate all social differences so that people can adhere to the principle of debate. In the end, there has to be a meeting point between the political process and the people, here legitimacy comes into play. Habermas tried to find a meeting point, by arguing that there are no rights without the vote of the Peoples.⁶⁰ Without laying a strong foundation for a constraint of the states' behavior, common grounds for rules and principles, there is little force behind the actions of the EU. The EU's democratic legitimacy, like that of a state, is therefore solidified through a constitutional foundation – an agreement of the rules.

⁶⁰ Simone Chambers, "Deliberative Democratic Theory," *Annual Review of Political Science* 6, no. 1 (2003): 311.

Constitutional Democracy in the EU

The foundational aspect to EU democracy is the normative foundation on which the society and community can unite – a legal normative platform for democratic agreement and trust, which is supported through people’s endorsement of their political structure. Erik Oddvar Eriksen and John Erik Fossum argue that even though there is no concrete constitution, the EU has a constitutional foundation, since it has a shared set of rules and procedures.⁶¹ Keohane, Macedo and Moravcsik call the ability to enter into legal agreements “one of the most important elements of legal sovereignty [because] it confers on national communities the power to enter into binding international legal agreements granting states reciprocal influence over each other’s policies.”⁶²

Alexander Somek, although critical of the idea that constitutionalism has been established, suggests the unifying mechanism is a gradual acceptance of constitutionalism; “the project of submitting public power to the discipline of legal norms [requires] specific justification for the exercise of (state) power.”⁶³ This type of soft constitutionalism is henceforth referred to “transitory constitutionalism.” In Chapter Three, I will develop the reactions of the European people with regards to development of a more concrete constitution.

It is through this transitory constitutionalism that the requirement for deliberation and the incorporation of institutional mechanisms for civic participation becomes clear. Constitutionalism no longer means a fleshed out constitution,⁶⁴ just like public participation is no longer a coherent “will of the people” but a deliberation through voice

⁶¹ Erik Oddvar Eriksen and John Erik Fossum, *Democracy in the European Union: Integration through Deliberation?* (Routledge, 2002), 15.

⁶² Robert O Keohane, Stephen Macedo, and Andrew Moravcsik, "Democracy-Enhancing Multilateralism," *International Organization* 63, no. 01 (2009): 4.

⁶³Alexander Somek, “Constitutionalization: Constitution-Making for Individualists.” In *Is There a European Common Good?*, edited by Sonja Puntsher Riekmann, Alexander Somek, and Doris Wydra, Baden-Baden: Nomos, 2013, 88.

⁶⁴ *Ibid.*, 86.

and consideration. The agreement on legal norms rests upon the idea that civic society has a better chance to affect policy through the legal foundation. Habermas stands in the forefront of the proponents for the necessity of political participation among the European people, as an extension of the public sphere.⁶⁵ He connects this to the idea of positive law as a mechanism to maintain stability, or through people's actual approval, a support upon which a constitution can be justified.⁶⁶ The constitutional structure is today not a founding concrete document. Its structure is therefore not strong enough to carry transnational democratic legitimacy on its own shoulders, and requires public support. Still, it has significant democratic value.

While this understanding of democracy is argued to be inclusive and extensive, the uniting constitutional foundation must be minimal to ensure non-exclusion based on terms other than the normative legal foundation. The idea is that democracy can extend the natural sense of political and social identity in favor of inclusion and diversity, but that the law itself must make the way for political association and a common identity.

Limitations and the Normative Premise

This extended idea of democracy, as a mechanism for the individual's political action, is argued to be constitutional at the core. This constitutionalism will be the limiting regent of inclusion. It nurtures political participation, with citizens encouraged to associate in a variety of ways. While this is not limited to the EU as it stands today, this type of democracy assumes already existing and sovereign states, which have accepted the relationship between each other as something more than just economically beneficial. The relationship depends on a legal agreement and a mutual understanding of the democratic foundations. Furthermore, it presumes equality between states that are

⁶⁵ Jürgen Habermas, *Zur Verfassung Europas: Ein Essay* (Suhrkamp Berlin, 2011), 75.

⁶⁶ Jürgen Habermas, "Why Europe Needs a Constitution," 18.

entering into this relationship. In addition, by entering into the agreement of cooperation, the states are, at the same time, depleting themselves as absolute powers, in other words; there is a supranational tendency since other levels of political legislation and action emerges. If this type of democracy were only intergovernmental, demonstrating the democratic value would be made more difficult. But rather, the benefit of this supranational democracy is that the states that enter through the relationship aggregate to something more than the pure sum of the countries. In other words, by giving up aspects of their absolute power or sovereignty, the community can grow in terms of cooperation, democracy, engagement and even achievement. This assumes the ability of a state to do so fairly. To develop into a democratic community, the states that engage must believe and support a vibrant civil society to begin with. They must already have the basic institutions and functions of a liberal democracy. Constitutionalism is therefore, in reality, the limit to the European Union. Hypothetically, geographical and continental borders cannot make a difference in this democratic vision. But a state's view of democracy and the individual's role in it can make this difference. In Chapter 5, I come back to this notion of the limits of supranational governance through the discussion on Turkey's admission to the Union.

The Electoral Criticism of Transnational Democracy: A Responsive People

When considering the EU as a result of a reshaped democratic society, one must be aware of the criticism that by allowing a transnational institution political power, the states are only giving up political authority. While the limits of constitutionalism might be vague, traditional borders are clearer. If suggesting that the only boundaries needed politically are those fluid and weak, have we completely eradicated the need for national, democratic borders? The perceived problem is that the globalized society will be too large for individuals to be heard at all, as the political venues, or "functioning democratic

institutions themselves,”⁶⁷ Robert A. Dahl saw the people’s voice as the foundation for democracy.⁶⁸ The platform to do that is national governments. Dahl says, “there remains a gulf at the European level between the citizens’ opinion and will formation, on the one hand, and the policies actually adopted to solve the pressing problems, on the other. This also explains why conceptions of the European Union and ideas of its future development have remained diffuse among the general population.”⁶⁹ The state allows for uniformity through representation. Hobbes noted that a “multitude of men are made *one* person, when they are by one man, or one person, represented... for it is the *unity* of the representer, not the *unity* of the represented that make the person one.”⁷⁰ On one level, representation, through votes for example, takes place with consenting individuals, but what does that really say about the true representation of the people as a unity? Alexander Somek argues that nationality, as a unity, accommodates more liberalism than a cosmopolitan vision.⁷¹ The worry is that national individualism would disappear with a broadened concept of democratic belonging. There would be more interests than places where they could be made heard, and minorities would draw the short end of the stick. Why? People would in the end not have complete self-determination.

This view, again, depends on the belief that people within a state are united under a unifying set of conditions namely, nationalism. Anything that sidestepped this path towards self-expression as a nation is an impediment to the democratic structure. But, if the society were changing so that voices can be heard through different venues, would not a natural development of democracy follow? One people singing in chorus can easily fool

⁶⁷ Robert A Dahl, "Can International Organizations Be Democratic? A Skeptic's View," *Democracy's Edges* (1999), 56.

⁶⁸ Ibid.

⁶⁹ Jürgen Habermas, "Democracy, Solidarity and the European Crisis," 4.

⁷⁰ Thomas Hobbes, *Leviathan*; 80.

⁷¹ Alexander Somek, "Constitutionalization," 108.

people to believe there is only one voice. The electoral process, through the veil of representative democracy is that one voice.

Thinking that homogeneity of thought within a state will lead to stronger representation seems to actively conflict with the idea of citizens being actively engaged and committed. Further, what does this question of size of a democratic community mean, especially considering whether effective representation necessarily comes from close proximity to constituents? Alternatively, segmentation could be encouraged through participation on a multi-level structure.

Responding in a Supranational Community

The main limitation to a more globally oriented democracy seems to come from past experiences with democracy and not the tenants of democracy as a mechanism for the potential of an individual's political influence. The electoral vote, as the derivative of their legitimacy through popular control, has limits. It may be the fundamental criterion for a democracy, but it is certainly not the only one. Still, Dahl points out something important about the "system of popular control over governmental policies" when he claims the vote is the only "foundational enough to support a truly democratic process."⁷² Using the European Union as an example, Dahl argues that while many aspects of democracy are admirable, the fundamental "popular control of polices" cannot be found in organizations. International institutions, from this perspective, cannot be democratic for they fall below the threshold of a democratic structure.⁷³ The claim is that practices become unnecessarily removed from the people, contradicting democracy itself.

This position is rooted in the idea that democracy is necessarily tied to the state, and is not addressing democracy as a theory, but is based on socio-historical criteria and

⁷² Robert A Dahl, "Can International Organizations Be Democratic? A Skeptic's View," 20.

⁷³ Ibid.

democratic statehood. Keohane, Macedo and Moravcsik counter Dahl by distinguishing between popular participation and democracy, and giving democracy a wider definitional range by arguing non-elected bodies have democracy-enhancing effects, such as the court system.⁷⁴ I will develop this by stressing the unique structure of the EU and how it can further enhance democracy within the EU, beyond traditional instances like judicial systems and constitutional checks and balances.

With the solidifying of the EU, this discussion is becoming more and more pertinent. These perceived democratic limitations reside within the history of democratic societies, and with changing, more global, societies provide reevaluation of the principles democracies need. Although any institution or venue which contributes to collectively deliberated decisions is beneficial, grounding the argument from a national standpoint further distorts the idea of political participation in today's Europe. Rule by the people cannot be solely tied to elections, and democracy is therefore perceived as desperately in need of re-evaluation. The aim would be to perceive participation as an individual, regional and interest-based tool beyond the mere electoral vote. While Keohane, Macedo and Moravcsik lay out the benefits with multi-lateral organizations, in particular the EU, they do not expand on the new tools at the EU's disposal that can further enhance democratic values, moving beyond the states' ability to do so. They argue that organizations can expand on the collaboration through international agreements, and that they contribute by providing further instances of checks and protections for minorities, contrary to Somek's view.⁷⁵

The question is whether or not the EU has the capability to improve the connection between people and their political institutions? Erik Gartzke and Megumi

⁷⁴ Robert O Keohane, Stephen Macedo, and Andrew Moravcsik, "Democracy-Enhancing Multilateralism," 7.

⁷⁵ *Ibid.*, 16.

