The Missing Link in EU Democracy?

Why a Transnational Public Sphere Matters

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Abstract:

The European Union's perceived democratic deficit has various sources, but it is to a large extent the outcome of unresolved disputes about the locus of democratic rule in EU decision making. As decision making moves to supranational (and transnational) arenas, intergovernmentalists maintain that democratic legitimacy, and therefore also democratic procedures, should remain rooted in the nation state. Without settling normative questions as to whether a reconstitution of democracy beyond the nation state is desirable, answers to questions about the democratic quality of EU decision making will remain conceptually blurry and thus inconclusive. While these issues blur paths to a democratic reform of the EU's institutional architecture, they also impair the prospect for a fundamental infra-structural requirement for European-level democracy, namely a lively European public sphere that can serve as a counterweight to institutional decision making at the EU level. The literature on the European public sphere suggests that a European public sphere can be conceptualized as a transnational communicative network in the existing national mass media. Drawing on empirical material from debates on EU constitution making in Swedish and German daily newspapers, this article not only shows that newspapers already play an active role in framing EU politics, but furthermore suggests that deliberation on EU politics already follows transnational patterns. While deliberation is seen by some to hinge on the prior existence of normatively integrated communities, our analysis suggests that trans-national communities with a preference for intergovernmental and supranational integration, respectively, are already well established.

Introduction[1]

The literature on the democratic deficit in the European Union has produced blurry, and in part contradictory, conclusions. While some argue that the EU democratic deficit is a myth (Moravcsik 2008), others trace it back to a more fundamental "community deficit", claiming that the "level and scope of integration" has gone far beyond the communitarian resources available to the Union (Etzioni 2007). Similarly, the very possibility of European democracy has been questioned by reference to the "no demos thesis", i.e. the assertion that popular sovereignty cannot be exercised at the European level for the lack of a European popular sovereign – a European demos (Kielmansegg 1996; *cf.* Grimm 2005)[2]. Yet while an appeal to notions of a cultural community of Europeans, founded on

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1   This article is an elaborated version of a presentation given at the "Europe Dialogues" of the Institute of International Affairs and Centre for Small State Studies at the University of Iceland in September 2010. The author would like to thank two anonymous reviewers for their valuable comments.

2   The "no demos thesis" stems primarily from the field of constitutional law. Famously, Dieter Grimm has argued that due to the absence of a single European demos, the EU cannot give itself a democratic constitution beyond the form of a mere intergovernmental treaty (Grimm 1995; cf. Weiler 2005).

shared norms and values, has been presented as one possible source of legitimacy in the EU (*cf.* Eriksen & Fossum 2004), a third camp argues that the EU democratic deficit can be fixed by establishing democratic procedures beyond the nation state. For postnational scholars in the Habermasian tradition, a "full-fledged political citizenship" is the key not only to democratizing EU decision making, but also to reconstituting democracy in Europe in broader terms (*cf.* Eriksen & Fossum 2007; Habermas 1998).

This article advances the claim that we cannot answer questions about the nature of the democratic deficit without settling fundamental normative questions about the *locus* of democratic rule in EU decision making. Where democracy ought to be exercised – whether only at the national level (and below) or also beyond the nation state – is the most fundamental criterion for defining whether anything is democratically deficient about the way decisions are made in the institutions of the European Union. A second point to be made concerns the role of the public sphere in democratic politics. To a large extent, the EU democratic deficit is a public sphere deficit, i.e. it is a democratic deficit *to the extent* that a transnational communicative network in which public opinion and will can form at the European level is lacking. This is a crucial point because for deliberative scholars, the public sphere plays a key role in producing communicative power to be used as a control mechanism vis-à-vis the administrative power held by the institutions of the political system (Habermas 1992). If communicative power is to be used as a counterweight also to *European-level* decision making, it is not sufficient for public opinion to crystallize in the various member states' public spheres. If public opinion and will formation remain in the arenas of the nation state, then the communicative power they produce can only be directed towards each national government negotiating in the Council of Ministers and, to a lesser extent, to the individual national parliaments.[3] Consequently, little or no effect will be produced on the supranational institutions. It is in this sense that the European public sphere deficit – beyond fundamental questions on the locus of democratic rule in the EU – is the missing link in EU democracy.

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3   In some cases, national parliaments and/or national parliaments' European affairs committees play a very powerful role in relation to their respective national governments positions on European policy. The Danish *folketing* is probably the clearest expression of this. Here, the "legendary" European affairs committee has the power to mandate the negotiating position of Danish ministers in the Council (Kassim 2005: 300). Also the European Affairs Committee of the Swedish *riksdag* plays a powerful, albeit formally consultative, role. The Swedish Parliament's *"EU-nämnd"* is modelled after its Danish counterpart and has to be consulted on every decision to be taken in the Council of Ministers. In practice, it thereby issues the mandate for the Swedish government's position in Council negotiations (for a detailed analysis of the Swedish Parliament's treatment of EU questions, see Hegeland 2006).

