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Beetz, J.P.; Rossi, E.

DOI
10.1080/20414005.2017.1307316

Publication date
2017

Document Version
Final published version

Published in
Transnational Legal Theory

TRANSNATIONAL LEGAL THEORY, 2017
VOL. 8, NO. 1, 22–41
https://doi.org/10.1080/20414005.2017.1307316

Routledge
Taylor & Francis Group



# The EU's democratic deficit in a realist key: multilateral governance, popular sovereignty and critical responsiveness

Jan Pieter Beetz[a] and Enzo Rossi[b]

[a]ACCESS Europe Postdoctoral Research Fellow, Department of Political Science and Public Administration, Vrije Universiteit Amsterdam, Amsterdam, the Netherlands; [b]Universitair Docent, Department of Political Science, University of Amsterdam, Amsterdam, the Netherlands

**ABSTRACT**
This paper provides a realist analysis of the European Union's (EU) legitimacy. We propose a modification of Bernard Williams' theory of legitimacy, which we term critical responsiveness. For Williams, 'Basic Legitimation Demand + Modernity = Liberalism'. Drawing on that model, we make three claims. (i) The right side of the equation is insufficiently sensitive to popular sovereignty; (ii) The left side of the equation is best thought of as a 'legitimation story': a non-moralised normative account of how to shore up belief in legitimacy while steering clear of both raw domination and ideological distortions. (iii) The EU's current legitimation story draws on a tradition of popular sovereignty that sits badly with the supranational delegation and pooling of sovereign powers. We conclude by suggesting that the EU's legitimation deficit may be best addressed demoicratically, by recovering the value of popular sovereignty at the expense of a degree of state sovereignty.

**KEYWORDS** Political realism; critical responsiveness; legitimacy; Bernard Williams; European Union; popular sovereignty; democratic deficit

## 1. Introduction

The European Union (EU) finds itself in times of crisis once more. The Euro-crisis, as well as the refugee crisis, has hit home[1] *hard*, especially if one's home is called Greece. These events have triggered reflections on the question of social justice in the EU-polity.[2] In parallel, the so-called democratic deficit

**CONTACT** Jan Pieter Beetz j.p.beetz@vu.nl

[1] Tanja A Börzel and Thomas Risse, 'When Europe Hits Home: Europeanization and Domestic Change' (2000) 4(15) European Integration Online Papers (EIoP).

[2] eg Phillippe Van Parijs, 'Should the European Union Become More Democratic?' *Just Democracy: The Rawls-Machiavelli Programme* (ECPR Press, 2011) 67–78; Rainer Forst, 'Justice and Democracy. Comment on Jürgen Neyer' in Rainer Forst and Rainer Schmalz-Bruns (eds), *Political Legitimacy and Democracy in Transnational Perspective* (ARENA, 2011) 37–42.

has re-emerged on the agenda with a vengeance.[3] A rise in anti-EU sentiments, exemplified by the Brexit referendum, relates the current stability of European integration to its perceived lack of democratic legitimacy. In academia, the democratic deficit has been a debate on the appropriate principles of democracy for Europe's novel governance regime. An influential analysis is that the regime's powers impact on national polities makes broadly consequentialist output and/or indirect intergovernmental legitimacy insufficient sources for the EU-regime. Rather than reflecting on the possible sources of legitimacy in the traditional input/output paradigm, we want to propose to understand the democratic deficit as a result of the regime's inability to reflect EU-citizens' commitment to popular sovereignty.

In this paper, we thus propose a different account of the EU's legitimacy deficit—one that breaks with both the voluntaristic and the consequentialists standard accounts, and that is specific to the EU's supranational governance structures. Our approach draws on and amends the realist theory of legitimacy recently developed by Bernard Williams and others. Our starting point is the idea that legitimacy depends not on responsiveness to citizens' *will*, but to citizens' *values*. But responsiveness is not simply a matter of reflecting actual values (i.e. beliefs and commitments). Those need to be corrected for *ideological* distortions. So we term our approach *critical responsiveness*. More specifically, rulers rely on legitimation stories to accompany the exercise of their coercive power, and those legitimation stories need to be in line with the citizenry's values, but they also need to be accepted for non-ideological reasons; i.e. for reasons that do not themselves flow from the authority of the rulers whose legitimacy is at stake. As Williams puts it, in a legitimate regime 'there is a legitimation offered which goes beyond the assertion of power'.[4] That is a bare outline of the abstract component of our account of legitimacy. Attention to the EU's context, then, provides a concrete upshot: we locate the legitimacy deficit in the misalignment between the prominent EU ruling practices of supranational delegation and shared sovereignty, and the historically formed legitimation story of popular sovereignty used to make sense of political authority within Member States. In other words, Western liberal democracies have not yet elaborated a legitimation story that fits an entity such as the EU. The conclusion also suggests that a solution to this democratic deficit should take normative priority over questions of social justice.

The paper proceeds as follows. In Section 2, we set out the basics of our general account of legitimacy. In Section 3, we show why the standard realist theory of legitimacy requires an account of popular sovereignty in

[3] eg Richard Bellamy and Uta Staiger, UCL European Institute, *The Eurozone Crisis and the Democratic Deficit* (2013), online: <www.ucl.ac.uk/european-institute/analysis-publications/publications/eurozone-crisis>.

[4] Bernard Williams, *In the Beginning Was the Deed: Realism and Moralism in Political Argument* (Princeton University Press, 2005), 11.

modern democratic contexts. In Section 4, we apply our theory to the EU's dominant ruling practices. Section 5 summarises the argument and sketches an alternative vista.

## 2. Williams' realist theory of legitimacy, critical responsiveness, and 'bare liberalism'

Bernard Williams' theory of legitimacy is both a direct engagement with a traditional concern of normative political theory, and an attempt to re-orient political theory, in two ways: away from the primacy of matters of justice, and away from the primacy of ethical considerations as constraints or aims for political action. Williams' begins by identifying a '"first" political question', namely, 'the securing of order, protection, safety, trust, and the conditions of cooperation'.[5] But, unlike in Hobbes, successfully answering the first political question is a necessary but not sufficient condition for a regime's legitimacy. To achieve legitimacy a polity must meet what Williams calls the 'Basic Legitimation Demand' (BLD): 'Meeting the BLD can be equated with there being an 'acceptable' solution to the first political question'.[6] Crucially, this acceptability is not the moralised notion familiar from many mainstream theories of legitimacy. If it is a moral notion at all, it is 'a morality internal to politics'.[7] For Williams, 'making sense' is 'a category of historical understanding, […] a hermeneutical category'[8] which assesses whether the legitimation offered by the rulers can be understood as such by those to whom it is addressed. More precisely, however, the idea is about checking whether an 'intelligible order of authority makes sense to us as such a structure' which 'requires […], that there is a legitimation offered which goes beyond the assertion of power'.[9] Williams adds that 'we can recognise such a thing because in the light of the historical and cultural circumstances […] it [makes sense] to us as a legitimation'.[10] This idea relies on 'our' ability to differentiate legitimations based on assertions of power from legitimations for the endorsement of which there are reasons other than their hold of power over us.