Naoi object to the legitimacy of international organizations as being democratic by arguing that these organizations' structure is political in a way that takes away from actual improvements for people, even though the intention of the organization may be to improve the lives of people.⁷⁶ Much like Dahl, the two are critical of the discrepancies between immediately elected governments and the ones found in organizations, as a system of popular control is not immediate, although Gartzke and Naoi are focused on the democratic output rather than input. Dahl's problem remains: "a world order might be created in order to deal with problems of universal scope, such as poverty, hunger, health, education, and the environment. But the opportunities available to the ordinary citizen to participate effectively in the decisions of a world government would diminish to the vanishing point."⁷⁷ The issue is of an effective legislative body, close enough to the issues where the people are affected and interested. This issue is called the "governmental gap." This gap refers to the process of states losing political control, which makes the governments ineffective democratically. No matter the importance of the issues, it makes little sense to have a political structure to address it if it is completely opaque and made uninteresting. Benjamin Barber suggests the structure of legislation, when moving it too far away from the constituents, will give individuals no incentive to become informed and engaged, as it "yields neither the pleasures of participation nor the fellowship of civic association, neither the autonomy and self-governance of continuous political activity nor the enlarging mutuality of shared public goods."⁷⁸ The question of narrowing the gap between the political issues and people's connection to them is therefore crucial.

⁷⁶ Erik Gartzke and Megumi Naoi, "Multilateralism and Democracy: A Dissent Regarding Keohane, Macedo, and Moravcsik," *International Organization* 65, no. 03 (2011): 17.

⁷⁷ Robert A Dahl, "Can International Organizations Be Democratic? A Skeptic's View," 22.

⁷⁸ Benjamin R Barber, *Strong Democracy: Participatory Politics for a New Age* (Berkeley: University of California Press, 2003), 24.

The question of a European “we” is becoming increasingly overextended, as both national left and right-wing parties gain influence in the national parliaments by rejecting a European political order. Nationalist support is gained by rejecting a communal picture of Europe. Studies suggest that European citizens do not feel represented by the EU-framework.⁷⁹ How come global issues do not engage Europeans? Are these inherent problems for global concerns like climate, or can they be addressed through an extended political structure? Keohane, Macedo and Moravcsik suggested that there are further benefits with a larger, regional political structure. For this, the political reality of unengaged and even critical citizen has to change. In other words, for this structure to be effective, it requires the public opinion itself to change and become more inclusive.

Why the EU Must Be Considered A Democracy

The EU, which is considered to be outside the realm of traditional democracy, cannot be excused on grounds that it is valuable for reasons outside of democracy, just as it is equally unfair to accuse the EU for not encompassing the qualities of states. They fulfill different functions, all needed in a globalized society where interactions are not limited to states. Majone calls the EU a “regulatory state” in control of monetary policies and trade barriers, which need to be effective to function and produce a desired output.⁸⁰ But, groups with the ability to regulate and have legislative interest also have an obligation to act democratically and give citizens a say over what affects them: Mill’s “potential voice in their own destiny.”⁸¹ These institutions are responsible for making themselves open to popular control for they are also the key to a more effective and representative authority. Instead of rejecting the EU as non-democratic, but seeing it as

⁷⁹ Robert Rohrschneider, "The Democracy Deficit and Mass Support for an Eu-Wide Government," *American Journal of Political Science* (2002): 472.

⁸⁰ Giandomenico Majone, *Regulating Europe* (London: Routledge, 2002), 6.

⁸¹ John Stuart Mill, *Utilitarianism, Liberty & Representative Government*, 239.

part of the new ways to associate requires the institution itself to follow a democratic standard. This could become the principle that pushes the EU to further incorporate new democratic mechanisms. By being required to adhere to democratic values, the EU has had to struggle to give itself a democratic name.

A more flexible way of associating politically could benefit the political environment by refocusing political questions and inciting individual political commitment. In a more globalized society, it would be easier for minority groups to find a large community to make their voices heard in. Globalization contains therefore the opportunity for an equal voice, or at least the potential to have one. Modern democracy would then allow different groups to be heard, not only as national citizens, but as informed individuals who are able to form interest groups and communicate their own positions.

The EU is an example of the inevitable development in the global political arena, but accusing it of inapplicability to state-nation democracy means excusing it from popular control and transparency. The increase of international organizations in the global community, especially within Europe along with an increase of interrelations between different groups signifies that people associate themselves in a variety of ways. Arguably, this means that people should have the opportunity to govern themselves within these structures too. Having the political decision made where the social interaction takes place increases transparency as individuals will have a stronger, natural oversight. For example, an individual engaged in environmental groups might associate himself or herself as an environmentalist in some cases, and want to act politically within that sub-group. But thinking that this individual in every political move will put the environment first, or even give an environmental perspective proper political consideration seems both ill-advised and unrealistic. Thus, providing several political

venues can begin to remedy this problem of misrepresented individuals. A multi-level political arena allows people to consider a position without necessarily confining themselves to one position. The EU therefore challenges the nation-state as the only source of power and authority by widening the political platform. These new connections symbolize a change in how people move and associate. In other words, integrational movements on a European level did not necessitate a reassessment of the assumptions about democracy, but their very presence made a democratic reconsideration undeniable.

Generally, overly positive sentiments about democracy have driven people to consider democracy to be inherently well functioning and desirable. Democracy is seen as the solution to any political issues. Samuel P. Huntington questions the necessity of making democracy the sole answer to our society. He distinguishes between constitutional liberalism and democracy, arguing that democracy is only the principle not in itself providing a fair and just society like the modern liberal western states. Huntington writes from the perspective of developing democracies that only uphold a shadow of democratic values while still not representing its people.⁸² Democracy, says Huntington, is thus only one aspect of a well-functioning government, along with individual rights. He means that democracy in combination with constitutional liberalism is what we generally think of as a democratic society in the West. Constitutional liberalism, not democracy, ensures inherent rights and liberties, and must therefore concern itself with the goals of a state rather than the structure. Only seeing democracy as a process would lead to a completely useless and ineffective principle in that it has become all encompassing. Continuing this line of arguing, even when assuming that the democratic electoral system is functioning, Schmitter makes the criticism that “however central to democracy, elections occur intermittently and only allow citizen to choose between the highly aggregated alternatives

⁸² Huntington, Samuel P. *The Third Wave: Democratization in the Late Twentieth Century*. (Norman: University of Oklahoma Press. 1991), 175.

offered by political parties.”⁸³ So, when arguing that elections are the key function for a democratic society to be democratic, assuming this mechanism is appropriately followed through, it gives citizens a limited choice and is not a continuing form of participation.

But, rather than looking at democracy as people’s voice in a society where the decisions are translated through direct representation, democratic engagement should be understood through how people choose to associate and identify. The system is not dependent on a public having a complete political structure of preferences sorted out. It is not direct democracy where a united people have to formulate an opinion on every topic, but where people, with a particular interest, have the opportunity to make their voices heard on specific issues, where the agenda responds to people’s preferences and interests, and where people are encouraged to have such interests. Taking Dahl’s concept of responsive governments able to cater to people’s particular interests and using it against himself, this could be an argument for moving against this binary exchange for one that promotes different venues where people can be heard in their particular field.⁸⁴

⁸³Philippe C Schmitter and Terry Lynn Karl, "What Democracy Is... And Is Not," 115.

⁸⁴ Robert A Dahl, "Can International Organizations Be Democratic? A Skeptic’s View," 67.

Chapter Three

Consequences of Transnational Democracy

I have established that politics at the EU-level must be accepted as democratic, and furthermore, that democracy must be supported by deliberation as well as ever evolving and fluid constitutionalism. In some senses we can expect democracy to function similarly to states, but in others democracy will look very different. My argument leans on the idea that supporting democracy on a transnational level actually leads to an overall strengthening of democracy for the individual citizen. By tying together the social aspects of how Europeans associate with political mechanisms, one should expect to see an elevated understanding of what democracy is and what it can do for the individual. Here, I consider some of the effects and consequences of this dispersion in modern democracy.

Local Political Strong-Holds

When expanding upon the principle that democracy ought to take place at several legislative instances, we must question where exactly the power will move. Barber suggests the solution is an interconnected city-based system. Barber believes in strengthening of cities, as they are the cartel of democracy.⁸⁵ Power should arguably remain where the people are politically active. The home should be where politics is made, since that is where people will feel connected and empowered by responsibility. Barber argues that most people live in urban societies, and it is from there that questions should be addressed, even questions beyond the cities or states themselves. His slogan is

⁸⁵ Benjamin R Barber, *Strong Democracy*, 65.

“Mayors to Rule the World.” Whereas nation-states are a fairly new construction, speaking against their stability, cities are an ancient type of community.⁸⁶ Global governance is developed through a network of cities to deal with grander, interdependent issues. Barber notes “United Cities and Local Governance” as a type of cooperation that accommodates this desire. This is another example of the many movements acting outside of states to address transnational issues showing, yet again, that national structures are unable to effectively address the issues of today.

Where is the EU’s place in this? While the EU is located much higher than both cities and nation-states, the Union does promote the concept of dispersing political power at the level where it is the most effective. This principle is called the Subsidiarity Principle and how the Lisbon Treaty has made this key principle more relevant will be explained in further detail in Chapter Four.

Moving Away from Geographical Proximity

While Barber speaks of the intermingling of regionalism, and the advantage of regional cooperation, I would like to take it a step further and emphasize the need to consider network outside of geographical alignments. Through the promotion of relations based on personal interest and attachment, links between people having nothing to do with each other geographically can be made. The benefits of this concept of democracy are that it removes the pressures of procedural requirements and any ethnic distinctions, while allowing individuals to group themselves around several political agendas and causes. These are constructions, which can be encouraged, but are not yet fully active within the whole of the EU. The passivity can be explained by customs of associating geographically, but it does not mean that we are unable to extend our spheres of consideration. Regionality will inevitably depend on socio-cultural ways of associating –

⁸⁶ Benjamin R Barber, *Strong Democracy*, 70.

cities are powerful because the inhabitants feel a direct political connection and are directly exposed to political outcomes at the local level. Cities and towns are successful political entities because the people living within or around the city have much more in common than people do across states. Regardless, if the possibility of normative ways of connecting were encouraged, we would see an extension of interactions, and these benefits ought to be further explored. Socially, we are already expanding our spheres, and it is only a matter of time until the standard of political practice is based on the same humanitarian standard.