In this article, this argument is explored in four steps. First, the democratic deficit is discussed from an institutional perspective, focusing on the need for explicit normative statements on the locus of democracy as a fundamental precondition for democratic institutional reform. Second, the article discusses the relevance of the presumed public   sphere deficit in theoretical terms. Third, the article turns to the question of whether and to what extent we can speak of a European public sphere, how and where such a European public sphere can be seen to constitute itself, and finally also what challenges the European public sphere still faces. Fourth, the question of the viability of a European public sphere is discussed empirically. Based on the findings of a frame analysis of newspaper debates on EU constitution making in Sweden and Germany[4], the article concludes by illustrating that while a thick sense of collective identity is no precondition for transnational debate, transnationally integrated communities on the question of supranantional versus intergovernmental integration are already observable.

An Institutional Democratic Deficit

The democratic deficit is not a problem of the European Union alone, but the European Union is arguably the international organization in which fundamental challenges involving the very nature of democracy become most apparent. As decision making continues to move to supranational and transnational arenas, fundamental normative questions regarding the implications of such developments have remained unanswered. The reason that there is a tendency to see the democratic deficiencies of the EU political system is less a matter of institutional design (although there may very well be an institutional component to the democratic deficit, as we will see shortly) than of contemporary democratic theory. The source of the democratic deficit is often identified as the absence of a European demos, i.e. a collective of European citizens that can be seen as the political subject of European-level democracy. But while some conclude that the issue to be tackled is the "arrested case of demos construction" (Warleigh 2003), more sophisticated accounts claim that the question to be answered is not whether and how to construct an overarching European demos, but rather how to arrive at a new and more complex understanding of democracy. This new understanding of democracy urges democratic theory to take into account that as decision making moves beyond the nation state, the political subject of democracy also has to be "rethought": democracy in itself has to become a more complex idea – it has to become the rule of the peoples in the plural. The challenge of the currently ongoing transition of democracy is therefore "fundamentally a transition from a singular to a plural subject, from dêmos to dêmoi" (Bohman 2007: 21).

4   The empirical analysis in the last section draws in large part on the findings of my doctoral dissertation (Conrad 2009).

Notwithstanding the specificity of the current transformation of democracy, certain parallels to the debates on the possibility of mass democracy in the United States of the 1920s are striking. In his debates with the journalist Walter Lippmann, the American pragmatist philosopher John Dewey argued already in 1927 that "the prime difficulty […] is that of discovering the means by which a scattered, mobile and manifold public may so recognize itself as to define and express its interests" (Dewey 1927: 148). It can be argued that Dewey was in fact considering the question of "demos construction", and the question of how a "manifold public" in the European Union may recognize itself as a body of European citizens is at the core of debates on the democratic deficit. At the same time, in our attempts to define the European demos or demoi, we cannot bracket more fundamental questions about the *locus* of democratic rule in the European Union. As James Bohman points out, there is a tendency to think that new forms of democracy "may sometimes seem like *less* democracy" (Bohman 2007: 21). The problem of the democratic deficit is an issue of demos construction in the sense that "democracy must now not only change its institutional form, it must also rethink its political subject" (*ibid.*).

The EU Political System: A Complex Compromise

Despite such academic debates on the possibility of democracy beyond the nation state (*cf.* Sjövik 2004), much of the debate on the EU's democratic deficit is closely connected to the union's institutional architecture. The complexity of the EU's institutional architecture can be seen as democratically cumbersome, since the union's decision-making processes and procedures are difficult for the average citizen to understand. This is also a point related to the transparency of EU decision making. Accountability is a problematic issue in the sense that it can be difficult to "pinpoint which actors contributed to each decision or what that contribution actually was" (Warleigh 2003: 8). If citizens do not understand the decision-making process, it is reasonable to question how effectively they can participate in the process. This problem is first and foremost of a home-made nature. The EU's institutional architecture has to be understood as the result of a series of complex compromises between currently twenty-seven sovereign nation states with partly competing and mutually contradictory agendas as to how power is to be distributed, not only between the member states but also between the union's institutions. As a footnote to this, we might add that the European institutions themselves are also actors within European integration, promoting their own agendas and institutional interests. Most fundamentally, the EU's institutional architecture is a compromise between supranational and inter-governmental forces, and this conflict between supranationalism and intergovern-mentalism has characterized European integration from the outset.

In the late 1950s and 1960s, the first EEC Commission President, Walter Hallstein from Germany and the French President, Charles de Gaulle, could be

seen as embodiments of the two sides in this conflict. While Hallstein argued for strong supranational institutions and the need for economic integration, de Gaulle's role in European integration was marked primarily by his idea of an "Europe des patries" and, more dramatically, the empty-chair crisis and the Luxembourg compromise.[5] Historically speaking, member states have chosen to approach European integration in very different ways, some promoting what we would refer to today as a deepening of European integration, while others have traditionally opted for a more conservative approach, trying to keep the developing organization as intergovernmental as possible. Germany, Belgium and Luxembourg are examples of countries with a relatively consistent supranational perspective in their European policies. The United Kingdom, Denmark and to some extent also Sweden, on the other hand, have since their respective accessions to the European Economic Community and the European Union strived to maintain the intergovernmental aspect. This is underlined not least by the United Kingdom's rejection of two Commission President-designates deemed to be overly supranational in orientation.[6] Also the reactions to the German foreign minister Joschka Fischer's call for a "completion of European integration" in May 2000 very clearly underlined the preference for "widening" rather than "deepening" in some of the more intergovernmentally oriented member states (Conrad 2009). Seen in this light, it is not difficult to understand why the institutional solutions that have been found to reconcile such diverging interests have been so complex.