To turn this distinction into a tool of normative evaluation Williams introduces his 'Critical Theory Principle' (CTP): 'the acceptance of a justification does not count if the acceptance itself is produced by the coercive power which is supposedly being justified'.[11] For Williams, 'the difficulty with [this principle], of making good on claims of false consciousness and the like, lies in deciding what counts as having been "produced by" coercive

[5] *Ibid*, 3.
[6] *Ibid*, 4.
[7] *Ibid*, 7.
[8] *Ibid*, 11.
[9] *Ibid*, 11.
[10] *Ibid*, 11.
[11] *Ibid*, 6.

power in the relevant sense'.[12] So, in a Weberian vein, the source of legitimacy lies in the value-beliefs of the stakeholders; i.e. those over whom the power is exercised. A regime turns out to be illegitimate if the people accept its official justification—its legitimation story—only because they have not come to realise yet that there are no other reasons than the power of this regime for them to accept it as legitimate.[13] The test, though, is best understood as hypothetical. We look at actual beliefs, add an empirically informed causal story about their origin, and then imagine what the correct response would be once the causal story has been revealed to the belief holders. So we start with the people's current beliefs and imagine them going through a process of criticism, a process in which the test plays a significant part.[14] To clarify what 'counts as having been "produced by" coercive power in the relevant sense'.[15] Williams relies on what Raymond Geuss calls 'reflective unacceptability'.[16] To be sure, the hypothetical test is not opposed to also encouraging a process of reflection in actual people on whether they would still hold on to their beliefs (directly or indirectly about the legitimacy of the regime), once they had realised how they came to hold them. At any rate, this process will lead to context-sensitive evaluations based on one's assessment of what reasons are actually available to the citizenry.

Note the crucial difference between this approach and the standard, voluntaristic account of democratic legitimacy: our focus is on responsiveness to stakeholders' values, not on the enactment of their will.[17] Our take on Williams' view combines a central feature of empirical studies of the quality of democracy, namely, the attention to value-alignment or responsiveness,[18] with a central feature of critical theory as a form of political evaluation, namely, the attention to the ideological character of some beliefs in legitimacy. So we term this approach *critical responsiveness*.

Critical responsiveness is a universal account of legitimacy in its abstract form, but it is underpinned by two forms of contextualism. First, on this broadly realist view, politics is a context with its own form of normativity,

[12] *Ibid*, 6.
[13] Bernard Williams, *Truth and Truthfulness: An Essay in Genealogy* (Princeton University Press, 2002) 231.
[14] *Ibid*, 227; Here we set aside the question of the extent to which Williams' approach is in danger of introducing pre-political moral commitments from the back door. On this issue see: Edward Hall, 'Contingency, Confidence and Liberalism in the Political Thought of Bernard Williams' (2014) 40(4) *Social Theory and Practice* 545; Janosch Prinz and Enzo Rossi, 'Political Realism as Ideology Critique' (forthcoming) *Critical Review of International Social and Political Philosophy*; Paul Sagar, From Scepticism to Liberalism? Bernard Williams, The Foundations of Liberalism and Political Realism (2014), *Political Studies*, online: <www.onlinelibrary.wiley.com/doi/10.1111/1467-9248.12173/full>.
[15] Williams (n 4) 5.
[16] Raymond Geuss, *The Idea of a Critical Theory* (Cambridge University Press, 1981) 55–69.
[17] Tamsin Shaw, 'Max Weber on Democracy: Can the People Have Political Power in Modern States?' (2008) 15(1) *Constellations* 33.
[18] Andrew Sabl, 'The Two Cultures of Democratic Theory' (2015) 13(2) *Perspectives on Politics* 345; note that responsiveness can apply to other analytical levels of legitimacy-evaluation, such as input or output.

so that pre-political moral demands do not reach into politics.[19] Here a lot of work is done by the very *concept* of politics. Raw domination of the sort endured by the Helots in Sparta just is not politics, and this is a conceptual rather than a moral claim.[20] So this is a form of cross-cultural, conceptual contextualism—perhaps more of a category or scope restriction.[21] Second, each legitimation will have to culturally and historically specific elements, as per the Critical Theory Test described above. This is contextualism in the more familiar sense of the term. It is best understood as the need to provide a 'legitimation story' to each citizen.[22] Again, it is not clear to what extent we should take this literally. But the general idea seems to be that the public culture should contain the resources to allow the citizenry to make sense of the power exercised over them. If these legitimation stories are not widely accepted, rule can become perceived as domination resulting in resentment. The latter could threaten the political order, and subsequently economic, social, moral orders in the polity.[23] And if the legitimation stories are accepted for the wrong reasons, through ideological distortion, then their normative force is eroded.

When applied to our current predicament, these two elements yield Williams' abstract formula: 'LEG + Modernity = Liberalism'.[24] 'LEG' signifies a satisfactory answer to the first political questions; i.e. the meeting of the BLD. 'Modernity' is an umbrella term for the culturally specific legitimation. The rough idea is that, given the expectations about security and protection of individual rights developed in Western societies, no set of political arrangements other than a liberal one would meet the BLD.

One may ask whether Williams is not allowing liberalism to pass the Critical Theory Test too easily here, given the actual history of liberal states and of belief in the political centrality of individual rights, and especially the property rights that are characteristic of liberalism.[25] Williams' answer to that challenge would draw on what, following Judith Shklar, he calls 'the liberalism of fear'.[26] This view, sometimes also referred to as 'bare liberalism', is a largely negative defence of some tenets of liberalism, especially individual rights. The rough idea is that, historically, liberalism has proved more effective than other systems at preventing the sorts of evils that most people would associate

[19] Robert Jubb and Enzo Rossi, 'Political Norms and Moral Values' (2015) 40 *Journal of Philosophical Research* 455.
[20] Williams (n 4) 5.
[21] One may well contest the coherence of such a move, for instance, noting that the concept of politics is essentially contestable.
[22] Williams (n 4) 5.
[23] Andrea Sangiovanni, 'Justice and the Priority of Politics to Morality' (2008) 16(2) *Journal of Political Philosophy* 137, 156.
[24] Williams (n 4) 9.
[25] For this line of argument see: Carlo Argenton and Enzo Rossi, 'Libertarianism, Capitalism, Ideology: A Reality Check' (2016) Working paper.
[26] Williams (n 4) 52–61.

with overly powerful government—cruelty, torture, and, more generally, 'being in someone else's power'[27]; the same sort of political normativity behind the Critical Theory Test.

