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What can we learn from the Collapse of European Constitutional Project? A Response to Eight Critics

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I accept many of the criticisms and qualifications that the eight participants in this forum have advanced with regard to my skeptical position regarding enhanced participation and democracy in the European Union. On other issues we must agree to disagree.[1] Below I consider each critique in turn.

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Mark Franklin most strongly supports the most fundamental element in my critique of the constitutional project, namely that voters simply lack the time and motivation to deliberate meaningfully about European Union (EU) politics, due to the lack of issues that are salient in their minds. His support for this premise is particularly important, because he is the only participant in this forum (myself included) who actively researches the individual beliefs and behavior of European voters. EU survey data, on which Franklin is one of the world's leading experts, unambiguously support the claim, in his words, that "voters are not fools" and they will not be moved by quasi-constitutional debates that do not "affect their lives in important ways." Franklin's interpretation of the recent referendums sums up our fundamental point of agreement: Voters "were faced with a non-decision and most of them

[1] Andrew Moravcsik, "What Can We Learn from the Collapse of the European Constitutional Project?" Politische Vierteljahresschrift 47:2 (2006), 219-241, as part of a forum with Fritz Scharpf, Michael Zuern, Wolfgang Wessels, and Andreas Maurer. See http://www.princeton.edu/~amoravcs/library/PVS04.pdf
This, and all other articles by the author mentioned in this essay, are available on the author's website at www.princeton.edu/~amoravcs

reacted quite rationally by failing to take any interest in it – thus leaving the debate to the extremists on both sides."

Franklin is *so* skeptical of popular participation and deliberation in the EU context that he finds it hard to believe policymakers ever actually "saw the drafting of a constitution for Europe as a public relations exercise." Such an expectation, he believes, would have been "preposterous were it not for the fact that politicians regularly do display pitiful ignorance of basic facts about public opinion and public engagement in electoral decision-making." Franklin believes instead that the constitutional project may have been "an attempt by would-be federalists to dress up their constitutional innovations in democratic garb so as to make them more acceptable to anti-federalists (like the British) who could nevertheless be swayed by arguments about increased transparency and accountability."

But doesn't this really amount to the same thing? Commentators and historians may dispute for decades whether efforts to legitimate the EU through deliberations about democratic constitutionalism rested on a deeply-held belief about the possibilities of transforming the European polity or a short-term strategy to stoke public opinion support for new policies. (My own use of the term "public relations", and my mention of the would-be federalist, signals my own ambivalence about this, and whatever politicians believed, it is clear that many scholars and commentators think real democratization is required.) Either way, the central goal of the project was to generate popular support for substantive change by invoking constitutional rhetoric. This tendency was evident from the start (in Joschka Fischer's Humboldt speech) to the end (in the Dutch and French referendum campaigns)—and at nearly every point in between. The consequences were inevitable.

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Paul Magnette politely presents his criticisms as modest "qualifications" to my article—and in this case (rather exceptionally among professors!) the modestly is not false. (However, it is perhaps unwarranted, given his own insightful contributions to these debates.) I accept as "friendly amendments" his substantive qualifications about some small opportunities to increase participation that may exist, and I support his short-term proposals for small procedural reforms and a mini-treaty containing the modest substantive essence of the constitution. Magnette's most intriguing point, on which we are also in agreement, is that whereas the EU has only a modest impact on the issues European voters care about most, there is a widespread *perception* that it has a great impact—and this "social fact" cannot be ignored.

This last point raises a deeper issue: What is our proper stance, as scholars and politicians, in such cases when the public is convinced of "social facts" that are untrue? Most commentators on the EU today seem to argue that it is to promote more democracy, in the populist or plebiscitary sense. If the European voters believe fantasies about the EU, so the argument seems to go, our responsibility as analysts or practitioners of democratic politics is to indulge them by giving them more opportunities to express binding opinions—and

hope legitimacy follows. This logic underlies many proposals to redress the EU's so-called "democratic deficit."