The Democratic Deficit: An Institutional Fix?

The perception of a democratic deficit can be understood, at least in part, as an outcome of the complexities of the EU's institutional architecture. But if the

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5   Following a dispute on the planned abolition of unanimity voting on agricultural issues in the Council of Ministers, the French government decided to boycott Council meetings, virtually paralyzing European integration. A solution was found in the form of what has become known as the Luxembourg compromise, i.e. the decision that decisions in the Council of Ministers should be taken unanimously if an issue were of vital national interest to one of the member states. Since this compromise in practice means maintaining a national veto in Council decisions, the Luxembourg compromise is seen as testimony to the intergovernmental turn in European integration in the 1960s (*cf*. Dinan 2010: chap. 2).

6   This was the fate of both Guy Verhofstadt and Jean-Luc Dehaene. Verhofstadt was considered the favorite to succeed Romano Prodi as Commission President in 2004. As Dinan illustrates, Verhofstadt's close ties to the French President, Jacques Chirac, and the German Chancellor, Gerhard Schröder, made him a more or less unacceptable candidate for the UK and Italy. In the end, Verhofstadt withdrew from the race, and the European Council finally chose the current Commission President, Jose Manuel Barroso (cf. Dinan 2010: 174). Earlier, the United Kingdom's Prime Minister, John Major, used his veto against the proposed Commission President, Jean-Luc Dehaene, after which Jacques Santer was chosen as Commission President in 1995.

democratic deficit is an institutional problem, can institutional reform contribute to alleviating it? There is reason for skepticism. It would be a fairly simple exercise to use an intergovernmentalist or supranationalist blueprint for deriving institutional solutions to the democratic deficit. But without answering fundamental normative questions on the locus (or loci) of democratic rule in the multi-level EU polity, it is questionable whether such reforms would be able to achieve their goal. First, the union needs clarity on precisely how much sovereignty the member states are willing to "pool" at the supranational level, to use the liberal intergovernmentalist jargon. How strong do the member states want the Union level to be, and how far will they allow democratic procedures to move to the supranational level alongside the decisions taken in the supranational institutions? Consequently, the union also needs clarity on the role that member state institutions would play in such a quasi-federal arrangement in which competences are clearly defined between the union, national and subnational levels.

Supranationalists – and postnationalists, for that matter – also want democratic procedures to be institutionalized at the supranational level, but only in addition to democratic procedures at the national and subnational levels. In his famous speech on the "finality" of European integration at Humboldt University in Berlin in May 2000, Joschka Fischer (speaking as a "private man" while being the foreign minister of the Federal Republic of Germany at the time) argued vigorously for a reform of the European institutions along federal lines. Fischer urged a full parliamentarization of the EU and the creation of a European federal government with true legislative and executive powers. Along the same lines, Fischer proposed that the Council of Ministers be transformed into a second chamber of parliament very much in line with the German federal council (i.e. the "Bundesrat"). In such a bicameral arrangement, the European Parliament would serve as the representation of the European citizenry, while the Council of Ministers would serve as the representation of the member states.[7]

Genuine intergovernmentalists, on the other hand, prefer democracy to remain within the nation state, with as little sovereignty as possible being "pooled" at the supranational level. Obviously, most intergovernmentalists do want some measure of supranationalism; otherwise the very idea of "pooling sovereignty" would make little sense. As Eriksen and Fossum have pointed out, the legitimacy of the EU, viewed as an intergovernmental organization, stems from its capacity for effective problem solving. As long as the supranational institutions facilitate problem solving on behalf of the member states, the legitimacy of pooling sovereignty at the supranational level is assured. If the organization fails to demonstrate its greater problem-solving capacity compared with that of alternative arrangements (such as, e.g., a free-trade area without

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[7]   Joschka Fischer, "Vom Staatenverbund zur Föderation – Gedanken über die Finalität der europäischen Integration"

further political commitments), its legitimacy would be called into question because it would no longer serve its purpose (*cf*. Eriksen & Fossum 2004: 437). For die-hard Euroskeptics of the kind of the Czech President Vaclav Havel, the idea of supranational integration as a necessary means to achieve otherwise intergovernmental goals are questionable to begin with, but such die-hard Euroskeptics are relatively exceptional in their calls to replace the European institutions with an entirely intergovernmental "Organization of European States". Yet for many (if not most) intergovernmentalists, the nation state is to be seen as a sort of natural home of democracy. Legitimacy therefore does not stem – and ought not to stem – from democratic procedures at the European level, leading to a situation where the union can draw on the democratic processes and procedures that are already institutionalized at the national level. Since member states' governments are directly elected at the national level, have a mandate for making decisions on behalf of their respective electorates and are the most important and powerful decision makers at the European level, there is no need for further democratic legitimation at any level *beyond* that of the nation state (Moravcsik 2007: 334f.).

Yet not all intergovernmentalists agree that everything is as fine with European democracy as Moravcisk suggests. Even in one of the countries thought to be most pro-European, namely Germany, the leading conservative newspaper expresses the view that European integration has already moved too far in the direction of institutionalizing democracy at the supranational level. For Klaus-Dieter Frankenberger, an editorialist at the *Frankfurter Allgemeine Zeitung*, "democratic legitimacy still resides in the member states' parliaments. They are the place where the peoples exercise their sovereignty" (quoted in Conrad 2009: 111). Along the same lines, Frankenberger's colleague Günther Nonnenmacher argues that since the EU is not a state, it "is not subjected to the same legitimatory principles that a national political system is. […] One thing is clear: a full parliamentarization would be far from solving the democratic deficit" (*ibid*.).