The principle of “Territorial Cohesion” is a principle already initiated by the EU, and while it is restricted to geographical exchanges, it is a move in the right direction. In 2008, the European Commission published a paper, called the Green Paper, describing the need to assimilate the “territorial diversity into strength.”⁸⁷ In other words, the EU itself is recognizing the limitations of the power a state holds and notes in the Green Paper the “need to promote co-operation, dialogue and partnership between the different levels of government, organisations and the people implementing policy on the ground.”⁸⁸ The recognition that Europe has connections that go beyond geographical boundaries is an important revelation. It is the first step towards a democratic society and structure that is less discriminatory and more holistically inclusive in its decision-making. This is done through a focus on political issues outside of geographical association, and will arguably lead to a more direct political discussion. If this is enabled, it is a strong criticism of state-democracy, since states, almost inherently, makes decisions from a state-level.

⁸⁷“The Territorial Cohesion Principles: Position Paper to the EU Green Paper on Territorial Cohesion,”(ARL, 2008): 1.

⁸⁸ R Goulet, "Green Paper on Territorial Cohesion: The Way Ahead European Union Regional Policy *Inforegio Panorama*. No 28," (2008): 4.

Facing Regional Differences

The enlargement of 2004 was the largest and most diverse single enlargement of the EU. The inclusion of Central and Eastern European countries and new states created from the former Soviet Union posed a new type of challenge for the EU. The geographical and demographical structure of the EU changed as the EU became more rural and dispersed. Distances between centers have grown, and continue to grow. This dispersion posed a systematic threat to the existing political system and seriously questioned the role of regionalism in political discussion. While the Green Paper focuses on the geographical region and physical distances using the buzzwords, ‘Concentration - Connection – Co-operation,’ which adopts an environmental perspective by discussing how transportation and mobility, the perception of political space has changed. This paper develops this notion of democratic thought by bringing in a connectedness not only on a regional or territorial perspective, but a conceptual one where communication and exchange between different types of groups or movements across Europe have a valid democratic significance. This movement, supported by a strong constitutional foundation, has the opportunity to advance the current state of democracy within the EU.

Projects attempting to engage individuals and youth, in social and political questions continue to appear within EU. These programs range from the grassroots level all the way to programs sponsored by the EU. However, while they are steadily gaining ground, their united contribution to a democratic society is rarely considered. If rethinking democracy as the expression of emancipated individuals in a diverse setting taking advantage of the cultural, social, and personal differences, then the EU could create a holistic political society supporting a network of legal norms. This structure would support political legislation at the most effective level. EU would then develop a

strong legislative body foundation, with the support of the people, without completely depending on an apathetic body.

A Large Political Community Does Not Mean Succumbing to Mass Preferences

Using the idea of democracy as an applicable tool where the people have the best chance of being represented, we can rethink Tocqueville's fear of the tyranny of majority, through democracy - "[t]he very essence of democratic government consists in the absolute sovereignty of the majority."⁸⁹ Without diminishing democracy to just one value of the governing authority or defining democracy as everything we want in a government, democracy has a potential new place. After being elected as president of Belarus Aleksandr Lukashenko famously said "There will be no dictatorship. I am of the people, and I am going to be for the people".⁹⁰ Is this really all we want from democracy? How can we reconsider democracy with reducing it to an incomprehensible wishful thought of a utopian society? I will address this question in terms of participation at a larger scale. We are no longer living in isolated, independent communities, and just as our living situation has changed, so must our political organization change. One could still claim that a truly democratic life should come from one man, one vote, but right now, the more effective solution would include more aspects of participation. The dichotomy between one voice and no vote is a false dilemma. While citizens think their political needs are addressed through a national government, EU principles, like the Subsidiarity Principle could potentially bring the political agenda even closer to the political question or and the individuals in question.

First comes the understanding that democracy is not connected to a specific type of government or mode of ruling. Democratic institutions take many shapes and forms

⁸⁹ Alexis De Tocqueville, *Democracy in America*, vol. 10 (Washington, DC: Regnery Publishing, 2003), 201.

⁹⁰ Fareed Zakaria, *The Future of Freedom: Illiberal Democracy at Home and Abroad (Revised Edition)* (New York: WW Norton & Company, 2007), 101.

just like people associate in different groups with need of structure and order. This implies that democratic legitimacy has the ability to arise out of different capacities, theories or functions. As Keohane, Macedo and Moravcsik pointed out earlier, international organizations have the potential to strengthen democracy, not by conveying electoral power, but by safeguarding other structures giving the people other benefits like protection of human and minority rights.⁹¹ A refocusing on this view of democracy has emerged in the time of globalization where the lines between citizens and authorities are becoming increasingly blurred, the implication being that there are other types of legitimate governments beyond the idea of the traditional nation state type. This enhances the chance for consideration of different perspectives and opinions.

But by addressing aspects of the political life in settings beyond the state, groupings and perspectives outside of the traditional state-level can take form and help reevaluate issues or challenge people are facing. Arguably, any mechanism allowing citizens to be engaged and to participate is part of democracy. A purely majoritarian democracy is traditionally characterized as “tyranny of the majority.”⁹² Further, an acknowledgement among democratic structures, at different levels, supporting each other, should be considered an extension of democracy appropriate to the 21st century.

The dark side of this broad sense of democracy is the potential for a lopsided democratic input, where the opportunity for individuals and interest groups is only a smoke screen for executive decisions. Benvenisti and Downs claim that the regulatory power has been transferred to the executive branches of dominant states by the states themselves. They will further argue that the involvement of the national courts, together with international tribunals, is a possible way forward, where political power can be

⁹¹ Robert O Keohane, Stephen Macedo, and Andrew Moravcsik, "Democracy-Enhancing Multilateralism," *International Organization* 63, no. 01 (2009). 5.

⁹² *Ibid.*, 7.

overseen, reviewed and regulated more democratically.⁹³ Why it is essential to have the intermingling of different levels of authority and organization is something that I will return to in Chapter 3. In other words, any consideration is an opportunity for a specification of personal or individual preferences.

Reducing democracy to simply being electorally justified, through the vote, and by forcing a sterile and inflexible view of democratic activity impedes the complex structure vital to a full-fledged democratic society is a static structure that states and communities no longer can afford. A state's ability to participate in organizations and movements offers a solidification and expansion of the democratic society, insofar as said involvement does not hinder the state's internal democratic activity in the process. The route though the state is not the only way to strengthen a democratic society, just as elections are not the only source of democracy. After the EU was criticized for being undemocratic and widening the government gap, the Union, through the Lisbon Treaty, endeavored to reduce this gap by strengthening the subsidiarity principle. The idea of subsidiarity plays a role in most institutions and government, and traces of these ideas can be found within European integration almost from its beginnings, including the Rome Treaty of 1957.⁹⁴ But the principle got a large revival with the Lisbon Treaty in 2007. In Chapter 3, I will examine the recent changes in this treaty and how effective and practical they are. But note here that the desire to cooperate on a larger level does not rule out the potential for connected and effective governance. And the democratic structure that I propose ought not to lead to an elitist structure in Brussels.

⁹³ Benvenisti, Eyal & Downs, George W. Court Cooperation, Executive Accountability and Global Governance," (New York: *New York University Journal of International Law and Politics*, 2009): 2.

⁹⁴ *Treaty of Lisbon: Amending the Treaty on European Union and the Treaty Establishing the European Community* (2007).

The EU Is Not a New Super-State, Nor a Federalist Entity

The structure of the European Union is fundamentally unlike that of the national governments. Frankly, the later stages in the process of integration is moving the EU further away from any earlier expressed political form. Earlier, I considered the importance of understanding democracy as an applicable tool and process, rather than a system to be followed. Allowing the political system to represent the Union should therefore not attempt to mimic the national government's paths to legitimization, but remain the different kind of animal it is, accepted not only through an electoral body, but also as a platform of public authority. Ideas of constitutionalism and participation no longer belong to states only. From the perspective of legitimized democracy based on directly elected governments, although the EU parliament should be at the center of the EU system, currently it is not. This is not to say that there are no similarities between states and the EU. Nor would it be advisable to suggest an attack on democratic activity on a national level. Ideally, any structure will have a theoretical justification for its actions over its constituents, and for its own action, corresponding to its behavior on the ground, as they are not exchangeable. It would be absurd to expect two governing bodies whose purposes do not align to have the exact same means of justifying their means of gaining acceptance as authority. In wanting to create an international system on the grounds of a nation state's legitimization, the nation states and the international organization would be in competition for the same power. By allowing a diversified legitimization system and a broad sense of democracy, more parties would be allowed to participate without conflict. Saying that a diversification should be allowed is however not the same as arguing for an absence of accountability through low legitimacy.

The Channels of Democratic Input

The clash between the visions of national sovereignty versus civil society is beginning to crystalize, though the marriage of constitutionalism is yet to be considered. While the civil society is taking up more and more space on the political arena, it is still not clear how the EU is attempting to contribute or what its self-view is. We are beginning to see a normative justification based on a general acceptance of EU legislation, through obedience to the rules in place. This, I outlined as the minimum requirement for a functioning Union, but we still have to outline the specific forces allowing a concrete direction towards a democratic structure. The subjective support, is said to be “soft” a position supported through passive or negative referenda or party competition. Interestingly, this criticism sometimes cancels out. For instances, right-wingers in the UK oppose expanding social regulations while the leftists ardently support it. Further, the center fears extremist views in the EU. All are suspicious of democratic legitimacy.

Achim Hurrelmann specifies three main venues for democratic input in the EU. One is the European Parliament, the second is communication from the national governments and parliaments, and the third is “the inclusion of organized civil society in EU policymaking.”⁹⁵ On the other hand, Juan Mayoral, writing for the European Union Democracy Observatory commented that the Lisbon Treaty is aiming “at reinforcing democracy in its representative and participatory dimensions.”⁹⁶ This means that there are at least two viable paths to legitimate democracy: from society directly, and through the traditional governments. The former focuses on a deliberate sense of democracy

⁹⁵ Achim Hurrelmann and Joan DeBardeleben, "Democratic Dilemmas in EU Multilevel Governance: Untangling the Gordian Knot," *European Political Science Review* 1, no. 02 (2009): 3.