Like Franklin, I find it hard to understand why professional politicians would accept such reasoning. But I find it utterly unintelligible why any political scientist, constitutional theorist or historian would do so. The central task of constitutional design lies not in the construction of a maximally populist democracy. As Benjamin Constant noted a century and a half ago, democratic constitutions in that sense went out of fashion with Ancient Greece—if, indeed, they ever existed. The central task of a *modern* constitution is to distinguish those issues that are best decided by direct popular decision from those which are best decided another way, and to design appropriate representative institutions for the latter cases. We do not govern by referendum, or in some modern equivalent of the Athenian Pnyx. Instead, most issues in modern constitutional democracies are delegated largely—and legitimately, in the eyes of most publics—to *indirectly* democratic institutions designed in large part to insulate decision-makers from plebiscitary pressures: representative assemblies, courts, prosecutors, expert commissions, technocratic bureaucracies, central banks, political parties, regulatory boards, and complex arrangements of checks and balances, to name a few. For reasons I have set forth in detail elsewhere, I believe the EU is appropriately understood as such an institution—not least because exceptionally tight *indirect* democratic control is imposed by checks and balances, super-majoritarian voting among directly responsible national ministers, unanimity voting on fiscal matters, a directly elected European Parliament and a limited legal mandate. This arrangement is no less inclusive than the institutions that decide such issues in most advanced industrial democracies—but it is not, and should not be, a direct plebiscitary democracy.[2]

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James Fishkin joins Franklin, Magnette, and me in agreeing that the procedures for the EU's constitutional project were ill-chosen: "Increasing populism may not serve deliberation." But he objects, rightly, that we might imagine *other* forms of deliberation that are not populist or plebiscitary, and which may end up increasing the information in the hands of participants and the resulting legitimacy of the resulting outcomes. He conjectures that "if there had been something more recognizable as citizen deliberation on the constitution, then perhaps some of the other aims of EU citizenship would have been achieved. Perhaps "televised microcosmic deliberation combined with appropriate strategies for extending the reach of such efforts to the broader public might have led to a different debate and perhaps a different outcome."

In pursuing this alternative Fishkin briefly (and all too modestly) cites his own work on "deliberative polling"—managed sessions in which a small group of individuals are provided with time, information and incentive to deliberate about issues. This is a fascinating

[2] Andrew Moravcsik (2002), "In Defence of the Democratic Deficit: Reassessing Legitimacy in the European Union," *Journal of Common Market Studies* 40: 4: 603–624; Andrew Moravcsik, (2004), "Is there a 'Democratic Deficit' in World Politics? A Framework for Analysis," *Government and Opposition* 39: 603–624.

technique Fishkin and others have pioneered, and which they will in the near future organize in Europe. Archon Fung, who holds similar views about democracy, takes an even stronger position in his contribution to the forum with Pepper Culpepper, when he asserts in regard to deliberative polling: "If these initiatives are well done, however, they may well articulate worthwhile insights and public perspectives as similar initiatives in deliberative polling, participatory planning, and electoral reform have done around the world."

Yet Fishkin's critique—properly proposed as a hypothetical qualification—helps demonstrates the force of my underlying argument that the incentives for widespread participation are inherently insufficient. Fishkin is the first to admit that his innovative form of deliberative polling is best seen as something appropriate to what he terms "deliberative microcosms"—a tradition reaching back to Ancient Athens, with very modest resonance in a modern polity—not as an alternative form of mass democratic legitimation. Fishkin is correct to point out that individuals who participate in his "deliberative experiments" make different and more informed decisions. But it is equally true that such experiments demonstrate the extraordinary input of time, money and information required to generate informed deliberation: days, weeks, even months of focused small-group discussion assisted by expert facilitators and considerable financial resources. And the effects on public opinion and electoral behavior outside the room, even when the process is publicized, are at best unclear. Certainly the evidence about the impact of televising small group political decision-making—something that is already occurring with regard to Council sessions, the US Congress, and many other settings—does not suggest it will have much impact. Hence for the moment any proposal for deliberative polling is, in practice, a proposal for deep deliberation *without widespread participation*—something very different than democratizing the EU.

The existence of a trade-off between the breadth and depth of democratization confirms my basic critique. Much would have to change before voters would care enough about EU issues to motivate themselves to realize it. Culpepper and Fung are gracious enough to concede this: "We cannot refute Moravcsik's argument with a recipe for popular participation. No one knows how precisely to create transnational institutions that elicit popular participation and deliberation, and attempts to create such institutions may fail. We do not even know whether efforts should be directed to reforming national political arrangements, enhancing links between national and EU institutions, or creating novel arrangements such as citizen consultations and civic stakeholder negotiations. But defenders of national parties and parliaments cannot admonish us to leave well enough alone when so much is unwell."

"No one knows how precisely to create transnational institutions that elicit popular participation and deliberation." This is a strong statement. And yet Culpepper and Fung nonetheless criticize the status quo and advocate some sort of thoroughgoing reform—a position that seems to go well beyond Fishkin's call for modest small-scale experimentation. One might set this aside as the harmless musings of disappointed deliberative democrats, but idealistic prescriptions for radical reform of this kind are also

potentially dangerous. Politics is the art of the second-best, and as such it *is* in fact often about "leaving well enough alone." It is deeply troubling that the proposed site of this radical, open-ended experiment is the EU, on its face the least likely forum in which to realize decentralized deliberative democracy.