Broadly speaking, intergovernmentalists want democracy to remain within the nation state. The European Parliament is mainly thought of as a form of make-believe parliament that neither performs the role(s) of a genuine parliament nor has, at least in terms of constitutional law, any European demos to represent in the first place. Portrayals of the European Parliament as a "travelling circus" can be understood as expressions of this intergovernmental skepticism against a strong supranational parliament. In the intergovernmental perspective, a strengthening of the European Parliament cannot be considered as a sensible strategy for fixing, or at least reducing, the democratic deficit since the European Parliament cannot be seen as the directly elected assembly of the people(s) of Europe. Instead, intergovernmentalism urges a stronger involvement of national parliaments, an indication of which we see, for instance, in the introduction of the orange card procedure in the Lisbon Treaty (Kurpas 2007). This is in turn a development brought about not least by the Dutch referendum on the Constitutional Treaty in 2005, where public opinion was skeptical, based in part on the perception that the

treaty was a threat to Dutch sovereignty. Increased transparency in the Council of Ministers, e.g. through better access to Council documents, could also be on the intergovernmentalist's wishlist. But since intergovernmentalists see European integration as situated squarely within the realm of international politics, the process should be based on "delegated democracy" (Eriksen & Fossum 2007) instead of being subjected to the same legitimatory principles as domestic politics.

This argument highlights the difficulty of finding an institutional fix to the democratic deficit. Without specifying the normative preferences regarding supranational versus intergovernmental democracy we are (to be) guided by, attempts at finding appropriate paths to democratic reform will continue to be futile. An indispensible precondition for democratizing the European institutions is therefore clarity on how much supranational integration the union as a whole is willing to allow. At the same time, debates on the democratic deficit have, at least to a large extent, been barking up the wrong tree. The democratic deficit is an institutional deficit, but only to some extent. More importantly, it is also a deficit in communicative power formation, i.e. a public sphere deficit. Whether and to what extent public sphere deficits are a problem in democratic terms is mainly a question of democratic theory, i.e. a bone of contention between representative-liberal, participatory-liberal and deliberative democratic theory (*cf.* Marx-Ferree *et al*. 2002). But it also touches on the question of the locus of democracy in the EU, i.e. whether, and how far, supranational democracy is considered desirable at the European level. The question of the European public sphere deficit is thus a two-dimensional problem: are public spheres an infrastructural requirement of democracy to begin with, and does European integration as a consequence also necessitate a European public sphere as a communicative counterweight to decision making in the EU institutions?

The Missing Link? The presumed absence of a European public sphere
A compelling case can be made for the view that the democratic legitimacy of EU decision making does depend on an interplay between the political system and the public sphere, very much in line with the basic principles of deliberative democratic theory. Put simply, this is so because communicative power needs to be exercised at the same level as that where political decisions are made. To the extent that decisions are taken at the supranational level while opinion formation remains at the national level, we can speak of a mismatch between administrative and communicative power. As long as opinion and will formation (and thus communicative power formation) remains in the arenas of the national public sphere, it can only exert its communicative power on the national institutions. This is not to say that public opinion formation is irrelevant at the national level. Obviously, it plays a crucial role here as well, specifically in shaping the mandate for the national government's negotiating position in the Council of Ministers.

But if public opinion formation remains restricted to the arenas of the national public sphere, communicative power can *only* be directed towards the national institutions. This is a problem to the extent that we accept a key tenet of deliberative democratic theory, namely that democratic legitimacy stems from the interplay of the political system and the public sphere. If this interplay is to form the link between rulers and the ruled even at the European level, public opinion formation has to move beyond the nation state alongside decision making. This point can be explained in relation to the Habermasian notion of communicative versus administrative power.

In representative liberal theory, the public sphere is not necessary for the exercise of popular sovereignty. Following a more or less elitist take on democratic politics, basically in the footsteps of Schumpeter, democracy is primarily a form of competition among contending elites. Elites' competition for citizens' votes is central to this understanding of democracy, and the exercise of popular sovereignty is limited to the act of voting. Representative liberal theorists "so much fear 'the rabble' in democratic politics that they wish to see filters and barriers erected to diminish the citizen's role" (Marx-Ferree *et al*. 2002: 290). Consequently, a lively public sphere is not necessary either at the domestic or at the European level. The mandate given to national institutions (and foremost national governments) by national electorates sufficiently provides for democratic legitimacy, much in line with Moravcsik's criticism of the notion of a lack of accountability in EU politics (Moravcsik 2008: 334f.). Participatory liberal theory shares certain basic assumptions with representative liberal theory, most importantly the notion that the democratic process has to produce mutually acceptable compromises between contending societal interests. But contrary to the representative liberal under-standing, participatory theory promotes the active participation of citizens in opinion and will formation. The public sphere plays a key role in this regard, as it provides an opportunity for the mutual observation of societal interests with contending preferences. If compromises are to be found between contending interests, then societal groups will need to acquire information about what others want and where potential compromises can be found.