⁹⁶ Juan Antonio Mayoral, "Democratic Improvements in the European Union under the Lisbon Treaty: Institutional Changes Regarding Democratic Government in the EU," *European Union Democracy Observatory, Robert Schuman Centre for Advanced Studies, European University Institute* (2011): 1.

where binary communication is in focus, and the latter considers oversight and transparency within a hierarchical system. This approach, incorporating society as a democratic force more directly, suggests a sensitivity of the forces at play and makes room for a more diverse and engaged public society. The Lisbon Treaty states: “Every citizen shall have the right to participate in the democratic life of the Union. Decisions shall be taken as openly and as closely as possible to the citizen.”⁹⁷

Jürgen Habermas suggests there is a postponing of supranational democracy, because of the unpopularity of integration,⁹⁸ meaning that while the monetary structure is becoming increasingly predominant, democratic channels are held back in fear, as countries fear to lose their integrity. “Nation states could well preserve their integrity as states within a supranational democracy by retaining both their roles of the implementing administration and the final custodian of civil liberties,” suggesting a *community method*. In this method, the people do not see “their political fate ... determined by foreign governments who represent the interests of other nations, rather than by a government that is bound only by their own democratic vote.”⁹⁹

The reluctance of States to provide democratic flexibility while opening up the markets has resulted in this fear of democratic discrepancy. While diversification of the democratic process is feared among the states, as shown by the German Federal Court case on the democratic legitimacy on the Treaty of Lisbon, supranational democracy could be beneficial. The EU allows for interest groups to make themselves heard, and it avoids the typical left/right dynamic, making it both more confusing, but also politically more interesting as national representatives can rethink political issues in different political groups. This is not to deny that there should be a stronger effort to reduce the

⁹⁷ *Treaty of Lisbon: Amending the Treaty on European Union and the Treaty Establishing the European Community* (2007). Art.8a (r)3.

⁹⁸ Jürgen Habermas, "Democracy, Solidarity and the European Crisis," *Roadmap to a Social Europe* (2013): 6.

⁹⁹ *Ibid.*, 7.

gap between supranational institutions and the public in Europe, a cause with which few would disagree.

Shared Responsibility Is No One's Responsibility; The Issue of Power Diffusion

The EU is still justifying its democratic legitimacy using representative democracy, since the EU is a platform where “[c]itizens are directly represented at Union level in the European Parliament,” as articulated in Art 8A in the Lisbon Treaty.¹⁰⁰ While still holding on to its representative aspects, the EU is making way for a more open political structure. The general point of conflict is that of rights and the will of a particular people, where multilevel governance further muddles the playing field. In other words, by crowding the field, accountability is harder to be located. Without a straightforward hierarchy, it becomes harder to demand rights and obligations. It is not only that the EU is making states more closely knit, but that it also diffuses the role of states.

Where individuals are given a wider field of play, and anyone has opportunity to participate, there will inevitably be a struggle for the final say and the ultimate control. Technology has allowed us to communicate more than ever, and the capabilities have allowed everyone to participate. As Joseph Nye stated, “the stage is crowded.” When arguing for a power diffusion through increased accessibility of information.¹⁰¹ Habermas argues that states’ diminishing political power stems from a capitalistic and global market system. He points out that the borders play less and less of a role, but it is not only borders, rather the system as a whole that is diminishing.¹⁰²

¹⁰⁰ *Treaty of Lisbon: Amending the Treaty on European Union and the Treaty Establishing the European Community* (2007).

¹⁰¹ Joseph S Nye, "Public Diplomacy and Soft Power," *The Annals of the American Academy of Political and Social Science* 616, no. 1 (2008): 101.

¹⁰² Jürgen Habermas, "Toward a Cosmopolitan Europe," *Journal of Democracy* 14, no. 4 (2003): 88.

While I have demonstrated why a revision of democracy might be necessary within Europe, and what the potential gains this could bring, there are still concerns with a loose and decentralized political structure. An example demonstrating the risk of removing power inhibiting action is the Union's handling of the migration crisis in the Mediterranean, a problem that became painfully evident after the tragedy at Lampedusa in October 2013 where almost 400 migrants drowned in the ocean. While this is not the only occurrence of this kind of humanitarian catastrophe at the Mediterranean Sea, it was one of the first times it became a question for the EU and its capacities as a transnational institution with humanitarian focus.

The political instability in North Africa and the Middle East drove more people to travel by boat after 2011, a journey that takes thousands of lives each year. After the celebrated Italian search and rescue program, Mare Nostrum, patrolling the waters to rescue migrants on shipwrecks, the European Union planned to take over in late 2014.¹⁰³ Problematically, the European operation, Triton, was in many ways more limited than the Italian Mare Nostrum. Instead of seeking people in need, Triton is instead focused on overseeing the European shore, leaving thousands of people to drown in the waters between Africa and Europe. It functions as a border control instead of a search-and-rescue mission, and is generally considered preventing the mission from saving lives. In fact, Triton's budget is only a third of Mare Nostrum's.¹⁰⁴ Further, many European countries do not support Triton as a project. It is not only ineffective in what it attempts to accomplish, but it is also not backed by the member states.¹⁰⁵ One of the cornerstones for EU is its humanitarian mission, so not being supported by all countries may not be an issue. Not being more effective than one individual state is however a significant

¹⁰³ Stina Hartikainen, "The Graveyard of 'Fortress Europe,'" *Human Security Centre*, 28 October, 2014, 1.

¹⁰⁴ "EU Justice & Home Affairs Council: Europe Must Act to Save Lives at Sea," last modified 2015, accessed.

¹⁰⁵ Hugo Brady, "Mare Europaeum: Tackling Mediterranean Migration," *Brief Issue 25*. September 2014.

drawback for the EU as an institution able to address transnational issues better than states. Many times, the Union moves ahead of its member states in the struggle for human rights, but, if it is in the end incapable of carrying out its visions, the vision will be lost. Besides possibly being less effective, accountability is a potential issue, if shifting blame. Clarifying the structure and role of EU itself, as done in the Lisbon Treaty could be a first step to address this issue. While I will return to this issue through the discussion of the Subsidiarity Principle in Chapter Five, it is important to note that the EU as a holistic, executive structure, with a personality, is as capable as conventional states to be addressed and be held accountable. The dispersal and different political platforms could even be a venue where criticisms and reform can be made. In essence, this means a more transparent and fluid structure compared to states, but not necessarily one that is harder to be held accountable.

European Judicial Power

How are judicial institutions cooperating to strengthen democracy? The idea of judicial review follows in the discussion of checks and balances as a method of accountability. The 1963 Van Gend en Loos judgment is a landmark for the Union and its constitutional legitimacy. It is an example of how different instances of judicial power interacted, to assert that a member state had obligations towards its members through EU law. The European Judicial Court (ECJ) concluded that Community Law “imposes obligation on individuals but also intended to confer upon them rights which become part of their legal heritage.”¹⁰⁶ It meant that legal power was given to the European Judicial Court (ECJ) for the protection of individuals. This principle is now called the “direct effect.”

¹⁰⁶ Eyal Benvenisti and George W Downs, "The Premises, Assumptions, and Implications of Van Gend En Loos: Viewed from the Perspectives of Democracy and Legitimacy of International Institutions," *European Journal of International Law* 25, no. 1 (2014): 76.

Three states involved in the case were Netherlands, Belgium and Germany. The states appealed against the idea of being accountable to their citizens for the rights, but lost. Benvenisti and Downs note that the ECJ did not see national sovereignty as the final stop but saw the individual citizen and the national court as important players as well. They continue by arguing that the ECJ was protecting the smaller states through their decision.¹⁰⁷ Although the authors see a risk with this scattered power structure, they are suggesting that this will lead to more cooperation, as this is more beneficial for both parties. The judicial system is therefore another venue where checks and balances can be developed.¹⁰⁸

The national courts were viewed as capable of disregarding national politics, and enforcing the Community law regardless of the state's compliance. This means a law based democratic development. Benvenisti and Downs argue this enhances democracy by providing necessary information which state executives' collusion could prevent, gives weaker powers protection against powerful foreign actors, and the courts provide a "voice to those formally excluded from decision-making."

This not only limits national sovereignty, but it also emphasizes the layered interactions between individual citizens and authorities on various levels. But, was this made at the expense of national courts? Possibly, but Keohane notes that judicial power can no longer be seen as unilateral, rather it is "pooled"¹⁰⁹ and as a complementary power, the parliament is encouraged.

¹⁰⁷ Eyal Benvenisti and George W Downs, "The Premises, Assumptions, and Implications of Van Gend En Loos: Viewed from the Perspectives of Democracy and Legitimacy of International Institutions."

¹⁰⁸ Eyal Benvenisti and George W Downs, "Court Cooperation, Executive Accountability, and Global Governance," *NYU Journal International Law & Politics* 41(2008): 24.

¹⁰⁹ Robert O Keohane, "Ironies of Sovereignty: The European Union and the United States," *JCMS: Journal of Common Market Studies* 40, no. 4 (2002): 744.

Limitations of a Broad Concept of Democracy

As explained by Buchanan and Keohane, “‘Legitimacy’ has both a normative and a sociological meaning.”¹¹⁰ So there is a difference between *the right to rule* and the *belief* that someone has the right to rule. I will later argue that the EU in particular has the right to rule through this change of association, so that people of Europe within the European Union are experiencing the strongest form of representation, reflective of their social and political association. The right to rule should be dependent on an encouragement of participation through different venues and mechanism, which are dependent on both direct and indirect routes of influence and not only an electoral process. Frederick Barnard notes the problem of altering these principles too rapidly, losing the original meaning.¹¹¹

Tension within the European Commission and the Council of Ministers comes from a continuous emphasis on national interests. These institutions are not prone to democratic dispersion and fluidity because they are primarily conveying states’ voices and positions. Despite this reality, the EU is the platform where this type of democratic input is gaining foothold. How can we explain these different democratic movements, and on what basis can the EU actually claim democratic legitimacy? Is it from the extension of representative democracy within the European Parliament, or is this opportunity of democratic input supported by a strong constitutional democracy?

The creation of a European polity, strengthened by Habermas’ popular sovereignty principle is the first step to this bond. One advantage with this kind of association is that the emphasized sense of identity will not be able to skew one agenda

¹¹⁰ Allen Buchanan and Robert O Keohane, "The Legitimacy of Global Governance Institutions," *Ethics & International Affairs* 20, no. 4 (2006): 2.