One reason to be troubled is that such efforts, if taken beyond the modest scale of Fishkin's experiments, can come at a cost. Not only is further EU democratization unlikely to generate meaningful deliberation; it might well undermine what deliberation currently exists. Currently the most serious and public-spirited discussions occur within small groups of national ministers and officials charged with collectively developing and monitoring implementation of its rules. The result seems to be decent regulation.[3] Thus the closest real-world equivalent to Fishkin, Culpepper and Fung's deliberative groups in the EU context—however imperfect it may be—resides in precisely those technocratic institutions that opponents of the EU's "democratic deficit" criticize most loudly. That being said, we should welcome Fishkin's upcoming small-scale experiment in EU deliberation—a far less threatening prospect—as a unique source of potential insight into the beliefs of Europeans.

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Jeremy Rabkin agrees that the democratizing the EU is a red herring. "More participation," he argues, "is not, in itself, a cure for what ails Europe. I've always regarded the "democracy deficit" as a symptom rather than a cause of the underlying problems with political integration in Europe. And I can't dispute Moravcsik's underlying point that people would argue less about the EU if they took less notice of it." On these points we are in agreement.

Rabkin is right, also to criticize those with a naïve faith that voters "will be swayed by appeals to higher reason" and that "what is reasonable to social scientists will prove reasonable to European voters." He points to the recent referendums, in which European voters were not swayed by rational argument and information about the EU. Rabkin is wrong, however, to criticize me for keeping such a faith; skepticism about the capacity of voters is precisely my central point. Like Franklin and Majone (but unlike Fishkin, Culpepper and Fung, and Tsoukalis), I have little confidence in the willingness of European voters to spend time informing themselves and deliberating over constitutional fundamentals or non-salient public policies. That is why I advocate a return to the traditional elite-driven politics of European integration.

Elsewhere I have argued that the EU, far from sparking grand constitutional debates, should seek to be as dull as possible, and to focus on small, concrete reforms with high public opinion support, such as the creation of an EU "foreign minister". This is the essence of recent proposals for a "small" constitutional reform in a few years. Diehard European federalists may object that this agenda is insufficiently ambitious, but I believe it is all that

[3] Christian Joerges and Ellen Vos, European Committees: Social Regulation, Law and Politics (Oxford: Hart Publishing, 1999); Joshua Cohen and Charles F. Sabel, "Sovereignty and Solidarity: EU and US" (Unpublished paper on line at http://www2.law.columbia.edu/sabel/papers/Cohen-Sabel%20final.doc)

can be obtained. Modest incremental changes are underway in various areas, but the era of *grand projets* is gone, at least for the moment. In its place stands what I have termed a "European constitutional settlement"—a substantive and institutional arrangement that, if current trends persist, will remain for some time.[4]

Rabkin is contemptuous of this sort of thinking, because he believes that the existing "constitutional settlement" and modest reforms within the existing EU structure are inadequate in the face of the major problems plaguing Europe. Rabkin sees the need for the EU to impose reform on stagnant economies and to construct a powerful European army, lest Europe decline into insignificance. One might respond, as Fritz Scharpf and others have, that such reforms can and should be implemented at the domestic level. But Giandomenico Majone's contribution to this forum calls this into question—because he believes that part of the package must be market reform. If the EU fails to liberalize that 70% of the economy that comprises the service sector, Majone argues, positive economic growth will not result. He cites the watering down of the general services directive (the "Bolkestein directive") and sporadic labor opposition in areas such as port facilities. The EU, he argues, faces a "legitimacy problem" in that it is not capable of delivering needed economic reforms—even if enhanced *democratic* legitimacy is not the solution. This is particularly important in the EU, an institution traditionally judged on results—so-called "output legitimacy." Hence, he says, "the poor economic performance of the EU economy over decades is so worrisome also from a normative viewpoint." This may well be the case, as Rabkin and Majone claim.