The deliberative democratic tradition shares certain elements with partici-patory liberal theory, but views the purpose of the democratic process as something qualitatively different, namely as the generation of consensus among contending groups. At the end of the democratic process, not everyone will have to agree to a given outcome, but any given outcome will have to be acceptable to all *on the same grounds*. In this context, the public sphere is more than a market place of interests. Its role is not to provide an arena for making compromises, but for exchanging *arguments*. This process of exchanging arguments, i.e. deliberation, matters in the sense that political choices can only be legitimate if they are *based on* and *supported by* an inclusive and open public debate. This is so because for deliberative theorists, democracy requires citizen participation, mainly in order to produce a link between rulers and the ruled. This is the context in which we can

understand the Habermasian notion that the *addressees of the law* (i.e. all citizens) have to be able to view themselves also as *the authors of the law*. The public sphere creates a link between the rulers and the ruled through its capacity to generate communicative power. Representative government is not free to do whatever it wants. Although representative government rests on a strong accountability relationship – citizens as voters can kick unpopular governments out of office at the next elections – democratic legitimacy does not stem from election results alone. Mass protests to proposed pension reform in France or to large-scale projects such as the construction of a new underground train station in the Southern German city of Stuttgart are recent examples that demonstrate that even representative government needs to be responsive to communicative power generated in the public sphere.[8] While such protests are not examples of democratic deliberation in the Habermasian sense, they do underline the notion that legitimacy stems in large part from public debate as well. If legislative proposals are not supported by convincing arguments in public debate and thus cannot win the approval of the citizens, their democratic legitimacy is question-able even if they are backed by parliamentary majorities. This is what deliberative theorists mean by communicative power: the public sphere does not possess any administrative power. While the public sphere cannot shape and implement decisions, it can nonetheless play a crucial role in the sense that the legitimacy of any given piece of legislation has to have the approval of the public sphere. The public sphere possesses the power to challenge and, if necessary, force the institutions of the political system to amend proposed legislation.[9]

In the nation-state, the public sphere largely matches the territorial reach of public policy: the boundaries of the nation-state appear to coincide with the boundaries of the public sphere. This notion is supported by the organization of the mass media. Germans watch German TV stations, listen to German radio stations and read German newspapers; Icelanders watch Icelandic TV stations, listen to Icelandic radio programs and read Icelandic newspapers, and so on. Attempts at creating European-level media have been made, but have not fared particularly well, as the experience of *The European* in the 1990s demonstrates.[10] Domestic issues always play a prominent role in national media. National news-

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8 The issue of the "Stuttgart 21" project is also taken up in a recent opinion article that Jürgen Habermas published in the New York Times (Habermas 2010).

9 One of the rare examples of European-level communicative power generation has been the so-called "Bolkestein" or "services" directive. As a consequence of large-scale public protests, not least outside the European Parliament, and of the European Parliament's own position on the issue, the European Commission found itself in a position where the original proposal had to be amended.

10 Robert Maxwell's attempt at creating a transnational European newspaper turned out to be shortlived. The newspaper lasted for only eight years (1990 to 1998) and was in crisis for most of its existence. Part of the reason for its failure was that it never

papers tend to use the traditional division into domestic politics, international politics, culture, economy, and so on. It is rather unlikely that a piece on Stuttgart 21, the underground train station project mentioned above, would make the front page in Fréttablaðið. In order for the public sphere to matter in the legislative process, i.e. in order for the public sphere to exert its communicative power on the political system, public opinion formation has to occur at the level at which decisions are made. This is so because this is where communicative power is needed as a *corrective* to institutional decision making. Consequently, Stuttgart 21 will be more salient in the Stuttgarter Nachrichten than in a national newspaper because it affects people in Baden-Württemberg more than in Berlin or Hamburg. This begs the question, then, whether a public sphere – or at least a functional equivalent thereof – also exists at the European level, and if such a European public sphere is in fact an infrastructural requirement of EU democracy.

How many European public spheres?
To begin with, it is difficult to imagine a European public sphere that looks like the nation-state public sphere, founded on one shared language and with a more or less uniform system of European-level mass media. For a variety of reasons, such a uniform European public sphere as a replacement of existing national (and subnational!) public spheres may also be considered normatively undesirable. In some ways, the debate on the need for and viability of a European public sphere resembles the corresponding debate on a European collective identity. Much like a conceivable European identity, a European public sphere could be imagined as a multi-layer phenomenon, much like a Russian doll. Identities are not zero-sum games (Delanty & Rumford 2005: 51), i.e. one identity rarely comes at the expense of another (although some identity conflicts may of course be characterized by such a zero-sum relationship). A European collective identity could be an additional layer to already existing territorial identifications such as most saliently national identities, but also regional, municipal, or other identities. In the same way, a European public sphere could be imagined as merely an additional level of public communication about politics. As argued above, in order to perform their democratic function, public spheres need to exert their influence at the same level where political decisions are taken. Since democratic politics does not cease to work at the national level, and various subnational levels, as an effect of European integration, public spheres also need to continue operating at the

> managed to find its niche, supposedly because that niche was already taken by newspapers such as the Financial Times, the Economist and the Wall Street Journal. But it has also been pointed out that the project suffered from "a never-solved existential dilemma": while the newspaper aimed at becoming "Europe's national newspaper", it turned out to be "impossible to be the national newspaper of a nation that doesn't exist" (Cusack 2008).