For our present purposes, it will be important to draw attention to the fit of this sort of minimal liberalism within Williams' equation. On the left side of the equation we have a rather rich story, or at least we should. 'Modernity' is a wide umbrella term.[28] While it seems clear that the bare liberalism on the right side of the equation can provide an answer to the first political question in our context, it also seems rather thin, if we are to think of it as the product of 'LEG' and 'Modernity'. Is a government that can spare us from cruelty all that we have come to expect in Europe's modern context? We are not suggesting that (bare) liberalism is not *part* of the answer, but simply that it is not the *entirety* of the answer. To the extent that European political theory and political culture has developed and consolidated something approaching a consensus in the way to answer those questions, that consensus makes room for the ideal of popular sovereignty. In other words, the liberalism on the right side of the equation is either an inadequately narrow answer result, or it should be understood as part of de facto union between liberalism and democracy (even if it is just a marriage of convenience) that characterises successful legitimation stories in our part of the world.

## 3. Popular sovereignty in modern democracies

Up to this point, our argument has remained rather abstract. We will now delve into the legitimation story based on popular sovereignty in the context of the democratic nation-state and then the possibilities for the same story to legitimise in the contemporary political landscape after European integration. Williams' normative preference for 'bare liberalism' relies on a particular historical narrative. An alternative history can be told, especially for modern democracies, in which *popular sovereignty* features centrally in the legitimation story accepted by democratic citizens.

The logic of popular sovereignty[29] is that the people are the source of all political authority in the polity; therefore, the right to rule derives from the subjects as part of a collective. Many analyses of popular sovereignty have been offered in academia. For our purposes, Jonathan White offers a useful account of this logic, which captures many possible conceptions. He argues

[27] *Ibid*, 61.

[28] Enzo Rossi, 'Consensus, Compromise, Justice and Legitimacy' (2013) 16(4) *Critical Review of International Social and Political Philosophy* 557.

[29] Democratic and legal scholars also use 'constituent power' for this logic, eg: Andreas Kalyvas, 'Popular Sovereignty, Democracy, and the Constituent Power' (2005) 12(2) *Constellations* 223; Martin Loughlin, 'The Concept of Constituent Power' (2014) 13(2) *European Journal of Political Theory* 218; Markus Patberg, 'Constituent Power Beyond the State: An Emerging Debate in International Political Theory' (2013) 42(1) *Millennium: Journal of International Studies* 224.

that a 'bond of collectivity' creates a people out of a diverse multitude, which subsequently sets the standards of legitimate (democratic) rule.[30] White's concept is intended to be applicable to, and facilitate interplay between, both theory and practice. In theories of popular sovereignty, a philosopher delineates a shared bond to then work out principles of legitimacy. In practice, popular sovereignty can only legitimise if citizens sincerely believe in the existence of a collective bond of some sort. This duality will also serve our analysis well, because, in this section, we will move from philosophical analysis to a historical one to assess popular sovereignty's realist credentials.

Before turning to historical-contextual aspects, we will first analyse whether popular sovereignty is an attractive value for political realists of a critical bend. In the context of modern pluralistic democracies, two reasons make popular sovereignty into a particularly attractive value. First, popular sovereignty can accommodate disagreement. It can provide justifications of rule even in polities with little homogeneity, thus taking into account the diversity of its stakeholders: rulers and the citizens. A particularly 'thin' bond of collectivity justifies rule for certain Pareto optimal outcomes.[31] Williams' preferred ideal of bare liberalism fits with such a conception of popular sovereignty. The only bond between the multitude is their interest in safeguarding their basic rights. However, citizens might share more common ground than a commitment to some basic rights, which might justify the enforcement of more extensive collective projects. A 'thick'—typically cultural—bond or a consensus on democratic values are the main alternatives in the literature.[32] On a sociological level, a too thin conception of the bond of collectivity is troublesome for democracies. Therefore, some kind of thick or political bond might be necessary *in practice*. On a philosophical level, however, such a bond can mediate disagreements between rulers and citizens following the legitimation logic of popular sovereignty.

The second reason is that popular sovereignty can legitimise coercion but also provides a normative basis to defend citizens from ideological distortions.[33] A bond of collectivity can legitimise collective coercive structures. A problematic feature, however, is the possibility of disenfranchisement. As history shows, in liberal-democratic contexts, a shift towards the protection of negative rights (bare liberalism) is often accompanied by a loss of the mass-participatory aspect of democracy.[34] Popular sovereignty, on the other hand, prescribes that rulers should remain responsive to the values of the subjects, which can include but is not limited to the protection of their rights.

[30] Jonathan White, *Political Allegiance after European Integration* (Palgrave Macmillan UK, 2011) 5–6.
[31] *Ibid*, 6–7.
[32] *Ibid*.
[33] On ideological distortion, see: Prinz and Rossi (n 14).
[34] Peter Mair, *Ruling the Void: The Hollowing of Western Democracy* (Verso, 2013); Colin Crouch, *Post-Democracy* (John Wiley & Sons, Ltd, 2004).

Moreover, popular sovereignty empowers citizens to judge whether a regime is actually acting in alignment with their commitments, which in turn requires critical scrutiny of ideological structures. In the end, the citizens are the sole fountain of legitimacy in the polity; not the rulers. In sum, popular sovereignty is an attractive political value from the point of view of a critical political realist. This realist analysis establishes philosophical attractiveness of popular sovereignty's BLD; this is a necessary but not sufficient condition for a political value.

A political value should *make sense* to the citizens that it pertains to govern in a *historical context*. Historically, the rise of popular sovereignty is often connected to modernity's disenchantment. Where European medieval states relied upon Christianity to ground political authority, bereft of such metaphysical principles, modern democracies require a popular sovereign.[35] The change from the divine right of kings to popular sovereignty constituted a transformation from a vertical to a horizontal principle of legitimacy; normative authority in the polity transferred from the ruler(s) to the ruled[36]—'marks a break with an old world'.[37] Rulers of the two modern regimes *par excellence* —democracies and totalitarian regimes—claim to exercise power within their polity in the name of 'the people'.[38] They appeal to the principle of popular sovereignty. Certainly, in democracies, this principle has no rival when legitimating the use of force. Moreover, in international politics, it is not just leaders; citizenries also acted as vehicles for maintaining national sovereignty.[39] On this reading, popular sovereignty became the legitimation story within modernity's disenchanted cosmology, which also makes sense to the citizens in this historical context.

Up to this point, we have argued that popular sovereignty is a realist alternative to Bernard Williams' normative theory of bare liberalism. We will now continue with an assessment of whether or not this legitimation story passes Williams' critical theory principle. If the belief in popular sovereignty is merely a product of past coercion by the state, then this legitimation story is not acceptable for a realist. We will, however, suggest that coercion played a role but its widespread acceptance cannot be entirely attributed to state coercion.