On foreign policy, however, I do not quite share Rabkin's pessimism. He believes that "to have a serious foreign policy, Europe would need to have the capacity to deploy European military force, which would, in turn, require some form of serious European military force in being and some adequate provision for financing such a force." To be sure, Europe is making moves in this direction, but is unlikely to develop such a force. But I disagree with Rabkin's underlying premise that only those countries with colossal military force have a serious foreign policy. Massive military force has not proven cost-effective for the US in Iraq. In retrospect, the European critique of the Iraq intervention was correct; which is why, contrary to what Rabkin hints, all (or nearly all) European countries share a common position on Iran. Moreover, since the end of the Cold War, the most cost-effective instrument Western governments have wielded to spread peace and security has not been military force, but enlargement of the EU. Whereas there is no doubt that pressure from public opinion will hamper future enlargement, I do not yet see any reason to rule out Balkan and perhaps even Turkish accession over a 15-20 year timespan. Still, while we agree on democracy, Rabkin's pessimism about the future trajectory of Europe is a useful corrective to more optimistic assessments.

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[4] Andrew Moravcsik, (2005) "The European Constitutional Compromise and the Neofunctionalist Legacy," *Journal of European Public Policy* 12: 2, 349–386; Andrew Moravcsik, (2005) "The European Constitutional Compromise," *EUSA Review* 18, 1–6.

Giandomenico Majone, perhaps the most penetrating contemporary analyst of the EU's regulatory politics, shares the skeptical position Franklin, Magnette and myself adopt with regard to the supposed virtues of greater deliberation and participation. Majone, who writes with unique insight about the special status of non-majoritarian institutions in modern democracies, shares the conviction that the constitutional procedures were ill-chosen, deliberation may be counterproductive in many circumstances, and the "democratic deficit" is non-existent. With characteristically iconoclastic brilliance, he provides interesting evidence in support of a number of points in my article, including the fact that marginal increases in democratic participation (within generally democratic polities) are rarely legitimating. In the EU case, he reminds us, only "tiny percentages of respondents gave "not democratic enough" as one of the reasons for their rejection of the Constitutional Treaty." He rightly concludes that the "democratic deficit of the Union, however defined, concerns more some political and academic elites than European voters." He reminds us, finally, that "the absence or incomplete development of democratic institutions in the EU is the price which people are apparently willing to pay in order to preserve the core of national sovereignty essentially intact [rather than being governed by] a full-fledged European federal state."

To be sure, I would reason to some of these conclusions differently than Majone—for example, I neither argue that deliberation is necessarily counterproductive in redistributive situations, nor that EU policies are essentially non-redistributive, as he has. But we agree on the basics—though Majone, as we have just seen in the preceding section, is less sanguine about the future.

Setting aside concerns about European monetary policy for the moment (I address them below when they are raised by Loukas Tsoukalis), Majone advances only one serious criticism of my article—a criticism he shares with Culpepper and Fung. This is that I am insufficiently supportive of a stronger, albeit perhaps narrower, role for the European Parliament. This criticism rests on Majone (and Culpepper and Fung's) understanding of the causes of meager participation in direct elections to the European Parliament. Majone implicitly rejects (without comment) my claim that apathy about the European Parliament is a function of the intrinsic lack of salience of European issues in the minds of voters, and instead speculates that low participation might instead reflect a widespread belief that voting for a Euro-parliamentarian is an inefficacious means to influence EU policy. In referenda, Majone speculates, voters deem their vote to be efficacious and so turn out in greater numbers. The solution, he argues, is to grant an expanded role for the European Parliament, so as to convince voters their vote matters—albeit perhaps across a narrower range of issues.

Majone, Culpepper and Fung provides *no* evidence—here or elsewhere—in support of the conjecture that reluctance to vote in Euro-parliamentary elections is a function of a widespread belief that voting is an ineffective means to influence policy. This is an empirically dubious claim. Let's leave aside the substantial record in comparative and

American politics demonstrating the difficulty of generating participation where issues are not salient and focus on specific evidence about the EU. Three points stand out.

- Polling data reveals both that European voters *do* in fact believe that the European Parliament is efficacious *and* that voting for European parliamentarians is effective means to influence them, yet most *still* do not participate in European elections. This is flatly inconsistent with Majone, Culpepper and Fung's conjecture.[5]

- There is little evidence that referendum voters in France and the Netherlands were concerned with, or in most cases even aware of, major EU issues. This suggests that *even* when European voters (on Majone's account) can be persuaded to participate, in the sense of voting, they do not do so in a considered and deliberative manner. With the exception of EU enlargement in some 15-20 years to include Turkey, EU policies played little role in individual voting in the French and Dutch referendums.[6] Insofar as Turkish membership was an issue, a major concern was free movement of peoples—an eventuality that had already been excluded from the EU negotiating mandate. Domestic issues and the popularity of domestic governments dominated voting behavior—as I document in the paper. EU appeared to become an important electoral issue only when European federalists saw fit to politicize until high-profile (but substantively unimportant) propositions of great symbolic importance, with the predictable result that national leaders grabbed, and then extremists exploited, the opportunity to signal discontent about national issues. Again, this suggests that the binding constraint on deliberation is not institutional.