¹¹¹ Frederick M Barnard, *Democratic Legitimacy: Plural Values and Political Power*, vol. 34 (Montreal: McGill-Queen's Press, 2001), 3.

above all and thus this prevents “tyranny of the majority.”¹¹² By not always seeing a political agenda through the benefit of the state as a whole, but rather through people it addresses, each political question remains on the level where the effect takes place. The Aristotelian way of a politically active domain, run by the individuals affected by the political life, more closely connects to an individual’s life. Each political question will be most easy to associate with or at least be considered from a wider set of ideas. A solidification of bonds between countries, as well as between groups of people in different countries, using coalitions and alignments, would enhance participation true to the interests and sentiments of groups of peoples, and thereby strengthen the democratic society. By putting the decision-making where it makes a difference, the significance of said decision will have a clearer relevance to people. In other words, by relocating the power away from states, and moving it in multiple different directions, an opportunity for more local and focused control opens, unrestricted by territorial barriers. Consequentially, the European countries would move further away from representative democracy, and towards participatory democracy. This is not to say states or parliaments will vanish, or become redundant in the near future. This is merely a suggestion to reconsider the democratic structures, and how the EU best could be a part of that process.

¹¹² Alexis De Tocqueville, *Democracy in America*, vol. 10 (Washington, DC: Regnery, 2003), 346.

Chapter Four

What is Europe Ready for? The Purpose *of* the Lisbon Treaty and Fate of the European Constitution Treaty

*"United in diversity"*¹¹³

How far does the imagination of Europe reach, and what happens when the visions of the elites surpasses the comfort of the people? Is the EU Europe's Candide, oblivious to backlashes and critique, only waiting to realize it is not in the 'best of all possible worlds'? Or is the EU's vision of integration and openness only ahead of some of its critical member states? Two treaties, the Treaty establishing a Constitution of Europe and the Treaty of Lisbon, signify the two latest attempts to make the EU "more democratic, more transparent and more efficient."¹¹⁴ The EU has gradually experienced a merge of functions, and is continuously seen as a holistic structure. This came about through streamlining and an expansion of the overarching structure, where many of the old branched have been merged together into a coherent body. How have these two treaties specifically contributed to the democratic discussion in Europe and why did the EU fail to ratify the Constitutional Treaty in 2004? The different European treaties continue to reshape the structure and purpose of the EU, just as criticisms about the changes of authority continue. The main criticism addresses the centralization of power and the decrease of national parliamentary power.¹¹⁵ Does this criticism derive from seeing democracy as inherently state-based, or is it the fear of a federalization? The

¹¹³ Motto of the European Union, between 2000-2009.

¹¹⁴ Janis A Emmanouilidis and Corina Stratulat, "Implementing Lisbon: Narrowing the Eu's Democratic Deficit," *EPC Policy Brief, Brussels*, European Policy Centre (2010): 1.

¹¹⁵ Andreas Follesdal and Simon Hix, "Why There Is a Democratic Deficit in the Eu: A Response to Majone and Moravcsik," *JCMS: Journal of Common Market Studies* 44, no. 3 (2006): 534.

balance seems to fluctuate between maintaining a close bond to national governments and developing its own purpose and structure.

This chapter considers whether, and how, the Treaty of Lisbon, is moving towards stronger representation for different groups of people, and thusly suggests a defense of the European project corresponding to a modern sense of association and political participation. A move towards a constitutional foundation cannot be explained solely through a contractual agreement, just as it cannot be defended on an electoral premise. What then drives it further, and how can we make sense of these two treaties based on this? To assess this, the Constitutional Treaty, a Treaty though never ratified, must be considered to understand the path the EU is setting out towards and what the states' responses are. I here demonstrate, more concretely, how the EU contributes to the pooled democracy, both popular and constitutional, supported by an under-arching understanding of the European identity. I also explore and how these two proposed treaties function as a catalyst for the sentiment of Europeanism. The lack of any traditional basis for the political cooperation has produced a high-resistance to the processes at play and needs a new venue for conflict resolution, or worse, apathy. The Constitutional Treaty was an attempt to push this cooperation further by encouraging a more formal constitution. But the delicate structure between the member states and the political center of the EU saw different on the question of a formal document uniting the members. When the Constitutional Treaty fell through, it opened up the discussion of how EU actions could be made more legitimate and to what extent a European citizenship and in a common vision of political truth was needed? Regardless of the failure of the Constitutional Treaty, the EU moves towards the acceptance deliberation and justification of power. Can legal acceptance really explain the submission to the EU for states, and would that be enough? I argue this is an important minimum legitimacy

requirement and an important starting point for the actors, but that a successful structure requires a civil social and popular support as well.

The Failed Constitution

The Constitutional Treaty, which can be considered a buildup to the “watered down version” of the Lisbon Treaty, was signed in 2004. However France and the Netherlands then rejected it through referenda.¹¹⁶ Why? There was a symbolic direction towards statehood using an anthem, and a motto: “Its administration favours the many instead of the few; this is why it is called a democracy,” and a more direct reference – namely the name of the Treaty. The suggestion of a *constitution* clearly suggested a more state-like or federal Europe, regardless of the actual structure of the system. The concept of a constitution for Europe pushed the states too far. The “institutional fact”¹¹⁷ of something looking and feeling like a constitution, was unlike any of the soft agreements between states earlier. I exaggerate the point of the constitution to demonstrate that sensibilities often determine the outcome of negotiations. Middelaar notes that “some of the members dreamed of a founding moment *a la* Philadelphia 1787.”¹¹⁸ Yet, when push comes to shove, Europe would continue with the “‘Monnet method’ of gradual integration,”¹¹⁹ rather than taking another large jump in terms of concept and agenda, keeping in mind this is the same year as the eastern enlargement. The mere feeling of a federalization and rapid change had an effect on the acceptance of EU regulation. The question is now: is the EU moving towards a structure of constitutionalism despite the failure for the 2004 Treaty?

¹¹⁶ Giorgio Maganza, "Lisbon Treaty: A Brief Outline, The," *Fordham International Law Journal* 31 (2007): 1603.

¹¹⁷ Luuk Van Middelaar, *The Passage to Europe*, 213.

¹¹⁸ *Ibid.*, 289.

¹¹⁹ Finn Laursen, *The Rise and Fall of the Eu's Constitutional Treaty*, vol. 5 (The Hague: Martinus Nijhoff Publishers, 2008), 2.

A Constitutional Foundation Without the Constitutional Treaty

Most people agree the difference between the two treaties is marginal,¹²⁰ further supporting the notion that the Constitutional Treaty was not ratified because of the constitutional aspirations. Setting the constitutional relationship in stone, created connotations Europeans were unaccustomed to. The Lisbon Treaty, the second attempt to re-structure and clarify the Union, had to appeal to the states not as a federalist concept, but as having a concrete constitution, since emphasis was put on unity and negotiations. That the actual differences are marginal suggests, in support of Somek's vision, that the member states were already in the process of accepting a constitutional basis, beyond the nation-state, although not tied to a specific signing or document.¹²¹

The differences might not have been drastic, but the sense and goal had changed, and this, arguably, had a positive effect on the state of democracy, as the Union more directly had to promote a multi-leveled democratic structure. Rather than accepting a federal structure, efforts were made to be deliberate and open for democratic venues at different levels of the political spectrum. To avoid the problem of political centralization and an empowered elite, the EU actively attempted to empower different sections of the Union, and not only the member states or move power upward. Yet, there are several reservations to the Lisbon approach of pooling sovereignty. The German Court decision is probably the most famous dissent to this modernized version of democracy. It was based on the traditional sense of electoral democracy and further bases its decision on individuals right to an equal vote, rejecting smaller countries' proportionally larger say. To review the effect of the Lisbon Treaty and the idea of transnational constitutionalism, a discussion on the criticism the treaty received from the German Federal Constitutional

¹²⁰ Finn Laursen, *The Rise and Fall of the Eu's Constitutional Treaty*, 26.

¹²¹ Alexander Somek, "Constitutionalism," 92.

Court decision in the ‘Lisbon Case’ is in order. Since the focus of this paper is on the democratic relationship between states, its citizens and the EU, the German Court decision provides a relevant criticism for our purposes.

German Federal Court: Dissenting a European Constitutional Right

The German Federal Constitutional Court found the Lisbon Treaty inconsistent with German Basic Law based on models of electoral democracy and constitutional identity.¹²² The disproportionate participation in the European parliament, giving smaller countries a disproportionately larger voice, was according to the Court, a violation against state sovereignty. Their rationale was based on electoral democracy as it connected free and equal participation secured in human dignity.¹²³ By not putting the individual at the center, the Union ignored the individual citizens rights to one man, one vote. The Court proposed a rejuvenation of state sovereignty, claiming that a communitarian level could not replace it. Hence, this was not an issue of removing the voices of the parliaments; rather, the issue was the disproportionate power each country received. Again, coming down to the question of how democracy can be safeguarded and what mechanism it is produced by. The Courts held the perspective of state sovereignty’s necessity, and rejected the treaty using a rationale similar to the Dutch and Netherlands referenda of the Constitutional Treaty – state nationality and constitutions came first.¹²⁴ In the case of the Lisbon Treaty, the idea of statehood is less of a priority and that the national states themselves hold more firmly on to the traditional sense of legitimacy and legal authority. In essence, the states believed in the idea that the member states themselves constituted the EU and held the ultimate power.

¹²² Frank Schorkopf, "European Union as an Association of Sovereign States: Karlsruhe's Ruling on the Treaty of Lisbon, The," *German Law Journal* 10 (2009): 1221.

¹²³ Ibid.

¹²⁴ Luuk Van Middelaar, *The Passage to Europe: How a Continent Became a Union*, 290.