No realist denies that force plays a central role in politics, however belief in the legitimacy of the coercive structures should not be secured through those

[35] Christopher J Bickerton, 'Europe's Neo-Madisonians: Rethinking the Legitimacy of Limited Power in a Multi-level Polity' (2011) 59(3) *Political Studies* 659, 666.
[36] Cécile Laborde, 'Republican Citizenship and the Crisis of Integration in France' in Richard Bellamy, Dario Castiglione and Emilio Santoro (eds), *Lineages of European Citizenship Rights, Belonging and Participation in Eleven Nation-States* (Palgrave Macmillan, 2004), 52.
[37] Pierre Rosanvallon, 'The Metamorphoses of Democratic Legitimacy: Impartiality, Reflexivity, Proximity' (2011) 18(2) *Constellations* 114, 120.
[38] Claude Lefort, 'The Logic of Totalitarianism' in John B Thompson (ed), *The Political Forms of Modern Society: Bureaucracy, Democracy, Totalitarianism* (Polity Press, 1986) 288.
[39] Raymond Aron, 'The Anarchical Order of Power' (1995) 124(3) *Daeldalus* 27.

same structures. The *critical theory test* aims to assess whether ideological distortion in the past has taken place. The following genealogy is not extensive, but serves to illustrate *popular sovereignty as legitimation value* was not imposed by rulers upon the public.

Paradoxically, popular sovereignty finds its modern roots not in democratic but in monarchical thought. The monarchs use it against opponents in parliament. The latter, however, successfully appropriated popular sovereignty to legitimate themselves as representatives of the people.[40] Ultimately, the value would fuel democratic revolutions in Western democracies, hence rulers *and* rebels played an essential role in placing popular sovereignty at the heart of the (de)legitimation story of the modern state.

Moving from the value to its institutionalisation, state- and nation-building processes have been violent affairs, resulting in the institutional preconditions of popular sovereignty: sovereign states and peoplehood. A vast literature exists that illustrates the importance of war in the establishment of the centralised state.[41] Broadly, war required funds due to technological advances, such as fortresses and gunpowder. The recruitment of standing armies created further costs. These military developments were an important factor in the creation of centralised state institutions, such as tax collecting agencies. National economies became centrally managed by the state to ensure competitive advantages. In Europe, centralised states with the ability to enforce decisions in their territory—infrastructural power—became a fact. Moreover, since the Peace of Westphalia, these centralised states were attributed the status of sovereignty.[42]

These centralised institutions played an important role in the creation of peoplehood. These processes were both intentional and unintentional. Among the former, in Europe, homogenisation is a product of linguistic and ethnic cleansing.[43] Yet, even these processes were not necessarily always aimed at self-legitimation; other concerns such as economic competitiveness also played a role.[44] In a similar vein, the military and administrative state apparatus resulted in unintentional homogenisation. One of the most important reasons was the creation of a hard boundary between states,

[40] Edmund S Morgan, *Inventing the People. The Rise of Popular Sovereignty in England and America* (W W Norton & Company, 1988).

[41] See, for instance: Charles Tilly, 'Reflections on the History of European State-Making', *The Formation of National States in Western Europe* (Princeton University Press, 1975) 3–83; Philip Bobbitt, *The Shield of Achilles. War, Peace, and the Course of History* (Allen Lane, 2002); Michael Mann, 'The Autonomous Power of the State: Its Origins, Mechanism and Results' (1984) 25(2) *Archives Européennes de Sociologie Paris* 185 (Republished 109).

[42] Roland Axtmann, 'The State of the State: The Model of the Modern State and Its Contemporary Transformation' (2004) 25(3) *International Political Science Review* 259; Stefano Bartolini, *Restructuring Europe. Centre Formation, System Building, and Political Structuring between the Nation State and the European Union* (Oxford University Press, 2005), 64.

[43] Michael Mann, 'Genocidal Democracies in the New World', *The Dark Side of Democracy* (Cambridge University Press, 2005) 70–110.

[44] Ernest Gellner, *Nations and Nationalism* (Cornell University Press, 1983).

where rule within treated (most) citizens the same. To legitimate state rule, stories were told about the boundaries, which lay the foundation of sincerely held beliefs about subjects' ties[45]: their bonds of collectivity. As Sofia Näsström sums up these processes, 'peoplehood always is born out of a combination of coercive force and persuasive storytelling'.[46]

These violent processes acted as a catalyst for popular demands including democratisation of decision-making: democratic popular sovereignty. Popular pressures played an essential role in the introduction, subsequent extensions and continuously sustaining democratic procedures in domestic politics.[47] The sacrifices asked from citizens by the state, such as making war and paying taxes, were important reasons to demand more extensive welfare provisions from the state. In a more institutional vein, citizens started to demand a voice in politics, which became more important as citizens could not simply 'exit' from the state.[48] In this context, nationality became enriched with democratic citizenship,[49] which increasingly replaced purely ethnic-linguistic markers.[50] The democratisation of the state and peoplehood thus is in part a result of popular pressures to meet citizens' legitimation demands.

From a realist perspective, political power's constitutive role in creating unity is not a surprise.[51] The pertinent question is whether coercive structures are the sole or predominant reason for these legitimating beliefs. Our admittedly broad stroke account of state- and nation-building shows that the story is one of enforcement and rebellion, and *raison d'état* and popular demands. The legitimation value of popular sovereignty and its institutionalisation in modern state-democracies are, at least in part, the result of popular pressure rather than elite domination, hence popular sovereignty passes the critical theory test.

At this point, we turn to the assessment of popular sovereignty in ruling practices. To assess rulers *(critical) responsiveness*, we analyse whether the coercive structures of the modern democratic state conform to the value of popular sovereignty. This assessment is important for the subsequent analysis of Europe's democratic deficit. Because of this consideration, we focus solely on the democratic conception of popular sovereignty as empowerment in decision-making. One initial observation, which is essential for this realist

[45] Charles Tilly, 'Ties That Bind … And Bound', *Identities, Boundaries, and Social Ties* (Paradigm Publishers, 2005), 3–12.
[46] Sofia Näsström, 'The Legitimacy of the People' (2007) 35(5) *Political Theory* 624, 629.
[47] Jürgen Habermas, *The Structural Transformation of the Public Sphere An Inquiry into a Category of Bourgeois Society* (Polity Press, 1992), 131–132.
[48] Stein Rokkan, *State Formation, Nation-Building, and Mass Politics in Europe. The Theory of Stein Rokkan: Based on His Collected Works* (Oxford University Press, 1999).
[49] TH Marshall, *Citizenship and Social Class* (Cambridge University Press, 1950) 1–85.
[50] Jürgen Habermas, 'National Unification and Popular Sovereignty' (1996) no 219 *New Left Review* 3.
[51] Marc Stears, 'Liberalism and the Politics of Compulsion' (2007) 37(3) *British Journal of Political Science* 533.

analysis, is that modern states' capacity to implement its decisions is an often overlooked but essential feature of modern democracies.[52] The crucial point is not merely that these coercive structures can maintain order, but that infrastructural power is essential to meet democratic BLD. A democracy that cannot implement collective decisions does not institutionalise the *sovereignty* of the people, hence it is incongruent with the value of popular sovereignty.