- If the conjecture was correct that weak European Parliamentary powers account for a lack of interest, then EU policies should play a major role in *national* elections. But they do not do so in any West European polity—and have not for four decades.[7] Beyond a modest decline in the popularity of the EU—a decline that still leaves Europe and its institutions generally *more* popular than national ones across Europe—there is little evidence of any backlash in national elections.[8]

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[5] E.g. Jean Blondel, Richard Sinnott, and Palle Svensson, *People and Parliament in the European Union: Participation,Democracy, Legitimacy (*Oxford: Clarendon, 1998).

[6] Many were fooled into thinking this was the decisive issue by flashy French press stories or elite debates about "Polish plumbers', but in fact there is little evidence this had more than a single-digit impact on voting behavior. See the studies cited in my original article.

[7] The last case, by my count, was the French presidential elections of 1965-66, where agricultural policy was decisive—albeit only in the first round. Some scholars—Gary Marks and Liesbet Hooghe come to mind—assert that an important pro- and anti-globalization cleavage is increasingly correlated with views on European integration. But this does not show that EU views are driving the view. And it is even more difficult to show that such views have had a decisive effect on elections.

[8] Culpepper and Fung are aware of this and speculate that national politics is cartelized to exclude extreme opponents of the EU—a claim I address below.

These facts permit only one plausible conclusion, namely that EU issues are intrinsically lacking in salience—and hence deliberative democracy in the EU is doomed to failure. The inescapability of this conclusion explains, perhaps, why Majone, Culpepper and Fung contradict themselves on the issue. Majone, after this brief (and most uncharacteristic) bout of idealism about the European Parliament and referenda, returns to his better-known position that "no realistic assessment of the EU—its policies, institutions and future development—is possible without keeping constantly in mind the elitist nature of the project." Culpepper and Fung, after arguing that imperfect institutions not non-salient issues that explain low participation, go on to conclude that the key is…well…non-salient issues: "If, on the other hand, the methods of public engagement address urgent issues such as economic and social policy, visibly influencing decisions in those arenas, citizens may well find it worth their while to participate." Just so.

On this last point, surely Majone is correct and Culpepper and Fung are not. It would be irresponsible to create a European social policy Europeans do not want and no one can define in order to generate the conditions for public engagement and deliberation. This is the fallacy that radical deliberative democrats such as Jürgen Habermas, as well as many other prominent critics of the European "democratic deficit," consistently commit. This sort of talk puts the cart before the horse.[9] Europe needs to live within its substantive means. Proposals for new policies are not a solution to the problem of popular support, unless those proposals have a substantive justification—a view that Giandomenico Majone has done more than any other analyst to promote, and which we all should heed.

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Pepper Culpepper and **Archon Fung** begin with a clever quip: "Crisply reasoned argumentation, even when it is dead wrong, is always welcome…" Yet they quickly accept, as do their colleagues in this forum, my basic diagnosis of recent events: "We agree wholeheartedly with his dismissal of the recent European Constitution as a legally unnecessary project driven primarily by public relations motives." So what is their complaint? About what am I "dead wrong"?

Leaving aside their sympathy for Majone's analysis of why voters do not participate in European Parliament elections and their support for Fishkin's proposal for decentralized deliberative polling, both of which I have addressed above, Culpepper and Fung advance one major criticism based on their own creative and path-breaking work on European politics and deliberative democracy.

Before we get to that, however, it's important to get one red herring off the table. Culpepper and Fung wrongly attribute to me the view that indirect democracy is

[9] Philippe Schmitter of the European University Institute has brilliantly demonstrated precisely what this might mean. He advances "modest proposals" to encourage pan-European deliberation by establishing a Brussels-based social welfare system for the poorest 1/3 of EU citizens, imposing a fairer balance between older and younger citizens, and providing citizenship rights for third-country nationals. No question that EU policies aimed at these goals would generate deliberation, but they might also destroy the European Union. For critiques of such proposals by Schmitter and Habermas, see Moravcsik, "In Defense of the Democratic Deficit," as well as the article being discussed in this forum.

normatively acceptable because the EU handles "technical" matters, involving no redistributive consequences. I have never expressed any such view, and it strikes me as an absurd position to hold with regard to trade and regulatory issues. (Perhaps they briefly confuse me with Majone, to whom this view has sometimes been attributed?) Obviously EU policies have significant domestic and international redistributive consequences. By posing the question in this way, Culpepper and Fung elide the central issue, which is rather whether citizens perceive these consequences as salient enough to mobilize them to participate and, over the longer term, to invest time, money and energy in constructing the discourses and institutions that would facilitate sustained political participation.