The German Court argued that the parliament compromised the sovereignty of the people. This was the definition of sovereign states in the decision:

Sovereign statehood stands for a pacified space and the order provided within this space on the basis of individual freedom and collective self-determination. The state is neither myth nor an end in itself, but a historically grown, globally recognised form of organisation of a capable political community.¹²⁵

The Court discounts the Lisbon Treaty's claim to constitutional legitimacy, as it does not have and "constitutional identity."¹²⁶ Constitutionalism, in their eyes, belongs to states and requires a concrete contract – a written agreement of the supremacy of the states and their legal power. Siding for maintenance of democracy within the state, arguably invokes two ideas: protection of national politics and further involvement of national actors on the European level. This, quite directly, this moves away from the idea of disposal of state power. Yet, it speaks to the actual agreement that states entered in to through the signing of the Lisbon Treaty

The Goal of the Lisbon Treaty

The goal after the Constitutional Treaty was to find a middle ground where the EU could continue to function effectively while finding a stronger foothold democratically. Earlier discussions and agreement, notably the Laeken Declaration of 2001, the Declaration discussing the "Future of the European Union," called for a "deeper and wider debate."¹²⁷ In some sense, there was a move towards democracy in a traditional sense, giving more space to communication and interaction between citizens and the political powers, probably to give perceived legitimacy. Generally, the Lisbon retracted from the idea of the EU as a final destination for political power. The desired

¹²⁵ Lisbon Case, BVerfG, 2 BvE 2/08, from 30 June 2009, 224.

¹²⁶ Ibid., 291.

¹²⁷ Paul Craig, *The Lisbon Treaty: Law, Politics, and Treaty Reform*, Oxford: Oxford University Press, 2010, 2.

perception seems to be a tier shaped distribution of power where the people are at the bottom and the Union itself is at the top. As an emending treaty, is it supposed to be read in combination with the Maastricht Treaty, the Treaty of the European Union, and primarily re-structures the already set out path.¹²⁸ Focus is put on clarification.

While I argue that the democracy should actually be considered much more disperse and multifaceted, this straightforward shape seems to be the easiest way to justify democracy within the EU. Having an accessible understanding of the EU and its process is important for the support of the movement. This is arguably one of the major achievements with the Lisbon Treaty. The creation of a president, giving a face to the EU, is one way of making it more accessible.

Overall, and partially as a result of the failure of the Constitutional Treaty, the drafters of the Lisbon Treaty seemed to aimed for a clarification, simplification and appeasement of national states; a give and take between the states and the community. The goal was to give the perception of democratic legitimacy, through popular sovereignty.

¹²⁸ Giorgio Maganza, "Lisbon Treaty," 34.

Chapter Five

Mechanisms Enabling a European Political Community through the Lisbon Treaty

I have established that the legal foundation for the EU is firstly constitutional, like any liberal state democracy. But this is as far as the comparison between states' and the EU's democracy goes. Even though the Lisbon Treaty is arguably leaning towards a strengthening of popular sovereignty, legitimacy also comes from the normative structure articulated. However, the normative process of legitimizing democracy in the EU cannot only come from this popular support. Here, I consider the structural mechanisms along with the implications on the dispersed and open democracy outside of the states' realm.

Political theorists, like Moravcsik, to a large extent, define EU's democracy as state-based democracy, legitimized through the separation of powers and voting requirements.¹²⁹ While Moravcsik suggests that even indirect democratic mechanisms, such as checks and balances are enough to ensure transparent and responsive policymaking,¹³⁰ he does not fully make way for a new type of structure with distinct qualities and potential. A separation between democracy and state-based powers has the opportunity to strengthen civil participation and that could enhance the democracy's effectiveness. What we have earlier established can be summarized by Macdeo: "in designing and adopting popular constitutions, additional mechanisms are adopted to further improve the quality of collective deliberation: expert administrative agencies,

¹²⁹ Andrew Moravcsik, "Reassessing Legitimacy in the European Union," 605.

¹³⁰ *Ibid.*

politically arms-length commissions, and courts with the power to review.”¹³¹ Criticisms of the EU’s democratic deficit cannot solely found themselves upon the notion of an absent public participation, but to be effective, they must attack the constitutional background and foundation. Why? Very few within the population are active participants in the electoral process, and yet the ways people do arrange and associate themselves suggest a democratic shift within the EU. Modern democracy does not hinge on participation through the electoral process, but any medium for participation that contributes to the political community is valuable, and the definition of European democracy must include these developments. I will here assess the quality of these mechanisms established in the Lisbon Treaty of 2007.

Requirements of the EU Fostering a Strengthened Civic Democracy

The problem the EU’s democracy faces springs from the nationalistic idea of political identity. A system, that surpasses the nationalistic pothole, while maintaining a clear normative path towards a democratic and united community, can create a democracy that exceeds any traditional sense of democratic institution. In order to achieve this type of community the definition of democracy must include a consideration of the individual in a variety of associations. In other words, or ideally, a dispersed democracy encourages individuals to relate more deeply to a variety of questions, groups and identity, which would prevent inherent polarization of political issues. To establish this, two phenomena are required. The first is namely a strong, but flexible normative foundation that unites the communities. This structure has already been laid out in previous chapter. The second requirement is instruments that encourage a diversification of political participation. An individual should have the opportunity to engage with the political structure through a variety of venues. If successful, the civil society is

¹³¹ Andrew Moravcsik, "Reassessing Legitimacy in the European Union," 605.

strengthened and individuals will to a lesser extent feel tied down to one type of identity. In the creation of a more engaged political society, individuals will have a greater ability to choose their own way of associating and becoming engaged. Together these instruments prove the advantage of a diversification of democracy within EU. The diversification is not hindered by political polarization if supported by a legal, normative agreement. So, what are these mechanisms?

Mechanisms in the Lisbon Treaty Aiding an Intersectional Civil Society

The EU has been pressured to respond to a lack of democratic input from European civil society, but how effective are the mechanisms introduced by the Lisbon Treaty? And does this treaty respond to the ideas of flexibility of democratic input? Required is an assessment of the political tools from a deliberative and globalized democratic perspective. There are several layers to deliberative policymaking, counting inclusion of personal particular interest, minority groups and mobilization. Central is the idea of an individual's ability to belong to a multitude of interests and groups. In other words, one's identity cannot be tied to one particular faction. Once this has been established, the insurance of actual influence and political power of the individual must be assessed? Some of these mechanisms in the Lisbon Treaty that have been highlighted as democratizing agents are the European Citizens Initiative (ECI), the empowered European Parliament, and the Subsidiarity Principle.¹³²

These democratic movements should not be seen as primarily reactionary, but they should be from an institutionalized framework. This is not a shift but rather a steady progression of social integration. The advantage of a strengthened political structure in the EU would then be an emphasis on these voices.

¹³² Juan Antonio Mayoral, "Democratic Improvements in the European Union under the Lisbon Treaty: Institutional Changes Regarding Democratic Government in the EU," *European Union Democracy Observatory, Robert Schuman Centre for Advanced Studies, European University Institute*, (2011): 34.

Naturally, the transition for global interaction and contractual engagement between states began with states themselves. It would be a mistake to stop there, as the potential of similar movements goes beyond the current acceptance or rationality. Political movements, with individuals at the core, working outside of national borders has a democratic significance. Although I am considering mechanisms created by the EU, these are functions that begin to structurally acknowledge the need to address questions outside of the state, with an emphasis on individuals as regionalized citizens. These should be emphasized since, in the construction of a united identity, which although founded on a constitutional basis is separate from direct public influence, one of the main issues is the mistrust of the political and social movement as a whole. Individuals' initiatives as a mechanism of belonging come into play here. Crucial is the notion of action by individuals, as private citizens, not lobbies and special interest groups. The investment cannot come from financial incentives or be profit-based. And it is here the European Citizens Initiative becomes interesting.

European Citizens Initiative

The ECI gives individuals the right to request legislation to be put forward in the European Commission. This is a modern form of direct democracy, and an addition through the Lisbon Treaty. The requirement for a successful ECI is one million signatures by citizens from at least seven member states. The petition also has to be within the scope of the EU legislative area. It should be seen as an “agenda-setting and policy-shaping instrument,” since it is not legally binding.¹³³ But in essence, the initiative creates a new platform for democratic participation, as individuals. The requirement of having seven states represented emerged as a protection against special interest

¹³³ Pawel Glogowski and Andreas Maurer, "The European Citizens Initiative—Chances, Constraints and Limits," *Political Science Series*, no. 134, (2013): 9.

corporations or groups, and stresses the idea of individuals coming together around one issue. By having multiple states represented the EU is not only discouraging special interest groups, but also nationalistic or regional leanings. What kind of participation are we seeing here? The actual variety of topics brought up through the ECI suggests that now there can be a widening of the political sphere of influence. Issues brought up vary greatly, and do not follow the generally discussed political areas. The ECI called Right2Water demanded free clean water, and another demanded better youth exchange programs, while a third proposed a ban on the use of human embryos in research.¹³⁴

One limitation is that a successful ECI can only make recommendations, and not impose obligations. While this is a restriction to the ECI, this limitation can be defended through the argument that this is a mechanism meant to increase the variety of discussions and not act in a restricting way. Still, this restriction became very significant in the ECI that opposes the Transatlantic Trade and Investment Partnership (TTIP). The TTIP is an agreement between the US and the EU. During negotiations of this agreement, the ECI was initiated to oppose it. It received more than the necessary signatures, but did not qualify as an ECI. The Commission's response was: "your proposed citizens' initiative falls outside the framework of the Commission's powers to submit a proposal for a legal act of the Union."¹³⁵

The Subsidiarity Principle

The Subsidiarity Principle is often brought forward as EU's way of guaranteeing effective local governance, where decisions are made as close as possible to the citizen and constant checks verify that actions are justified when considering the capacities of

¹³⁴ Bruno Kaufmann, "The European Citizens' *Initiative Pocket Guide*," Brussel, (2012): 78.

¹³⁵ Pawel Glogowski and Andreas Maurer, "The European Citizens, 35.

national, regional or local levels.¹³⁶ The idea goes back to the principle of increased local control. The principle suggests that the most central and removed authority in a society should act when a lower level of government or institution cannot achieve a goal better or equally satisfactory. When something only concerns a local government is no reason for higher political authority to decide for that community.