Domestically, modern democracies share two central features to make rule subject to citizens' power: vote and voice. Voice refers to the deliberative dimension of mass democracies. Democracies have forums in which rulers and ruled can publically exchange ideas among each other and themselves. More instrumentally, they enable citizens to keep track of their rulers, while rulers can keep track of the citizens' preferences. These public forums are not merely passive registers of preferences; debate can also change opinions and mobilise the citizenry.

The vote further empowers citizens to actively hold their rulers to account. The people are empowered to elect representatives to make decisions reflecting their position. By the same means, citizens are given the power to eject unresponsive rulers. Modern democracies thus offer 'the people' instrumental, albeit indirect, powers to remain sovereign decision-makers in the polity. Vote and voice institutionalise democratic procedures that—however imperfect—conform to the logic of popular sovereignty. It is that sense that rulers' legitimation stories of popular sovereignty can also pass the (critical) responsiveness test.

Popular sovereignty also authorises democratic rulers in the international realm. The veto is a particularly important institution in this regard. State sovereignty, and by extension, popular sovereignty, is closely associated with freedom from external interference. Rulers often argue that they represent the citizens' collective interests abroad, such as peace or greater overall prosperity. Democratic rulers can justify their authority abroad as elected representatives by their sovereign people. However, this claim requires institutionalisation. Leaving aside the restraints on *de facto* sovereignty,[53] rulers are, in principle, autonomous in their decision-making. When entering into agreements, international organisations recognise this claim by attributing veto powers to all state representatives.[54] Veto power institutionalises the people's sovereignty in ruling practices in the international realm. So the practices of coercive rule in democratic state polities conform to the legitimation story of popular sovereignty, both domestically and internationally.

[52] Clauss Offe and Ulrich K Preuss, 'The Problem of Legitimacy in the European Polity: Is Democratization the Answer?' in Colin Crouch and Wolfgang Streeck (eds), *The Diversity of Democracy: Corporatism, Social Order and Political Conflict* (Edward Elgar Publishing Limited, 2006) 175–204.
[53] Admittedly, modern states' autonomy is always limited in certain ways.
[54] John H Hertz, 'Rise and Demise of the Territorial State' (1957) 9(4) *World Politics* 473, 477.

As we have seen, from a realist perspective, popular sovereignty is a normatively attractive political value even upon critical scrutiny. However, can this political value also act as the core of a democratic legitimation story for the EU?

## 4. Does EU rule conform to the realist value of popular sovereignty?

European political integration constitutes a transformation of the EU-polity into a new kind of democracy.[55] Since the 1990s, EU-rule has become more institutionalised, and greater emphasis has been given to the Union's direct relationship with its subjects, such as EU-citizenship. The Union, therefore, has moved beyond the status of a 'normal' international organisation. Leaving aside the details of Europe's institutional complexities,[56] Wallace's famous analysis of the European Community as 'Less than a Federation, More than a Regime'[57] is even more true for the current Union. These same developments have been a catalyst for the so-called democratic deficit.[58] This deficit has an empirical dimension in widespread concerns about the EU's social legitimacy, and the 'objective' democratic credentials of its institutions. However, we will assess the EU-rule's legitimacy on a philosophical level.

In order to do so, we require an account of the institutionalisation of rule. The two prevalent institutionalised forms of EU-rule are: (1) *delegation* of state powers to administrative agents, and (2) *pooling* of state powers in decision-making procedures without retaining veto-power. We do not claim that these forms solve any interpretative issue on the character of the EU's governance-regime.[59] The more modest claim is that these practices contribute to the in-between status of the current Union. Francis Cheneval's ideal-type of multilateralism relies on these forms. A multilateral polity has 'functionally differentiated constitution of incongruent territorial hierarchies through institutionalised co-operation and integration between states. The

[55] Frank Schimmelfennig, 'The Normative Origins of Democracy in the European Union: Towards a Transformationalist Theory of Democratization' (2010) 2(2) *European Political Science Review* 211.

[56] Jan Zielonka, 'Plurilateral Governance in the Enlarged European Union' (2007) 45(1) *Journal of Common Market Studies* 187, 190.

[57] William Wallace, 'Less than a Federation, More than a Regime' in Helen Wallace, William Wallace and Carole Webb (eds), *Policy-Making in the European Union* (John Wiley & Sons Ltd, 1983) 403.

[58] Heidrun Friese and Peter Wagner, 'Survey Article: The Nascent Political Philosophy of the European Polity' (2002) 10(3) *The Journal of Political Philosophy* 342.

[59] Andrew Moravcsik, 'In Defence of the "Democratic Deficit": Reassessing Legitimacy in the European Union' (2002) 40(4) *Journal of Common Market Studies,* 603; G Marks, L Hooghe and K Blank, 'European Integration from the 1980s: State-Centric v. Multi-Level Governance' (1996) 34(3) *Journal of Common Market Studies* 341; Philippe C Schmitter, *How to Democratize the European Union … And Why Bother* (Rowman & Littlefield Publishers, 2000); Vivien A Schmidt, 'The European Union: Democratic Legitimacy in a Regional State?' (2004) 42(5) *Journal of Common Market Studies* 975; Jan Zielonka, *Europe as Empire: The Nature of the Enlarged European Union* (Oxford University Press, 2006).

multilateral process blends domestic and intergovernmental structures through their linkage to supranational modes of decision-making, dispute settlement, and jurisdiction'.[60] This ideal-type captures key features of the EU-regime with its mix of supranational institutions, such as the European Parliament (EP) and the European Central Bank, and intergovernmental institutions, such as the Council system. A multilateral *regime* consists of 'limited, differentiated *delegation* of competences to supranational agents and of intergovernmentalism in the areas where states cooperate but retain full or *shared* decision-making power'.[61]

Before turning to the question of responsiveness, let us briefly elaborate the relevance of popular sovereignty as a political value in the EU-context. The democratic conception of popular sovereignty remains relevant because evidence exists that EU-citizens remain committed to the value of popular sovereignty in relation to democratic regime legitimacy.[62] Further, much has changed in contemporary politics–late modernity if you will–compared to early modernity. One consistent factor is that politics in the West takes place in what one may call a disenchanted cosmology.[63] Popular sovereignty remains a suitable source of authority in the EU-polity, which also makes sense to its citizens. Therefore, we will assess whether institutionalised practices of rule broadly conform to the political value of popular sovereignty.