different levels of political decision making. The national public sphere is often implicitly construed as a *uniform* communicative space, but this view does not take into consideration that also the national public sphere encompasses different levels of political communication, corresponding to the different levels where political decisions are made. Some issues are discussed at the national level, others at the regional or local levels. Issues of local politics most often do not – and need not – attract nation-wide attention. A new bridge in a small town in rural Germany may be a highly salient issue at the local level, i.e. for the people affected by the decision to build that bridge (or not). This is why such issues tend to be discussed at the local level, without thereby questioning the existence of an overarching national public sphere. In some countries, the notion of the public sphere as a multi-level communicative context is also reflected in strong traditions of local and regional newspapers, such as for instance in Sweden, Germany and other countries with democratic corporatist media systems (*cf*. Hallin & Mancini 2004). Public spheres, we may therefore conclude, are multi-level phenomena. There is little reason, normatively and empirically speaking, to argue that European integration should change anything about this multi-level character of the public sphere.

But what could the overarching European level in such a multi-level European public sphere look like? Two aspects are relevant in this context. Debates on the possibility of a European public sphere tend to focus on the language question as much as on questions of collective identity as a precondition for democratic deliberation. While some argue that the absence of a European lingua franca makes transnational debate difficult (if not outright impossible) to imagine (Kraus 2002, 2004; Kielmansegg 1996), others contend that it should be the task of national education systems to equip Europeans with the necessary language skills so that English can eventually become the European lingua franca (Habermas 1998: 155). Habermas is optimistic about the potential of English as a medium of democratic deliberation, but there are also those who are skeptical, arguing that only a small minority of Europeans will be able to learn English – or any other second language – well enough to allow them to debate politics with fellow Europeans from other countries (Kielmansegg 1996). As a consequence, an increased reliance on English as a medium of communication would only exacerbate the democratic deficit, since it would prevent large numbers of citizens from participating in public debate (*ibid*.). Beyond these normative issues, there are hardly any genuine European newspapers, TV channels or radio stations. The language issue also plays a role in this context. Shared European-level media may furthermore be too far removed from the realities in which people in the union's member states actually live. Newspapers, TV channels and radio stations tend to serve national and subnational audiences not only for a democratic purpose, but also because people's identifications and interests tend to focus on those levels. What is more relevant in our context, however, is that European-level mass media are no necessary condition for the democratic purpose of a European

public sphere. As a substantial body of theoretical literature has suggested, supra-national democracy does not of itself necessitate a supranational public sphere. As an infrastructural requirement for European democracy, national media can also serve as a functional equivalent of a *transnational* European public sphere, i.e. a public sphere constituted by a network of transnational communicative exchange taking place within the existing national media. As Klaus Eder and Cathleen Kantner have pointed out, a European public sphere in such a transnational sense emerges to the extent to which debates in the EU member states become *interdiscursive*, i.e. to the extent to which the *same issues* are discussed at the *same time* with the *same criteria of relevance* (Eder & Kantner 2002). Thomas Risse later added the social constructivist notion that in order to be able to speak of a genuinely "European" public sphere, a European sense of community has to emerge from or be constructed in transnational debates on European politics. In other words: Europeans have to recognize themselves as Europeans in debates about European politics (Risse 2004; Risse & van de Steeg 2003). Risse believes that through this process of identifying problems that affect us as Europeans rather than as citizens of our nation states, a thin or inclusive form of European identity begins to take shape.

The second and arguably more crucial question is connected to this notion of a thin European identity. Can a European public sphere exist if it cannot draw on a preexisting sense of community or collective identity? This is a question that has deep roots in political philosophy and has left a notable mark, for instance on the debate between Rawlsian liberalism and communitarianism. Some will argue that the EU suffers from a collective identity or community deficit. Such assertions tend to be based on Eurobarometer or other survey data in which varying majorities of Europeans tend to identify more with their nation than with the European Union. But the conclusions drawn from such data are very often unrelated to the question asked. A communitarian reading of such data suggests that since Europeans do not identify with one another (sufficiently), democratic deliberation is out of the question. Why should Europeans engage in transnational debates if they do not identify with one another to begin with? Cathleen Kantner has given a thought-provoking pragmatist response, suggesting that the reason is precisely the notion of collective affectedness: a need to search for problems collectively arises from the perception that a given problem transcends one's own community (in this case the nation state) and its problem-solving capacity (Kantner 2004). And with the conviction that problems are better dealt with beyond than within the nation state comes the need for discussing how to solve such problems. For deliberative scholars, based not least on the American pragmatism of John Dewey, the exercise of deliberation contributes to constituting community. This is also the kind of social mechanism that the founding fathers of the European Union, primarily Jean Monnet and Robert Schuman, had in mind in devising their incremental strategy for European integration that has been analyzed in neofunctionalist theorizing: integration in

certain low-politics areas leads not only to functional pressures for integration in other areas, but it also has a community-shaping effect at the elite level.

From this perspective, the problem is one of initiating deliberation rather than one of a collective identity deficit. This argument will not convince communitarians who subscribe to the necessity of a thick collective identity before we can even speak of deliberation. Yet as Klaus Eder has convincingly argued, culture and collective identity are produced in public debate and can therefore not be seen as preconditions for the latter (Eder 1999). Still, we are left with one fundamental question, namely the question of the conditions under which notions of collective affectedness arise and in which ways they prompt transnational debate. We have already established that Europeans *should* by all means debate across borders, since only by doing so can European-level public opinion be formed as a communicative counterweight to institutional decision-making. But are debates on European issues also characterized by a transnational element?