This is not a new principle in any political society, but its reemphasis in the Lisbon Treaty highlights the EU's desire to accommodate and empower a variety of legislative approaches, again suggesting a dispersal of power, but an ordered one, with accountability maintained. The principle stems from the Catholic Church, and *subsidiarity*, which is the idea of aid or help.¹³⁷ The Catholic doctrine suggests individual needs must be fulfilled, and the state can oversee and intervene only when necessary. It was present in the founding treaty of the Union, which states that the "Community shall take action ... to the extent to which the objective referred to ... can be attained better at Community level than the level of the individual Member States."¹³⁸

An Empowered European Parliament

Through the empowerment of the Lisbon Treaty, the European Parliament is developing from "a mere consultative chamber into an important co-decision institution for most EU legislative and for the adaption of the EU budget."¹³⁹ The Commission is responsible to the Parliament, which now has a stronger say procedurally. Today the Parliament is on an equal footing with EU Council in most policy areas, and it is no longer a consultative chamber. The Lisbon Treaty empowers the Parliament by giving it

¹³⁶ *Treaty of Lisbon: Amending the Treaty on European Union and the Treaty Establishing the European Community* (2007). Art.9

¹³⁷ Christoph Henkel, "Allocation of Powers in the European Union: A Closer Look at the Principle of Subsidiarity, The," *Berkeley Journal of International Law*. 20 (2002): 365.

¹³⁸ Treaty of Rome Establishing the European Economic Community, Mar. 25, 1957. Art. 130r(4).

¹³⁹ Juan Antonio Mayoral, "Democratic Improvements in the European Union under the Lisbon Treaty, 2.

power to monitor and control the Commission, to elect the President of the Commission, and to co-decide expenditures in the budget.¹⁴⁰

According to Hix and Høyland, the Parliament has “evolved from the toothless Assembly of the European Coal and Steel Community.”¹⁴¹ The most common argument for the democratic deficit within the EU leans on the understanding that people do not have a direct connection to the legislatures. A supported parliament is therefore a very straightforward way of demonstrating traditional political power between legislatures and people through the election by universal suffrage of all citizens of the EU. While this is not the primary way that the EU defends its structure democratically, this functions as an appeasement for people like Miller who argues that any mechanism contravening majority rule is undemocratic.¹⁴²

The Desired Type of Political Participation

“You can set the agenda!”¹⁴³ promises the European Commission with regards to the ECI. While the EU displays and officially encourages a European civil society, much of the actual political power still remains behind the opaque doors of the European Council. After the discussion of what democracy in EU could lead to and the effect it could have on the European people’s view of their own role and political engagement, what is the actual status of these movements, and do they have a political backbone?

Are the mechanisms limiting the framework of the political participation, since the EU introduces them, or are they incorporating interests outside of the structure itself? Meaning that, if the EU is the introducer or initiator of all political activity, then will everything not come back to the EU? The exchange between the social and the

¹⁴⁰ Ibid., 3.

¹⁴¹ Simon Hix and Bjørn Høyland, "Empowerment of the European Parliament," *Annual Review of Political Science* 16 (2013): 172.

¹⁴² Joshua Louis Miller, "A New 'Democratic Life' for the European Union? Administrative Lawmaking, Democratic Legitimacy, and the Lisbon Treaty," *Contemporary Politics* 17, no. 3 (2011): 32.

¹⁴³ Bruno Kaufmann, "The European Citizens' Initiative Pocket Guide," 10.

institutionalized in a modern democracy have here been emphasized, while keeping in mind distorted political power through corporate lobby groups and other less democratically inclined groups. If the EU manages to nourish and develop this overarching sense of oversight and community, while giving space to smaller communities, its presence would only encourage politicization on a variety of levels.

What these mechanisms show is that the EU is actively addressing the question of democratic legitimacy, through the Lisbon Treaty. However, there are other, more inherently structural qualities of the EU that speak to this dispersed sense of democratic participation. Regardless of the actual empowerment of the parliament, the structural composition itself shows how the EU is encouraging a wider political consideration. The parliament is structured through political groups to some extent are structured on a left to right scale, and yet, the national parties do have to consider a wider range of political issues within those groups.¹⁴⁴ In other words, the coalition process looks different than in the national parliaments, and this supports deliberation through coalition formation and group line focus, which changes the behavior of the parties when compared to national parliaments.¹⁴⁵

Finally, there are several layers to consider when talking about democracy within the EU. On one level, the mere coordination on a transnational level suggests certain questions can be more effectively addressed. On another, the interaction between representatives suggests collaboration outside of the left-to-right discussions that take place. While there is a clear attempt to diversify the communication within the community, both institutionally and by supporting grassroots-movements and exchanges between people.

¹⁴⁴ Simon Hix and Bjørn Høyland, "Empowerment of the European Parliament," 178.

¹⁴⁵ *Ibid.*, 182.

Chapter Six

The Limits of Political Identity and the European Union: A Social Europe?

“Of course one can jump up and down yelling Europe! Europe! Europe! But it amounts to nothing and it means nothing”¹⁴⁶

A political community must care to live together, united, with the desire to better the community as a whole. What is the foundation for this whole? I have in this paper attempted to argue that, by creating national, ethnic and cultural divisions, political powers in Europe weaken the potential of a healthy democracy within the continent. In a system that is structured around its own diversity, the democratic institutions in place must support the principles of cooperation, mutual recognition and benefit. The institutions must speak to these democratic principles, to ensure legitimacy. But are said principles enough to unite the people as social beings and create a sense of togetherness? And how are people to accept these changes in democratic thought?

People associate in ways that surpass the political structure, which is why democracy itself cannot be sustained on principles of constitutionalism divorced from people’s everyday lives. The solution, in terms of political organization, incorporates and focuses on deliberative participation starting from the individual. When accepted as a trend the acceptance of democracy as transnational will follow. And further, an extended politicization of social engagement and belonging could support a common understanding of unity.

¹⁴⁶Julien Damon, "Charles De Gaulle (1890-1970)," *Informations Sociales* 129, no. 1 (2006).

Still, this is not an argument for a popular definition of democratic legitimacy. As a foundation, the EU must function beyond the states in terms of its political structure. By being weak, fluid and open it becomes more novel. By bringing democracy beyond its legal concept, the agreements by which they willingly abide, this more neutral and formal way of operating has proved itself essential to the modern ways of associating and communicating. The idea of formal cooperation, separated from any traditional forms of identifications brings together the Union politically, and strengthens the claim to democracy, but what does it actually do for the people who are supposed to interact within the political system? Is the mere interaction between people and the moral claim to co-operation enough to create inherent connections between individuals and societies? It seems absurd to think that people depend on the legal structure to define their relationships to each other. At the same time, the argument for democracy in the EU depends on the distinction between a democratic and a social foundation. What remains is the question of where that leaves the European political identity and a consideration of the social understandings tied to the EU. What principle of identity does the EU fall under, beyond democracy? In other words, how are citizens supposed to identify within the structure? Because of the democratic principles of the EU and the abandonment of traditional ways of associating, it is difficult to give the EU a final social structure or social identity. In this way, adaptability and inclusion is also a constraint.

Strong Democratic Criteria, a Consequence of the Extended Participatory Requirements

Since this idea of democracy within the EU depends on active civil participation with individuals acting in their capacity as individuals, a normative democratic understanding of participation becomes central. Requiring member-states to have an extremely strong level of civil participation is one of the most important ways to assess compatibility within the EU. This is also the way to demonstrate democratic legitimacy

more concretely. By allowing individuals and citizens to engage and communicate in a wider political context, we will grow accustomed to the idea that we have political interest beyond the borders. This formulation of democracy requires no formal foundation or abstract explanation. Rather, it is based on the idea that by giving the ability to communicate and widen the platform people will realize the benefits that follow. The provision of a vibrant civil society is not a strong uniting force, but by encouraging a variety of ways to identify and act, is a powerful mechanism. The common understanding of democratic association is therefore both a requirement for members and a uniting force amongst them. It is therefore the lack of democratic institutions, and an active civil society, that justifies an exclusion from the EU and not the adherence to a specific religion, ethnic groups, culture, or nationality. As the EU expanded, it came to signify more diversity, and became simultaneously more focused on the democratic and human rights foundational aspect, using this as uniting principle. The accession of Romania and Bulgaria in 2007 to the EU resulted in criticisms and hesitation from the founding countries. The EU could no longer be equated with a homogenous West, and began to become more conscious of its own fluidity. This brings us to Turkey's application for membership in the EU. The EU is now faced with a potential member-state that demands serious reconsideration of the foundation and identity of the EU. Turkey puts the EU to the test and potentially may require the EU to become a new political structure. The idea of Turkish membership to the EU needs to be evaluated from a compatibility standpoint in terms of democratic values.

Limits to the EU: Not a Global Democracy?

The identification of the EU is therefore a choice politically and democratically, and democratic compatibility ought to be the measuring stick used for potential members. Anything else would only put the EU in the same position as traditional states. But what

this seems to lead to, is a social issue where people do not have the social connection necessary to carry the EU as a political institution. The historian Timothy Snyder argues that the EU needs a conception of itself to become more stable.¹⁴⁷ The Lisbon Treaty makes it possible for the EU to define itself, politically. This conception is arguably based on a constitution, using legal norms, which allows for a more open and flexible political structure that moves away from traditional ways of associating. The EU then experiences drastic structural and geographical changes as this self-realization comes into effect. Entrance into the EU is based on political, economic and administrative standards, which suggests no geographical or socio-religious exclusions.¹⁴⁸ The democratic criterion does not define the identity that member-states are supposed to have. In identifying oneself as a democratic movement, the principle upon which members and individuals can unite under, the EU can both strengthen itself as it considers its own limits. It will be more difficult to see a social identity coming out of this. What is the problem with this potential lack of social conception?

Europe East of The Union – the Case of Turkey

Currently, all eyes are on Turkey, the largest potential new member. If the EU really is a movement based on cooperation and not social-cultural ways of identification, Turkey deserves a serious evaluation as a potential member-state based on its democratic structure and political climate. Whether or not Turkey should be part of the EU is outside the scope for this paper and argument. Reinforced, however, is the notion that Turkey must be evaluated only on the basis of democratic principles and potential. Historical antagonism between the Ottoman Empire and Europe is still, in many people's eyes,

¹⁴⁷ Peter Andreas and Timothy Snyder, *The Wall around the West: State Borders and Immigration Controls in North America and Europe* (Oxford: Rowman & Littlefield, 2000).