Turning first to delegation, this practice is not necessarily incompatible with popular sovereignty. Domestically, administrative agencies are often placed at arm's length from politicians. In a similar vein, democratic politics cannot easily or at all intervene with constitutional courts. The legitimation story is that the autonomy of these institutions serves the interests of the people—popular sovereignty as output legitimacy, in other words. Still, democratic politics can often intervene with these administrative agencies through some, at times complex, procedure. German governments have at times challenged the famously independent German Central Bank, the *Bundesbank*.[64] Therefore, accountability remains possible by the democratic order. Delegation thus does not constitute a problem at first glance.

Moreover, transnational delegation is a rational route to pursue for governments on the classic intergovernmental logic of credible commitments. Intergovernmentalism assumes that governments are primarily motivated

[60] Francis Cheneval, 'The Hobbesian Case for Multilateralism' (2007)13(3) *Swiss Political Science Review* 309, 328.

[61] *Ibid*, 329; italics added for emphasis.

[62] Juan Díez Medrano, 'Europe's Political Identity: Public Sphere and Public Opinion' in Justine Lacroix and Kalypso Nicolaïdis (eds), *European Stories: Intellectual Debates on Europe in National Contexts* (Oxford University Press, 2010), 315.

[63] See, for instance: Christopher J Bickerton, 'Europe's Neo-Madisonians: Rethinking the Legitimacy of Limited Power in a Multi-Level Polity' (2011) 59(3) *Political Studies* 659.

[64] Richard Bellamy and Albert Weale, 'Political Legitimacy and European Monetary Union: Contracts, Constitutionalism and the Normative Logic of Two-Level Games' (2015) 22(2) *Journal of European Public Policy* 257.

by self-interest. They enter into international agreements to pursue their self-interest and, in the case of democracies, the interests of their people. European integration is often motivated by efficiency concerns.[65] However, self-interest can also motivate non-compliance. To avoid governments not holding up their end of the deal, EU Member States have delegated quite a few powers to supranational administrative agencies. These institutions are granted autonomy to ensure *no* single government can influence them. This kind of delegation is a tool for intergovernmental actors to ensure compliance.

That being said, this type of delegation is of a qualitatively different nature than its domestic counterpart. The core reason is the creation of a new power without a clear chain of delegation. Hans Agné persuasively makes this case[66] and we shall outline the relevant parts of his argument for our analysis. Unlike a national act of delegation, when governments choose to delegate power to a supranational agency, they create a *new* power. The agency has capabilities to enforce a policy that no one government had the authority to take before its existence. Moreover, Agné argues that 'the authority conferred on international agencies can [no longer] be retrieved by democratic states, or effectively influenced through democratic procedures'.[67] Agné provocatively implies that EU-citizens might have been alienated from their powers rather than delegating them. At this point, the incompatibility with popular sovereignty comes clearly into focus. The democratic challenge with transnational delegation is that the institution's power is no longer directly traceable to a sovereign people.[68]

So far we have used a simple analytic distinction between pooling of sovereign powers and delegation. Delegation requires the creation of a new supranational agency, while pooling sovereignty refers solely to European decision-making procedures. In practice, pooling and delegation touch upon another. One might well argue that delegation is a particular form of pooling sovereignty. However, pooling sovereignty does not necessitate a new European actor. EU-rulers can make legally binding decisions, but leave implementation solely to its Member States' bureaucracies.

Pooling sovereignty is also not necessarily incompatible with the value of popular sovereignty. Traditionally, nation-states pool powers in international organisations. These organisations have an essential institutional feature: the

[65] Andrew Moravcsik, *The Choice for Europe: Social Purpose and State Power from Messina to Maastricht* (Cornell University Press, 1998); Schimmelfennig (n 55).

[66] Hans Agné, 'Popular Power in the European Union: Delegated or Alienated?', in Simona Piattoni (ed), *The European Union: Democratic Principles and Institutional Architectures in Times of Crisis* (Oxford University Press, 2015) 46–62; Hans Agné, 'The Myth of International Delegation: Limits to and Suggestions for Democratic Theory in the Context of the European Union' (2007) 42(1) *Government and Opposition* 18.

[67] Agné (n 66) 36.

[68] Agné believes a democratic justification is possible in virtue of benefits. His argument implies, however, a degree of harmony in preferences. Taking conflict as part and parcel of politics, this argument cannot suffice for realists.

veto. Notwithstanding that *de facto*, sovereignty is often compromised in international relations–arguably only the hegemon is truly sovereign–*de jure* sovereignty should be recognised in this institutional feature. It should be, because the legitimation story of popular sovereignty relies on its presence. Therefore, again, we need not necessarily dismiss this ruling practice out of hand as incompatible with popular sovereignty.

The above picture, however, does not fully capture the practice of pooling *sovereignty* in the EU. As Francis Cheneval puts it, governments retain full or *shared* sovereignty in decision-making procedures. The distinction between full and shared sovereignty is key to our analysis. When states retain full sovereignty, they continue to have the option to enact veto power. In the EU, Member States retain full sovereignty in many matters. One crucial area, for instance, is treaty ratification. The European Commission might be the Guardian of the Treaties; the Member States remain its Masters. In these intergovernmental negotiations, the Member States hold veto power simply by refusing to sign. One consequence has been that Member States have been able to negotiate opt-outs resulting in differentiated integration.[69] The pooling of sovereignty that results in legally binding treaties is unproblematic. The intergovernmental representatives can claim to represent their sovereign people; otherwise, they would not have signed the treaty or, in different contexts, vetoed the legislation.

Shared sovereignty in decision-making, however, is a different matter. We define shared sovereignty as intergovernmental decision-making without veto-power. This form of EU-rule poses an institutional challenge to the sovereign status of governments in international relations. In many policy areas, the Member States have given up on the institutional feature of popular sovereignty: the veto. One of the most important features is that qualified majority voting has become the *most* widely used decision-making procedure in the Councils. In practice, a consensual style of decision-making characterises these procedures. However, style is not a check on real power. By giving up on the institutional veto, Member States can no longer guarantee the sovereignty of their people. In effect, they have placed a 'gifted resource'–the status of sovereignty–beyond their control. This practice sits badly with the democratic legitimation story of popular sovereignty.