Transnational Debate on EU Constitution Making

We have studied debates on EU constitution making in three German and three Swedish newspapers over three periods, namely the debate on the "finality" of European integration in 2000, the debate on the referenda on the Constitutional Treaty in France and the Netherlands in 2005 and the debate on the relaunch of the constitutional project in the spring of 2007. We conducted a frame analysis to find out whether constitution-making debates are framed according to national patterns or according to the different newspapers' respective "general political tendencies" (Hallin & Mancini 2004: 27). For the analysis, one conservative, one liberal and one left-wing newspaper was chosen from each country.[11] A total of over 600 opinion articles were coded using a standardized codebook developed specifically for this purpose.

The findings of the frame analysis are striking. EU constitution making is framed very differently in the six newspapers, but the parallels that we can discern run along ideological rather than national lines. In the two conservative newspapers, EU constitution making is portrayed much more frequently as a challenge to nation-state democracy. The left-wing and liberal newspapers, on the other hand, tend to focus on EU constitution making as a democratic opportunity, i.e. as a chance to institutionalize democratic procedures at the European level. Communitarians, adhering to the view that deliberation across borders is highly problematic (if not outright impossible), would have predicted the opposite. For

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11 For the German sample, the conservative *Frankfurter Allgemeine Zeitung*, the liberal *Süddeutsche Zeitung* and the left-alternative *tageszeitung* were selected. For the Swedish sample, we selected conservative *Svenska Dagbladet*, liberal *Dagens Nyheter* and social democratic *Aftonbladet*.

them, deliberation is only possible on the basis of pre-existing (and pre-political) shared values, and the nation is seen as one of the most significant examples of such a normatively integrated community of values. But our findings suggest that the normative status of the nation state as the sole locus of democracy is contested even within the nation state. As a matter of fact, we can demonstrate that the liberal and left-wing newspapers in the countries studied here share very similar views on European integration and where democracy should be exercised, and that they actually have much more in common with one another than with their conservative counterparts in their own countries.

In our frame analysis, this is expressed in the following findings: portraying EU constitution making primarily as a challenge to nation-state democracy, the conservative newspapers in the sample tend to be most frequent in applying frames that can be categorized as nation-state frames. In this category, we see (a) the adversarial frame, in which EU constitution making is portrayed as a struggle between contending member states' interests; (b) the "elite versus the people" frame, according to which EU constitution making is a case of a supranational political class forcing the constitutional project onto increasingly Euroskeptic citizens; and (c) a negative reading[12] of the EU superstate frame, according to which the constitutional project is an expression of the ongoing and normatively objectionable development of the EU in the direction of a state. EU constitution making is thus seen by the conservative newspapers as a case of European integration gone too far, i.e. as a project that is driven by supranational elites who are stubbornly out of touch with the will and the needs of the people.

As a case in point, the "elite versus the people" frame is used frequently in the conservative *Frankfurter Allgemeine*, particularly in the aftermath of the referenda. Ratification failure is explained as a logical consequence of the failure of European political elites to take the preferences of the people into account. In this context, the *Frankfurter Allgemeine's* editorialists highlight two aspects in particular, both of which are seen as illustrative of the larger phenomenon described: (1) the continued supranationalization of the EU, understood amongst other things, as the continued transfer of competences from the national to the European level; and (2) the continued enlargement process against the perceived (and expressed) will of the people, an argument launched primarily in the context of a possible Turkish accession to the union. In the case of conservative *Svenska Dagbladet*, the EU superstate frame plays a prominent role, particularly on the op-ed pages[13], where

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12 Some frames (though not all) appear in positive and negative readings. By positive reading, we mean that EU constitution making is portrayed as having positive effects in relation to the given frame. By negative reading, we mean in turn that EU constitution making is portrayed as having negative effects in relation to the given frame. For instance, when the EU superstate frame is applied, a negative reading would emphasize the negative effects of increased supranationalism, whereas a positive reading would emphasize possible benefits of a more state-like EU.

amongst other things, a strong reduction of the Constitutional Treaty's supra-national elements is urged. The two conservative newspapers therefore converge in their emphasis on the constitutional project's normatively undesirable implications for the nation state.

The image on the liberal and left side of the spectrum is fundamentally different: while there are certain differences between the liberal and the left-wing newspapers, all four of the newspapers analyzed on this side share a very positive view of EU constitution making, framing the project primarily in terms of its positive effect for European-level democracy. Favoring postnational democracy, these newspapers frequently apply frames that can be categorized as postnational. In this category, we can group (a) a positive reading of the citizenship/democracy frame, emphasizing the constitutional project's achievements in democratizing EU decision making; (b) a positive reading of the EU superstate frame, according to which a move towards a more federal constitutional order is a laudable effort; and (c) the postnational union frame, according to which the constitutional project represents the first (or next) step in the larger process of institutionalizing a novel kind of polity beyond merely supranational integration. In sum, both the left-wing and liberal newspapers view EU constitution making as a commendable effort, particularly in the sense of *also* moving democracy to the European level and thereby making EU politics more democratic.