Now, to Culpepper and Fung's central point. They argue that the "real" democratic deficit in Europe lies not at the European level but within national polities. Proportional representation systems, they argue, tend to exclude extremist anti-European parties from government coalitions, and pro-European elites in mainstream parties often fail to properly represent their own constituents' ambivalence toward the EU. Culpepper and Fung invoke also the common observation that national leaders engage in "blame-shifting", whereby "in some countries — and the French case comes to mind here — [they] liberalize markets (which creates losers as well as winners) while blaming the liberalization on Brussels."

I do not disagree with the substantive claim that European coalitions disproportionately reflect centrist voters and elite views, and that various arguments are used by national governments to justify economic reform. But why do Culpepper and Fung find it so objectionable when EU institutions provide politicians with some institutional and rhetorical insulation from extremist pressures? Two considerations are important here.

(A) Culpepper and Fung's portrayal of the EU's relationship to national polities seems dated. European integration has all but reached a standstill. Single market reforms in the service sector, as Majone notes, are modest. Social policy remains non-existent. Foreign policy cooperation is anemic. Turkish membership is shaky, even 20 years before the decision, and enlargement in the Western Balkans will be handled on a strict case-by-case basis. As I have argued above, we live in the era of a "European Constitutional Settlement." If the EU can in theory be exploited to legitimate wildly unpopular policy solutions, it is certainly not succeeding in doing so today.

(B) A second and more important reason to resist Culpepper and Fung's antipathy toward centrist rule lies in their apparent naïveté (feigned, surely, on the part of two political scientists as sophisticated as these) about how policy-making actually works. Some measure of political autonomy is a universal attribute of effective governance. Modern constitutions, as I argued in my response to Fishkin above, are not populist documents; they all incorporate judgments about where insulation from populist forces is appropriate and where it is not. The reason is because it seems desirable to afford a certain amount of space for "political leadership," keeping in mind that in the longer term, the public can ultimately punish wayward leaders.

Policy analysts agree that enhanced "state capacity" of this kind is essential in precisely the area with which Culpepper and Fung are most concerned: economic reform. Economic

reform tends to be hampered by special interests, time inconsistency problems, technical complexity, a status quo bias, and popular ignorance—all traditional justifications for insulation or delegation. Today even the ardent European Social Democrats have come to accept that the *status quo* is unsustainable and some measure of economic reform is desperately required—fiscal consolidation of the welfare state, labor market flexibility, service liberalization, and immigration—if only to stabilize the broad achievements of social democracy. And most analysts agree that such reforms must be, above all, domestic.[10] The most important normative point here is that often policies will be more representative of more people if they emerge from a less directly participatory process. Do Culpepper and Fung really believe that more sustainable, enlightened and generous public policies would emerge over the medium-term if Europeans empowered political extremists and encouraged populist pressures to undermine elite-driven reforms? If they do, perhaps they could share the plan with 25 European governments struggling to implement reform.

This does raise a final, deeper issue: How are we, as normative and positive theorists, to judge the appropriateness of arrangements for insulating politicians? Where is the line to be drawn between facilitating enlightened governance and empowering irresponsible politicians? There is no simple answer to this question, the central issue of modern constitutional design. But one thing is clear, namely that we cannot simply grant this decision—as Culpepper and Fung appear to want to do—to transient electoral majorities, particularly if the bases of their views appear to be false. That is not modern constitutional democracy. Instead we must reach a considered judgment about the adequacy of institutions to realize public purposes.

The question of whose interests are represented is surely key, and a deeper appreciation of the paradox that less participation often leads to fairer representation is a good place to start. An extended discussion of this point is not possible here, so let me just say this: Given the modesty of the EU's current agenda, the uncontested importance of economic reform, the widespread popular support (nearing 70%) for deeper foreign policy cooperation, the obvious bias in domestic systems toward unsustainable levels of social protection, and the apparent success of enlargement at spreading peace and prosperity, there is at least some reason to maintain a presumption—both normative and pragmatic—in favor of current arrangements. This is particularly true if the proposed alternative is to empower extremists and to use Europe as an experimental laboratory for radical deliberative reform.