In a different vein, observers might argue the EP and national parliaments have been given the means to influence decision-making. However, in as far as this is true, it is only partially the case. Decision-making procedures often include supranational and national parliamentary bodies. The EP can play a connecting role between national parliaments within a 'field or parliaments'

[69] Frank Schimmelfennig and Thomas Winzen, 'Instrumental and Constitutional Differentiation in the European Union' (2014) 52(2) *Journal of Common Market Studies* 354.

scrutinising EU-rule.[70] More importantly, the ordinary legislative procedure (OLP) and the yellow, orange, and, possibly in the future, green card procedures, ensure involvement of parliamentary bodies. The vote has been institutionalised in the EU-regime, hence popular sovereignty has been (partly) institutionalised within Europe's decision-making procedures.

However, two reasons can be given to seriously doubt this analysis. The first is conceptual: the lack of a clear sovereign people. The second is practical: the lack of the preconditions of voice. A conceptual concern is that the OLP and card procedures effectively empower a different 'demos'. The former empowers a European demos, while the latter empowers national *demoi*. In democratic theory, *demoicratic* and *mixte constituent* positions provide conceptual solutions in which multiple demoi legitimise an overarching *kratos*.[71] A discussion between these positions is whether the EP should or does represent an overarching demos or remains an institution for national interest representation.

The second reason returns us to the practical analysis. Domestically, voice played a complementary role to the vote, however the European reality is that voice remains nationally organised. On an optimistic interpretation, Europe has a nascent transnational public sphere in which some public debate takes place. However, even European topics are mostly discussed in national public spheres.[72] Therefore, national considerations and assumptions continue to shape these debates. European decision-makers cannot keep track of popular sovereign will, or of the relevant cleavages within society. Moreover, European publics face serious coordination issues in keeping track of their decision-makers. European decision-makers, such as Commissioners or MEPs, cannot therefore rely on the value of popular sovereignty to legitimate their rule. These democratic observations relate closely to the broader observation about the lack of a European *demos*.

Finally, we should address recent developments in the EU pertaining to the institutional response (or lack thereof) to the crises. This development fits a general tendency towards the emergence of an executive-administrative order,[73] which undermines any appeal to the value of popular sovereignty. In response to the Euro-crisis, Member State governments started to make decisions outside the European framework. In essence, governments

[70] Ben Crum and John Erik Fossum, *Practices of Interparliamentary Coordination in International Politics. The European Union and beyond* (ECPR Press, 2013) 9–13.

[71] See, for instance: Francis Cheneval and Kalypso Nicolaïdis, The Social Construction of Demoicracy in the European Union (2016), *European Journal of Political Theory*, online: <https://doi.org/10.1177/1474885116654696>; Jürgen Habermas, *The Crisis of the European Union. A Response*, trans. Ciaran Cronin (Polity Press, 2012).

[72] eg Thomas Risse, 'No Demos? Identities and Public Spheres in the Euro Crisis' (2014) 52(6) *Journal of Common Market Studies* 1207.

[73] Deirdre Curtin and Morten Egeberg, 'Tradition and Innovation: Europe's Accumulated Executive Order' (2008) 31(4) *West European Politics* 639.

strengthened their position in European decision-making.[74] The EP and national parliaments were relegated to consultative bodies rather than proper legislators.[75] Thus, the vote has become de-institutionalised at the European level. In line with past developments, intergovernmental agents allow effective decision-making to trump democratisation of the Union.[76] A transnational legitimation story of popular sovereignty is further compromised rather than further institutionalised, hence it fails this realist test.

Moreover, these recent developments challenge the intergovernmental legitimation story of an EU that represents sovereign peoples. The classic intergovernmental argument is that government representatives choose to remain in Europe.[77] This asserted autonomy is doubtful, however. At present, it would appear that the costs of exit have become extremely high, if not prohibitively so.[78] Member State governments 'choose' to accept direct intervention into the sovereign domain instead of unilateral withdraw. In Italy, under European pressure, the technocratic Monti government replaced Berlusconi's democratically elected one. Despite a negative referendum outcome, the Greek government has been effectively forced to accept stringent austerity measures with their bailout packages. The British membership referendum shows that seriously considering exit is not impossible. Note that a majority of the citizens took the decision to leave, while most of the British political elite campaigned to remain in the EU. In a different vein, as Ben Crum observes, '[Monetary integration can] be expected to lead to states being bound to ever more detailed policy contracts that hollow out their political autonomy in financial and economic matters'.[79] The recent developments resulted in a tendency towards intergovernmental agents losing their *de facto* veto. These forms of EU-rule do not conform to the value of popular sovereignty.

Having established that EU-rule, especially in the light of recent developments, does not sit well with the realist value of popular sovereignty, a final note on Europe's historical trajectory. We want to show that the processes were not necessarily unresponsive to citizens' value commitments, hence, for a realist, the Union's history can pass the test of critical responsiveness. The European project's origins lie in the devastation of the Second World War. The European integration project was the means of European rulers

[74] eg Christopher J Bickerton, Dermot Hodson and Uwe Puetter, 'The New Intergovernmentalism: European Integration in the Post-Maastricht Era' (2015) 53(4) *Journal of Common Market Studies* 703; Sergio Fabbrini, *Which European Union? Europe after the Euro Crisis* (Cambridge University Press, 2015).
[75] Mark Dawson and Floris De Witte, 'Self-Determination in the Constitutional Future of the EU' (2015) 21 (3) *European Law Journal* 371.
[76] Schimmelfennig (n 55).
[77] eg Moravcsik (n 59).
[78] Bartolini (n 42).
[79] Ben Crum, 'Saving the Euro at the Cost of Democracy?' (2013) 51(4) *Journal of Common Market Studies* 614, 623.

to regain legitimacy from the people.[80] A disquieting story can be told about European integration in which concerns about political and increasingly economic security drive further integration. This narrative of emergency measures results in a disenfranchisement of Europe's democratic citizenries.[81] Moreover, this disenfranchisement was, in part, by design in order to protect liberal democracy with an eye to the atrocities of populist nationalism.[82] These choices do not necessary fail the test of critical responsiveness. In the aftermath of the Second World War, citizens wanted peace, democracy and prosperity. Moreover, political disagreements were funnelled through intergovernmental channels. The EU has been the product of intergovernmental treaties.[83] Governmental agents continue to play an authoritative role within the EU's infrastructural framework.[84] The institutional outcome—transnational delegation and shared sovereignty in decision-making procedures—however, sits badly with the intergovernmental legitimation story of popular sovereignty.

## 5. Conclusion: popular sovereignty, legitimacy and justice

In sum, contemporary EU-rule does not pass the test of critical responsiveness. The reason is not that popular sovereignty is the product of manipulation or that current ruling practices are purely the result of unresponsive rulers. On the contrary, citizens at crucial junctions pushed the democratic understanding of popular sovereignty, while the European integration project reflects popular demands in the aftermath of Second World War. The democratic deficit finds its origins in the conflict between contemporary ruling practices and the value of popular sovereignty. Legitimation stories of popular sovereignty—in both their intergovernmental and supranational variations—cannot meet EU citizens' (implicit) BLD. It is on this part of the analysis of critical responsiveness that EU-rule fails. The empirical phenomenon of a trust or legitimacy deficit reflects this realist analysis.