As a case in point, Joschka Fischer's initial proposal of a federalization of Europe as early as May 2000 was hailed by the two liberal newspapers *Dagens Nyheter* and *Süddeutsche Zeitung.* What was perceived to be at stake was the idea of a federalization of Europe, an idea that ought to be debated at length and that potentially had great benefits to offer. Along the same lines, *Dagens Nyheter* and also social democratic *Aftonbladet* furthermore expressed a certain measure of disillusionment when the Lisbon Treaty was eventually negotiated *behind closed doors* compared to the transparent "convention method" used in drafting the Constitutional Treaty. If there are any discernible differences between the left-wing and the liberal newspapers, they could be summarized by the observation that the left-wing newspapers – both in Germany and in Sweden – tend to frame the constitutional project *also* in terms of the alleged constitutionalization of a neo-liberal market order. The interesting finding in this regard is once again that these frames follow cross-national rather than national patterns.

In terms of the theoretical question regarding whether deliberation and democracy are possible beyond the nation state, these are certainly relevant findings. They lend support to the Rawlsian notion that modern societies rarely (if ever) are *communities*: they are not integrated around *one,* but around several conceptions of *the good*. Societies are made up of many communities, often with

13 The op-ed pages are those pages in a newspaper that are located opposite of the editorial pages (hence the name "op-ed pages") and that are traditionally reserved for commentaries written by external authors.

mutually irreconcilable "*comprehensive doctrines*" (Rawls 1971). This conclusion is highly relevant in debates on European integration, not least because it suggests that answers to questions of democratic rule in European integration may be very difficult to find. If such fundamental differences persist regarding the desirable locus of democracy, we may be a long way from finding prescriptions for fixing the democratic deficit. On a brighter note, however, we should emphasize the observation that the divisions in this debate clearly tend to transcend national borders. In this sense, the striking parallels in the way the EU constitutional project is framed in newspapers in different countries suggest that there are already fairly well-defined *transnational* normative communities, at least as regards perspectives on democracy and the extent to which European integration is a challenge and/or an opportunity for democracy. This is an intriguing finding not only because it suggests that transnational deliberation is possible, but moreover because it suggests that debates about the future of European integration and European democracy can in fact be conducted at the transnational level.

Conclusions

There are no easy answers to the question of whether, and to what extent, there is a democratic deficit in EU decision making and how the democratic quality of EU decision making can be improved. The simple fact that both supranational (and postnational) and intergovernmental takes on EU democracy have their respective ready-made institutional solutions by no means implies that the democratic deficit is easy to solve. What this underlines is rather the fundamental problem that intergovernmental and supranational/postnational perspectives have failed – and will arguably continue to fail – to come to terms with a much more fundamental question, namely the normative question about the locus – or rather the loci – of democratic rule in the multi-level EU polity. Without settling this fundamental normative question, democratic deficit debates will have a difficult time moving beyond the conceptually blurry proposals for democratic institutional reform that the various camps have been proposing.

For the deliberative scholar, whether of an otherwise supranational or intergovernmental orientation, democratic European-level decision making is difficult to imagine without the coming into being of a European public sphere, i.e. a transnational communicative network carried not least by the existing national mass media. Intergovernmentalists like Andrew Moravcsik reject such notions, pointing to the direct accountability relationships between the citizens (in the member states) and the most important decision makers in the EU system, i.e. the Council of Ministers and the European Parliament. Yet while the democratic deficit in this sense is a "myth", according to Moravcsik, the perception of a democratic deficit persists and in large part has to do with the *idea* that citizens have no influence in shaping EU policy. This, in turn, is a pheno-

menon that can arguably be traced more to the *public sphere deficit* than to institutional democratic deficits. As Habermas has argued, the European Parliament can only become a powerful democratic institution when national public spheres become permeable to one another and thereby begin to allow for transnational opinion and will formation (Habermas 2008). It is too early to speculate on the extent to which the Lisbon Treaty's "orange card procedure" or the European Citizens' Initiative will ameliorate the *perception* of a democratic deficit. What we *can* say at this point, on the other hand, is that the perception of a democratic deficit also stems from an unawareness of European policy making in the process. The Commission has tried to take care of this problem by emphasizing consultation with the "stakeholders", but Europeans still appear to be caught off guard by new EU legislation. At the same time, the original services directive (the "Bolkestein directive") is a case of EU legislation that has attracted massive public attention and had to be amended in response to public protests and the position of the European Parliament on the issue. From this perspective, the democratic deficit is a deficit in European-level opinion formation. More precisely, it is a deficit in European-level communicative power formation.

But do Europeans have the communitarian resources for deliberation beyond national borders? Our analysis has demonstrated that even in debates on fundamental issues such as EU constitution making, the framing of European politics follows transnational rather than national lines. Conservative newspapers tend to focus on the implications that the European Constitutional Treaty would have on the nation state and nation-state democracy. Liberal and left-wing newspapers, on the other hand, tend to focus on the benefits of reconstituting democracy at the European level and strengthening European-level citizenship rights. Despite the cliché that some states are more "pro-European" than others, supranational – and even postnational – orientations cannot be attributed simply to nationality. On a final note, the fact that different orientations on supranational versus intergovernmental integration exist within individual nation states does not appear to preclude the possibility of democratic deliberation, and this gives hope that the question of European democracy can be settled at the transnational level.

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