¹⁴⁸ "Conditions for Membership," *European Commission*.

coloring the conversation of Turkey's membership, "Turkey is Europe's Other."¹⁴⁹ In many ways this goes back to the Enlargement of 2004, but is, by nature of size and religious and cultural difference, an even grander potential move. Bahar Rumelili looks at EU-Turkey relations from an identity perspective and suggests that, currently, the two identities are not compatible, and contain a sense of otherness, but that there are many reasons to believe these identities can and should be reshaped, allowing Turkey to enter.¹⁵⁰ The obvious point of tension point between the EU and Turkey is religious: Christianity versus Islam. While the EU has branded itself as a neutral entity, in terms of religion, historically it is white and Christian. How Turkey is therefore considered is important when thinking about the foundation for the EU. The EU must base its decision about Turkey purely on its compatibility democratically. Rumelili bases this on a constructivist view of identity, arguing that identity is elastic, and cannot be completely "divorced from objectified traits, such as race, ethnicity, religion, history, culture or political systems".¹⁵¹ I, on the other hand, argue that EU identity must be primarily dependent on the formal democracy, as a normative and constitutional structure. This however does not mean that religious or cultural differences cannot be represented within it or that the EU does not need a coherent vision of itself. Historically, European identity has changed a great deal, and arguably, some of this happened after the transnational institutions were in process.

Rumelili continues with the understanding that identity cannot be "divorced from interests."¹⁵² But, this realist perceptive cannot explain the EU, which can hardly support itself on the premise that it will always be beneficial. As explained earlier, there must be

¹⁴⁹ Bahar Rumelili, "Negotiating Europe: Eu-Turkey Relations from an Identity Perspective," *Insight Turkey* 10, no. 1 (2008): 97.

¹⁵⁰ Bahar Rumelili, "Negotiating Europe, 100.

¹⁵¹ *Ibid.*, 99.

¹⁵² *Ibid.*, 98.

something deeper and more foundational tying the states together than just economic profitability. While it cannot be a traditional social identity, there must be something tying the structure together more profoundly than just profitability. Middelaar extrapolates from this point when he notes that beside the painful experience of the Euro crisis, few see the Union as a complete failure.¹⁵³ The EU cannot be expected to save its members and citizens from every potential problem. He continues: “no project, no treaty can anticipate the creativity of history, let alone prepare an adequate response”¹⁵⁴

The Deception of National Identity as a Political Tool

Groups and otherness within society have continued to change focus. Despite cultural differences, the divisions between segments of people are arguably smaller than they were a few centuries ago, thanks to communal areas, the Internet and popular culture. The cataclysmic differences are only seen as insurmountable because of short memory. Political differences have diminished within the EU, and it has therefore become natural to depend on and emphasize cultural and ethnical ones. Nationalism is now the driving force for cultural and political identifications within Europe. Yet, right-leaning parties continue to depend on the strong nation supported by nationalism as a way of identification. Members of the immigrant-critical party in Sweden, the Swedish Democrats, argue that people cannot have two forms of identity at the same time. The process of assimilation to a new state is possible, but must diminish the sense of belonging to another state.

Clearly, nationalism cannot support a union of ideologies; at the same time it is playing a central role in the EU itself. The solution seems to be a de-politicization of national identity. Undoing nationalism is an impossible task for the near future, but

¹⁵³ Luuk Van Middelaar, *The Passage to Europe: How a Continent Became a Union*, x.

¹⁵⁴ *Ibid.*, xii.

distinguishing nationalism from the political system is possible. The EU could not replace this type of social belonging, for its unifying principle is formal and legal. Maintaining nationalism, along with other geographically distinctive elements such as cultural, personal ways of identifying would be a solution. These identification methods are not problematic in themselves; it is when they take over political structures and limit any broader scope of understanding an identifying. Political issues must be framed from more than that first level of consideration.

Fluidity of the European Structure

America connected its identity to the individual “pursuit of happiness,” its relationship between people and government is clarified through federalism. Where the EU is placing this social identity is up for grabs, as concepts are still ambiguous, especially since the European countries have nourished their nationalism for centuries. This could be seen a weak form of political or democratic identity, for while there is a notion of what is European it is not clear what actually goes in to that definition. However, this is the strength of the EU project, and the way it can distinguish itself from states and move beyond states’ ability to act democratically. By not being exclusionary, or have final borders, it is ambiguous enough to develop with social changes. At the same time, it is strong enough to encourage change and to promote further integration. As the EU continues to expand and develop, people are reforming and creating new understanding of themselves and the EU as an institution. With every step, notably the Enlargement of 2004, skepticism turned in to comfort. Today, few would question Poland’s role in the EU. The mechanisms discussed earlier symbolize this ability of the EU to be a socially driving and identity-creating institution.

Democratic Inclusion and Limits Social Identity

The correlation between democratic and social limits becomes a paradox of creating a united and inclusive identity outside the realms of nationalism and other exclusionary systems. There is a discrepancy between those who democratically, or structurally, belong within the EU and those who are assumed to have a natural connection to the European Union. The foundation for a European political community ought to be purely normative supported through a political identity acceptant of regionality and other diverse identities. While a normative foundation, can also be exclusive and isolating, this limitation and regulation takes place in a more principled and reasonable way. While the EU's weakness makes it inclusionary, there are still limits to or ability to identify with others politically. Questioning membership and belonging to the EU will always be an issue, this relates to Turkey's pending membership as well.

Every society needs to have an understanding of its own limits, in terms of agenda and idea. So what are the limits of the EU and how should the EU citizens identify themselves? National, regional or cultural distinctions do not fit the description of the European Union, and can therefore not bear the full weight of the European Union unity. It is especially difficult to create an identity around a continually shifting element. The consequence seems to be a legal and formal definition of EU citizenship, a definition that cannot encompass the whole of the European identity. This viewpoint requires us to explore why it is important to have a clear legal foundation, but also why this definition does not have to encompass the whole of European sentiment.¹⁵⁵

¹⁵⁵ *Treaty of Lisbon: Amending the Treaty on European Union and the Treaty Establishing the European Community* (2007). Art.9

What is the European Common Identity

Even if democracy in the EU ought to be removed from the type of identity that nations are founded upon, can we create an inherent connection or reason for a European community? Are there are inherent links between the EU states and its citizens? The answer seems obvious. Yes, Europe is connected through history and culture. But, these are the kinds of foundations the EU cannot base its common identity on since that would only create a new super-state. At the same time, the identity and acceptance of association cannot be purely contractual and based on the benefits of being in said contract, assuming a country meets the normative foundation. As the EU is expanding its borders to include countries that do not share the same culture and history, as most of the original members did, a crystallization of this connection is becoming more and more essential for the success of the EU. Although this is not a very satisfactory answer to the issues of a common identity and its foundation, I argue that for the EU to make a claim towards a democratic society, their foundation must be normative and weak. Weak in that it does not depend on a traditional unity, but that it is fluid in its democracy. It cannot be an empirical cost-benefit analysis, but if we attempt to define the EU initiative through much more than a principle of democracy and cooperation, the EU project is in itself lost.

The idea of the EU itself rests on stability and association for peace between the European countries, a relationship that runs much deeper than financial benefit. This position assumes some form of common identity, but not a cultural or social one. The problem with a normative foundation is the vagueness that comes with it. Little, in actuality, is tied to the current system of EU citizenship if this cultural unity is not

invoked.¹⁵⁶ People's connection between their history and identification with distinctive groups is multifaceted and an important aspect of their social lives, and should not have to be removed. It can, however, be separated from democracy and political institutions. While the identification with one's political system is necessary, a divorce from democracy and socio-cultural identity, allows a more diversified discussion with people who are not required to be similar each other. The enlargements have made this further necessary by showing that the EU could not pretend to be inclusive while still resting on the underlying assumption of heterogeneity.

Philosopher Ernest Renan's definition of a nation as "a spiritual principle" which possesses the "desire to live together"¹⁵⁷ comes from the understanding of a rich legacy that through communal memory formation captures the sentiments when thinking of one's nation. Does it however not provide a further legal connection for a nation state? In other words, does thinking that the state is the primary socio-cultural form of identity lead to a legal argument for national democracy? I say no. An isolated historical narrative is not enough to sustain an isolated politics. This is not to say, there is anything negative with these historic or social connections. They are just not enough for a full-blown legal foundation for a political community. Social and cultural difference can therefore not provide a reason to exclude any within this type of community.

What I have found is an identity in flux. Not whimsical and volatile, but at its best, multifaceted. If individuals have the ability to identify with political and social changes through kaleidoscopic vision, meaning that association can develop later or sway depending on what they consider. While we might understand the EU and Europe to have a particular personality, it is not set in stone. There is a unified history among the

¹⁵⁶ Mark P Gaige, "Citizen: Past Practices, Prospective Patterns," *The Future of Citizenship* Cambridge MA: MIT Press, (2008): 135.

¹⁵⁷ Ernest Renan, "What Is a Nation?," *Nation and Narration* 11(1990): 12.

European countries, a violent and hostile one for the most part, and still anything besides cooperation would be unthinkable. This change has not come about only through an inherent connection between these states, but through hard work and an institutionalization of cooperation and interdependence. The weakness coming out of this means that it can continue to develop, but it also means that there is a possible common understanding of what is desired.

Conclusion

The EU should be seen as a consequence of states' inability to answer to the democratic needs of today and as the potential to expand our own senses of belonging. While we cannot speak of a final version of the EU, it is easy to see a trend of cooperation and an acknowledgment of codependence between countries and people. This paper has considered democracy and its ability to provide venues and pathways within a constitutional framework. The foundation for democracy is more generally accepted to be constitutional and is, for the EU, developed as a result of the need to identify an inclusive framework. While there might be a discrepancy between people's common understanding and the actual functionality, a popular acceptance of the EU as a political mechanism is in itself important for democratic society. The definition of democracy, as a legal and constitutional acceptance of the rules, is not dependent on a united people's voicing one coherent position. However, Europeans reshaping how they use and consider their role, with regards to the democratic society, could further enhance and support supranational democracy. The Union has not come about through natural belonging, but an attempt to stabilize through transnational institutions and then democratize and people and their relations.

The EU has radically changed in both shape and view of its role. Through the Lisbon Treaty, the Union took the largest step towards integrating itself as a democratic tool. It follows in the footsteps of a more interconnected society and could therefore be seen as a forbearer of a new democratic system with greater sensitivity to the citizen as an individual. Mechanisms like the ECI and the Subsidiarity Principle are primary examples

of these trends. Still, however positive and inclusive these changes may be, we must still look with caution at the complete dispersal of the institutional and democratic structures. Questions of effectiveness, in relations to these tools, need to be assessed further. The EU is still in the beginning stages of its own development. Still, it symbolizes the first step towards a democratic society that does not depend upon inherently exclusionary principles.

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