In conclusion, it might be said of Culpepper and Fung's critique, as is often said of academic writing, that they believe I am "right in practice but not in theory." In other words, they believe—as we have seen in the discussion above of the deliberative reform proposals by them and Fishkin—that radical reforms might *in theory* promote European democracy, but unfortunately *in practice* no one knows how to do it. Still, these are two smart social scientists and their critique is engaging not because it proposes a practical alternative, but because it offers a sophisticated critique of the *status quo*. And the

[10] For an discussion of this literature, notably the work of Fritz Scharpf, see the papers cited above.

underlying issue of how to judge existing institutions is one that deserves continued analysis—not least from radical critics like Culpepper and Fung.

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At first glance, **Loukas Tsoukalis** appears to pose a more frontal challenge to my more sanguine view of EU democracy. Yet on closer inspection the difference may not be so great. Like everyone in this forum, Tsoukalis agrees that discussion of European issues via constitutional abstractions was counterproductive. But he does believe there is a crisis of legitimacy, and that the source of the crisis in the EU lies in the growing significance of the issues it handles. Indirect democratic legitimation of the EU without serious public deliberation—via national and Euro-parliamentary elections that essentially ignore EU issues—was fine in the 1960s, but the recent expansion in the decisions handled by the EU, as well as its geographical expansion via enlargement to the East, have so increased the effect of European institutions on the everyday life of citizens that such mechanisms are not viable. The result is a popular rebellion against the EU, as demonstrated by the recent and unfortunate constitutional referendums in France and the Netherlands.

This is a widely held view about the EU today: The deepening of policy has triggered a legitimation crisis. This view is particularly widespread, as Majone notes, among elites—not least those who make their living studying (or managing) monetary policy, Macedonian stabilization and other Euro-issues. (This view is shared, in some respects, by Magnette, Culpepper and Fung, and Majone.)

I defer to Tsoukalis, an insightful analyst of the political economy of monetary union, on the substantive consequences of a single currency. But this debate is not about substantive consequences; it is about electoral consequences. And here Tsoukalis seems to overlook the force of the position. As noted above in discussing Culpepper and Fung's critique, I am *not* arguing that EU issues are, in some abstract sense, not important enough to merit discussion. I am arguing they are not important enough in the minds of the public to generate deep and broad deliberation. That is, empirically, a very high standard indeed, since the average voter keeps less than 2 issues saliently in his or her mind, in the sense that they are likely to impact a vote. Thus most issues—indeed, nearly all issues-in modern electoral democracies—are never debated by a broadly informed general public. And there is little evidence that any EU issues rise to this level.

But if EU issues are not salient, the skeptic might ask, what explains the apparent backlash directed at the EU, as exemplified by the referenda? Here Tsoukalis and I agree on the diagnosis, if not the remedy. Electoral discontent in the referendums reflected European worries about a set of socioeconomic issues: unemployment, the stability of social welfare systems, fiscal constraints, and third-country immigration, and citizens expressed it against the EU because politicians gave them the opportunity to do so in a forum that seemed to have, as Franklin pointed out above, very little other purpose.

But the deeper point, which Tsoukalis does not appear to accept, is that *nearly all* public discussion of EU matters is therefore likely to be irrelevant, if not counterproductive, with regard to encouraging deliberative and well-considered voting. Nearly all the concerns Tsoukalis raises involve national, not EU, competences. The discontent expressed in the referenda should be—and in many respects really was—directed at national governments. The EU issue (which, again, has not entered into national elections for some time) would surely have remained on the back burner, had not some European politicians seen fit to provide voters with a transaction-cost free opportunity to express general political discontent in a referendum where little else of substance appeared to be at stake. That decision was, predictably, disastrous. They imported the national issues of concern to them, and took it out on the EU.

Of course it is true—my article addresses this issue in more detail—that macroeconomic policy is one of those issues about which European voters *do* care strongly, and the European Central Bank (ECB) plays an important role in managing monetary policy. This is also a concern of Majone and of Culpepper and Fung, who note in passing that my view "ignores the familiar charge that some of the problems of European economies may be tied to the lack of coordination between fiscal and monetary policy." Culpepper and Fung also believe that the ECB should be brought under tighter democratic control.

To my mind, this is by far the most compelling of the criticisms expressed by the participants in this forum—and I am in many ways quite sympathetic with it. In writing on EU democracy, I have consistently expressed ambivalence about the ECB, for both pragmatic and normative reasons. By the standard I have suggested to assess the "democratic deficit" in the EU, namely whether EU institutions reduce the level of popular control over policy without a plausible normative justification, the ECB remains suspect. The ECB is more independent than national central banks, with less technical or normative justification.[11] Culpepper and Fung rightly raise technical objections to the resulting policy mix (to the absence of coordination between monetary and fiscal policies). There is a good case to be made that the single currency is just bad policy.