Yet legitimation stories are not set in stone, hence the EU is certainly not doomed to this illegitimate state of affairs. We want to briefly elaborate a possible direction to overcome the democratic deficit. Let us return to Bernard Williams' theory of legitimacy: 'LEG = BLD + socio-political context'. We have argued that citizens' BLD reflects a continued commitment to popular sovereignty. Moreover, this value is attractive from a realistic perspective, because, at a conceptual level, it incorporates disagreement while also offering

[80] Alan S Milward, *The European Rescue of the Nation-State* (Routledge, 1992).
[81] Jonathan White, 'Emergency Europe' (2015) 63(2) *Political Studies* 300.
[82] Jan-Werner Müller, 'Beyond Militant Democracy?' (2012) 73 *New Left Review* 39.
[83] Moravcsik (n 65).
[84] Richard Bellamy, '"An Ever Closer Union Among the Peoples of Europe": Republican Intergovernmentalism and Demoicratic Representation Within the EU' (2013) 35(5) *Journal of European Integration* 499, 508.

a legitimation of coercion based on the posited bond of collectivity. The lack of crosscutting cleavages or a shared common vernacular undermines a full-blown European democracy.[85] This observation does not undermine the value of popular sovereignty, but rather illustrates the importance of the socio-political context for its institutionalisation. What kind of legitimation story for the EU might pass the realist test of critical responsiveness?

The historical circumstances coming about through economic and technological globalisation might become a catalyst for a further change in our understanding of legitimacy.[86] Traditionally, a commitment to popular sovereignty tends towards two possible solutions for the EU's democratic deficit. The so-called communitarians argue that full sovereignty should be retained at the national level.[87] By contrast, some argue that a European superstate is the only legitimate solution.[88] In these accounts, popular sovereignty remains wedded to state sovereignty. The changes in historical circumstances might not constitute a break with our disenchanted, democratic beliefs. However, in our age, meaningful self-determination relies on interstate cooperation. From this perspective, European integration may be turned into a project to *maintain popular sovereignty at the expense of a degree of state sovereignty*.

In the current normative debates on the EU's democratic deficit, the ideal of the EU as a demoicracy is in line with this position. From a realist perspective, a demoicratic legitimation story of popular sovereignty holds some promise. Too little space is available to go into detail; please allow us to sketch the bare bones of this reconceptualisation. A shared assumption of the demoicrats is that Europe remains a polity of peoples. For realists, this assumption is acceptable as part of the socio-political circumstances in which the subjects of EU-rule find themselves. The second assumption is that this reality does not necessarily disqualify the European *kratos* as illegitimate. European peoples can govern together rather than as one, which solves the need for a European *demos*. This demoicratic literature offers multiple justifications for this *kratos*, while it diverges on how to legitimate the Union.[89] The essential point is that democratic rule is possible despite persisting *demoi*.

[85] Richard Bellamy and Dario Castiglione, 'Three Models of Democracy, Political Community and Representation in the EU' (2013) 20(2) *Journal of European Public Policy* 206.

[86] For the following argument, we draw upon: Jan Pieter Beetz, 'Popular Sovereignty in Europe' (PhD thesis, University of Exeter, 2015). This argument draws upon demoicratic arguments by: Bellamy (note 84); Kalypso Nicolaïdis, 'European Demoicracy and Its Crisis' (2013) 51(2) *Journal of Common Market Studies* 351; Francis Cheneval and Frank Schimmelfennig, 'The Case for Demoicracy in the European Union' (2013) 51(2) *Journal of Common Market Studies* 334.

[87] Noel Malcolm, *Sense on Sovereignty* (Centre for Policy Studies, 1991).

[88] Glyn Morgan, *The Idea of a European Superstate: Public Justification and European Integration* (Princeton University Press, 2005).

[89] Jan Pieter Beetz, "Stuck on the Rubicon? The Resonance of the Idea of Demoi-cracy in Media Debates on the EU's Legitimacy" (2015) 22(1) *Journal of European Public Policy* 37, 39–40.

Taking inspiration from this literature, we propose that, in an age of globalisation, national popular sovereignty is only attainable through cooperation between Europe's peoples, but arguably at a level that may not permit the immediate implementation of the justice-driven visions of some prominent European philosophers such as Philippe Van Parijs and Rainer Forst: the supranational and transnational legal and administrative institutions envisaged by their redistributive projects seem likely to exacerbate Euroskepticism, as a post-functionalist analysis suggests.[90] Without a more convincing legitimation story, the stability of European integration remains endangered. The point is not that the aforementioned philosophers do not propose desirable political institutions and policies. If citizens widely accepted or acquiesced to EU-rule then these projects would have a chance. Solidarity might well become a spin-off of political institutions. The reality, alas, is different. The Union has for a significant number of its citizens become a source of resentment, and building solidarity upon resentment is an elusive prospect. The realist view asks us to prioritise legitimacy over justice,[91] hence the pre-eminence of popular sovereignty.

Demoicratic popular sovereignty continues to demand popular empowerment at the European level. Delegation and pooling constitute a necessary reordering of power in new historical circumstances; however this reordering should be accompanied by a reordering of democracy. Most importantly, national parliaments should remain ever present in decision-making procedures in order to effectively institutionalise vote and voice in Europe's heterogeneous polity. Ideally, these democratic bodies funnel existing disagreements at the national level, while at the European level, they can engage in cross-national funnelling of disagreements on the direction of the Union. A European demoicracy could pass the realist test of critical responsiveness: 'popular sovereignty + contemporary Europe = a European demoicracy'. In practice, this legitimate political order should provide a stable foundation on which to build solutions to Europe's challenges.

## Disclosure statement

No potential conflict of interest was reported by the authors.

## Funding

Enzo Rossi's research was supported by the Dutch National Science Organisation as part of the Vidi project 'Legitimacy Beyond Consent' [grant number 016.164.351].

[90] Liesbet Hooghe and Gary Marks, 'A Postfunctionalist Theory of European Integration: From Permissive Consensus to Constraining Dissensus' (2009) 39(1) *British Journal of Political Science* 1.

[91] Enzo Rossi, 'Justice, Legitimacy and (Normative) Authority for Political Realists' (2012) 15(2) *Critical Review of International Social and Political Philosophy* 149; Matt Sleat, 'Justice and Legitimacy in Contemporary Liberal Thought. A Critique' (2015) 41(2) *Social Theory and Practice* 230.