Criticisms of EMU as policy do not necessarily add up to a particularly compelling argument against the EU's basic mode of legitimation—for a number of reasons.

First, much of the force of this critique boils down to a critique of a misguided policy—EMU—not of the particular procedural safeguards in the EU. The central issue of this forum is not whether European monetary policy is sound. It is the level of deliberation and participation in the EU. And it is unclear whether imposing a central bank on a "non-optimal" currency area would be a sounder policy if the bank were subject to more popular control. Nor is it clear why a coordinated EU fiscal policy, which is the policy solution most often proposed, would increase democratic control. The result might well be the opposite.

[11] See the final pages of Moravcsik, "In Defense of the Democratic Deficit," for cautious criticism of the ECB.

Second, there are sound reasons to accept an independent central bank in principle. From the perspective of democratic theory, what is at stake here is only the details of the design of this one—its extraordinary independence. Certainly it is hard to imagine an informed deliberation about the details of monetary policy, which is perhaps why no government proposes to put the ECB under direct democratic control—nor is it clear what this would mean.

Third, even if entirely sound, the critique is limited to European monetary policy, which is subject to a unique institutional framework. It does not extend to other EU activities in the same form. Even if something should perhaps be done about monetary policy—and here, again, I share Tsoukalis and Majone's concerns—the ECB is the only EU institution, I have argued elsewhere, whose democratic pedigree is seriously in question.

Fourth, whatever the theoretical merits of various institutional reforms, monetary policy does not appear to be the source of discontent in the fateful French and Dutch referendum. Public criticism in the Netherlands of the inflationary effects of EMU, for example, focused on the Dutch government's mini-devaluation against the outgoing Deutschmark at the time EMU was created—something neither mandated by EU rules (quite the contrary!) nor particularly novel in the history of Dutch monetary policy.

It might seem natural to conclude, as I do in the article, that the effective levers of macroeconomic policy management are fiscal, and fiscal policy is domestic—and so debates about economic reform should be held at the national level. Tsoukalis disagrees. He appears to believe that the EU must step in because national deliberation is not taking place. Europeans, he says, have no place to debate globalization, social welfare reform, the costs and benefits of immigration, labor market flexibility, and the deeper trade-off between equity and efficiency.

Really? It seems to me that European politicians talk about little else. Pick up any newspaper, or examine the polls, and it could hardly be more explicit that the major challenge facing every government from Sweden to Italy is to manage these issues. Nor is expanding mass public debate on this issue likely to facilitate fairer, more rapid and more legitimate economic reform. But even if it would, why should this debate take place in the EU—an institution only marginally concerned with labor market flexibility, fiscal consolidation, intergenerational equity, and other central challenges of adjustment? In particular, why should direct election of the Commission (which has no control over any of these issues) by the European Parliament, as Tsoukalis proposes, will help? Fritz Scharpf and others have shown that the social welfare systems and underlying political compromises in Europe are varied and nationally specific. Tsoukalis is correct to stress that such issues need to be debated. But the nation-state remains the proper level—and the most legitimate—to debate such issues. Anyway, it's all we have.

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It has been a pleasure and a privilege to read the responses of the other eight participants in this forum; I thank them for taking the time to engage in such depth on this vital issue and Notre Europe for organizing this forum.

The reader who has gotten this far might be tempted to conclude that this has been a series of scholastic quibbles—a tempest in an ivory teapot. This might be the case, were it not for the intrinsic importance of the issue and the distressing tendency of so many scholars, politicians, commentators, and policy analysts today to replicate the same errors about the EU we have discussed here. Today it is common to view the EU as *prima facie* undemocratic and as less legitimate than the member states. It is common to view the EU as a failed institution in dire crisis. It is common to ascribe negative referendum outcomes to some characteristic of the EU and its policies, rather than to discontent with national politicians and issues. It is common to peddle radical nostrums aimed at promoting transnational deliberative democracy. It is common to view the weaknesses of EMU as evidence of the general failure of integration. Above all, it is common to view European voters as nascent political philosophers yearning to engage in the same sort of constitutional deliberation we have conducted here.

Yet on the last point, I am struck that all the participants in this debate, whatever their disagreements, generally agree that proposals for enhancing deliberation, participation and legitimacy in EU affairs via constitutional reform, enhanced parliamentary democracy, and intense deliberation on a mass scale are doomed to failure. If this debate has gone a small distance toward deflating these myths about modern